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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Telecommunications Division
Public Programs Branch**

**RESOLUTION T-17057
August 24, 2006**

RESOLUTION

Resolution T-17057. Resolution to Resolve Material Issues Related to Citizens Telecommunications Company of California's (U-1024-C) Permanent California High Cost Fund-B (CHCF-B) Surcredit, Pursuant to Resolution T-17008, Issued July 20, 2006.

SUMMARY

On October 24, 2001, Citizens Telecommunications Company of California (Citizens)¹ filed Advice Letter (AL) No. 722 to make its provisional California High Cost Fund-B (CHCF-B) surcredit permanent. On July 20, 2006, Resolution T-17008 was issued (1) approving Citizens' permanent surcredit of 3.63% to apply on all intrastate billings, except residential basic service, contract services, and Universal Lifeline Telephone Service (flat rate exchange service, reduced service connection charges, and mileage if applicable) (ULTS), commencing September 1, 2006 and continuing thereafter; and (2) requiring the Commission to finalize and resolve material issues related to Citizens' permanent surcredit in accordance with D.98-09-039.

This resolution finalizes the material issues and orders Citizens to implement an incremental permanent surcredit of 1.44% for one year to adjust the provisional CHCF-B permanent surcredit on all of Citizens' intrastate customer billings, except residential basic service, contract services and ULTS for one year, commencing October 1, 2006 and ending on the last day of the 12-month period. The 1.44% incremental permanent surcredit will be in addition to the 3.63% permanent surcredit adopted in Resolution T-17008.

¹ Citizens Telecommunications Company of California's d/b/a/ is Frontier Communications of California.

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BACKGROUND

A. Decision (D.) 96-10-066 –Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021)

In D.96-10-066, the Commission established the CHCF-B program to provide a universal service subsidy to Citizens and the other incumbent local exchange carriers (ILECs)² for providing basic local telephone service to residential customers in high-cost areas at affordable rates. The purpose of the CHCF-B program is to replace the implicit subsidies used to support universal service with an explicit funding mechanism. The CHCF-B is funded through a surcharge on all end-users of intrastate telecommunications services, except for Universal Lifeline Telephone Service (ULTS) customers, coin-sent paid calling, debit card messages, one-way paging, usage charges to COPTs, customers receiving services under existing contracts that were executed on or before September 15, 1994 and directory advertising. The CHCF-B surcharge has been in place since February 1, 1997.

To avoid double recovery of universal service support by carriers, the Commission, by D.96-10-066, requires Citizens and the other ILECs to reduce all of their rates, except for residential basic service³, contracts, and coin-sent paid calls, by a percentage (through a monthly surcredit to the customer’s bill), that equals their anticipated monthly CHCF-B draws.

B. D.98-09-039 – Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643; Investigation on the Commission’s Own motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643 (R.95-01-020, I.95-01-021.)

In September 1998, the Commission issued D.98-09-039 implementing the CHCF-B program established by D.96-10-066. The Commission authorized Citizens and the other ILECs,⁴ to commence their monthly draws from their accumulated CHCF-B

² The other ILECs are AT&T (formerly Pacific Bell, then SBC), Verizon California Inc. (formerly the merged GTE California Inc. and Contel Telephone Company), and SureWest Telephone Company (formerly Roseville Telephone Company).

³ Residential basic exchange service is excluded from the rate reduction because the CHCF-B supports this service in high cost areas. The Commission, in D.96-10-066, held “If we were to reduce rates for basic service as well, this would widen, rather than narrow, the gap between residential rates and their costs.” (*Id. at p. 208.*)

⁴ AT&T as a result of D.98-07-033, dated September 3, 1998, and subsequently SureWest Telephone Company in D.05-08-004, dated August 25, 2005, implemented permanent rate reductions, which allowed the each to true up its rate reduction with its approved fund draws from the CHCF-B program.

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surcharge revenues (CHCF-B draws) commencing December 15, 1998. To offset the CHCF-B draws, the Commission ordered Citizens and the other ILECs to file an AL to implement a permanent surcredit (by an equal percentage of their CHCF-B draws) beginning December 1, 1998, based on the average of the company's "**approved**" monthly claims submitted to the CHCF-B fund for the twelve-month period ending July 31, 1998. (*D. 98-09-039, Ordering Paragraph (OP) 1, p. 82.*) Once the monthly claims, on which the permanent surcredit would be based, were submitted by Citizens and that other ILECs to TD, the CHCF-B Administrative Committee (AC)⁶ was then charged with the duty of reviewing and approving the monthly claims. If material issues arose from the AC's review of the monthly claims, the Commission held that "the surcredit would be implemented on a provisional basis beginning December 1, 1998, and adjusted at a later date, if necessary, upon resolution of these issues." (*Id. at OP 3, p. 82.*)

C. Resolution T-16239 – Citizens Telecommunications Company of California. Request to Implement a Permanent California High Cost Fund –B Surcredit in Compliance with Decision 98-09-039. By Advice Letter No. 632, Filed on September 22, 1998 and Supplemental Advice Letter 632-A, Filed on November 12, 1998. (Adopted November 19, 1998.)

In compliance with OP No. 1 of D. 98-09-039, Citizens filed AL No. 632 to implement a permanent surcredit on intrastate billings to customers beginning December 1, 1998. In Resolution T-16239, the Commission approved, on a provisional basis, Citizens' permanent surcredit of 3.07%, which was based on an estimated amount (approximately \$1.241 million) of Citizens' 12-month CHCF-B claims from August 1997 through July 1998. This permanent surcredit was adopted on a provisional basis because the CHCF-AC had not formally approved any of the claims filed by Citizens. (*Id. at p. 3.*) The Commission held that "... the implementation of the permanent surcredit filed in Advice Letter 632 [is] to be on a provisional basis subject to further revision by further Commission action." (*Id.*)

D. October 4, 2001 Director of the Telecommunications Division's (TD) Letter to Citizens

On October 4, 2001, the TD Director sent a letter to Citizens advising that the CHCF-B AC had completed its review of Citizens' monthly claims for the period February 1997 through July 1998 and had approved payment of \$1,475,781.31 for that period. This

⁶ The CHCF-B AC (formerly CHCF-B Trust AC) was previously responsible for reviewing and approving CHCF-B claims by telecommunications carriers, but this function has been transferred to the Commission effective October 1, 2001, pursuant to D.01-09-064, dated September 20, 2001, in response to Legislative mandates (SB 669 and SB 742) to transfer surcharge revenues that fund the public purpose programs associated with the advisory board into the State Treasury. The CHCF-B AC currently acts as an advisory board to advise the Commission regarding the development, implementation and administration of the program, pursuant to PU Code Section 276(a).

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amount was \$234,781.31 more than Citizens' claimed amount of \$1.241 million.

Because the CHCF-B AC's approved amount was greater than Citizens' claimed amount, TD instructed Citizens to adjust its provisional permanent rate that was adopted in Resolution T-16239 to account for the higher payment. Further, TD instructed Citizens to file an AL no later than October 30, 2001 to reflect this adjustment.

In response, on October 24, 2002, Citizens filed AL No. 722 to adjust its provisional permanent surcredit of 3.07% to a new permanent surcredit of 3.66%. However, Citizens subsequently filed AL No. 722A to lower its proposed permanent surcredit to 2.58% on the basis that the rate should be based on its projected June 2004 billing base.

E. Resolution T-17008 - Citizens Telecommunications Company of California. Request to Implement a Permanent California High Cost Fund -B Surcredit in Compliance with Decision 98-09-039. By Advice Letter No. 722, Filed on October 21, 2001, and Supplement A, Filed April 24, 2003. (Adopted July 20, 2006.)

In Resolution T-17008, the Commission approved Citizens' permanent surcredit of 3.63% to apply on all intrastate billings, except basic residential service, contract services, and ULTS on a going-forward basis. The permanent surcredit was based on the approved CHCF-B AC's claim amount of \$1.476 million and the net billing base for the period ending July 1998 (consistent with the basis period indicated in Commission D.98-09-039).

However, in Resolution T-17008 the Commission left unresolved the calculation and application of an incremental permanent surcredit amount (additional offset to Citizens' customers) resulting from the difference between the CHCF-B AC's approved amount and estimated claim amount for the period December 1, 1998 (implementation date of the provisional permanent surcredit) through September 1, 2006 (implementation date of the permanent surcredit). In OP 7 of Resolution T-17008, the Commission stated "In the near future, the Commission shall consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039." In accordance with this OP, this resolution addresses the calculation and application of Citizens' permanent surcredit adjustment.

F. D.02-04-059 - Order Instituting Rulemaking into Implementation of Senate Bill 669 As it Affects California High Cost Fund B and Other Public Purpose Programs (R.01-08-022).

In D.02-04-059, the Commission adopted the 3-month commercial paper rate issued by financial institutions (available at the Federal Reserve Board website) as the uniform interest rate to apply to all late payments for reimbursements and carrier claims, beginning with payments processed in the first payment cycle, which was May 1, 2002.

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NOTICE/PROTESTS

The notice of Citizens' AL No. 722 and 722A, were published in the Commission Daily Calendars of October 29, 2001 and April 19, 2004. Citizens indicated that they had mailed a copy of the AL to adjacent utilities and/or interested parties as requested. TD did not receive any protests to this AL.

DISCUSSION

In Resolution T-17008, the Commission approved Citizens' request in AL No. 722 to make its provisional permanent surcredit permanent and ordered Citizens to implement a permanent surcredit of 3.63% on a going-forward basis, commencing September 1, 2006 and continuing thereafter.

In addition, the Commission held that it would resolve the material issue of dispute related to Citizens' application of a surcredit rate for the period between December 1, 1998 and September 1, 2006 as follows:

"In the near future, the Commission shall consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039. " (OP 7, Resolution T-17008).

In this resolution, the Commission now finally and permanently resolves Citizens' provisional permanent surcredit adjustment in compliance with D. 98-09-039 as set forth in OP 7 of Resolution T-17008.

In D.98-09-039, the Commission set forth the rules and process for the adjustment of Citizens' permanent surcredit. Specifically, in OP 3 of the decision the Commission ordered:

"The CHCF-B Administrative Committee shall review the CHCF-B claims submitted by Citizens, GTE, Contel and Roseville for the 12-month period ending July 31, 1998 and report its findings to the Director of the Telecommunications Division. If material issues arise from the CHCF-B AC's review of the CHCF-B claims, these companies' permanent surcredits shall be implemented on a provisional basis beginning December 1, 1998 and adjusted at a later date, if necessary, upon the resolution of these issues." (OP 3, D.98-09-039)."

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In the decision, the Commission also held that Citizens permanent surcredit must be based on “actual, approved” claim amount from August 1997 through July 1998 (the subject period).

In accordance with D.98-09-039, the CHCF-B AC reviewed Citizens’ claims and determined that the approved amount is \$1.471 million for the subject period. Citizens’ estimated claimed amount for the same period is \$1.241 million. Hence, there is a significant difference of approximately \$235,000 per year, between the CHCF-B AC’s approved amount and Citizens’ claimed amount. The net effect of this disparity is that Citizens’ customers have been receiving a smaller surcredit than they should have. Failure to adjust this difference would result in a significant harm to ratepayers and would also be inconsistent with the Commission decisions on how the CHCF-B funds are to be utilized and calculated. Thus, it is necessary to offset that difference of \$235,000 per year for several years to Citizens’ customers in the form of a surcredit to resolve the material issues set forth in Resolution T-17008.

To determine the amount that Citizens should offset to its customers, TD believes that it is equitable and reasonable to limit the basis for the incremental permanent surcredit calculation to three years.⁵ Accordingly, TD has calculated the incremental permanent surcredit to be 1.44% based on three years’ (from October 1, 2003 through October 1, 2006) difference between the CHCF-B AC’s approved amount and the estimated amount of \$704,342.31 plus interest⁶ of \$51,439.09, totaling \$755,781.40. The total was then divided by the net billing base of \$52,384,462 for the 12-month period ending December 2005.

Therefore, TD recommends that the Commission order Citizens to implement an incremental permanent surcredit of 1.44% to resolve material issues of dispute. The surcredit will apply on all intrastate billings, except residential basic service, contract services, and ULTS, commencing October 1, 2006 and ending on the last day of the 12-month implementation period. The 1.44% incremental permanent surcredit will be in addition to the 3.63% permanent surcredit approved in Resolution T-17008, which becomes effective on September 1, 2006 and continuing thereafter.

⁵ Instead of using the total number of years in which the surcredit should have been implemented (December 1, 1998 through the implementation date of Resolution T-17008, which is September 1, 2006), we limit the incremental permanent surcredit calculation to three years to balance ratepayer and shareholder interests.

⁶ It is reasonable to include interest onto the difference because this amount has been retained by Citizens for three years which should have accrued interest in a financial institution. The interest was based on the 3-month commercial paper rate issued by financial institutions (available at the Federal Reserve Board website) as the uniform interest rate to apply to all late payments for reimbursements and carrier claims, pursuant to D.02-04-059.

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In addition, TD recommends that the Commission order Citizens, within five (5) business days from the effective date of this resolution to (1) file a compliance advice letter to address and adjust the material issues set forth in this resolution, by reflecting an incremental permanent surcredit of 1.44% for one year to apply on all intrastate billings, except residential basic service, contract services, and ULTS, commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) provide to the Director of TD for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 1.44% incremental permanent surcredit is in addition to the permanent surcredit of 3.63% for one year (pursuant to Resolution T-17008), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.

The Commission believes that TD's recommendations, as discussed in this resolution, are appropriate, reasonable and consistent with prior Commission decisions and resolutions.

COMMENTS

In compliance with PU Code Section 311(g), a copy of the Notice of Availability letter of the draft resolution was e-mailed on July 25, 2006 to parties that informed TD of their e-mail address in order to continue to be on the service list of R.95-01-020/I.95-01-021, AT&T, Verizon California Inc., SureWest Telephone Company, Cox California Telecom, LLC, and CHCF-B AC, informing parties that its draft resolution was available for public viewing and comments at the Commission's website at: <http://www.cpuc.ca.gov/static/documents/index.htm>. In addition, the TD informed these parties of the availability of the conformed resolution on the website.

Comments filed on a timely basis will be addressed in this Resolution

FINDINGS

1. In Resolution T-17008, issued July 20, 2006, the Commission approved Citizens Telecommunications Company of California's (Citizens) request in Advice Letter (AL) No. 722 to implement a California High Cost Fund B (CHCF-B) permanent surcredit of 3.63% to apply on Citizens intrastate billings, except residential basic service, contract services and Universal Lifeline Telephone Service (flat rate exchange service, reduced service connection charges, and mileage, if applicable)(ULTS), commencing on September 1, 2006 and continuing thereafter.
2. In this resolution, the Commission now finally and permanently resolves Citizens'

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provisional permanent surcredit adjustment in compliance with Decision 98-09-039 as set forth in Ordering Paragraph (OP) 7 of Resolution T-17008.

3. OP 7 of Resolution T-17008 stated "In the near future, the Commission shall consider and order final approval and adjustments of Citizens' permanent surcredit in accordance with D.98-09-039."
4. To comply with Ordering Paragraph (OP) 7 of Resolution T-17008 and D.98-09-039, this resolution is being issued to resolve the material issues related to Citizens' permanent surcredit resulting from the difference of approximately \$235,000 between the CHCF-B approved claim amount and Citizens' estimated claim amount (basis for the provisional permanent surcredit calculation).
5. In OP 3 of D.98-09-039, the Commission provided rules and authority for the adjustment of Citizens' permanent surcredit. The Commission also held that if any material issues that arose from the CHCF-B AC's review of the CHCF-B claims, the provisional permanent surcredit would be adjusted at a later date.
6. The CHCF-B AC's approved claim amount is \$1.471 million, which is \$235,000 more than Citizens' estimated claim amount of \$1.241 million for the 12-month period ending July 1998.
7. The approximately \$235,000 per year difference for several years is a material amount, which needs to be adjusted. The net effect of this disparity is that Citizens' customers have been receiving a smaller surcredit than they should have.
8. Failure to adjust the \$235,000 difference would result in a significant harm to ratepayers and would also be inconsistent with the Commission decisions on how the CHCF-B funds are to be utilized and calculated. Thus, it is necessary to offset that difference of \$235,000 per year for several years to Citizens' customers in the form of a surcredit to resolve the material issues set forth in Resolution T-17008.
9. OP 7 of Commission D.02-04-059 adopted the three-month commercial paper rate issued by financial institutions (available at Federal Reserve Board website) as the uniform interest rate applicable to late payment of reimbursement and carrier claims, beginning with payments processed in the first payment cycle (which is May 1, 2002).
10. To determine the amount that Citizens should offset to its customers, TD believes that it is equitable and reasonable to limit the basis for the incremental permanent surcredit calculation to three years.

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11. The Telecommunications Division (TD) has calculated the incremental permanent surcredit to be 1.44% based on three years' (from October 1, 2003 through October 1, 2006) difference between the CHCF-B AC's approved claim amount and the estimated amount of \$704,342.31, plus interest of \$51,439.09, totaling \$755,781.40. The total was then divided by the net billing base of \$52,384,462 for the 12-month period ending December 2005.
12. It is reasonable to include interest onto the \$235,000 per year difference for three years because this amount has been retained by Citizens for these years which should have accrued interest in a financial institution, pursuant to D.02-04-059.
13. Citizens should implement an incremental permanent surcredit of 1.44% to resolve material issues of dispute. The surcredit will apply on all intrastate billings, except residential basic service, contract services, and ULTS commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
14. The 1.44% incremental permanent surcredit will be in addition to the 3.63% permanent surcredit, adopted in Resolution T-17008, which becomes effective on September 1, 2006 and continuing thereafter.
15. Within five (5) days of the effective date of this resolution, Citizens should be required to file a compliance advice letter to address and adjust the material issues set forth in Resolution T-17008, by reflecting (1) an incremental permanent surcredit of 1.44% for one year to apply on all intrastate billings, except residential basic service, contract services, and ULTS, commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) the incremental permanent surcredit of 1.44% is in addition to the permanent surcredit of 3.63% adopted in Resolution T-17008.
16. Within five (5) days of the effective date of this resolution, Citizens should provide to the Director of TD for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 1.44% incremental permanent surcredit is in addition to the permanent surcredit of 3.63% for one year (pursuant to Resolution T-17008), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
17. The recommendations, as stated in this Resolution, are reasonable and appropriate, and should be adopted.

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THEREFORE, IT IS ORDERED that:

1. Citizens shall implement an incremental permanent surcredit of 1.44% to resolve material issues of dispute. The surcredit shall apply on all intrastate billings, except residential basic service, contract services, and Universal Lifeline Telephone Service (flat rate exchange service, reduced service connection charges, and mileage if applicable) (ULTS), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.
2. The 1.44% incremental permanent surcredit will be in addition to the 3.63% permanent surcredit approved in Resolution T-17008, which becomes effective on September 1, 2006 and continuing thereafter.
3. Within five (5) days of the effective date of this resolution, Citizens shall file a compliance advice letter to address and adjust the material issues set forth in Resolution T-17008, by reflecting (1) an incremental permanent surcredit of 1.44% for one year to apply on all intrastate billings, except residential basic service, contract services, and ULTS, commencing October 1, 2006 and ending on the last day of the 12-month implementation period; and (2) the incremental permanent surcredit of 1.44% is in addition to the permanent surcredit of 3.63% adopted in Resolution T-17008.
4. Within five (5) days of the effective date of this resolution, Citizens shall provide to the Director of the Telecommunications Division for review and approval, a copy of the customer notice that will be in the free-form section of the customer bill, explaining that the 1.44% incremental permanent surcredit is in addition to the permanent surcredit of 3.63% for one year (pursuant to Resolution T-17008), commencing October 1, 2006 and ending on the last day of the 12-month implementation period.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 24, 2006. The following Commissioners approved it:

STEVE LARSON
Executive Director