

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

San Francisco, California
Legal Division
Date: May 21, 1997
Resolution No. L-254

R E S O L U T I O N

The California High Cost Fund Trust Administrative Committee is directed to Advance Funds for Legal Services Required to Draft the Administrative Charters and Agency Agreements for California High Cost Fund B (CHCF-B) and the California Teleconnect Fund (CTF) and to pay for other necessary start up expenses.

BACKGROUND

D.96-10-066 issued October 25, 1996, as amended by D.97-01-020 issued January 13, 1997, provides for establishing a new California high cost fund CHCF-B and renaming the existing high cost fund (CHCF) originally established by D.88-07-022 as CHCF-A. The California Teleconnect Fund (CTF) also was established.

Pursuant to the direction of the foregoing decisions an Interim Committee composed of three Commission staff members has been proceeding to do what is necessary to establish CHCF-A, CHCF-B and the CTF. On February 28, 1997 the Internal Revenue Service (IRS) granted tax exempt status to the CHCF. The exemption is based on a principal/agent form rather than the traditional trustor/trustee relationship.

The CHCF trust administrative committee has employed the tax counsel who secured the IRS tax exempt ruling for the CHCF, to draft amendments to its charter and to the CHCF trust agreement renaming the CHCF as CHCF-A pursuant to D.96-10-066 as amended. The cost for these services was charged to the CHCF as an administrative cost pursuant to Commission direction.

The Interim Committee requested the same tax counsel to provide similar services for the two new funds and has discussed with ULTS staff the coordination of functions upon activation of the funds. No provision was made by the Commission in D.96-10-066 to provide funding for the administrative costs to establish committee charters and agency agreements for the CHCF-B and the CTF

or for other necessary start up expenses. Consequently, tax counsel has not been compensated for services that have been provided in drafting the committee charters and agency agreements for the CHCF-B and the CTF or the ULTS staff for preparing to handle daily Administration of the funds. It is necessary for the Interim Committee to take appropriate steps to implement CHCF-B and the CTF. Effective February 1, 1997, all telecommunications carriers are collecting a surcharge from their customers to fund CHCF-B and the CTF. The surcharge monies are being held by the respective telecommunications utilities until implementation.

DISCUSSION

D.96-10-066 converts the CHCF to CHCF-A. It will continue to serve the smaller independent telecommunications companies serving high cost areas. At present there is not a significant demand upon the fund. There is approximately \$21 million in the CHCF account. Consequently, the surcharge was set at 0 for 1997. The CHCF-B fund was established to meet our goal of continuing to provide telecommunications services to high cost rural areas served by the larger telecommunications companies, at a reasonable price to the public. The CTF was established to reimburse carriers for providing discounted rates to qualifying schools, libraries, hospitals, health clinics and community based organizations. Surcharges were established and funds are being collected since February 1, 1997 for CHCF-B and the CTF. We desire that implementation of these two funds commence as expeditiously as possible to meet our regulatory goals. The administrative costs of these funds will be charged to the respective funds once they are operating. The work being performed by tax counsel for CHCF-A is appropriately being charged to the CHCF. The same tax counsel is performing comparable services to establish the committee charters and agency agreements for CHCF-B and CTF in accordance with the IRS ruling issued February 28, 1997. The CHCF, CHCF-A, CHCF-B, and the CTF are supported by the same billing base. Accordingly, it is appropriate to compensate tax counsel and to pay for other start up expenses, by advancing funds from the CHCF subject to reimbursement by CHCF-B and the CTF, as soon as those two funds are activated.

FINDINGS OF FACT

1. D.96-10-066 Directs that the CHCF originally established by D.88-07-022 be designated as CHCF-A. A new CHCF-B was established as well as the California Teleconnect Fund (CTF).
2. The surcharge rate for the CHCF has been set at 0 for 1997. Approximately \$21 million is in the account.
3. Tax counsel obtained a ruling from the IRS issued February 28, 1997 granting tax exempt status to the CHCF.

4. Tax counsel is now preparing an amendment to the CHCF trust fund Agreement and the Charter of the CHCF trust administrative committee, to rename the CHCF trust as the California High Cost Fund-A (CHCF-A).

5. Tax counsel is being compensated for services in connection with CHCF-A out of the CHCF fund.

6. Tax counsel is providing similar services in establishing the Agency Agreements and Committee Charters for the CHCF-B and the CTF.

7. It is appropriate to compensate tax counsel for services rendered in connection with CHCF-B and CTF on a timely basis and to provide for other necessary start up expenses.

8. The CHCF, CHCF-A, CHCF-B and the CTF are supported by the same billing base.

9. Tax counsel should be compensated by advances from the CHCF subject to reimbursement by CHCF-B and the CTF, as soon as those two funds become active.

10. Provision also should be made for advances from the CHCF, subject to reimbursement by CHCF-B and the CTF for other necessary start up expenses, as soon as these two funds become active.

THEREFORE, IT IS ORDERED that:

The CHCF trust administrative committee is directed to compensate tax counsel for services provided in renaming the CHCF to CHCF-A and preparing the agency agreements and committee charters for CHCF-B and the CTF, from the CHCF fund, subject to reimbursement as soon as the CHCF-B and CTF become active.

The CHCF trust Administrative Committee is further directed to advance funds from the CHCF fund for other necessary start up expenses subject to reimbursement as soon as the CHCF-B and CTF become active

The effective date of this resolution is today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on May 21, 1997. The following Commissioners approved it.

P. GREGORY CONLON

President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners



WESLEY FRANKLIN

Executive Director