

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division
Broadband, Video and Market Branch

RESOLUTION T-17536
October 13, 2016

R E S O L U T I O N

Resolution T-17536 - Approval of the California Advanced Services Surcharge Rate Reduction from 0.464% to 0.00% effective December 1, 2016.

SUMMARY

This resolution adopts a surcharge rate reduction from 0.464% to 0.00% for the California Advanced Services Fund (CASF) Program¹ effective December 1, 2016, and thereafter, until further revised by the Commission. All regulated telecommunication carriers shall revise the CASF surcharge rate from 0.464% to 0.00% on their end-user charges billed for intrastate telecommunications services beginning December 1, 2016.

BACKGROUND

On December 20, 2007, the Commission approved Decision (D.) 07-12-054 which established the CASF program to provide matching funds of up to 40% of the total project costs for deployment of broadband infrastructure in unserved and underserved areas in California. With an initial funding of \$100 million, the CASF supports projects that will a) provide broadband services to areas currently without broadband access and b) build out facilities in underserved areas, if funds are still available. D.07-12-054 further authorized a 0.25% surcharge on revenues collected from end-users for intrastate telecommunications services effective January 1, 2008.

On December 17, 2009, the Commission approved Resolution T-17248, which revised the surcharge from 0.25% to 0.00% on end-user bills since it was projected that the surcharge revenue limit of \$100 million would be reached by December 2009.

On September 25, 2010, SB 1040 (Chapter 317, Stats. of 2010) expanded the CASF program and increased the CASF appropriation from \$100 million to \$225 million. SB 1040 established two new accounts within the CASF program: The Rural and Urban

¹ The California Advanced Services Fund pursuant to PU Code § 270(a)(7) and Senate Bill (SB) 1193.

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Regional Broadband Consortia Account (Consortia Account) and The Broadband Infrastructure Revolving Loan Account (Loan Account). SB 1040 further provided \$125 million (not exceeding \$25 million per year) to fund the programs. On February 1, 2012, the Commission approved D.12-02-015 implementing the provisions of SB 1040.

On September 22, 2011, the Commission approved Resolution T-17343, revising the surcharge from 0.00% to 0.14% on end-user bills to begin the collection of the new \$125 million authorized in SB 1040. The Commission approved Resolution T-17386 on February 13, 2013, which further increased the surcharge rate from 0.14% to 0.164% effective April 1, 2013. The increase in surcharge rate to 0.164% was necessary in order to collect the authorized \$25 million per year.

On October 03, 2013, Governor Brown approved SB 740² and Assembly Bill (AB) 1299.³ SB 740 authorized the collection of an additional \$90 million⁴ to be deposited in the CASF Broadband Infrastructure Grant Account (Infrastructure Grant Account) and extended the surcharge collection through the 2020 calendar year. AB 1299 created an additional account under the CASF called the Broadband Public Housing Account (Public Housing Account) to support the deployment of broadband networks and adoption programs in eligible publicly supported communities.

In order to meet the new requirements imposed on the program with the enactment of SB 740 and AB 1299 the Commission approved Resolution T-17434 on February 27, 2014 which revised the surcharge from 0.164% to 0.464% on end-user bills. Resolution T-17434 further provides that an amount greater than the \$25 million cap may be collected if the collection did not result in an increase in the total amount of all surcharges collected from telephone customers that year.

In June 2014, the Commission adopted Resolution T-17443, which set forth new timelines for applicants for CASF infrastructure grants/loans; including how and when local government agencies and non-telephone corporations may apply pursuant to SB 740. In December 2014, the Commission approved D.14-12-039, which implements SB 1299 and adopts the rules and guidelines for the new Broadband Public Housing Account.

On September 2, 2015, Governor Brown signed AB 1262 (Wood, Chapter 242, Statutes of 2015), which reallocates funding between two accounts within the CASF for purposes for encouraging broadband deployment in the state. Specifically, AB 1262 results in a reduction of \$5 million from the Broadband Infrastructure Revolving Loan Account and a corresponding increase to the Consortia Grant Account.

² SB 740 (Padilla) Stats. 2013 Ch. 522, amending PU Code § 281.

³ SB 1299 (Bradford) Stats. 2013 Ch. 507, amending PU Code § 281

⁴ On and after January 1, 2011, the Commission may collect an additional sum not to exceed \$215 million, for a sum total of moneys collected not to exceed \$315 million.

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DISCUSSION

In this resolution, the Commission adopts a rate reduction of 0.464% to 0.00% for the CASF surcharge effective December 1, 2016, and thereafter, until further revised by the Commission. Table 1, below, presents the status of the CASF surcharge collection, with the amount collected in each fiscal year up to FY 2015 and the estimated collection for FY 2016 through November.

TABLE 1: CASF Surcharge Collection

Year	Surcharge Rate(a)	Surcharge Collection(b)(c)	Running Total
FYs 2008 and 2009	0.25%	\$116 million	\$116 million
FY 2010	0.0%	\$0	\$116 million
FY 2011	0.14%	\$11.2 million	\$127.2 million
FY 2012	0.14% ^d	\$23.6 million	\$150.8 million
FY 2013	0.164% ^e	\$33.6 million	\$184.4 million
FY 2014	0.464%	\$60.5 million	\$244.9 million
FY 2015	0.464%	\$56.1 million	\$301 million
FY 2016 (through November)	0.464%	\$22.5 million ^f	\$323.5 million
Total		\$323.5 million	

(a) Surcharge rate changes:

- Set to 0.025% by Decision 07-12-054 (December 20, 2007), effective January 1, 2008
- Set to 0.0% by Resolution T-17248 (December 17, 2009), effective January 1, 2010
- Set to 0.14% by Resolution T-17343 (September 22, 2011), effective November 1, 2011
- Set to 0.164% by Resolution T-17386 (February 20, 2013), effective April 1, 2013
- Set to 0.464% by Resolution T-17434 (February 27, 2014), effective April 1, 2014

(b) D.07-12-054 authorized the initial collection of \$100 million for the fund.

(c) PU Code Section 281(b)(3) provides that “on an after January 1, 2011, the commission may collect an additional sum not to exceed two hundred fifteen million dollars (\$215,000,000), for a sum total of moneys collected by imposing the surcharge...not to exceed three hundred fifteen million dollars

(d) Surcharge rate was 0.14% in July 2012 to March 2013 and 0.164% thereafter.

(e) Surcharge rate was 0.164% in July 2013 to March 2014 and 0.464% thereafter.

(f) Estimated CASF monthly surcharge collected by carriers is about \$4.5 million

If the current surcharge rate remains at 0.464%, CD projects that the total amount collected is projected to exceed the \$315 million cap in October, 2016. During the period of July through November 2016, CD estimates that it will collect approximately \$22.5 million if the surcharge rate remains at 0.464%. These calculations are based on a total intrastate billing base of \$11.61 billion, obtained from the Commission’s Telecommunications and User Fees Filing System (TUFFS) program report data. Since the estimated total CASF monthly surcharge collected by carriers is about \$4.5 million, maintaining the surcharge rate at 0.464% would exceed the \$315 million cap by the amount of \$8.5 million on December 1, 2016, as shown in Table 1.

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Since continuing the current surcharge rate of 0.464% will result in an over collection, CD recommends reducing the CASF surcharge rate from 0.464% to 0.00% effective December 1, 2016.

ADVICE LETTER FILING

Consistent with Resolution T-16901, dated December 2, 2004, we require AT&T (formerly SBC) to file an advice letter with the Communications Division by November 13, 2016, modifying the CASF surcharge from 0.464% to 0.00% effective December 1, 2016, and thereafter, until further revised by the Commission. AT&T is not required to inform competing carriers of its revised tariff changes.

SAFETY ISSUES

The CASF provides subsidies for the deployment of high-quality advanced broadband infrastructure throughout the state of California. Broadband infrastructure is vital to the operation and management of critical infrastructure, such as energy generation systems and the power grid, water supply systems, and public safety and emergency response networks.

COMMENTS

In compliance with PU Code § 311 (g), on September 12, 2016, a notice letter was emailed to all telecommunications carriers and interested parties on the CASF distribution list regarding the availability of this draft resolution on the Commission's website, <http://www.cpuc.ca.gov/>. The email notice also informed parties that the draft resolution is available for public comment and that the final conformed Resolution adopted by the Commission will be posted and will be available on the same website.

Pursuant to PU Code section 281(b)(3) the Commission may not exceed \$315 million for surcharge collection. Balancing the statutory limitation for surcharge collection against the 30-day period for public review, the public necessity as defined in Rule 14.6(c)(9) of the Commission's Rules of Practice and Procedure requires a reduction of the 30-day period of comment and review of the draft resolution. In accordance with this rule, we reduce the period for public review and comment to 10 days.⁵

On September 21, 2016, the Small LECs⁶ submitted comments on the draft resolution. In the comments, the Small LECs noted the difficulty in prorating the surcharge given the time allotted.⁷ The Small LECs suggested alternative language in order to ease the time constraint. The first suggestion is to require the CASF surcharge reduction on

⁵ See Commission's Rules of Practice and Procedure Rule 14.6(c)(9).

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“bills rendered on or after” November 30, 2016. The second suggestion is to make the effective date “December 1, 2016.”

Staff accepts the second suggestion as reasonable and has modified the effective date from November 30, 2016 to December 1, 2016.

FINDINGS AND CONCLUSIONS

1. On January 1, 2008, the Commission adopted a surcharge rate of 0.25% to fund the program for a total collection of \$100 million.
2. On December 17, 2009, the Commission approved Resolution T-17248 which reduced the CASF surcharge from 0.25% to 0.00% effective January 1, 2010.
3. To collect the additional funds authorized by SB 1040, the Commission issued Resolution T-17343 on September 22, 2011, which revises the surcharge from 0.0% to 0.14% effective November 1, 2011. SB 1040 provided an additional \$125 million for CASF.
4. The Commission approved Resolution T-17386 on February 13th, 2013, increasing the surcharge rate from 0.14% to 0.164% effective April 1, 2013 in order to fully collect the authorized \$25 million per year.
5. To collect the additional funds authorized by SB 740 and to meet new program requirements, the Commission approved Resolution T-17434 on February 27th, 2014, increasing the surcharge rate from 0.164% to 0.464% effective April 1, 2014. SB 740 provided an additional \$90 million for CASF.
6. If the surcharge rate is maintained at 0.464% of intrastate revenues, the CASF surcharge collection will exceed the statutory \$315 million cap in October, 2016 with a projected over-collection of \$8.5 million by December 1, 2016.
7. All certificated telecommunications carriers should revise the CASF surcharge for intrastate telecommunications services from 0.464% to 0.00%, effective December 1, 2016, and thereafter, until further revised by the Commission.

⁶ The Small LECs are: Calaveras Telephone Company (U 1004 C), Cal-Ore Telephone Co. (U 1006 C), Ducor Telephone Company (U 1007 C), Foresthill Telephone Co. (U 1009 C), Kerman Telephone Co. (U 1012 C), Pinnacles Telephone Company (U 1013 C), The Ponderosa Telephone Co. (U 1014 C), Sierra Telephone Company, Inc. (U 1016 C), The Siskiyou Telephone Company (U 1017 C), Volcano Telephone Company (U 1019 C), Happy Valley Telephone Company (U 1010 C), Hornitos Telephone Company (U 1011 C), and Winterhaven Telephone Company (U 1021 C).

⁷ From submitted comments from the Small LECs: ‘Each carrier has a different billing cycle and it would be difficult for billing systems and billing vendors to pro-rate the surcharge on the bills. In some cases, it would not be reasonably possible to even implement such a change in the time allotted. . .’

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8. In accordance with Resolution T-16901, dated December 2, 2004, AT&T should file an advice letter with the Communications Division by November 13, 2016, modifying the CASF surcharge rate from 0.464% to 0.00% effective December 1, 2016, and thereafter, until further revised by the Commission.
9. On September 12, 2016, a notice letter was emailed to all telecommunications carriers and interested parties on the CASF distribution list regarding the availability of this draft resolution and the conformed resolution, when adopted by the Commission, on the Commission's website.
10. In accordance with Rule 14.6(c)(9), the public review and comment period on this resolution should be reduced to 10 days.
11. There was one comment from the Small LECs, requesting that the Commission change the effective date for the surcharge rate reduction in order to avoid any ambiguity and barriers in implementing the reduction. CD staff determined that the comment was reasonable and changed the effective date from November 30, 2016 to December 1, 2016.

THEREFORE, IT IS ORDERED that:

1. The CASF surcharge rate shall be reduced from 0.464% to 0.00%, effective December 1, 2016, and thereafter, until further revised by the Commission.
2. AT&T shall file an advice letter with the Communications Division by November 13, 2016, modifying the surcharge rate for the California Advanced Services Fund from 0.464% to 0.00%, effective December 1, 2016, and thereafter, until further revised by the Commission.
3. All certificated telecommunications carriers shall revise the CASF surcharge rate from 0.464% to 0.00% on their respective end-user charges billed for intrastate telecommunications services beginning December 1, 2016, and thereafter, until further revised by the Commission.

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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 October 13, 2016. The following Commissioners approved it:

/s/ RYAN DULIN for

TIMOTHY J. SULLIVAN
Executive Director

MICHAEL PICKER
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
LIANE M. RANDOLPH
Commissioners

Commissioner Carla J. Peterman, being
necessarily absent, did not participate.