

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T-17215
October 15, 2009**

R E S O L U T I O N

**Resolution T-17215 Approval of the California High Cost Fund-B Fund
Surcharge Rate of 0.45% Effective December 1, 2009.**

Summary

This resolution adopts a surcharge rate of 0.45% for the California High Cost Fund-B (CHCF-B) Fund Program¹ effective December 1, 2009 and thereafter, until further revised by the Commission. All regulated telecommunication carriers shall revise the CHCF- B surcharge rate from 0.25% to 0.45% on their end-user's charges rendered for intrastate telecommunications services on December 1, 2009, and thereafter.

Background

Commission Decision (D.) 96-10-066 established the CHCF-B to ensure that telephone service is affordable in high cost areas served by major incumbent local exchange carriers. The CHCF-B program provides universal service subsidy to AT&T California, Verizon of California, SureWest Telephone, Frontier Telecommunications Company of California, as well as Commission authorized Carriers of Last Resort (COLR), in exchange for providing service to areas deemed to be high cost in nature. The program is funded by an end-user surcharge on billed intrastate telecommunication revenues.

In October 1999, Public Utilities (PU) Code § 270-281 were codified as a result of the enactment of Senate Bill (SB) 669 (Stats. 1999, Chapter 677). Section 270(b) states that the monies in the CHCF-B and six other public purpose program funds may only be expended pursuant to §§ 270-281 and upon appropriation in the Annual Budget Act. Section 739.3(h) states that the CHCF-B program will remain in effect until January 1, 2012, unless the date is extended by statute.

¹ Also known as the California High Cost Fund – B Administrative Committee Fund pursuant to Public Utilities Code § 270(a)(2), and pursuant to SB 669.

In June 2006, the Commission issued an Order Instituting Rulemaking (OIR) for the CHCF-B Program (R.06-06-028). The purpose of the OIR was to review the operation of the CHCF-B program to determine if the goals of the program could be continued while reducing costs.

In September 2007, the Commission issued an interim decision (D.) 07-09-020 in R.06-06-028 which adopted major reforms to the CHCF-B program. The reforms included reducing the size of the CHCF-B and better targeting the support to cover only those "high cost" areas where funding is necessary to meet universal service goals. More importantly, the COLRs were allowed full pricing flexibility, allowing for local basic exchange service rates to increase from the current subsidized rates toward cost-based rates. In summary, the Commission in D.07-09-020, set forth the following changes:

- Reduced the CHCF-B surcharge from 1.3% to 0.5% effective January 1, 2008.
- Increased the threshold benchmark at which the COLRs are subsidized from the CHCF-B from \$20.30 to \$36.00 through series of steps beginning January 1, 2008 and ending July 1, 2009.
- Changed the method of calculation of the subsidy payment from the difference between cost and revenue to the difference between cost and the threshold level of \$36.00 effective July 1, 2009.
- Set forth a schedule of reform measures to be considered in Phase II of the rulemaking proceeding including: (1) a reverse auction mechanism to determine future subsidy levels and (2) establishing a new fund to subsidize broadband deployment in unserved and underserved areas of California.

Subsequently, in December 2007, the Commission issued D.07-12-054, which further reduced the surcharge from 0.50% to 0.25% for the CHCF-B program and initiated a 0.25% surcharge to fund the newly established California Advanced Services Fund (CASF) program effective January 1, 2008.

For Fiscal Year (FY) 2009-10, the State Budget appropriated the amount of \$51.515 million for the CHCF-B fund. This amount was augmented by \$1 million via a Budget Change Proposal to cover expected costs of an affordability study required by SB 780 (Stats. 2008, Chapter 342).

For FY 2010-11, Resolution T-17211, approved on August 20, 2009, adopted a budget of \$50.935 million for the CHCF-B fund.

Discussion

The Commission has assigned its Communication Division (CD) to monitor the CHCF-B program fund balances to ensure that sufficient funds exist to pay CHCF-B claims and other program expenditures. Accordingly, CD periodically reviews CHCF-B program

revenues and expenses. Since carrier claims are the primary program expense, CD annually seeks the CHCF-B carriers' forecasts of their estimated claims. These forecasts are then reviewed and compared with actual claims data. To assess the appropriateness of the surcharge level, we consider the claims data as well as the program's fund balance, estimates of incoming revenues from the customer surcharge, and estimates of other expected expenditures. The total of the estimated claims and administrative expenses plus a contingency amount is used to estimate the budget.

In its review, CD noted a steady decline in the CHCF-B program fund balance. As of June 30, 2009, the balance in the CHCF-B Fund was determined to be \$5,875,000. In contrast, the balance as of June 30, 2008 was \$143,658,000, which means the fund balance has declined by approximately \$137,000,000 over the past year.

There are several reasons for the decline in the CHCF-B program fund balance. Although D.07-09-020 changes to the CHCF-B program significantly reduced the CHCF-B Fund claims of carriers, the current in-coming CHCF-B fund surcharge revenue is less than the ongoing CHCF-B program expenditures. With the reduction in claims in January 2009, the claims (excluding administrative expenses) were approximately \$8 million per month while the revenues were about \$5 million per month.

Difficult economic conditions can cause some customers to reduce the level of services or eliminate multiple service carriers or service altogether. With fewer customers in the billing base for applying surcharges, the surcharge rate is contributing less revenue than projected for CHCF-B program operations. This effect is compounded by an increase in Voice over Internet Protocol (VoIP) telephone service which currently does not contribute to the CHCF-B program.

In addition, the recent state budget woes have impacted CHCF-B program fund balance. The Budget Act of 2008² transferred \$35 million by appropriation from the CHCF-B to the General Fund. Subsequently, the Legislature enacted SBX3-2 earlier this year at the third extraordinary session, which revised the transfer from the CHCF-B from \$35 million to \$75 million. The Governor signed the bill on February 20, 2009 (SBX3 2, Chapter 2 of the Statutes of 2009). This appropriation from the CHCF-B fund to the General Fund is a *loan* to be repaid by June 30, 2011. The SBX3 2 legislation states: "Repayment shall be made so as to ensure that the programs supported by the California High Cost Fund B Administrative Committee Fund are not adversely affected by the loan." As of today, \$59 million of the \$75 million loan has been transferred to the General Fund, with another \$16 million remaining to be transferred.

² Chapters 268 and 269 of the Statutes of 2008

As a result of the above, there is a projected shortfall of funds to meet the future CHCF-B obligations. CD believes a surcharge adjustment is necessary to permit the CHCF-B to continue to pay future expenditures and avoid a negative balance.

To address the decline in CHCF-B program funds, CD recommends that the CHCF-B Fund surcharge rate be increased from 0.25% to 0.45% effective December 1, 2009 and thereafter, until further revised by the Commission.

Appendix A shows the fiscal year 2008-09 and forecasted CHCF-B FY 2009-10 Projected Cash Flow Analysis. The surcharge revenues for FY 2009-09 were divided by the 0.25% to arrive at an effective billing base of \$23.54 billion. Various past forecasts of the FY 2009-10 billing base were over \$24 billion, and these did not consider the slowdown in the economy. A survey of carriers resulted in an aggregated billing base estimate that was significantly below the FY 2008-09 results. Based on past practices and uncertainty about the future billing base in conjunction with the last changes to the threshold level, CD recommends using a billing base of \$22.80 billion for FY 2009-10.

Based on CD's analysis as shown in Appendix A, a surcharge adjustment to 0.45% should allow the CHCF-B fund to have sufficient revenues to cover program expenditures while providing a reserve that would provide a 10% margin of error. CD estimates that the increase in the surcharge to 0.45% will increase CHCF-B revenue by about \$30 million for the remainder of FY 2009-10 and by an estimated \$46 million for FY 2010-11. CD will review the forecasts for FY 2010-11 to ensure that the CHCF-B fund has sufficient funds to meet its future obligations without accumulating an excessive surplus.

All certificated telecommunications carriers shall revise CHCF- B rate from 0.25% to 0.45% on their end-user's bills rendered for intrastate telecommunications services on December 1, 2009 and thereafter.

Advice Letter Filing

Consistent with Resolution T-16901, dated December 2, 2004, the Commission should require AT&T (formerly SBC) to file an Advice Letter on or before November 20, 2009, modifying the CHCF- B surcharge from 0.25% to 0.45% to take effect on December 1, 2009 and thereafter, until further revised by the Commission. AT&T is not required to inform competing carriers of tariff changes which comply with this resolution.

Comments

In compliance with PU Code § 311 (g), a notice letter was e-mailed on September 8, 2009 to all telecommunications carriers, the CHCF-B AC, and the parties on the service list of R.09-06-019 informing these parties that this draft resolution is available at the

Commission's website <http://www.cpuc.ca.gov/static/documents/index.htm> and is available for public comments. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and will be available at this same website.

No comments were received.

Findings

1. In October 1999, Public Utilities (PU) Code § 270-281 were codified as a result of the enactment of Senate Bill 669.
2. PU Code § 270(b) requires that the monies in California High Cost Fund-B (CHCF-B) Fund may only be disbursed pursuant to § 270-281 and upon appropriation in the annual Budget Act.
3. Resolution T-17211 approved on August 20, 2009 adopted a budget of \$50.935 million for the CHCF-B AC Fund for FY 2010-11.
4. The Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008) transferred \$35 million by appropriation to the general fund. The \$35 million was transferred on October 20, 2008.
5. Senate Bill 2, Third Extraordinary Session, signed by the Governor on February 20, 2009 transferred an additional \$40 million to the General Fund. Of this amount \$24 million was transferred on April 1, 2009. The remaining \$16 million of the appropriation may still be transferred.
6. As of June 30, 2009, the balance in the CHCF-B Fund was determined to be \$5,875,000.
7. A surcharge rate change is needed to prevent a shortfall of funds in the CHCF-B Fund, which could affect the payment of CHCF-B obligations in the future.
8. Based on CD's analysis as shown in Appendix A, a surcharge adjustment to 0.45% should allow the CHCF-B fund to have sufficient revenues to cover program expenditures while providing a reserve that would provide a 10% margin of error.
9. CD estimates that the increase in the surcharge from 0.25% to 0.45% will increase CHCF-B revenue by about \$30 million for the remainder of FY 2009-10 and by an estimated \$46 million for FY 2010-11.

10. All certificated telecommunications carriers should revise CHCF-B surcharge of 0.45% on their end-user's bills rendered for intrastate telecommunications services on December 1, 2009, and thereafter, until further revised by the Commission.
11. In accordance with Resolution T-16901, dated December 2, 2004, AT&T should file an Advice Letter on or before November 20, 2009, modifying the CHCF-B surcharge rate from 0.25% to 0.45% to take effect on December 1, 2009, and thereafter, until further revised by the Commission.
12. Copies of the notice letter advising parties of the availability of this draft resolution and the conformed resolution, when adopted by the Commission, on the Commission's web site were e-mailed on September 8, 2009 to all telecommunications carriers, the CHCF-B Advisory Committee, and the parties on the service list of R.09-06-019. No comments were received.

THEREFORE, IT IS ORDERED that:

1. The California High Cost Fund (CHCF) -B surcharge rate of 0.45%, effective December 1, 2009 until further revised by the Commission, is adopted.
2. AT&T shall file an Advice Letter on or before November 20, 2009, modifying the surcharge rate for the CHCF-B AC Fund from 0.25% to 0.45%, effective December 1, 2009, and thereafter, until further revised by the Commission.
3. All certificated telecommunications carriers shall revise CHCF-B Fund surcharge rate from 0.25% to 0.45% on their end-user's charges rendered for intrastate telecommunications services on December 1, 2009, and thereafter, until further revised by the Commission.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission at its regular meeting on October 15, 2009 adopted this Resolution. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

Appendix A			
California High Cost Fund - B			
Projected Cash Flow Analysis			
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	FY 2008-09	FY 2009-10	
Projected Intrastate Revenues			
Subject to Surcharge	\$23,540,400	\$22,800,000	
Surcharge Rate Effective January 1, 2008	0.25%	0.25%	
Surcharge Rate Effective December 1, 2009		0.45%	
Beginning Fund Balance	\$143,658	\$5,875	
Revenues			
Surcharge	\$58,851	\$87,400	
Investment Income	\$1,350	\$450	
Total Revenues	\$60,201	\$87,850	
Expenditures			
FY2008-09	\$138,984	\$12,500	
FY2009-10 (State budget Appropriation)		\$52,515	
Loan to General Fund	\$59,000	\$16,000	
Total Expenditures	\$197,984	\$81,015	
Ending Fund Balance	\$5,875	\$12,710	

End of Appendix A