

L/rys

Decision 91-09-042, September 6, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of, the Alternative
Regulatory Frameworks for Local
Exchange Carriers.

And Related Matters.

ORIGINAL

I.87-11-033

(Filed November 25, 1987)

A. 85-01-034

A. 87-01-002

I. 85-03-078

OII 84

C. 86-11-028

I. 87-02-025

C. 87-07-024

ORDER MODIFYING DECISION 91-05-016
AND DENYING REHEARING

Calaveras Telephone Company, California-Oregon Telephone Co., Ducor Telephone Company, Foresthill Telephone Co., Happy Valley Telephone Company, Hornitos Telephone Company, The Ponderosa Telephone Co., The Volcano Telephone Company, and Winterhaven Telephone Company ("Applicants") have filed an application for rehearing of Decision (D.) 91-05-016, which modified the rules for the California High Cost Fund ("CHCF").

We have considered all the allegations of error raised in this application. Although we have concluded that the application for rehearing should be denied, we believe that D.91-05-016 should be modified to correct two instances where the decision should be made consistent with the record; to include the inadvertent omission of an adopted modification ordered in D.88-12-044; and to clarify ambiguities contained therein. These modifications are set forth in the attached revised pages to D.91-05-016 and its Appendix A.

Further, the CHCF rules, as modified, can be found in their entirety in the Appendix of the instant decision. The Appendix is included so that all the CHCF rules can be found in one decision, thus eliminating the possible confusion emanating from having the modifications appearing in more than one decision.

THEREFORE, for good cause appearing,
IT IS HEREBY ORDERED:

1. That D.91-05-016 is modified as follows:

(a) From the third full paragraph on page 5 and continuing on to page 6, the following language is deleted:

"The funds have not been used to keep local rates down, as intended; to the contrary, interLATA toll rates are probably higher as a result of draws from the fund because interLATA rates support the fund."

(b) The following language is added at the end of the first full paragraph on page 8:

"The dollars for the CHCF are derived from an element in the carrier common line charge ("CCLC") of the IEC's interLATA access tariffs which is assessed on the interexchange carriers ("IECs"). To the extent IECs pass this charge on in its rates, the customers of those IECs fund the CHCF."

(c) Findings of Fact No. 2, on page 10, is replaced by the following:

"The CHCF fund is derived from an element in the carrier common line charge of the local exchange company's interLATA access tariffs which is assessed on the interexchange carriers. To the extent that the IEC passes the charge in its toll rates, the CHCF is funded from revenues collected from interLATA toll rates."

(d) The following sentence should be added at the end of Findings of Fact No. 8, on page 10:

"It is reasonable to limit the CHCF funding amount to the current funding level amount for the year for which CHCF is being requested or to the amount which produces no more than the

utility's authorized intrastate rate of return, whichever amount is lower."

(e) Finding of Fact No. 10, on page 11, is amended to read as follows:

"Using annualized earnings based on at least seven months of recorded data for the year in which the CHCF advice letter is filed and adjusted for known Commission regulatory decisions as the baseline for determining eligibility for CHCF support would be relatively simple and non-controversial."

(f) The following language should be added at the end of Findings of Fact No. 12, on page 11:

"The phase-down of CHCF support is reinitiated effective on January 1st following the utility's first subsequent annual October 1 CHCF advice letter filing after resolution or decision is rendered in the utility's general rate case. The phase-down cycle under this reinitiation will be six years: three years at 100% funding level followed by three succeeding years at 80%, 50% and 0%, respectively, if an local exchange company has not initiated a general rate review proceeding by December 31st of the previous year."

(g) Conclusions of Law No. 3, on page 11, is replaced by the following:

"The CHCF rules should be modified to limit CHCF support to amounts which would provide no more than the utility's authorized intrastate rate of return or to the current funding level for the year for which CHCF is being requested, whichever is lower, using a 'means test' as proposed by DRA. The means test should be based on forecasted intrastate rate of return using at least seven months of recorded data annualized for the year in which the CHCF advice letter is filed and adjusted for known Commission regulatory decisions for determining appropriate funding level for the utility."

(h) Conclusions of Law No. 4 is amended to read as follows:

"The CHCF rules should be modified to provide that CHCF support is not automatically renewed each year and that all requests for CHCF support shall be subject to the means test in annual submittals to be filed on October 1. The means tests shall apply only to those LECs who are seeking CHCF support. The means test shall not be applied to the determination of a LEC's CHCF funding levels following 12 months after a decision or resolution is rendered by the Commission in a LEC's general rate review proceeding."

(i) Conclusions of Law No. 5, on page 11, is amended as follows:

"The CHCF rules should be clarified to provide that the phase-down of CHCF support is reinitiated effective on January 1st following the utility's first subsequent annual October 1 CHCF advice letter filing after resolution or decision is rendered in the utility's general rate case. The phase-down cycle under this reinitiation will be six years: three years at 100% funding level followed by three succeeding years at 80%, 50% and 0%, respectively, if an local exchange company has not initiated a general rate review proceeding by December 31st of the previous year."

(j) Order Paragraph 1, on page 12, is amended to read as follows:

"CHCF support will permit the utilities to earn up to their authorized intrastate rates of return or to the current funding level for the year in which CHCF is being requested, whichever is lower. The basis for calculating the amount of CHCF which would allow the utility to earn up to its authorized intrastate rate of return shall be at least 7 months of recorded data annualized on the utility's rate of return."

(k) Order Paragraph 2, on page 12, is amended to read as follows:

"Except following 12 months after a decision or resolution is rendered by the Commission in a LEC's general rate proceeding, eligibility for all CHCF support requested by the LEC shall be contingent upon a finding that forecasted earnings shall not exceed the utility's authorized intrastate rate of return, based on at least 7 months of recorded data annualized for the year in which the CHCF advice letter is filed and adjusted for known Commission regulatory decisions. Eligibility must be established each time the utility seeks additional CHCF funding and, for the funding granted in past years, pursuant to an advice letter filing October 1 of each funding year;"

(l) Ordering Paragraph 3, on page 12, is amended to read as follows:

"The phase-down cycle of CHCF funding shall be reinitiated effective January 1st following the utility's first subsequent annual October 1 CHCF advice letter filing after a resolution or decision is issued in the utility's general rate case. The phase-down cycle under this reinitiation will be six years: three years at 100% funding level followed by three succeeding years at 80%, 50% and 0%, respectively, if an local exchange company has not initiated a general rate review proceeding by December 31st of the previous year;"

(m) The second full paragraph on page 2 of Appendix A is replaced by the following:

"Utilities shall be eligible for support from the fund limited to the amount which are forecasted to result in earnings not to exceed authorized intrastate rates of return or to the current funding level amount for the year for which HCF is being requested, whichever amount is lower. The forecasted intrastate rate of return shall be developed using annualized earnings based on at least seven months of recorded financial data for the year in which

the advice letter is filed. Funding levels from past years shall be subject to this limitation in each succeeding year. For purposes of determining amounts for which a utility may be eligible, utilities which do not have an authorized intrastate rate of return shall apply the highest intrastate rate of return authorized by the Commission for a local exchange company.

Such a forecasted rate of return shall not be applied to determine a company's HCF funding levels following 12 months after a decision or resolution is rendered by the Commission in a company's general rate review proceeding."

(n) The third sentence in the first full paragraph on page 3 of Appendix A is amended to read as follows:

"For those companies requesting CHCF support, the filing shall include, unless otherwise exempted herein, at least seven months of recorded data annualized for the year in which the advice letter is filed and adjusted for known Commission regulatory decisions regarding the utility's rate of return."

(o) The following paragraph is added to the end of Section B of Appendix A:

"For good cause, a company may propose in its advice filing that in lieu of increases or decreases to its recurring intraLATA exchange rates it instead be authorized to utilize a surcharge or surcredit to reflect the net revenue change. In addition, a company may choose to limit any surcredit to 50% of its total intraLATA billing base even where that is insufficient to deplete an existing memorandum account."

(p) The second sentence in the first full paragraph of page 5 of Appendix A is amended to read as follows:

"Specifically, the phase-down of funding shall be reinitiated effective January 1 following the utility's first subsequent annual October 1 advice letter filing after resolution or

decision is rendered in the utility's general rate review proceeding. The phase-down cycle under this reinitiation will be six years: three years at 100% funding level followed by three succeeding years at 80%, 50% and 0%, respectively, if an local exchange company has not initiated a general rate review proceeding by December 31st of the previous year."

2. That rehearing of D.91-05-016, as modified herein, is denied.

3. That the Executive Director should serve a copy of this decision on the parties listed in Appendix A to D.88-08-024 ("List of Appearances") and Appendix B ("Additional Appearances") to D.91-05-016.

This Order is effective today.

Dated September 6, 1991, at San Francisco, California.

I abstain.

G. MITCHELL WILK
Commissioner

PATRICIA M. ECKERT
President
JOHN B. OHANIAN
DANIEL WM. FESSLER
NORMAN D. SHUMWAY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director

APPENDIX
Page 1Implementation of the California Intrastate High Cost FundA. 1988 Settlements Effects and HCF Filings

Each rural and small metropolitan exchange telephone company shall file an advice letter implementing the tariffs necessary to collect on a "flow-through" basis the settlement effects revenue impact specified for such company in the foregoing opinion. Such advice letter tariff filings shall become effective concurrently with implementation of the revised Pacific Bell rate design set forth in this decision.

Such advice letters shall calculate the impact of each company's net settlements effects upon its present level of local exchange revenues and shall additionally describe the rate design necessary to adjust present local exchange revenue levels to reflect the specified settlements effects impact. The company's average local exchange rates contained in any rate design proposed by such advice letter filings shall not exceed the target level of 150% of comparable California urban rates, a standard to be measured generally by a target R-1 flat rate of \$8.35 monthly. Presently authorized rates shall not, however, be reduced to this target level by operation of this mechanism. Any proposals for an exception to this rule shall be addressed separately to the Commission. The 150% level of comparable California urban rates shall constitute a benchmark against which specific company rate designs are measured rather than a rigid requirement that each rate design element be set at 150% of the underlying urban rate.

Those companies with a revised local exchange revenue requirement (the sum of the present level of local exchange revenues and the net positive and negative settlements effects for such company herein specified) which cannot be met from the local exchange rate designs incorporating the 150% threshold shall be eligible to receive the balance of their revised local exchange

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revenue requirement from the HCF, and each such company's advice letter shall set forth calculations of its HCF funding requirements for the year 1988, adjusted for the partial year. Companies with revised local exchange revenue requirements which can be met from rate design adjustments contained in their advice letters shall not receive HCF funding during 1988.

B. Annual Settlements Effects and HCF Adjustments

In each succeeding year, each rural and small metropolitan company shall file with the Commission an advice letter incorporating the net settlements effects upon such company of regulatory changes ordered by the Commission and the Federal Communications Commission (FCC). These advice letter filings will include the previously authorized annual filings for interLATA SPF to SLU shifts set forth in D.85-06-115 as well as all other regulatory changes of industry-wide effect such as changes in levels of interstate high cost funding, interstate NTS assignment, other FCC-ordered changes in separations and accounting methodology and Commission-ordered changes such as rate changes affecting access charges, intraLATA toll or EAS settlements revenues, interLATA separations shifts and the effects of other Commission decisions which increase or decrease settlements revenues or cost assignments.

Utilities shall be eligible for support from the fund limited to the amount which are forecasted to result in earnings not to exceed authorized intrastate rates of return or to the current funding level amount for the year for which HCF is being requested, whichever amount is lower. The forecasted intrastate rate of return shall be developed using annualized earnings based on at least seven months of recorded financial data for the year in which the advice letter is filed. Funding levels from past years shall be subject to this limitation in each succeeding year. For purposes of determining amounts for which a utility may be

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eligible, utilities which do not have an authorized intrastate rate of return shall apply the highest intrastate rate of return authorized by the Commission for a local exchange company.

Such a forecasted rate of return shall not be applied to determine a company's HCF funding levels following 12 months after a decision or resolution is rendered by the Commission in a company's general rate review proceeding.

Each company shall file an advice letter by October 1 of each year (commencing October 1, 1988) setting forth the net increase or decrease from these factors upon that portion of its revenue requirement which must be met from its local exchange rate design. The advice letter and supporting workpapers shall also set forth proposed revisions to the company's local exchange rate design to compensate for the net positive or negative settlements effects while maintaining the overall rate design within the 150% guidelines as most recently defined by Commission decision and further calculating any resultant increases or decreases in the company's HCF funding requirements. For those companies requesting CHCF support, the filing shall include, unless otherwise exempted herein, at least seven months of recorded data annualized for the year in which the advice letter is filed and adjusted for known Commission regulatory decisions regarding the utility's rate of return. The advice letter shall be reviewed by the Commission Advisory and Compliance Division (CACD) and incorporated, as approved, in Commission resolutions to take effect by January 1 of the year following filing. The CACD staff shall coordinate the advice letter filing process each year with all local exchange companies through appropriate procedures.

For good cause, a company may propose in its advice filing that in lieu of increases or decreases to its recurring intraLATA exchange rates it instead be authorized to utilize a surcharge or surcredit to reflect the net revenue change. In

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addition, a company may choose to limit any surcredit to 50% of its total intraLATA billing base even where that is insufficient to deplete an existing memorandum account.

C. HCF Funding and Administration

The HCF funding process shall be administered by Pacific Bell (Pacific), and the HCF shall function as a separate fund rather than as a pool. HCF funding shall be provided by a uniform incremental amount on the carrier common line charge (CCLC) of all local exchange company interLATA access tariffs. Concurrently with this decision and in each succeeding year, Pacific shall determine the total statewide HCF funding requirement based on the funding requirements identified in the advice letters described in (1) paragraph A for 1988 and (2) paragraph B for succeeding years, and shall coordinate the filing of appropriate advice letter modifications to all California exchange carrier access charge tariffs to generate the calculated level of HCF revenue requirement.

The HCF funding increment shall be adjusted each January 1 to implement the annual revisions to HCF funding requirements. The HCF access charge increment may also be adjusted not more often than quarterly during any year where revision is required to compensate for any overcollection or undercollection of the then-current Commission authorized fund revenue requirement, including adjustments caused by variation in actual and projected usage used in developing the HCF CCCL increment and adjustments caused by any mid-year changes in the funding revenue requirement due to decisions in pending rate proceedings or any other decisions of the Commission affecting the HCF funding level. Any end-of-year HCF fund residual amount (positive or negative) shall be netted with the succeeding year's HCF prospective funding requirement.

HCF funding adjustments shall be coordinated by Pacific in conjunction with other local exchange companies and the CACD

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staff. Each exchange carrier shall remit monthly to Pacific for the HCF that portion of the CCLCs collected from the HCF access charge increment, and Pacific shall make disbursements monthly from the fund to each recipient local exchange carrier. Pacific shall not separately account for any incremental administrative costs incurred by it in administering the HCF fund, but rather it shall treat such costs as additional expenses of administering the access charge pool.

D. Rate Proceedings and Funding Levels

HCF funding shall continue at 100% of the Commission authorized funding requirement for the years 1988 and 1989. The HCF support level for those local exchange companies which have not initiated a general rate proceeding, either under General Order 96-A or by a general rate case application, by December 31, 1990, shall be reduced during the year 1991, so that such a company shall receive only 80% of the amount of funds that would otherwise be paid to it from the HCF during 1991. The HCF funding level for those companies not initiating rate proceedings by December 31, 1991, shall be further reduced to 50% of the funding requirement during the year 1992, and HCF funding for those companies which have not initiated rate proceedings by December 31, 1992, shall terminate entirely in 1993. A company's initiation of a general rate proceeding prior to the end of 1990 shall freeze its funding level at 100% during the pendency of its rate proceeding. A company's initiation of a general rate proceeding during 1991 shall freeze its 80% funding level during the pendency of its rate proceeding, and a company's initiation of a rate proceeding during 1992 shall similarly freeze its funding at the 50% level pending its rate decision.

The issuance of a Commission decision or resolution in a general rate proceeding of an independent company will have the effect of a "fresh start" for that company under the HCF plan.

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Specifically, the phase-down of funding shall be reinitiated effective January 1 following the utility's first subsequent annual October 1 advice letter filing after resolution or decision is rendered in the utility's general rate review proceeding. The phase-down cycle under this reinitiation will be six years: three years at 100% funding level followed by three succeeding years at 80%, 50% and 0%, respectively, if an local exchange company has not initiated a general rate review proceeding by December 31st of the previous year. The company's rate case decision will specify its new local exchange rate design and state whether the company is to receive HCF support as part of its newly adopted revenue requirement and rate design. In years following the decision in the general rate proceeding, the company will continue to file annual advice letters reflecting net incremental changes of the type described in paragraph B and corresponding adjustments in its local exchange rate design and HCF funding amounts.

(END OF APPENDIX A)