

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

Resolution T-16071
Date: August 1, 1997

RESOLUTION

RESOLUTION T-16071. Approval in principle of the proposed charters and trust agreements for the California High Cost Fund B (CHCF-B) and the California Teleconnect fund (CTF).

BACKGROUND

By D.96-10-066 issued October 25, 1996, as amended by D.97-01-020 issued January 13, 1997, we established the California High Cost Fund-B (CHCF-B) and renamed the existing high cost fund (CHCF), originally established by D.88-07-022 as California High Cost Fund A (CHCF-A). The California Teleconnect Fund (CTF) also was established by D.96-10-066, as amended by D.97-01-020.

The CHCF-B fund was established to meet our goal of continuing to provide telecommunications services to high cost areas served by the larger telecommunications companies, at a reasonable price to the public. Accordingly, it was necessary to modify the CHCF to create CHCF-B and to continue the purposes originally underlying the CHCF by establishing CHCF-A, which will continue to serve the smaller independent telecommunications companies serving high cost areas. 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 since February 1, 1997 funds have been collected for CHCF-B and the CTF. These surcharge monies are being held by the respective utilities until the respective funds are activated. Pursuant to the direction of the foregoing decisions an Interim Administrative Committee (Interim Committee) composed of three Commission staff members has been proceeding to do what is necessary to establish the CHCF-B and the CTF.

On February 28, 1997, the Internal Revenue Service (IRS) granted tax-exempt status to the CHCF. During the IRS review of the request for the tax exempt status

of the CHCF-B, a split of opinion arose among IRS branches as to whether the CHCF trust met the requirements for exemption, even though it was essentially the same as prior trusts submitted for rulings. In addition, a Supreme Court case on state-held trusts as well as new regulations defining entities changed the environment for such rulings.

Despite the changes and the split of opinions within the IRS, the IRS ultimately chose to "look through" the trust, holding that the CHCF was an agent of the CPUC and not a separate entity for tax purposes. Thus, the CHCF was held to be exempt from taxation. Tax counsel's post-ruling conversations with the IRS indicated that holding future funds in trust form could create a problem if the IRS were to closely examine the "essential governmental function" and "income accruing to the state" rules with respect to these funds.

The Interim Committee, with the assistance of tax counsel and counsel for the CHCF, have analyzed the potential effects of the IRS ruling with respect to implementation of the CHCF-B and the CTF. It was finally concluded that in order to avoid uncertainty as to ownership of the funds, a trust should be created to hold the proceeds of each fund. Each fund will be the property of its respective trust, and the use and disposition of each fund will be limited to the purposes specified by the Commission and memorialized in appropriate trust agreements. This is consistent with the plan the Commission envisioned in D.96-10-066, as modified by D.97-01-020, which were issued by the Commission before the IRS ruling discussed above was issued. The Interim Committee plans to request a "presubmission conference" with the IRS to address any issues the IRS may have with respect to the use of the proposed trust and to explain why the use of a trust is appropriate under state law to carry out the Commission's purposes.

DISCUSSION

In anticipation of its meeting with the IRS, the Interim Committee has requested by letter request dated June 20, 1997, confirmation that we stand behind and support the steps taken by the Interim Committee to implement the three trusts discussed herein. The Interim Committee, therefore, has requested our approval in principle, by resolution, of the charters and trust agreements for the CHCF-B and the CTF submitted by their letter request and attached hereto. The proposed charters set forth the purpose of each committee, the membership of each committee, duties and responsibilities of each committee as well as provisions

addressing the scheduling and conduct of committee meetings and the selection and responsibilities of the committee officers.

The Interim Committee has indicated that it intends to submit our support of the proposal to the IRS at the presubmission conference presently intended to be held during the week of August 18, 1997. Depending on the results of the meeting, the Interim Committee will seek either confirmation from us of our approval of the trust agreements or, in the alternative, will propose a different approach for administering the funds. In either event, the Interim Committee will submit its proposal, at that time, in the form of a motion in the Universal Service proceeding, R.95-01-020/I.95-01-021.

Copies of the Interim Committee's June 20, 1997 letter request proposal have been mailed to all appearances in the Universal Service proceeding. A twenty day comment/protest period was established. On July 10, 1997, the last day for comment or protest, Cox California Telecom, Inc. (Cox) filed its comments. Cox had no substantively material protest or comment. However, it indicated that our "approval in principle" of the drafts should not be construed as a final decision on - or a prejudgment of - several issues that are currently under our consideration. For example, a workshop was held on February 10, 1997, to determine the criteria for the permanent members of the CHCF-B Administrative Committee and the CTF Administrative Committee. At the workshop, the issue of whether representation of the administrative committees should be extended to individual employees of companies, or to the companies themselves was discussed. While, the final appointment of the permanent members of these two committees and the mechanics of how members of the permanent committees should be appointed in the future are still pending, Article III of the draft charters proposes to limit representation on the administrative committees of both Funds to individuals as opposed to companies. For this reason and others, Cox suggested that we should make clear that any "approval in principle" of the draft charters and trust agreements is subject to modification prior to final approval.

Based on our review of the Interim Committee's letter request and Cox's comments, we conclude that the proposed charters and the proposed trust agreements will adequately serve the goals we have set for the CHCF-B and the CTF, so long as they prove to be consistent with IRS standards for exemption from federal income taxation.

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 also was established as well as the California Teleconnect Fund (CTF).
2. Tax counsel obtained a ruling from the IRS issued February 28, 1997 granting tax-exempt status to the CHCF. The IRS chose to "look through" the trust, holding that the CHCF was an agent of the CPUC and not a separate entity for tax purposes.
3. Post-ruling conversations by tax counsel with the IRS indicated that holding future funds in trust form could create a problem if the IRS were to closely examine the "essential governmental function" and "income accruing to the state" rules with respect to these funds.
4. The Interim Committee appointed by the Commission, together with tax counsel and counsel for the CHCF, have analyzed the consequences of the IRS ruling with respect to implementing CHCF-B and the CTF.
5. Upon conclusion of the analysis cited in Finding of Fact 4 it was concluded that it was preferable to hold each fund in its respective trust, and that the use and disposition of each fund would be limited to the purposes specified by the Commission and memorialized in appropriate trust agreements. This would be consistent with the plan originally envisioned in D.96-01-066 as modified by D.97-01-020.
6. The Interim Committee requests our approval in principle, by resolution, of the attached charters and trust agreements for the CHCF-B and the CTF, to be submitted to the IRS in a presubmission conference to be held during the week of August 18, 1997.
7. Depending on the results of the meeting with the IRS the Interim Committee will either seek confirmation from us of our approval of the charters and trust agreements or, in the alternative, propose a different approach for administering the respective funds.
8. The Interim Committee's proposal was submitted by letter request dated June 20, 1997 to the Executive Director and served on all appearances in the Universal Service proceeding R.95-01-020/I.95-01-021.
9. No material objections have been received to the Committee's June 20, 1997 letter request filing.
10. The proposed charters and trust agreements for the CHCF-B and the CTF will adequately serve the goals we have set for these funds, so long as these

August 1, 1997

instruments prove to be consistent with IRS standards for exemption from federal income taxation.

THEREFORE, IT IS ORDERED that:

1. We hereby approve in principle the attached charters and trust agreements for the CHCF-B and the CTF submitted by the Interim Committee in their June 20, 1997 letter request filing.
2. The Interim Committee may submit this Resolution to the IRS at its presubmission conference scheduled for the week of August 18, 1997 and to obtain from the IRS any comments and suggestions they may have that would further our objectives expressed in the attached charters and trust agreements.
3. Following the presubmission conference with the IRS the Interim Administrative Committee is directed to make the appropriate recommendations to us in the form of a motion to be filed in the Universal Service proceeding R.95-01-020/I.95-01-021.

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 August 1, 1997. The following Commissioners approved it.


WESLEY FRANKLIN
Executive Director

P. GREGORY CONLON
President
JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners

**CHARTER OF THE
CALIFORNIA TELECONNECT FUND
ADMINISTRATIVE COMMITTEE**

CHARTER OF THE CALIFORNIA TELECONNECT FUND

ADMINISTRATIVE COMMITTEE

ARTICLE ONE

NAME

1.1. Name. The name of the Committee shall be the California Teleconnect Fund Administrative Committee ("the Committee").

ARTICLE TWO

PURPOSE OF COMMITTEE

2.1. Purpose of Committee. The California Public Utilities Commission ("the CPUC") in 1996 issued Decision No. 96-10-066, as amended, ordering the creation of the California Teleconnect Fund ("the CTF") as a means of reimbursing carriers for providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community based organizations as determined by the CPUC. The CTF is funded by a surcharge, as determined by the CPUC, on the end user's bill for telecommunications services beginning as of February 1, 1997. The CPUC has ordered providers to collect the surcharges from their customers and has ordered the Committee governed by this instrument to serve as administrative agent to implement the appropriate mechanism to receive, invest, account for and disburse the surcharges paid over to the CTF. The interim Administrative Committee, pursuant to the appointment of the Executive Director of the CPUC, as of the date of execution of this Charter, consists of the following members: Michael C. Amato, Rufus G. Thayer, Jr. and David M. Shantz. The purpose of the interim Committee is (1) to develop the charter consistent with the decisions by the CPUC and other documents necessary to expeditiously form a

Trust for the CTF; (2) to secure the services of a qualified financial institution or institutions to handle the deposit and disbursement of the monies associated with the CTF and to enter into agreements, including Trust Agreements, with such financial institution or institutions; (3) to establish the procedures for administration of the Trust; (4) to administer or cause to be administered the day-to-day operation of the Trust, until such time as the permanent Committee is appointed, and qualified persons or entities can be hired to take over these administrative tasks; and (5) to authorize the financial institution or institutions to disburse the monies. The interim Committee shall work with the permanent Committee to develop a smooth transition to administer the CTF on a day-to-day basis.

ARTICLE THREE

MEMBERSHIP

3.1. Members. The permanent Committee shall be composed of up to six (6) members consisting of the following: one member from a local exchange carrier; one member from a competitive local carrier; one member from a wireless provider; one member from a consumer group; one other member from a carrier representative; and the head of the Telecommunications Division or his designee (a non-voting member) or as otherwise ordered by the CPUC.

3.2. Selection. Initial members shall be appointed by the Executive Director of the CPUC.

3.3. Term of Appointment. A member shall hold office until a successor has been elected and has assumed office or until such member has been removed in accordance with Paragraph 3.4 or has resigned in accordance with Paragraph 3.5. If for any reason, a member ceases to be an employee

of the respective class upon which his or her membership is based, the member's appointment will terminate as of the date the member ceases to be such an employee.

3.4. Removal. Any member may be removed at any time by the Executive Director of the CPUC.

3.5. Resignation. Any member may resign upon giving thirty (30) days written notice to the then acting Chairperson of the Committee. The member's appointment shall terminate upon the expiration of the thirty (30) day notification period.

3.6. Vacancies. If a seat is vacated, the Committee shall initiate a search for a person who is currently a member of the class, according to Paragraph 3.1, from which the vacancy occurs. Approval of the person to fill the vacancy will be made by the Executive Director of the CPUC. If the Committee is unable to fill the vacancy for any reason, the Executive Director of the CPUC shall appoint a member of the class from which the vacancy occurs.

3.7. Notification. Any changes in membership of the Committee shall be communicated by the Committee in writing to the Trustee designated in the CTF Trust Agreement.

3.8. Indemnification. Members, officers, employees, and agents of the Committee who are not members of the CPUC staff are uncompensated servants of the CPUC within the meaning of Section 810.2 of the Government Code. Accordingly, the State will indemnify such persons, as it indemnifies its compensated employees, and will provide them legal representation by the California Attorney General with respect to claims of liability and indemnify such persons for their acts or omissions occurring within the course and scope of the services they perform for the Committee, as it indemnifies and provides representation for its compensated employees pursuant to Government Code Sections 825 et seq. and Sections 995 et seq. The Committee may, in addition, use CTF funds

to purchase liability insurance for indemnification and legal representation of its members, officers, employees, and agents for such persons' acts or omissions occurring within the course and scope of the services they perform for the Committee, to the extent that such activities are held not to be indemnified by the State and/or defense is not provided by the State pursuant to Government Code Sections 810.2, 825 et seq. and/or 995 et seq.

3.9. Expenses. Members of the Committee shall be entitled to reimbursement of reasonable expenses incurred in connection with their service on the Committee and may be entitled to per diem allowances as determined by the CPUC.

ARTICLE FOUR

DUTIES AND RESPONSIBILITIES

4.1. Duties. The Committee shall have the following duties and responsibilities:

(a) With respect to the receipt of surcharges for the CTF: (1) maintain records, or cause records to be maintained, on a monthly basis, of the amount of surcharges transmitted by all telecommunications carriers; (2) notify the CPUC of any carriers which are delinquent. All other duties in connection with the receipt of surcharges are the responsibility of the CPUC.

(b) With respect to the payment of claims submitted by the telecommunications carriers: (1) pay, or cause to be paid, claims which are approved in accordance with procedures authorized by the CPUC; (2) approve administrative expenses of the Committee and direct the Trustee of the CTF Trust in writing to pay such expenses; (3) provide, or cause to be provided, monthly receipts and expenditures reports to the CPUC. All other duties in connection with the claims process are the responsibility of the CPUC.

(c) Determine, or cause to be determined, an investment policy for the CTF, taking into account the CTF's short-term and long-term financial needs, and review the investment performance of the CTF.

(d) Recommend surcharge rate changes to the CPUC.

- (e) Investigate and evaluate policy and operational issues pertaining to the administration of the CTF.
- (f) Initiate recommendations to the CPUC for changes in the administration of the CTF.
- (g) Make decisions with respect to program changes that do not have significant policy or budgetary implications unless the majority of the Committee decides to refer such proposed changes to the CPUC for decision. The Committee shall maintain a record of any program changes that it initiates, and it shall notify the CPUC of such changes.
- (h) Perform the functions set forth in the CTF Trust Agreement.
- (i) Hire or contract with persons or firms to provide the support necessary to enable the Committee adequately to fulfill its duties.
- (j) Prepare and submit to the CPUC an annual budget for the Committee; during the time that the CPUC is considering approval of the proposed budget, the Committee shall act in accordance with its existing budget as though it had been extended for another year. Prepare and submit supplemental budget requests to the CPUC if such requests are necessary adequately to fulfill the duties of the Committee.
- (k) Obtain an annual audit of the CTF by a firm of independent certified public accountants.
- (l) File an annual report with the CPUC.
- (m) Perform such other duties as may from time to time be imposed on it by the CPUC in connection with the administration of the CTF.

ARTICLE FIVE

MEETINGS

5.1. General. The Committee shall act only in the course of a duly noticed meeting. The Committee shall hold monthly meetings. Notification of the date, place, and time of each meeting shall be given to each member and shall be published in the CPUC's Daily Calendar at least ten (10) days in advance of the meeting.

5.2. Open Meetings. Meetings shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act in Government Code Sections 11120 et seq. A copy of that Act shall be given to every existing and new member of the Committee.

5.3. Quorum. A majority of the members of the Committee in office shall constitute a quorum for the transaction of business. The members may be present in person or by conference telephone, so long as the place of the meeting is open to attendance by the public. Each voting member present or his or her representative pursuant to Paragraph 5.4 below shall have one vote. Decisions shall be made by majority vote of those voting members present or the member's representative. A meeting at which a quorum is initially present may transact business notwithstanding the withdrawal of members, if any action taken is approved by at least a majority of the required quorum for the meeting.

5.4. Proxies. A member may be represented at any meeting by written authorization by that member to the Chairperson, naming a designated individual to represent that member at a specified, noticed meeting. Notification must be made to the Chairperson in advance of the meeting, and must be given in writing by the time set for the beginning of the meeting. Any proxy may be revoked at any time before the meeting begins by written notice to the Chairperson by the member who gave the proxy.

5.5. Records. Actions of the Committee shall be recorded in minutes, copies of which shall be provided to the CPUC and to any interested person upon request.

ARTICLE SIX

OFFICERS

6.1. Two Officers. The Committee shall have two officers, a Chairperson and a Vice-Chairperson, both of whom shall be members of the Committee. The officers shall be elected by the members of the Committee to serve a term of one year, and they may be re-elected. An officer shall continue to hold office until a successor has been elected and assumed office. However, if an officer ceases employment as described in Paragraph 3.3, the officer's appointment shall terminate upon the date that the officer ceases employment.

6.2. Duties. The Chairperson shall be the executive officer of the Committee and shall be responsible for the general supervision and direction of the affairs of the Committee. The Chairperson shall preside at all meetings of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall perform the duties of that office. If the Chairperson and Vice-Chairperson are unavailable for a meeting where a quorum nevertheless exists, the Chairperson may appoint a temporary Chairperson for that meeting. The officers shall perform such other duties as from time to time may be prescribed by the Committee.

ARTICLE SEVEN

EFFECTIVE DATE and AMENDMENTS

7.1. Effective Date. This Charter shall become effective on the date it is approved by the CPUC.

7.2. Amendments. This Charter may be amended by vote of the majority of the members of the Committee and said amendment shall be submitted for approval by the CPUC.

This Charter is subject to amendment, termination or revocation at any time by order of the CPUC.

ARTICLE EIGHT

LIMITATION ON COMMITTEE POWER AND AUTHORITY

8.1. While the Committee shall have the power and authority to carry out the foregoing duties, it shall not have the authority to direct telecommunications carriers to act or refrain from acting. Such authority shall remain solely with the CPUC.

8.2. The members of the Committee in the performance of their duties and in the actions taken by the Committee shall at all times be subject to the direction, control and approval of the CPUC.

This Charter is executed on _____, 1997.

Michael C. Amato

Rufus G. Thayer, Jr.

David M. Shantz

CALIFORNIA TELECONNECT FUND
TRUST AGREEMENT

CALIFORNIA TELECONNECT FUND TRUST AGREEMENT

The CALIFORNIA PUBLIC UTILITIES COMMISSION ("CPUC"), in exercising its governmental authority, is hereby entering into this TRUST AGREEMENT for the purpose of delegating authority to receive, distribute and invest CALIFORNIA TELECONNECT FUND monies to a third party. NOW THEREFORE, the CALIFORNIA TELECONNECT FUND TRUST AGREEMENT is entered into by and between the CPUC by its Administrative Committee as Trustor and _____ as Trustee.

ARTICLE ONE

Introduction

1.1 Control of Funds. This agreement is for administrative convenience only; the California Public Utilities Commission ("the CPUC") controls the funds governed by this instrument.

1.2 Purpose of Agreement. The CPUC in 1996 issued Decision No. 96-10-066, as amended, ordering the creation of the California Teleconnect Fund ("the CTF") as a means of reimbursing telecommunications service providers for providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community based organizations as determined by the CPUC. The CTF is funded by a surcharge, as determined by the CPUC, on the end users' bills for telecommunications services beginning as of February 1, 1997. The CPUC has ordered that an interim Administrative Committee ("Committee") be appointed to oversee the obligations of the CTF until a permanent committee is in place. The term "Committee" as used throughout this document shall refer to both the interim Administrative Committee and the permanent

Administrative Committee. The Committee hereby creates and establishes this agreement to fulfill its duties under California Public Utilities Code section 739.3 and Decision 96-10-066, as amended, regarding the creation and implementation of CTF.

1.3 Composition of the Committee. The interim Committee shall consist of the following three (3) members: Michael C. Amato, Rufus G. Thayer, Jr. and David M. Shantz. The permanent Committee shall be composed of up to six (6) members who may be appointed or removed at any time by the CPUC. Notice of any such change will be provided in writing to the Trustee. The Trustee shall be subject to the control and direction of the Committee, but if any disagreement arises between the CPUC and the Committee concerning the Trust, the Trustee shall act in accordance with the written direction given by the CPUC.

1.4 Beneficiaries. The Trust is ultimately for the benefit of qualifying schools, libraries, hospitals, health clinics, and community based organizations. Such benefit shall be accomplished by means of transfer payments out of the Trust to telecommunications providers who provide discounted rates to the above named beneficiaries.

1.5 Effective Date. This agreement shall be effective immediately upon execution by all parties.

ARTICLE TWO

Establishment of Trust

2.1 Trust Assets. The CPUC has established the CTF as a fund for the receipt of any and all monies which are from time to time remitted by California telecommunications service providers as a result of CTF surcharges set by the CPUC pursuant to Decision 96-10-066, as amended, and collected and remitted to the CTF by such providers, for receipt of any other

money or property remitted to this CTF as ordered by the CPUC, and for the receipt of any income earned attributable thereto. Such receipts of principal and income earned thereon shall comprise the assets of the Trust. The Trustee shall hold, administer and distribute the Trust assets as provided in this Trust Agreement.

2.2 Acceptance of Trust. The Trustee hereby accepts the Trust subject to all of the terms and conditions of this Trust Agreement.

2.3 Remittances to the Trust. Remittances to the Trust shall be made to the Trustee by service providers at such times and in such amounts as the CPUC shall from time to time determine. The Trustee shall be responsible only for sums actually received by it as Trustee under this Trust Agreement and shall not have any duty or right to dispute any amount to be paid by it pursuant to this Trust Agreement or to collect any sums from CTF providers.

ARTICLE THREE

Distributions

3.1 Purpose of Distributions. At the written direction of the Committee and subject to Section 3.3 herein, the Trustee shall make distributions from the Trust for the following purposes:

- (a) Payments as authorized by the Committee to telecommunications providers serving beneficiaries that qualify for CTF support.
- (b) Payment of reasonable administrative costs incurred by or on behalf of the Committee in the performance of its duties.
- (c) Reimbursement or direct payment of reasonable expenses incurred by the Committee or any other party as ordered by the CPUC for administration of the Fund.

3.2 Time of Distributions. Distributions from the Trust shall be made not more often than once per month unless the Committee or the CPUC specifically directs otherwise.

Reimbursement to Committee members from the Trust shall be made on a monthly basis.

3.3 Non-liability of Trustee. The Trustee shall incur no liability for the acts, omissions, or defaults of any of its agents (other than its officers or employees) or depository selected with reasonable care. The Trustee shall incur no liability for any distribution it makes according to the written directions of the Committee or CPUC, nor for action upon any written direction or document it believes in good faith to be genuine. The Trustee shall not be responsible for the adequacy of the Trust assets to discharge any and all of its obligations. Any payment by the Trustee may be made by mailing its check to the address furnished by the Committee or by electronically transferring funds.

ARTICLE FOUR

Distribution Upon Termination

4.1 Upon any revocation or termination pursuant to a written direction of the CPUC, the assets of the Trust shall be distributed by the Trustee as and when directed by the Committee in accordance with the direction of the CPUC. Until final distribution of the Trust assets, the Trustee shall continue to have all the powers provided under this Trust Agreement as are necessary and expedient for the orderly liquidation and distribution of the assets of the Trust.

ARTICLE FIVE

Powers and Duties of the Committee

5.1 Administrative Powers and Duties of Committee. The Committee shall address and resolve any questions regarding receipt or collection of surcharges by the CTF or payment of

amounts by the CTF. The Committee shall act exclusively in accordance with its Charter and for the benefit of the Beneficiaries, the set of which may change from time to time as directed by the CPUC. Actions of the Committee shall be taken by majority vote and shall be recorded in minutes, copies of which shall be provided to the CPUC and to the Trustee upon its request. In performing their duties under this Trust Agreement, the members of the Committee shall at all times be subject to the direction, control, and approval of the CPUC. The CPUC shall have the power to conclusively decide any question involving the Trust.

ARTICLE SIX

Provisions Regarding Trustee

6.1 The Trustee shall hold all assets of the Trust and receive all income of the Trust as directed by the Committee. The Trustee shall maintain or cause to be maintained the records of Trust activity. After the end of each month and each fiscal year of the Trust, the Trustee shall prepare reports as provided in Article Nine showing how the property of the Trust is invested and the receipts and disbursements of the Trust for the preceding period and furnish a copy of such statements to the Committee and the CPUC.

6.2 Resignation or Removal of Trustee. Subject to Paragraph 6.3, the Trustee may resign at any time upon the giving of sixty (60) days written notice to the Committee. The Committee may remove the Trustee at any time upon the giving of sixty (60) days written notice to the Trustee.

6.3 Successor Trustee. Upon the resignation or removal of the Trustee, the Committee shall appoint a successor Trustee or Trustees. The resignation or removal shall become effective upon acceptance of the appointment by a successor Trustee unless otherwise

agreed between the Committee and the Trustee. Any successor Trustee shall have the same rights, powers, and duties as it would have had as an original Trustee.

6.4 Own Acts and Omissions. All rights, powers, authority, immunity and discretion herein granted or conferred upon the original Trustee shall survive to and may be exercised or applied in the same manner and to the same extent by or for any successor Trustee that may at any time be acting hereunder. Each Trustee shall be responsible only for its own acts or omissions. A successor Trustee shall not be required to audit or investigate the acts or administration of any predecessor unless otherwise directed by the Committee or by the CPUC.

6.5 Successor to Corporate Business. Reference herein to the Trustee shall include any corporation or association that may become a successor Trustee or any successor corporation which may succeed to a corporate Trustee's business.

ARTICLE SEVEN

Trustee's Powers

7.1 General Powers. Subject to the investment policy described in Section 7.2, in administering the Trust, the Trustee shall have all of the powers and discretion conferred upon Trustees by California law.

7.2 Investment Policy. In accordance with its Charter, the Committee shall determine from time to time an investment policy and method consistent with the objectives of the Fund, taking into consideration the Fund's short-term and long-term financial needs. The Committee shall advise the Trustee of this investment policy and method, which shall be implemented by the Trustee in conformity with banking procedures that shall be disclosed to the Committee.

7.3 Standard of Care. In carrying out each of its responsibilities under this Trust Agreement, the Trustee shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with such matters would use.

7.4 Limitation on Trustee's Power. The Trustee shall be subject to the control and direction of the Committee, but if any disagreement arises between the CPUC and the Committee concerning the Trust, the Trustee shall act in accordance with the written direction given by the CPUC.

ARTICLE EIGHT

Compensation of Trustee and Expenses

8.1 Compensation of Trustee. The Trustee and any agents it reasonably employs shall be entitled to reasonable compensation for services under this Trust Agreement and for any extraordinary services at a rate to be agreed upon from time to time between the Trustee and Committee.

8.2 Expenses. The Trustee shall be reimbursed for reasonable expenses incurred on behalf of the Trust after written approval by the Committee.

8.3 Limitations on Fees and Costs. The amount of fees and costs to be paid to or at the request of the Trustee for services under this Trust Agreement shall be limited to that fixed amount contained in a letter agreement between the Trustee and the Committee.

8.4 Allocation of Expense to Principal or Income. The Trustee shall charge its compensation and expenses to the Trust's principal or income as agreed upon between the Trustee and the Committee.

ARTICLE NINE

Books, Records and Reports

9.1 Books and Records. The Trustee shall keep accurate books and records reflecting investments, receipts, and disbursements of the Trust. The books and records shall be open to inspection at all reasonable times by the CPUC and the Committee or their designated representatives.

9.2 Daily Reports. The Trustee shall submit daily receipt activity reports to the designated representative of the Committee.

9.3 Monthly Reports. Not more than ten (10) business days after the end of each month, the Trustee shall submit to the designated representative of the CPUC and to the designated representative of the Committee (for distribution to each Committee member) reports for such month setting forth the following information:

- (a) Monthly bank statements;
- (b) Disbursements of funds to each beneficiary;
- (c) Purchases, sales, redemptions, or exchanges of all securities;
- (d) Receipt of all interest or other income on invested assets;
- (e) Other disbursements;
- (f) Asset list showing market values, cost and approximate annual income of all holdings;

- (g) Such other information as the Committee or the CPUC may require from time to time.

9.4 Annual Reports. The Trustee shall provide, within ten (10) days after the close of each fiscal year, an annual reconciliation statement summarizing Trust activity. The Committee shall arrange for an annual audit of the financial statements and transactions of the Trust and its distributions. The audit shall contain such detail as may be requested by the CPUC or the Committee. The Trustee shall assist and cooperate in any reasonable manner to achieve the timely completion of the annual audit. The Committee shall provide the CPUC and the Trustee with copies of the audit report.

ARTICLE TEN

Amendment, Revocation and Termination

10.1 This Trust Agreement may be terminated, revoked or amended at any time pursuant to written direction of the CPUC.

ARTICLE ELEVEN

Miscellaneous

11.1 Accounting Method.

- (a) The Trust's fiscal year shall be designated by the Committee.
- (b) The accounting for annual reports shall use generally accepted accounting principles.

11.2 Request for Instructions. The Trustee may at any time seek written instructions from the Committee or the CPUC on any matter.

11.3 Indemnification. The Trust shall indemnify and hold harmless the members of the Committee and their successors, against all liabilities, demands, claims, actions, losses, taxes, and expenses (including reasonable attorneys' fees) arising out of acts or omissions to act with respect to the purposes of the Fund except in the case of willful misconduct, gross negligence, fraud, or illegal acts.

11.4 Diversion of Assets Prohibited. Except as may be required by order of the CPUC, the Committee is responsible for directing the Trustee in such manner that no portion of the assets or income of the Trust shall be diverted to purposes other than to provide CPUC authorized funds to the Beneficiaries or for related expenses and for expenses of administering the Trust.

11.5 Applicable Law. All questions concerning the validity, interpretation, and administration of this Trust Agreement shall be governed by the laws of the State of California, regardless of the domicile of any Trustee or Beneficiary.

11.6 Severability Clause. If any provision of this Trust Agreement is invalid, that provision shall be disregarded, and the remainder of this Trust Agreement shall be construed as if the invalid provision had not been included.

11.7 Counterparts. This document may be executed in counterparts.

//

//

//

//

//

//

IN WITNESS WHEREOF, the Trustor and Trustee hereby execute this Agreement on

_____, 1997.

TRUSTOR:

The Administrative Committee:

Michael C. Amato

Rufus G. Thayer, Jr.

David M. Shantz

TRUSTEE:

By: _____
Its: _____

By: _____
Its: _____

**CHARTER OF THE
CALIFORNIA HIGH COST FUND-B
ADMINISTRATIVE COMMITTEE**

CHARTER OF THE CALIFORNIA HIGH COST FUND-B
ADMINISTRATIVE COMMITTEE

ARTICLE ONE

NAME

1.1. Name. The name of the Committee shall be the California High Cost Fund-B Administrative Committee ("the Committee").

ARTICLE TWO

PURPOSE OF COMMITTEE

2.1. Purpose of Committee. The California Public Utilities Commission ("the CPUC") in 1996 issued Decision No. 96-10-066, as amended, ordering the creation of the California High Cost Fund-B ("the CHCF-B") as a means of subsidizing carriers who provide service in high cost areas, as determined by the CPUC. The CHCF-B is funded by a surcharge, as determined by the CPUC, on the end user's bill for telecommunications services beginning as of February 1, 1997. The CPUC has ordered providers to collect the surcharges from their customers and has ordered the Committee governed by this instrument to serve as administrative agent to implement the appropriate mechanism to receive, invest, account for and disburse the surcharges paid over to the CHCF-B. The interim Administrative Committee, pursuant to the appointment of the Executive Director of the CPUC, as of the date of execution of this Charter, consists of the following members: Michael C. Amato, Rufus G. Thayer, Jr. and David M. Shantz. The purpose of the interim Committee is (1) to develop the charter consistent with the decisions by the CPUC and other documents necessary to expeditiously form a Trust for the CHCF-B; (2) to secure the services of a qualified financial institution or

institutions to handle the deposit and disbursement of the monies associated with the CHCF-B and to enter into agreements, including Trust Agreements, with such financial institution or institutions; (3) to establish the procedures for administration of the Trust; (4) to administer or cause to be administered the day-to-day operation of the Trust, until such time as the permanent Committee is appointed, and qualified persons or entities can be hired to take over these administrative tasks; and (5) to authorize the financial institution or institutions to disburse the monies. The interim Committee shall work with the permanent Committee to develop a smooth transition to administer the CHCF-B on a day-to-day basis.

ARTICLE THREE

MEMBERSHIP

3.1. Members. The permanent Committee shall be composed of up to six (6) members consisting of the following: one member from a local exchange carrier; one member from a competitive local carrier; one member from a wireless provider; one member from a consumer group; one other member from a carrier representative; and the head of the Telecommunications Division or his designee (a non-voting member) or as otherwise ordered by the CPUC.

3.2. Selection. Initial members shall be appointed by the Executive Director of the CPUC.

3.3. Term of Appointment. A member shall hold office until a successor has been elected and has assumed office or until such member has been removed in accordance with Paragraph 3.4 or has resigned in accordance with Paragraph 3.5. If for any reason, a member ceases to be an employee

of the respective class upon which his or her membership is based, the member's appointment will terminate as of the date the member ceases to be such an employee.

3.4. Removal. Any member may be removed at any time by the Executive Director of the CPUC.

3.5. Resignation. Any member may resign upon giving thirty (30) days written notice to the then acting Chairperson of the Committee. The member's appointment shall terminate upon the expiration of the thirty (30) day notification period.

3.6. Vacancies. If a seat is vacated, the Committee shall initiate a search for a person who is currently a member of the class, according to Paragraph 3.1, from which the vacancy occurs. Approval of the person to fill the vacancy will be made by the Executive Director of the CPUC. If the Committee is unable to fill the vacancy for any reason, the Executive Director of the CPUC shall appoint a member of the class from which the vacancy occurs.

3.7. Notification. Any changes in membership of the Committee shall be communicated by the Committee in writing to the Trustee designated in the CHCF-B Trust Agreement.

3.8. Indemnification. Members, officers, employees, and agents of the Committee who are not members of the CPUC staff are uncompensated servants of the CPUC within the meaning of Section 810.2 of the Government Code. Accordingly, the State will indemnify such persons, as it indemnifies its compensated employees, and will provide them legal representation by the California Attorney General with respect to claims of liability and indemnify such persons for their acts or omissions occurring within the course and scope of the services they perform for the Committee, as it indemnifies and provides representation for its compensated employees pursuant to Government Code Sections 825 et seq. and Sections 995 et seq. The Committee may, in addition, use CHCF-B

funds to purchase liability insurance for indemnification and legal representation of its members, officers, employees, and agents for such persons' acts or omissions occurring within the course and scope of the services they perform for the Committee, to the extent that such activities are held not to be indemnified by the State and/or defense is not provided by the State pursuant to Government Code Sections 810.2, 825 et seq. and/or 995 et seq.

3.9. Expenses. Members of the Committee shall be entitled to reimbursement of reasonable expenses incurred in connection with their service on the Committee and may be entitled to per diem allowances as determined by the CPUC.

ARTICLE FOUR

DUTIES AND RESPONSIBILITIES

4.1. Duties. The Committee shall have the following duties and responsibilities:

(a) With respect to the receipt of surcharges for the CHCF-B: (1) maintain records, or cause records to be maintained, on a monthly basis, of the amount of surcharges transmitted by all telecommunications carriers; (2) notify the CPUC of any carriers which are delinquent. All other duties in connection with the receipt of surcharges are the responsibility of the CPUC.

(b) With respect to the payment of claims submitted by the eligible telecommunications carriers: (1) pay, or cause to be paid, claims which are approved in accordance with procedures authorized by the CPUC; (2) approve administrative expenses of the Committee and direct the Trustee of the CHCF-B Trust in writing to pay such expenses; (3) provide, or cause to be provided, monthly receipts and expenditures reports to the CPUC. All other duties in connection with the claims process are the responsibility of the CPUC.

(c) Determine, or cause to be determined, an investment policy for the CHCF-B, taking into account the CHCF-B Fund's short-term and long-term financial needs, and review the investment performance of the CHCF-B.

(d) Recommend surcharge rate changes to the CPUC.

- (e) Investigate and evaluate policy and operational issues pertaining to the administration of the CHCF-B.
- (f) Initiate recommendations to the CPUC for changes in the administration of the CHCF-B.
- (g) Make decisions with respect to program changes that do not have significant policy or budgetary implications unless the majority of the Committee decides to refer such proposed changes to the CPUC for decision. The Committee shall maintain a record of any program changes that it initiates, and it shall notify the CPUC of such changes.
- (h) Perform the functions set forth in the CHCF-B Trust Agreement.
- (i) Hire or contract with persons or firms to provide the support necessary to enable the Committee adequately to fulfill its duties.
- (j) Prepare and submit to the CPUC an annual budget for the Committee; during the time that the CPUC is considering approval of the proposed budget, the Committee shall act in accordance with its existing budget as though it had been extended for another year. Prepare and submit supplemental budget requests to the CPUC if such requests are necessary adequately to fulfill the duties of the Committee.
- (k) Obtain an annual audit of the CHCF-B by a firm of independent certified public accountants.
- (l) File an annual report with the CPUC.
- (m) Perform such other duties as may from time to time be imposed on it by the CPUC in connection with the administration of the CHCF-B.

ARTICLE FIVE

MEETINGS

5.1. General. The Committee shall act only in the course of a duly noticed meeting. The Committee shall hold monthly meetings. Notification of the date, place, and time of each meeting shall be given to each member and shall be published in the CPUC's Daily Calendar at least ten (10) calendar days in advance of the meeting.

5.2. Open Meetings. Meetings shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act in Government Code Sections 11120 et seq. A copy of that Act shall be given to every existing and new member of the Committee.

5.3. Quorum. A majority of the members of the Committee in office shall constitute a quorum for the transaction of business. The members may be present in person or by conference telephone, so long as the place of the meeting is open to attendance by the public. Each voting member present or his or her representative pursuant to Paragraph 5.4 below shall have one vote. Decisions shall be made by majority vote of those voting members present or the member's representative. A meeting at which a quorum is initially present may transact business notwithstanding the withdrawal of members, if any action taken is approved by at least a majority of the required quorum for the meeting.

5.4. Proxies. A member may be represented at any meeting by written authorization by that member to the Chairperson, naming a designated individual to represent that member at a specified, noticed meeting. Notification must be made to the Chairperson in advance of the meeting, and must be given in writing by the time set for the beginning of the meeting. Any proxy may be revoked at any time before the meeting begins by written notice to the Chairperson by the member who gave the proxy.

5.5. Records. Actions of the Committee shall be recorded in minutes, copies of which shall be provided to the CPUC and to any interested person upon request.

ARTICLE SIX

OFFICERS

6.1. Two Officers. The Committee shall have two officers, a Chairperson and a Vice-Chairperson, both of whom shall be members of the Committee. The officers shall be elected by the members of the Committee to serve a term of one year, and they may be re-elected. An officer shall continue to hold office until a successor has been elected and assumed office. However, if an officer ceases employment as described in Paragraph 3.3, the officer's appointment shall terminate upon the date that the officer ceases employment.

6.2. Duties. The Chairperson shall be the executive officer of the Committee and shall be responsible for the general supervision and direction of the affairs of the Committee. The Chairperson shall preside at all meetings of the Committee. In the absence of the Chairperson, the Vice-Chairperson shall perform the duties of that office. If the Chairperson and Vice-Chairperson are unavailable for a meeting where a quorum nevertheless exists, the Chairperson may appoint a temporary Chairperson for that meeting. The officers shall perform such other duties as from time to time may be prescribed by the Committee.

ARTICLE SEVEN

EFFECTIVE DATE and AMENDMENTS

7.1. Effective Date. This Charter shall become effective on the date it is approved by the CPUC.

7.2. Amendments. This Charter may be amended by vote of the majority of the members of the Committee and said amendment shall be submitted for approval by the CPUC.

This Charter is subject to amendment, termination or revocation at any time by order of the CPUC.

ARTICLE EIGHT

LIMITATION ON COMMITTEE POWER AND AUTHORITY

8.1. While the Committee shall have the power and authority to carry out the foregoing duties, it shall not have the authority to direct telecommunications carriers to act or refrain from acting. Such authority shall remain solely with the CPUC.

8.2. The members of the Committee in the performance of their duties and in the actions taken by the Committee shall at all times be subject to the direction, control and approval of the CPUC.

This Charter is executed on _____, 1997.

Michael C. Amato

Rufus G. Thayer, Jr.

David M. Shantz

CALIFORNIA HIGH COST FUND-B
TRUST AGREEMENT

CALIFORNIA HIGH COST FUND-B TRUST AGREEMENT

The CALIFORNIA PUBLIC UTILITIES COMMISSION ("CPUC"), in exercising its governmental authority, is hereby entering into this TRUST AGREEMENT for the purpose of delegating authority to receive, distribute and invest CALIFORNIA HIGH COST FUND-B monies to a third party. NOW THEREFORE, the CALIFORNIA HIGH COST FUND-B TRUST AGREEMENT is entered into by and between the CPUC by its Administrative Committee as Trustor and _____ as Trustee.

ARTICLE ONE

Introduction

1.1 Control of Funds. This agreement is for administrative convenience only; the California Public Utilities Commission ("the CPUC") controls the funds governed by this instrument.

1.2 Purpose of Agreement. The Legislature of the State of California has, in Sections 728 and 739.3 of the Public Utilities Code, mandated that the CPUC develop and implement a suitable program to promote the goals of universal telephone service and to reduce any disparity in the rates charged by small independent telephone corporations. By Decision 96-10-066, as amended, the CPUC extended its program to include a fund, the California High Cost Fund-B (CHCF-B), that will provide the source for payments to any designated carriers of last resort (COLRs) to subsidize service to high cost areas. The funding for the CHCF-B will be by means of an end user surcharge, as determined by the CPUC, for telecommunications services represented by a line item on the end user's bill. The CPUC has ordered that an interim

Administrative Committee ("Committee") be appointed to oversee the administration of CHCF-B until a permanent Administrative Committee is in place. The term "Committee" as used throughout this document shall refer to both the interim Administrative Committee and the permanent Administrative Committee. The Committee hereby enters into this Trust Agreement to fulfill its duties under California Public Utilities Code section 739.3 and Decision 96-10-066, as amended, regarding the creation and implementation of CHCF-B.

1.3 Composition of the Committee. The interim Committee shall consist of the following three (3) members: Michael C. Amato, Rufus G. Thayer, Jr. and David M. Shantz. The permanent Committee shall be composed of up to six (6) members who may be appointed or removed at any time by the CPUC. Notice of any such change will be provided in writing to the Trustee. The Trustee shall be subject to the control and direction of the Committee, but if any disagreement arises between the CPUC and the Committee concerning the Trust, the Trustee shall act in accordance with the written direction given by the CPUC.

1.4 Beneficiaries. The Trust is ultimately for the benefit of telecommunications customers in high cost areas as designated by the CPUC for the purpose of promoting the goal of universal telephone service. Such benefit shall be accomplished by means of transfer payments out of the Trust account to certain COLRs as designated by the CPUC.

1.5 Effective Date. This agreement shall be effective immediately upon execution by all parties.

ARTICLE TWO

Establishment of Trust

2.1 Trust Assets. The CPUC has established the CHCF-B as a fund for the receipt of any and all monies which are from time to time charged by California telecommunications service providers as a result of CHCF-B surcharges set by the CPUC pursuant to Decision 96-10-066, as amended, and collected and remitted to the CHCF-B by such providers, for the receipt of any other money or property remitted to this CHCF-B as ordered by the CPUC, and for the receipt of any income earned attributable thereto. Such receipts of principal and income earned thereon shall comprise the assets of the Trust. The Trustee shall hold, administer and distribute the Trust assets as provided in this Trust Agreement.

2.2 Acceptance of Trust. The Trustee hereby accepts the Trust subject to all of the terms and conditions of this Trust Agreement.

2.3 Remittances to the Trust. Remittances to the Trust shall be made to the Trustee by service providers at such times and in such amounts as the CPUC shall from time to time determine. The Trustee shall be responsible only for sums actually received by it as Trustee under this Trust Agreement and shall not have any duty or right to dispute any amount to be paid by it pursuant to this Trust Agreement or to collect any sums from CHCF-B providers.

ARTICLE THREE

Distributions

3.1 Purpose of Distributions. At the written direction of the Committee and subject to Section 3.3 herein, the Trustee shall make distributions from the Trust for the following purposes:

Trustee shall continue to have all the powers provided under this Trust Agreement as are necessary and expedient for the orderly liquidation and distribution of the assets of the Trust.

ARTICLE FIVE

Powers and Duties of the Committee

5.1 Administrative Powers and Duties of the Committee. The Committee shall address and resolve any questions regarding receipt or collection of remittances by the CHCF-B or payment of amounts by the CHCF-B. The Committee shall act exclusively in accordance with its Charter and for the benefit of the Beneficiaries, the set of which may change from time to time as directed by the CPUC. Actions of the Committee shall be taken by majority vote and shall be recorded in minutes, copies of which shall be provided to the CPUC and to the Trustee upon its request. In performing their duties under this Trust Agreement, the members of the Committee shall at all times be subject to the direction, control, and approval of the CPUC. The CPUC shall have the power to conclusively decide any question involving the Trust.

ARTICLE SIX

Provisions Regarding Trustee

6.1 The Trustee shall hold all assets of the Trust and receive all income of the Trust as directed by the Committee. The Trustee shall maintain or cause to be maintained the records of Trust activity. After the end of each month and each fiscal year of the Trust, the Trustee shall prepare reports as provided in Article Nine showing how the property of the Trust is invested and the receipts and disbursements of the Trust for the preceding period and furnish copies of such statements to the Committee and the CPUC.

6.2 Resignation or Removal of Trustee. Subject to Paragraph 6.3, the Trustee may resign at any time upon the giving of sixty (60) days written notice to the Committee. The Committee may remove the Trustee at any time upon the giving of sixty (60) days written notice to the Trustee.

6.3 Successor Trustee. Upon the resignation or removal of the Trustee, the Committee shall appoint a successor Trustee or Trustees. The resignation or removal shall become effective upon acceptance of the appointment by a successor Trustee unless otherwise agreed between the Committee and the Trustee. Any successor Trustee shall have the same rights, powers, and duties as it would have had as an original Trustee.

6.4 Own Acts and Omissions. All rights, powers, authority, immunity and discretion herein granted or conferred upon the original Trustee shall survive to and may be exercised or applied in the same manner and to the same extent by or for any successor Trustee that may at any time be acting hereunder. Each Trustee shall be responsible only for its own acts or omissions. A successor Trustee shall not be required to audit or investigate the acts or administration of any predecessor unless otherwise directed by the Committee or by the CPUC.

6.5 Successor to Corporate Business. Reference herein to the Trustee shall include any corporation or association that may become a successor Trustee or any successor corporation which may succeed to a corporate Trustee's business.

ARTICLE SEVEN

Trustee's Powers

7.1 General Powers. Subject to the investment policy described in Section 7.2, in administering the Trust, the Trustee shall have all of the powers and discretion conferred upon Trustees by California law.

7.2 Investment Policy. In accordance with its Charter, the Committee shall determine from time to time an investment policy and method consistent with the objectives of the Fund, taking into consideration the Fund's short-term financial needs. The Committee shall advise the Trustee of this investment policy to be implemented by the Trustee in conformity with banking regulations of the Committee.

7.3 Standard of Care. Pursuant to this Trust Agreement, the Trustee shall exercise a prudent person's care for the assets of the Trust under the circumstances then prevailing the Trustee and familiar with such matters would use.

7.4 Limitation on Trustee's Powers. The Trustee shall act subject to the control and direction of the Committee, but if any disagreement arises between the CPUC and the Committee concerning the Trust, the Trustee shall act in accordance with the written direction given by the CPUC.

ARTICLE EIGHT

Compensation of Trustee and Expenses

8.1 Compensation of Trustee. The Trustee and any agents it reasonably employs shall be entitled to reasonable compensation for services under this Trust Agreement and for any

CORRECTION !!

*THE PREVIOUS DOCUMENT(S) MAY HAVE
BEEN FILMED INCORRECTLY*

RESHOOT FOLLOWS

ARTICLE SEVEN

Trustee's Powers

7.1 General Powers. Subject to the investment policy described in Section 7.2, in administering the Trust, the Trustee shall have all of the powers and discretion conferred upon Trustees by California law.

7.2 Investment Policy. In accordance with its Charter, the Committee shall determine from time to time an investment policy and method consistent with the objectives of the Fund, taking into consideration the Fund's short-term and long-term financial needs. The Committee shall advise the Trustee of this investment policy and method, which shall be implemented by the Trustee in conformity with banking procedures that shall be disclosed to the Committee.

7.3 Standard of Care. In carrying out each of its responsibilities under this Trust Agreement, the Trustee shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a similar capacity and familiar with such matters would use.

7.4 Limitation on Trustee's Power. The Trustee shall be subject to the control and direction of the Committee, but if any disagreement arises between the CPUC and the Committee concerning the Trust, the Trustee shall act in accordance with the written direction given by the CPUC.

ARTICLE EIGHT

Compensation of Trustee and Expenses

8.1 Compensation of Trustee. The Trustee and any agents it reasonably employs shall be entitled to reasonable compensation for services under this Trust Agreement and for any

extraordinary services at a rate to be agreed upon from time to time between the Trustee and Committee.

8.2 Expenses. The Trustee shall be reimbursed for reasonable expenses incurred on behalf of the Trust after written approval by the Committee.

8.3 Limitations on Fees and Costs. The amount of fees and costs to be paid to or at the request of the Trustee for services under this Trust Agreement shall be limited to that fixed amount contained in a letter agreement between the Trustee and the Committee.

8.4 Allocation of Expense to Principal or Income. The Trustee shall charge its compensation and expenses to the Trust's principal or income as agreed upon from time to time between the Trustee and the Committee.

ARTICLE NINE

Books, Records and Reports

9.1 Books and Records. The Trustee shall keep accurate books and records reflecting investments, receipts, and disbursements of the Trust. The books and records shall be open to inspection at all reasonable times by the CPUC and the Committee or their designated representatives.

9.2 Daily Reports. The Trustee shall submit daily receipt activity reports to the designated representative of the Committee.

9.3 Monthly Reports. Not more than ten (10) business days after the end of each month, the Trustee shall submit to the designated representative of the CPUC and to the designated representative of the Committee (for distribution to each Committee member) reports for such month setting forth the following information:

- (a) Monthly bank statements;
- (b) Disbursements of funds to each beneficiary;
- (c) Purchases, sales, redemptions, or exchanges of all securities;
- (d) Receipt of all interest or other income on invested assets;
- (e) Other disbursements;
- (f) Asset list showing market values, cost and approximate annual income of all holdings;
- (g) Such other information as the Committee or the CPUC may require from time to time.

9.4 Annual Reports. The Trustee shall provide, within ten (10) days after the close of each fiscal year, an annual reconciliation statement summarizing Trust activity. The Committee shall arrange for an annual audit of the financial statements and transactions of the Trust and its distributions. The audit shall contain such detail as may be requested by the CPUC or the Committee. The Trustee shall assist and cooperate in any reasonable manner to achieve the timely completion of the annual audit. The Committee shall provide the CPUC and the Trustee with copies of the audit report.

ARTICLE TEN

Amendment, Revocation and Termination

10.1 This Trust Agreement may be terminated, revoked or amended at any time pursuant to a written direction of the CPUC.

ARTICLE ELEVEN

Miscellaneous

11.1 Accounting Method.

- (a) The Trust's fiscal year shall be designated by the Committee.
- (b) The accounting for annual reports shall use generally accepted accounting principles.

11.2 Request for Instructions. The Trustee may at any time seek written instructions from the Committee or the CPUC on any matter.

11.3 Indemnification. The Trust shall indemnify and hold harmless the members of the Committee and their successors, against all liabilities, demands, claims, actions, losses, taxes, and expenses (including reasonable attorneys' fees) arising out of acts or omissions to act with respect to the purposes of the Trust except in the case of willful misconduct, gross negligence, fraud, or illegal acts.

11.4 Diversion of Assets Prohibited. Except as may be required by order of the CPUC, the Committee is responsible for directing the Trustee in a manner so that no portion of the assets or income of the Trust shall be diverted to purposes other than to provide CPUC authorized funds to the Beneficiaries or for reasonable expenses of administering the Trust.

11.5 Applicable Law. All questions concerning the validity, interpretation, and administration of this Trust Agreement shall be governed by the laws of the State of California, regardless of the domicile of any Trustee or Beneficiary.

11.6 Severability Clause. If any provision of this Trust Agreement is invalid, that provision shall be disregarded, and the remainder of this Trust Agreement shall be construed as if the invalid provision had not been included.

11.7 Counterparts. This document may be executed in counterparts.

IN WITNESS WHEREOF, the Trustor and Trustee hereby execute this Agreement on _____, 1997.

TRUSTOR:

The Administrative Committee:

Michael C. Amato

Rufus G. Thayer, Jr.

David M. Shantz

TRUSTEE:

By:
Its:

- (a) Payments as authorized by the Committee to COLRs that qualify for CHCF-B support.
- (b) Payment of reasonable administrative costs incurred by or on behalf of the Committee in the performance of its duties.
- (c) Reimbursement or direct payment of reasonable expenses incurred by the Committee or any other party as ordered by the CPUC for administration of the Fund.

3.2 Time of Distributions. Distributions from the Trust shall be made not more often than once per month unless the Committee or the CPUC specifically directs otherwise.

Reimbursement to Committee members from the Trust shall be made on a monthly basis.

3.3 Non-liability of Trustee. The Trustee shall incur no liability for the acts, omissions, or defaults of any of its agents (other than its officers or employees) or depository selected with reasonable care. The Trustee shall incur no liability for any distribution it makes according to the written directions of the Committee or CPUC, nor for action upon any written direction or document it believes in good faith to be genuine. The Trustee shall not be responsible for the adequacy of the Trust assets to discharge any and all of its obligations. Any payment by the Trustee may be made by mailing its check to the address furnished by the Committee by electronically transferring funds to the payee.

ARTICLE FOUR

Distribution Upon Termination

4.1 Upon any revocation or termination pursuant to a written direction of the CPUC, the assets of the Trust shall be distributed by the Trustee as and when directed by the Committee in accordance with the direction of the CPUC. Until final distribution of the Trust assets, the

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Telecommunications Division

RESOLUTION T-16073

Date: August 1, 1997

RESOLUTION

RESOLUTION T-16073 TO APPROVE A FILING BY THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM REGARDING PROGRAM STANDARDS FOR OUTREACH SPECIALISTS AND A GENERIC PROGRAM OUTREACH BROCHURE.

BY COMPLIANCE FILING MADE BY THE DEAF AND DISABLED TELECOMMUNICATIONS PROGRAM ON JUNE 2, 1997, PURSUANT TO RESOLUTION T-16017, ORDERING PARAGRAPH 5.

SUMMARY

This Resolution requires the Deaf and Disabled Telecommunications Program (the DDTP) to re-file its submittal of June 2, 1997, pursuant to Resolution T-16017, Ordering Paragraph (OP) 5 in its entirety. The re-filing is required because the DDTP's filed Program Standards for Outreach Specialists set unrealistic goals for measurement of outreach performance by Program Specialists; and the DDTP's filed Generic Outreach material is incomplete. This Resolution also requires the DDTP to separately file "Program Outreach Standards" pursuant to Resolution T-16017, OP 8. With this resolution, the DDTP is authorized to continue outreach related expenditures beyond July 30, 1997, at levels approved in resolution T-16071 pending further Commission action.

BACKGROUND

In compliance with state legislation, the Commission implemented three telecommunications programs for California residents who are deaf, hearing impaired, and disabled.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

- Telecommunications Devices for the Deaf (TDDs) distribution, per Senate Bill (SB) 597 (Chapter 1142, 1979);
- Dual Party Relay System, using a third-party intervention, to connect persons who are deaf, severely hearing impaired, or speech impaired with persons of normal hearing, per SB 244 (Chapter 741, 1983);
- Supplemental Telecommunications Equipment for persons who are disabled, per SB 60 (Chapter 585, 1985).

These programs are funded by the Deaf and Disabled Telecommunications Program (the DDTP) Consolidated Budget (Program Budget).

Decision (D.) 89-05-060 (I.87-11-030) established that the annual Program Budget be submitted to the Executive Director and approved by a Commission resolution in accordance with the procedures discussed in the Decision. On October 1, 1996, the Deaf and Disabled Telecommunications Program Administrative Committee (the DDTPAC) filed a proposed 1997 Program Budget with the Executive Director. By Resolution T-16017 dated April 9, 1997, the Commission approved an interim 1997 budget for the DDTPAC. On March 5, 1997, the DDTPAC submitted a request for augmentation of its 1997 budget with the Executive Director. By Resolution T-16031 dated June 11, 1997, the Commission approved an augmentation of the DDTPAC'S 1997 interim budget.

Commission Resolution T-16017 required the DDTP to conduct twelve consultant projects. Of those consultant projects, two projects, called Group "A" projects, were to be completed by June 1, 1997.¹ The two Group "A" projects

¹ "..... the DDTPAC should have the two projects in Group A completed by June 1, 1997....."
Resolution T-16017, OP 5, p. 30.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

consisted of 1) development of Program Standards for Outreach Specialists and 2) the development of a Generic Brochure and other material to be used by the DDTPAC in its outreach activities.² The outreach brochure would be non-branded, without any references to telephone companies and would use a DDTP logo. The DDTPAC also was required to file its program outreach standards with the Commission's Executive Director by June 1, 1997. If those standards were not approved by Commission resolution by July 30, 1997, then all further funding for the DDTPAC outreach would be stopped pending further Commission action.³

SUBMITTAL BY THE DDTP

In compliance with Resolution T-16017, OP 5, the DDTP submitted to the Commission's Executive Director its proposed (1) Performance Standards for Program Outreach Specialists and (2) Generic DDTP outreach materials ("Proposals") by a letter dated June 2, 1997, with a copy to the Director of the Telecommunications Division. The DDTP's proposals could not be located by Telecommunications Division Staff (Staff). A duplicate copy of the filing was furnished to Staff on July 2, 1997.

The DDTP did not make a separate filing of Approved Program Outreach Standards as directed by Resolution T-16017, OP 8.

² "Group A consists of two projects: (1) Program Outreach Specialist (...) - will develop program performance standards that are required to evaluate the Program Outreach Specialists; and (2) Marketing Analysis Consultant - will develop a generic brochure and other material useful for outreach efforts that will provide under the DDTPAC administration." Resolution T-16017, p. 18

³ "The DDTPAC shall submit the DDTPAC adopted program standards for Program Outreach by June 1, 1997. Should the DDTPAC not file its approved program standards by June 1, 1997 and/or should the Commission not issue a resolution approving these standards by July 30, 1997, then the DDTPAC is expected not to reimburse any expenses for outreach activities until further Commission action. Resolution T-16017, OP 8, p.30.

Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK

DISCUSSION

Timeliness of submittals

Resolution T-16017 required the DDTP to submit its proposals by Sunday, June 1, 1997. The DDTP submitted its proposals by a letter dated June 2, 1997. Even though the DDTP's filing could not be traced by Staff, we believe that the DDTP's submittal should be considered timely.

Program standards for Outreach Specialists

The DDTP's "Performance Standards for Program Specialist Outreach" describe the job specifications of Program Outreach Specialists. That document discusses the responsibilities of outreach specialists, their qualifications and criteria that will be used to evaluate the success of the outreach efforts and the effectiveness of program specialists.⁴ We believe that the DDTP's proposal is a good starting point in putting together a framework for operating the Program Specialist Program. However, Staff has the following comments on the DDTP's proposals.

The program should establish realistic and measurable expectations from its Outreach Specialists

The DDTP's standards list expectations for specialists that are overly ambitious. Some work functions are duplicative and are not cost efficient. The aim of the work to be done by the specialists should be to achieve the goals and plans established by the program.

For example, the DDTP's proposal expects each specialist to publish at least three articles each month.⁵ That requirement alone will result in at least thirty six

⁴ "Outreach Program Standards developed by the Deaf and Disabled Telecommunications Program (the DDTP)", p. 1.

⁵ "... each specialist is expected to write 3 articles each month in various publications ." Outreach Program Standards, at page 9

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

different articles to be published by each of the program's nine specialists each year. This would produce problems of standardization and coordination for the program administrators, and may not be a very cost effective outreach method for the program.

The DDTP's proposal also provides an extensive list of audiences and contacts that are required to be targeted by each program specialist.⁶ The proposal requires each specialist to gather consumer input from eight diverse organizations.⁷ While good presentation skills and contacts are important, the requirement for each specialist to target all the listed audience groups without help from a centrally coordinated program plan may not be the most efficient way of performing outreach for the program. Familiarity by each of the program specialists with each of the listed organizations is not possible. As a result, it would be impossible to evaluate the work done by any specialist. It is our expectation that all Specialist activities will be coordinated by the DDTP staff. The staff will establish monthly goals and expectations for each specialist who will target the same communities, perform a post-mortem after each event, report back on their experiences and help build a more robust outreach plan based on those experiences.

The DDTP's plan should include specific measures to assess the success of outreach efforts. These measures could include a count of returned questionnaires, number of inquiries from each presentation or event and trends in types and number of pieces of equipment distributed by the program. If a certain presentation does not result in reasonable successful response levels, then that is indicative of the need to use newer techniques to achieve success. In the extreme case, if responsiveness from a group is marginal, that group might be dropped altogether in the future

⁶ Outreach Program Standards, at pages 3 and 4, lists Presentations that should be made by each specialist include but are not be limited to groups comprised of at least 11 agencies, 6 types of businesses, 7 educational entities, 5 government agencies, 7 types of specialized organizations, 11 types of medical groups, 10 professional organizations, 7 Public Organizations, and an unspecified number of Rural and Ethnic Communities.

⁷ Outreach Program Standards, at page 4, lists numerous organizations that are not possible for any one individual to contact.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

provided that the group has not been targeted as under-served on the DDTP's outreach plan. This step is necessary to provide cost effective outreach to communities that need it most.

Program Outreach Standards

Resolution T-16017, OP 8, requires the DDTP to submit Program Outreach Standards by June 1, 1997. If those standards were not approved by July 30, 1997, then further funding for program outreach was expected to be stopped. As noted, the DDTP did not submit its Program Outreach Standards. We will provide guidance on what we expect such standards to cover.

The Outreach Standards should include outreach goals, plans and timelines for achieving those goals and measures for assessing the success of outreach activities by the program. We expect the program's outreach standards to include plans to contact those communities that have not been appropriately contacted by the program in the past. These include but are not limited to potential program users from segments of the population that have not been previously contacted by the program and those that have not been adequately served in the past. Examples of such groups include ethnic minorities and individuals with speech, mobility and visual impairments. The DDTP's plan should include specific recommendations on how such communities will be reached, time lines for achieving those goals and measures for evaluating the success of its plans. Simultaneously, we expect that the DDTP's outreach plan will include methods of ensuring more effective outreach for other communities served by the program.

We expect that the Outreach Standards will include a realistic plan that is centrally administered by the DDTP office. That office should be responsible for coordinating and targeting contacts and servicing such organizations and groups. We would expect that each outreach activity will be followed by feedback and that the results of that feedback will help the DDTP to prioritize future outreach activities.

Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach/RKK

Responses to the DDTP's concerns

The DDTP's June 2 transmittal letter notes that prior to implementation of its "Performance Standards for Program Outreach Specialists", the DDTPAC must resolve certain issues relating to the operational structure of the new outreach program.⁸ Those issues include 1) whether the specialists will be DDTP employees or contractors of the program, 2) how the specialists will be allocated within the state and 3) how the specialists will interact with the DDTPAC and the California Relay Service Administrative Committee (CRSAC). We offer the following guidance in this regard:

Bidding for the Program Specialist functions

Resolution T-16017, OP 5 required the DDTP to submit a plan for 12 consultant projects listed in the resolution.⁹ The DDTP submitted its work plan to the Commission's Executive Director by a letter dated May 9, 1997. In that work plan, under consultant Project 4, "Draft an RFP for the Program (outreach) Specialists and Award a New Contract", the DDTP recommends that the "Request For Proposal" (RFP) for selecting Program Specialists should be developed by consultants who were selected by CRSAC. Those individuals were to develop standards for California Relay Service (CRS) related outreach. Furthermore, bids were only sought from organizations who might not have been the most qualified for other program outreach. The Commission requires program specialists to perform all outreach functions for the program.¹⁰ We expect the DDTP to solicit bids for Program Specialists from all entities that are qualified to perform such functions.

⁸ Letter from Shelley Bergum to Wesley Franklin, dated June 2, 1997, transmitting the DDTP's proposal.

⁹ ".... the DDTPAC shall be required to file with the Commission's Executive Director, within 30 days from the effective date of this resolution, a work plan for the 12 consultant projects stated on page 18 of this resolution...." Commission Resolution T-16017, OP 5, p. 30

¹⁰ "... We direct the DDTPAC to change the title of CRS Specialist to Program Specialists. These Program Specialists should be required to perform program outreach that will benefit the DDTP. the

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

Location of Outreach Specialists

The DDTP indicates that it needs to ascertain whether Program Specialists will be its own employees or whether that function will be contracted out. It also needs to know the venue from which the Program Specialists will be operating. We expect the DDTP to perform cost benefit analyses for these and other available alternatives and make recommendations based on the results of those analyses. Those analyses should address all of the issues raised by the DDTP in its letter of transmittal. The DDTP's recommendations should be submitted for approval to the Director of the Telecommunications Division, prior to implementation. In all cases, the Administration of the Program Specialist and Program Outreach Project should be performed in the most cost-efficient manner consistent with achieving the goals identified for the program.

Relationship between Program Specialists and the DDTP

The DDTPAC is responsible for setting policy for the DDTP. It is our expectation that the DDTP office staff will ensure that all Program Outreach Specialists will work in a coordinated fashion to meet established outreach goals. The outreach goals of the program will be as established in the approved Program Outreach Plan.

Generic DDTP outreach material

Resolution T-16017, OP 5, required the DDTPAC "to have a brochure and other DDTP material under its own logo, not under the local exchange company logos". The DDTP submitted a draft generic brochure to the Commission's Executive Director as part of its June 2 filing. The DDTP's brochure provides information on how to obtain equipment and services from the DDTP as well as

DDTPAC should also combine the outreach efforts for equipment distribution, CRS, and other program outreach efforts...." Resolution T-16017, p. 15.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

some general information about the structure of and authority for the program. The logo will be used in all future the DDTP outreach publications.

We believe it is vital that the DDTP ensure that material used in its outreach efforts, if protected by copyright, be used with permission of the copyright holder. Alternatively, the DDTP may develop its own slogans or logos, or may use material already in the public domain. We will require the DDTP to establish procedures to research the copyright status of material it wishes to use prior to developing and issuing outreach materials.

Interim funding for program outreach

Resolution T-16017, OP 8 requires all outreach related funding by the DDTPAC to cease on July 30 if the Commission does not approve the DDTP's adopted program outreach standards by that date. The DDTP did not submit separate program outreach standards pursuant to that OP. The DDTP's submittal of June 2, 1997, contains work specifications for Program Specialists. Those specifications are interspersed with a few program outreach standards. That might have occurred because Resolution T-16017 did not explicitly describe the difference between what was required under Outreach Projects "A" and "Program Outreach Standards" that were required to be developed to comply with OP 8. We have clarified those requirements herein. We have also discussed the need for the DDTP to develop outreach material that treats copyrighted material appropriately. The DDTP will need to re-file its June 2 filing in its entirety and also file its "Program Outreach Standards".

The Commission considers proper outreach to be an important DDTP function. We believe that the DDTP should continue its outreach activities beyond July 30, 1997, without interruption pending further action by the Commission.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

FINDINGS

1. In response to Commission Resolution (Resolution) T-16017, Ordering Paragraph (OP) 5, the DDTP filed (1) Program Standards for Program Specialists and, (2) a generic DDTP outreach brochure ("brochure") to the Commission's Executive Director on June 2.
2. The DDTP's submittal was filed in a timely manner.
3. The DDTP's formal filing could not be traced at the Commission.
4. Staff received a copy of the DDTP's filing one month after the filing date.
5. The Commission is committed to supporting appropriate outreach by the DDTP.
6. The DDTP's Program Standards for Program Specialists ("proposal") describe the responsibilities of outreach specialists, their qualifications, and criteria used to evaluate their work.
7. The DDTP's "proposal" does not provide an overall centrally coordinated outreach plan, time lines for achieving outreach goals, details on coordination of Program Specialist activities, plans for reaching minimally and under served communities, and realistic criteria to evaluate the success of the program.
8. The DDTP's filed "Performance standards for Program Specialist Outreach" are inadequate and need to be modified.
9. The DDTP needs to revise and re-file its "Program Standards for Program Outreach Specialists".
10. The DDTP's "brochure" was an incomplete working draft that does not satisfy all requirements of Resolution OP 5. The final "brochure" needs to be re-filed.
11. The DDTP did not separately file Program Outreach Standards as required by Resolution T-16017, OP 8.

**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

12. The non-submittal of separate Program Outreach Standards might have occurred because the difference between those standards and standards for Program Specialist were not specifically explained in Resolution T-16017.
13. The DDTP should be provided an opportunity to modify and re-submit its June 2 filing and Program Outreach Standards.
14. Interim funding for the DDTP's outreach activities should continue pending further Commission action on the DDTP's filings pursuant to OP's 5 and 8 of Resolution T-16017.

THEREFORE, IT IS ORDERED that:

1. Within 60 days from the effective date of this resolution, the DDTP shall file with the Director, Telecommunications Division, the following documents:
 - a. Program Outreach Standards that include a strategic plan and time line for reaching out to communities that have not been contacted or those that have been inadequately served by the program in the past, and have realistic quantifiable criteria to evaluate the success of the outreach program.
 - b. Revised Program Specialist Standards. Those standards should include realistic expectations for Program Specialists that are measurable.
 - c. A copy of all generic outreach materials that will be used by the DDTP. Those documents shall include a verification that their contents are used with permission from the copyright holder. The Telecommunications Division shall respond to the DDTP's filing within two weeks of the filing date.
 - d. A copy of the DDTP's procedures to research for copyrights prior to issuing outreach materials.
2. If the DDTP elects to use copyrighted material, it shall seek approval of the same from the Director, Telecommunication Division. When requesting such

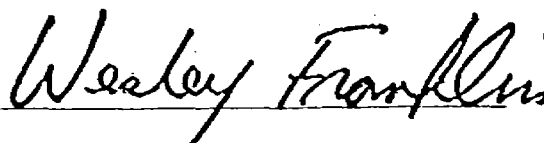
**Resolution T-16073
Deaf and Disabled Telecommunications Program
DDTP Outreach / RKK**

permission, the DDTP shall submit a copy of the copyrighted material, costs associated with its use, and reasons justifying the use of such material.

3. The DDTP is encouraged to seek copyright protection for any special phrases that it wishes to use in future outreach brochures, although the Commission would hold the copyright.
4. The DDTP is authorized to continue funding its outreach activities pending Commission action on its revised filing of June 2, 1997.
5. The level of funding authorized for outreach activities is the same as that approved by Commission Resolution T-16017.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 1, 1997. The following Commissioners approved it.



WESLEY M. FRANKLIN

Executive Director

P. GREGORY CONLON

President

JESSIE J. KNIGHT, Jr.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
Commissioners