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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T- 17299
November 19, 2010**

R E S O L U T I O N

Resolution T-17299 Approval of the California High Cost Fund-A Administrative Committee Fund Surcharge Rate of 0.00% Effective December 1, 2010.

Summary

This resolution adopts a revised California High Cost Fund (CHCF)-A surcharge rate of 0.00% effective December 1, 2010, until further revised by the Commission. All telephone and telegraph corporations shall assess a CHCF-A surcharge rate of 0.00% on revenues collected from end-users for intrastate telecommunications services subject to surcharge on December 1, 2010, and thereafter.

Background

The California High Cost Fund (HCF) was implemented by Decision (D.) 88-07-022, as modified by D.91-05-016 and D.91-09-042, to provide a source of supplemental revenues to three mid-size and seventeen small Local Exchange Carriers (LECs) whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service. Pacific Bell was appointed as the administrator of the fund and established a separate trust.

D.96-10-066 changed the name of HCF to CHCF-A and created the California High Cost Fund-B (CHCF-B). This decision included Pacific Bell (now SBC), GTE California Incorporated (now Verizon)¹, Roseville Telephone Company (now SureWest), and Citizens Telecommunications Company of California (now Frontier) in the CHCF-B for the purpose of determining universal service subsidy support and maintained the CHCF-A for the 17 small LECs. This decision also directed the Commission to take over the administration of the CHCF-A from Pacific Bell.

¹ Verizon Telephone Company resulted from the merger of GTE of CA and GTE Contel.

Resolution T-16092 approved the transfer of administrative control of the CHCF-A from Pacific Bell to the Commission effective January 1, 1998. This resolution appointed three Commission staff members as committee members of the CHCF-A Trust Administrative Committee (AC) charged with the responsibility of administering the CHCF-A on behalf of the Commission. D.98-06-065 renamed the committee as California High Cost Fund-A AC and revised the governance of the CHCF-A consistent with State rules and procedures.

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) requires that the monies in the CHCF-A and five other funds be expended pursuant to § 270-281 and upon appropriation in the annual Budget Act. Since Fiscal Year (FY) 2001-02, the CHCF-A Fund expenditures have been authorized in the State's Annual Budget Act.

D.01-09-064 revised the charter of CHCF-A AC to conform to SB 669, and D.02-04-059 established a three-member board for the CHCF-A AC.

PU Code § 739.3 requires the Commission to implement a program for universal service support to reduce rate disparity in rural and small metropolitan areas. PU Code § 739.3 was scheduled to sunset on January 1, 2009, but was extended by the Legislature to January 1, 2013.

D.08-10-010 authorized the consolidation of three small LECs: Citizens Telecommunications Company of Tuolumne, Citizens Telecommunications Company of the Golden State and Global Valley Networks, Inc., with the midsize LEC of, Citizens Telecommunications Company of California Inc. The consolidation authorized by D.08-10-010 became effective on January 1, 2009, and therefore, reduced the total number of small LECs from 17 to 14.

The CHCF-A program is funded by a surcharge on revenues collected from end-users for intrastate telecommunications services subject to surcharge. Historical CHCF-A surcharge rates since the inception of the program are available online at <http://www.cpuc.ca.gov>.

Discussion

In this Resolution, the Commission adopts a CHCF-A surcharge rate of 0.00% effective December 1, 2010. D.10-06-029 orders certain small LECs to credit ratepayers and the CHCF-A a total of approximately \$31.300 million as a result of the dissolution of the Rural Telephone Bank. Due to extra funds in the CHCF-A AC Fund and expected refunds from certain small LECs per Commission D.10-06-029, there is no requirement for the collection of additional CHCF-A surcharge revenues at this time. The CHCF-A surcharge rate of 0.00% shall take effect on December 1, 2010, until further revised by the Commission.

All telephone and telegraph corporations shall assess a CHCF-A rate of 0.00% on their revenues collected from end-users for intrastate telecommunications services subject to surcharge on December 1, 2010, 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 24, 2010, modifying the CHCF-A surcharge rate from 0.11% to 0.00% to take effect on December 1, 2010, 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. All other telephone corporations must concur with AT&T's surcharge rates.

Comments

In compliance with PU Code § 311(g), a notice letter was emailed on October 20, 2010, to all telephone and telegraph corporations, the CHCF-A AC and the parties of record in Rulemaking 01-08-002 and Application (A.) 99-09-044 informing these parties of the availability of the draft of this Resolution for public comments at the Commission's website <http://www.cpuc.ca.gov>. This letter also informed parties that the final Resolution, adopted by the Commission, will be available at the same website.

Cooper, White & Cooper LLP (Cooper) filed comments on behalf of the small LECs on November 4, 2010, in response to the Draft Resolution asserting the following points:

1. The Draft Resolution does not contain the current balance and the anticipated future distributions of the CHCF-A to support the conclusion that the surcharge can be eliminated at this time;
2. The statements in the Draft Resolution with respect to anticipated contributions to the CHCF-A as a consequence of D.10-06-029 are incorrect;
3. The Draft Resolution is premature in that there are further proceedings to be held in connection with D.07-12-026 which will affect these anticipated contributions.

On the first point, the current CHCF-A fund balance is over \$65 million as of October 2010. Combined with the estimated funding levels proposed by carriers and approved by the Commission for FY 2010-11 and FY 2011-12 of less than \$40 million per year, as well as the expected impact of funds as the result of D.10-06-029, there does not appear to be a need to collect surcharge revenues for eighteen to twenty-four months based on these parameters.

Regarding the second point, D.10-06-029 specifies that carriers are to credit ratepayers in the amount of \$31.300 million before separations are applied and interest is calculated. However, even if the amount credited to the CHCF-A fund is significantly less than

specified by the decision, the CHCF-A fund has enough reserves to satisfy program needs for at least eighteen months. In addition, the Commission can increase the CHCF-A surcharge rate in response to changes in funding levels or an unexpectedly diminishing fund balance.

On the third point, D.10-06-029 has concluded A.07-12-026 and has directed carriers to refund ratepayers in the amount previously stated. Although carriers may appeal the Decision, it is binding at this time.

The Commission has considered the comments of Cooper in response to the proposed resolution and upon review does not find a need to revise this resolution.

Findings

1. The California High Cost Fund (HCF) was implemented by Decision (D.) 88-07-022, as modified by D.91-05-016 and D.91-09-042, to provide a source of supplemental revenues to three mid-size and seventeen small Local Exchange Carriers (LECs) whose basic exchange access line service rates would otherwise be increased to levels that would threaten universal service.
2. D.96-10-066 changed the name of HCF to California High Cost Fund-A (CHCF-A) and created the California High Cost Fund-B (CHCF-B). This decision included the three mid-size LECs in the CHCF-B for the purpose of determining universal service subsidy support and maintained the CHCF-A for 17 small LECs. D.98-06-065 renamed the CHCF-A Trust Administrative Committee to CHCF-A Administrative Committee (AC) and revised the governance of CHCF-A to be consistent with State rules and procedures.
3. In October 1999, Public Utilities (PU) Code § 270-281 were codified as a result of the enactment of Senate Bill 669.
4. D.08-10-010, effective January 1, 2009, authorized the consolidation of three small LECs: Citizens Telecommunications Company of Tuolumne, Citizens Telecommunications Company of the Golden State and Global Valley Networks, Inc., with the midsize LEC of, Citizens Telecommunications Company of California Inc. and reduced the number of small LECs from 17 to 14.
5. PU Code § 270(b) requires that the monies in CHCF-A may only be expended pursuant to § 270-281 and upon appropriation in the annual Budget Act.
6. D.10-06-029 orders certain small LECs to credit ratepayers and the CHCF-A a total of approximately \$31.300 million as a result of the dissolution of the Rural Telephone Bank.
7. The revised CHCF-A surcharge rate of 0.00% should take effect on December 1, 2010, until further revised by the Commission.
8. All telephone and telegraph corporations should revise their CHCF-A surcharge rate to 0.00% on their revenues collected from end-users for intrastate telecommunications

services subject to surcharge on December 1, 2010, and thereafter, until further revised by the Commission.

9. A notice letter was emailed on October 20, 2010, informing the 14 small LECs , the CHCF-A AC, the parties of record in Rulemaking 01-08-002 and the parties of record on the service list of Application 99-09-044 of the availability of the draft resolution for public comments at the Commission's web site <http://www.cpuc.ca.gov>. In addition they were informed of the availability of the conformed resolution, when adopted by the Commission, at the same website.
10. In accordance with Resolution T-16901, dated December 2, 2004, AT&T should file an Advice Letter on or before November 24, 2010, modifying the CHCF-A surcharge rate from 0.11% to 0.00% to take effect on December 1, 2010, and thereafter, until further revised by the Commission.
11. Cooper, White & Cooper LLP filed comments on behalf of the small LECs regarding Draft Resolution T-17299 on November 4, 2010.

THEREFORE, IT IS ORDERED THAT:

1. The California High Cost Fund-A surcharge rate of 0.00% effective December 1, 2010, until further revised by the Commission, is adopted.
2. AT&T shall file an Advice Letter on or before November 24, 2010, modifying the surcharge rate for the California High Cost Fund-A from 0.11% to 0.00%, effective December 1, 2010, and thereafter, until further revised by the Commission.
3. All telephone and telegraph corporations shall revise their California High Cost Fund-A surcharge rate from 0.11% to 0.00% on their revenues collected from end-users for intrastate telecommunications services subject to surcharge on December 1, 2010, and thereafter, until further revised by the Commission.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 19, 2010. The following Commissioners approved it:

/s/ Paul Clanon

Paul Clanon
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners