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

**Communications Division  
Policy & Decision Analysis Branch**

**RESOLUTION T-17137  
March 13, 2008**

**R E S O L U T I O N**

Resolution T-17137. ADOPTING USER FEE TO IMPLEMENT  
DIVCA FOR FISCAL YEAR 2007-08.

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**Summary**

This Resolution sets the user fee for the fiscal year 2007-2008 to be paid by each video franchise holder at \$0.047 per household in its video franchise territory. This fee will generate revenue equal to the Commission's authorized budget for implementation of AB 2987, the Digital Infrastructure and Video Competition Act.

**Background**

The Digital Infrastructure and Video Competition Act of 2006 (DIVCA) (AB 2987, Ch. 700, Stats. 2006) was signed into law on September 29, 2006, creating for the first time a process for the issuance of state video franchises in California. On March 1, 2007, the Commission issued D. 07-03-014 (DIVCA Decision)<sup>1</sup>, implementing DIVCA, and began accepting video franchising applications

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<sup>1</sup> Decision Adopting a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006, in Rulemaking for Adoption of a General Order and Procedures to Implement the Digital Infrastructure and Video Competition Act of 2006 (D. 07-03-014, March 3, 2007).

immediately thereafter. To date, the Commission has issued twenty-one video franchises, and two of those franchises have been amended to expand their footprint.

AB2987 requires the Commission to collect user fees from all state-issued video franchise holders annually.<sup>2</sup> The total amount of fees collected is to equal the amount authorized in the Commission budget for DIVCA implementation. For the 2007-2008 fiscal year, \$950,000 was authorized to implement the state video franchise program.<sup>3</sup> The DIVCA Decision provides that the user fee for Fiscal Year 2007-08 for each video franchisee is to be calculated according to the pro-rata share of households that exist in that holder's video service area, compared to the total number of households in the territories of all holders combined.<sup>4</sup>

## **Discussion**

This Resolution sets the user fee due per household in a video franchise holders' service area in order to implement the DIVCA Decision and DIVCA. The Commission had anticipated issuing this Resolution by January 31, 2008.<sup>5</sup> However, the issuance of this Resolution has been delayed until now so that the legislative mandate that total user fees must be calculated to equal the Commission's authorized DIVCA budget could be complied with. So many applications were processed with effective dates after November 30 that this Resolution needed to be delayed until now in order to take the additional franchises into account and calculate a per household fee that would not cause significant over-collection to occur.

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<sup>2</sup>Public Utilities Code Section 441, as added by AB 2987 reads, in part, as follows:

441. The commission shall annually determine a fee to be paid by an applicant or holder of a state franchise pursuant to Division 2.5 (commencing with Section 5800). The annual fee shall be established to produce a total amount equal to that amount established in the authorized commission budget for the same year to carry out the provisions of Division 2.5 (commencing with Section 5800)....

<sup>3</sup> Decision 07-03-014, p. 115.

<sup>4</sup> Decision 07-03-014, pp. 124-125. For subsequent fiscal years, the fee will be calculated pro-rata, based on the percentage of all state video franchise holders' gross state video franchise revenues that is attributable to an individual state video franchise holder. pp 122-123

<sup>5</sup> See Decision 07-03-014, p. 125.

Video franchise holders with franchises issued on or before January 2, 2008 must pay the user fees for Fiscal Year 2007-08 before March 31, 2008. Video franchise holders with franchises issued after January 2, 2008 are also required to pay the user fee for the full Fiscal Year 2007-08. Holders of franchises granted after January 2, 2008, shall calculate their user fee based on the rate set in the resolution, and pay such amount to the Commission by May 31, 2008, or 30 days after the issuance of their franchise, whichever date is later.<sup>6</sup>

Twenty one new and two amended applications have been submitted to the Commission so far, and all have been issued franchise within the 44-day time period established in DIVCA.

Four out of the twenty three franchises were issued before November 30, 2007. They are AT&T California, Verizon California, Cox Communications, and Wave Broadband. Their total video franchise areas encompass 10,544,860 households. The remaining nineteen franchises were issued after November 30, 2007 and those holders' video service areas encompass 9,621,716 households. The total number of households that exist in the franchise territories of all franchise holders as of January 2, 2008 is 20,166,585. In order to generate the \$950,000 authorized for the Commission's Fiscal Year 2007-2008 DIVCA-related budget, the amount due per household is \$0.047.

Appendix A lists each of the franchise holders, the number of households in their service area, and their total user fee for the 2007-2008 fiscal year. These fees shall be paid to the Commission by March 31, 2008.

## **Notice**

In compliance with PU Code Section 311(g), a copy of this proposed Resolution was either mailed or e-mailed to all parties of record in R. 06-10-005 on (date).

## **Findings:**

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<sup>6</sup> The dates in this paragraph have been appropriately adjusted from those contained in D. 07-03-014 at pp. 124-125 to reflect the actual date of this Resolution.

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1. AB 2987, the Digital Infrastructure and Video Competition Act requires the Commission to calculate, and holders of state-issued video franchises to pay, an annual user fee.
2. The user fee for fiscal year 2007-2008 is to be calculated based on each holder's pro-rata of households in franchised video territories.
3. User fees in the aggregate are to equal the Commission's authorized budget for implementation of DIVCA requirements.
4. The total number of households in video franchise territories as of January 2, 2008 is 20,166,585.
5. The Commission's authorized DIVCA-related budget for the fiscal year 2007-2008 is \$950,000.
6. A user fee of .047 per household is reasonably calculated to collect an amount equal to its DIVCA-related budget for the 2007-2008 fiscal year.
7. A schedule of user fees for franchises issued by January 2, 2008 is attached as Appendix A.
8. Parties of Record in R. 06-10-005 were provided with notice of this Resolution in accordance with PU Code Section 311(g).
9. The Communications Division did not receive comments from parties of record in R06-10-0005.

**THEREFORE, IT IS ORDERED that:**

1. Holders of state video franchises granted on or before January 2, 2008 shall remit to the Commission the amount indicated in Attachment A by March 31, 2008.
2. Holders of state video franchises granted after January 2, 2008 shall calculate their user fee for the 2007-2008 fiscal year by multiplying the total number of households in their franchised territories by \$.047 and shall remit their user

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fee payment to the Commission by March 31, 2008 or 30 days after the issuance of their franchise.

This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on March 13, 2008. The following Commissioners approved it:

/s/ PAUL CLANON

PAUL CLANON

Executive Director

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners

**Appendix – Video Franchise Holders by Number of Households in Service Area and User Fee Assessment**

<b>Video Franchise Holders with Franchises Issued and Effective by or before November 30, 2007</b>	<b>Franchise Issue Date</b>	<b>Franchise Effective Date</b>	<b>Number of Households in Video Service Area</b>	<b>User Fee Assessment</b>
<b>AT &amp; T California</b>	March 30, 2007	March 30, 2007	<b>9,439,085</b>	<b>\$443,637.00</b>
<b>Verizon California Initial</b>	March 8, 2007	March 8, 2007	<b>1,070,984</b>	<b>\$50,336.25</b>
<b>Cox Communications Initial</b>	April 27, 2007	April 27, 2007	<b>9,747</b>	<b>\$458.11</b>
<b>Wave Broadband</b>	September 7, 2007	September 7, 2007	<b>25,053</b>	<b>\$1,177.49</b>
<b>Subtotal</b>			<b>10,544,869</b>	<b>\$495,608.84</b>
<b>Video Franchise Holders with Franchises Issued and Effective after November 30, 2007</b>	<b>Franchise Issue Date</b>	<b>Franchise Effective Date</b>	<b>Number of Households in Video Service Area</b>	<b>User Fee Assessment</b>
<b>Cableview Communications</b>	December 6, 2007	January 2, 2008	<b>3,832</b>	<b>\$180.10</b>
<b>Charter Communications Subtotal</b>			<b>1,104,494</b>	<b>\$51,911.22</b>
Charter - American Cable Entertainment Company	December 13, 2007	January 2, 2008	63,809	\$2,999.02
Charter - Charter Communications Entertainment II	December 13, 2007	January 2, 2008	162,960	\$7,659.12
Charter - Charter Communications Properties II LLC	December 13, 2007	January 2, 2008	22,128	\$1,040.02
Charter - Falcon Cablevision	December 13, 2007	January 2, 2008	148,912	\$6,998.86
Charter - Falcon Cable Systems Company II	December 13, 2007	January 2, 2008	320,341	\$15,056.03
Charter - Falcon Telecable	December 13, 2007	January 2, 2008	7,987	\$375.39
Charter - Long Beach	December 13, 2007	January 2, 2008	159,680	\$7,504.96
Charter - Marcus Cable	December 13, 2007	January 2, 2008	218,677	\$10,277.82
<b>Northland Cable Television</b>	December 14, 2007	January 2, 2008	<b>10,012</b>	<b>\$470.56</b>
<b>Time Warner Cable Subtotal</b>			<b>5,908,824</b>	<b>\$277,714.73</b>
Time Warner Cable - Time Warner NY Cable LLC	November 15, 2007	January 2, 2008	813,038	\$38,212.79
TWC - Time Warner Cable LLC	December 19, 2007	January 2, 2008	591,427	\$27,797.07
TWC - CAC Exchange 1	December 19, 2007	January 2, 2008	2,757,951	\$129,623.70
TWC - Time Warner Entertainment-Advance/Newhouse Partnership	December 19, 2007	January 2, 2008	243,456	\$11,442.43
TWC - Time Warner Entertainment Company	December 19, 2007	January 2, 2008	22,756	\$1,069.53
TWC - C Native Exchange 1	December 20, 2007	January 2, 2008	1,480,196	\$69,569.21
<b>Verizon California Amended</b>	December 19, 2007	December 19, 2007	<b>904,580</b>	<b>\$42,515.26</b>
<b>Cox Communications Amended</b>	January 2, 2008	January 2, 2008	<b>83,902</b>	<b>\$3,943.39</b>
<b>Comcast</b>	January 2, 2008	January 2, 2008	<b>1,606,072</b>	<b>\$75,485.38</b>
<b>Subtotal</b>			<b>9,621,716</b>	<b>\$452,220.65</b>
<b>Total</b>			<b>20,166,585</b>	<b>\$947,829.50</b>

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