

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Telecommunications Division  
Carrier Branch**

**RESOLUTION T-16901  
December 2, 2004**

**RESOLUTION**

Resolution T-16901. Authorization and Requirement For  
Tariff Cross Reference to SBC California Tariffs for  
Publication of Telecommunications All-End-User Surcharges  
and the Commission Reimbursement Fee.

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**Introduction And Summary**

By this order we authorize and require all certificated telecommunication carriers required to file tariffs with the Commission to become effective no later than January 1, 2005 to concur with the Pacific Bell (d.b.a. SBC California) tariffs on the Commission's Public Program surcharges and the Reimbursement Fee. All other certificated carriers, except for SBC California, will no longer be required to revise their tariffs to reflect surcharge changes. The new language will require only one change by such carriers to their tariffs to accommodate future surcharge and fee revisions, as afforded by Public Utilities Code Section 492.

**Background**

In response to a commitment to and in compliance with legislative mandates for providing universal service, a concept that basic telephone service be affordable and ubiquitously available to all members of society, the Commission has created various public programs to achieve this goal, including:

- California High Cost Fund-A (CHCF-A)
- California High Cost Fund-B (CHCF-B)
- California Teleconnect Fund (CTF)
- Deaf and Disabled Telecommunications Program (DDTP)
- Universal Lifeline Telephone Service (ULTS)

The Commission mandates telecommunications carriers to collect and remit all-end-user surcharges to support the current five public programs in California. The all-end-

user surcharge amounts vary from program to program, and the Commission approves periodic adjustments based on the forecast demand for the programs.

In addition, the Commission annually sets a Commission Reimbursement Fee to be paid by the telecommunications carriers. This fee is based on the telecommunications carrier's gross intrastate customer billings, excluding inter-utility sales, terminal equipment sales and directory advertising and sales. The purpose of this fee is to finance the Commission's annual operating budget.

The Public Program surcharges and the Reimbursement Fee are billed and collected by the telecommunications carriers, and they, in turn, remit the surcharges as directed by the Commission.

## **Discussion**

For each periodic adjustment of the surcharge and user fee levels the Commission approves, over two hundred carriers typically file advice letters with the Telecommunications Division (TD) to implement the revision. In 2004 to-date, the public program surcharges have changed three times. Requiring carriers to file tariffs to implement changes in the surcharges accounts for 15 percent of the approximately 4000 advice letters handled annually by TD. Processing these Public Program surcharge advice letters requires 55 percent of a Management Service Technician's (MST) work time, and substantive review of the filings themselves requires another 40 percent of one analyst person-year. In addition to the TD workload tied to administering surcharges, California carriers collectively expend many multiples of that time to administer these tariff changes, which can be entirely avoided, if the Commission takes simple steps to streamline one of its processes.

TD believes that the current process is unnecessarily costly and inefficient for both the Commission and subject carriers, and recommends that the Commission require carriers to revise their tariffs one more time to eliminate these frequent surcharge changes. Pursuant to PU Code Section 492, a group of carriers may have one carrier file a joint tariff on behalf of all the other carriers. The remaining carriers then file a concurrence with the joint tariff. Therefore, TD proposes to require all certificated carriers file a generic tariff reference to become effective no later than January 1, 2005, to concur with SBC California tariffs on the Commission Public Program surcharges and the Reimbursement fee. All other certificated carriers, except for SBC California, will no longer be required frequently to revise their tariffs to reflect the frequent surcharge and

fee changes. The new language will require only one change to a specific carrier's tariffs to accommodate future surcharge and fee revisions.

We agree with TD's recommendation to eliminate the current tariff process for revising surcharges and the reimbursement fee, as indicated in this resolution only and, instead, to authorize and require carriers to file a generic tariff references to become effective on January 1, 2005 to accommodate future surcharge and fee revisions. Our action today is especially appropriate, because we initiate changes to public program surcharges and user fees and our changes apply uniformly to all carriers.

### **Comments**

In accordance with P.U. Code Section 311 (g), TD mailed a copy of the original draft resolution on November 2, 2004 to all utilities filing tariffs and other interested parties. Comments received on a timely basis will be addressed in any final resolution.

The Telecommunications Division received comments from AT& T Communications of California, Inc. (AT&T), Lou Filipovich (no affiliation stated), twelve small local exchange companies (Small LECs), SureWest Telephone, SureWest Televideo, and SureWest Long Distance (SureWest), and Verizon California Inc. and Verizon West Coast Inc. (Verizon), and Pacific Bell (SBC). SBC also filed reply comments.

AT&T supports the Draft Resolution and agrees that concurrence with SBC surcharge tariffs will save Commission staff and carriers significant work, time and cost.

Mr. Filipovich does not support the Draft Resolution and argues against concurrence in SBC tariffs as a means to sustain subsidizing of business and business properties through surcharges and fees. However, the question of subsidizing business and business properties by surcharges and fees is not an issue in this Resolution.

The Small LECs generally support the Draft Resolution as it would reduce many of the burdens associated with the current advice letter procedure. They suggest that the process could be streamlined even further by allowing carriers to cross-reference the presentation of the surcharges and fee percentages on the Commission's web site.

SureWest supports the Draft Resolution, but seeks one clarification. SureWest is concerned that the tariff concurrence would change the Commission's policy of providing final notice to carriers of any changes to the Public Program surcharges and the Reimbursement fee; SureWest asks that carriers continue to receive adequate and

timely notice of any changes so they can ensure that billing system changes are made in a timely manner, and the proper amounts are reflected on customer bills.

Verizon supports the Draft Resolution, but has three concerns: First, carriers should continue to receive individual notification of periodic adjustments of public program surcharges so that billing systems can be correctly updated to reflect changes. Second, the Commission should request that SBC identify in advance the precise location of the surcharge information in its tariffs so that the portion concurred in is correctly identified in each concurring carrier's tariffs. Third, the Universal Service Fund Surcredit is handled differently by each carrier, and concurrence in the Universal Service Fund Surcredit should be explicitly excluded from the Resolution.

SBC does not support the Draft Resolution and has three concerns. First, the burden of accurately updating and administering its public program surcharges on a timely basis is placed solely on SBC California. Second, SBC fears it might be held responsible for under-collections if another carrier fails to update its surcharges in a timely manner. Third, carriers use different terminology and references that would be lost if they were required to concur in SBC's tariffs, resulting in confusing information and inconsistent use of terminology and references for customers to follow.

In reply comments, SBC supports the Small LEC proposal to have all carriers file tariffs that cross-reference the surcharges and fees posted on the Commission's web site. SBC believes that Public Utilities Code Section 532 allows the Commission to grant an exception to carriers to not post specific surcharges in tariffs on file with the Commission. SBC states that having carriers simply cross-reference the Commission's web site postings of surcharges and fee, rather than concur with another carrier's tariffs, would eliminate costs and confusion and ensure an efficient method for updating the rates, and justify an exception to the Section 532 requirement for posting all surcharges and fees in tariffs.

### **Additional Discussion**

We concur with SureWest and Verizon's concern that carriers continue to receive timely notice of periodic adjustment of Public Program surcharges and the Reimbursement fee. Telecommunications Division's Public Programs Branch and the Information and Management Services Division will continue send timely notice to all carriers of surcharge and fee changes.

We disagree with the proposal by the Small LECs, and SBC's support, that carriers file tariffs concurring in surcharges and fee posted on the Commission's web site. Our General Order 96-A Section I-A require tariffs to contain "the entire body of rates, tolls, rentals, charges and classifications and rules collectively as enforced by a public utility", and is designed to ensure that rates and charges must be contained in a utility's tariff in order to be valid. The only exception we find reasonable is provided by Public Utilities Code Section 492 which authorizes that several public utilities which are parties to any joint tariff, rate, contract, or classification shall be specified in the schedule, and need not file such joint tariff themselves, as long as each files concurrence in the joint tariff.

We shall order SBC to file such a joint tariff, indicating that all carriers licensed by the Commission shall concur with it. SBC shall also clearly indicate those portions of its tariff that contain Public Program surcharges and the Reimbursement fee other carriers should concur in. SBC Schedule Cal. P.U.C. No. A2, Rule 40, "Universal Service Fund Surcredit" shall be excluded from the concurrence by other carriers. SBC may also file language in its tariff, subject to review and final acceptance by the Telecommunications Division, to limit its liability to any carrier and their respective end user customers that may arise out of the carriers' concurrence in SBC's tariff schedules.

## **Findings**

- 1) Public Programs surcharges and the Reimbursement Fee are adjusted periodically based on the forecast demand for the programs, and in 2004 to-date, there have been three changes to the surcharges.
- 2) The current process requires each carrier to submit changes to its tariff schedules with TD to implement any changes in the surcharge or fee amounts for the programs and fee item identified in this resolution.
- 3) The process accounts for 15 percent of the approximately 4000 advice letters filed annually, and require 40 percent of an analyst person-year to review and 55 percent of an MST person-year to process.
- 4) California carriers collectively expend many multiples of that time to administer these tariff changes.
- 5) We initiate changes to public program surcharges and the reimbursement user fee and our changes apply uniformly to all carriers.
- 6) We agree with TD's recommendation to eliminate the frequent revisions to carrier tariff schedules to implement surcharge and fee changes identified in this resolution.

- 7) PU Code Section 492 authorizes a group of carriers to have one carrier file a joint tariff on behalf of all the other carriers. The remaining carriers then file a concurrence with the joint tariff.
- 8) We agree with TD's recommendation to require carriers to file a generic tariff reference to concur with SBC California tariff schedules on the Commission's Public Program surcharges and the Reimbursement Fee.
- 9) The Telecommunications Division Public Programs Branch and the Information and Management Services Division should continue to send timely notices to carriers of surcharge and fee changes.
- 10) An exception to Public Utilities Code Section 532 for carrier concurrence in surcharge and fees posted on the Commission's website is unreasonable.
- 11) It is reasonable for all telecommunications carriers licensed by the Commission to concur in a joint tariff surcharge and fee schedule filed by SBC.
- 12) SBC should exclude its Rule 40, "Universal Service Fund Surcredit", from its joint tariff surcharge and fee schedule.
- 13) SBC should include the following language in its joint tariff surcharge and fee schedule, subject to review and final acceptance by the Telecommunications Division, to limit its liability to any carrier and their respective end user customers that may arise out of carrier concurrence in SBC's joint tariff.
  - a. The Utility shall not be liable to any carrier, or any carrier's customers, for any penalties or damages sustained by the carrier as a result of its use and concurrence of the Public Program Surcharge rates and the Commission Reimbursement Fee rate contained in the Utility's tariffs under Resolution T-16901.
  - b. The Utility shall not be liable to any carrier, or any carrier's customers, for any claims arising out of any act or omission as a result a carrier's use and concurrence of the Public Program Surcharge rates and the Commission Reimbursement Fee rate contained in the Utility's tariffs under Resolution T-16901.
  - c. The Utility shall be indemnified, defended and held harmless by all carriers against any claims, loss or damage arising from a carrier's use and concurrence in the Public Program Surcharge rates and the Commission Reimbursement Fee rate contained in the Utility's tariffs under Resolution T-16901.

## **Order**

1. All certificated telecommunications carriers required to file tariffs with the Commission shall amend their tariffs to become effective by January 1, 2005, to reflect that they concur with the Commission's Public Programs all-end-user surcharges and the Reimbursement Fee as filed by Pacific Bell (d.b.a. SBC California) in its joint tariff for surcharges and fees, and should apply the current surcharge and fee amounts in that joint tariff on their respective end user bills until further revised.
  
2. The following language or equivalent should be used in the tariff to replace the existing carrier tariff reference(s) to Public Program surcharges and the Reimbursement Fee: "Pursuant to Resolution T-16901, all telecommunications carriers are required to apply CPUC mandated Public Program surcharge rates (excluding a. Universal Lifeline Telephone Service (ULTS) billings; b. charges to other certificated carriers for services that are to be resold; c. coin sent paid telephone calls (coin in box) and debit card calls; d. customer-specific contracts effective before 9/15/94; e. usage charges for coin-operated pay telephones; f. directory advertising; and g. one-way radio paging) and the CPUC Reimbursement Fee rate (excluding a. directory advertising and sales; b. terminal equipment sales; c. inter-utility sales) to intrastate services. For a list of the Public Program surcharges and Reimbursement Fee, and the amounts, please refer to the Pacific Bell (d.b.a. SBC California) tariffs."
  
3. Pacific Bell shall file by December 31, 2004, a joint tariff for surcharge and fees consistent with the Findings in this Resolution.

This resolution is effective today.

I hereby certify that the Public Utilities Commission at its regular meeting of December 2, 2004, adopted this resolution and that the following Commissioners approved it.

/s/ STEVE LARSON

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STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners