

**CBC – Digital 395**

**Resolution T-17347**

**Attachment A**

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



# Mitigated Negative Declaration

## California Broadband Cooperative's Digital 395 Middle Mile Project CPCN Application No. A.09-07-023

### Introduction

Pursuant to California Public Utilities Commission (CPUC) Code Section 1001, Inyo Networks, fiscal agent and member of the California Broadband Cooperative, Inc. (CBC), filed an application (A.09-07-023) with the CPUC for a Certificate of Public Convenience and Necessity (CPCN) for the Digital 395 Middle Mile Project (or "Proposed Project"). The application was filed on July 16, 2009, and included a request for California Advanced Services Fund grant funding for the Proposed Project. The grant funding was approved and awarded to CBC pursuant to California Public Utilities Commission (CPUC) Resolution T-17232 on December 3, 2009.

A Draft Environmental Assessment (August 2011) was prepared for the Proposed Project by the Department of Commerce, National Telecommunications and Information Administration (NTIA), pursuant to the requirements of the National Environmental Policy Act (NEPA). In accordance with Section 15063(a)(2) of the *Guidelines for Implementation of the California Environmental Quality Act* (CEQA), a NEPA Environmental Assessment may be used to determine if a proposed project would have a significant impact on the environment, thereby satisfying CEQA's requirement for preparation of an Initial Study. The information about environmental impacts presented in the Environmental Assessment was supplemented by preparation of a CEQA Environmental Checklist form, which was included as an appendix to the Environmental Assessment. Impact significance determinations were made using the significance criteria outlined in Appendix G of the *State CEQA Guidelines*. If the Initial Study for the project were to indicate that a significant adverse impact could occur, the CPUC would be required to prepare an Environmental Impact Report.

Inyo Networks originally submitted a California Advanced Services Fund (CASF) application on July 16, 2009, to provide wholesale middle mile broadband/backhaul services to an area of the State that is underserved by middle mile broadband networks with the intent to transfer the project to a non-profit cooperative at some future point prior to project completion. However, after the application deadline and at the urging of the county governments of Mono, Inyo, and Kern Counties, Inyo Networks accelerated the creation of a different entity, a non-profit organization named the CBC, of which Inyo Networks is a member, and submitted an application for American Recovery and Reinvestment Act (ARRA) funds for the Digital 395 Middle Mile network on August 14, 2009, under that name. As a result, on September 28, 2009, Inyo Networks requested that their original CASF application for the Digital 395 Middle Mile network be transferred to the CBC. As a member of the CBC, Inyo Networks will serve as the fiscal

agent for the CBC. Inyo Networks submitted an application for a CPCN to the CPUC on July 16, 2009. Therefore, the CBC CASF application is being considered by the CPUC in conjunction with Inyo Networks' CPCN application as this will have a bearing as to whether Inyo Networks can fulfill its role as the fiscal agent for the CBC.

According to Article 6 (Negative Declaration Process) and Section 15070 (Decision to Prepare a Negative Declaration or Mitigated Negative Declaration) of the *State CEQA Guidelines*, a public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) *The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or*
- (b) *The initial study identifies potentially significant effects, but:*
  - (1) *Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and*
  - (2) *There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.*

Based on the analysis in the NEPA Environmental Assessment and CEQA Initial Study, the CPUC has determined that all project-related environmental impacts could be reduced to a less-than-significant level with the incorporation of feasible Applicant Proposed Measures (APMs) and mitigation measures. Therefore, adoption of a Mitigated Negative Declaration (MND) will satisfy the requirements of CEQA. The measures included in this MND are designed to reduce or eliminate the potentially significant environmental impacts described in the Initial Study. Mitigation measures are structured in accordance with the criteria in Section 15370 of the *State CEQA Guidelines*.

## **Project Description**

The Digital 395 Middle Mile Project would build a new, 593-mile fiber network between Barstow, California and Carson City, Nevada. The Digital 395 route consists of a main backbone and various spurs that lead away from the main backbone. The various spurs along the project route branch from the main backbone to connect to nodes within communities along the route. The optical fiber would be installed underground within California Department of Transportation right-of-way (ROW)/easements, county-maintained dirt roads, Nevada Department of Transportation ROW/easements, as well as a number of other agencies and jurisdictions, including Bureau of Land Management, Native American tribal reservations, Inyo and Humboldt-Toiyabe National Forests, City of Los Angeles Department of Water and Power, Department of Defense (including Naval Air Weapons Station China Lake and the United States Marine Corps Mountain Warfare Training Center), State-owned lands, and City, County, and Regional lands. Buildings to be constructed are proposed within existing land use types zoned for utilities. The Project would not change any land use or zoning types.

The major components of the Proposed Project include the following:

- Construction of a new, approximately 479-mile backbone fiber route;
- Construction of approximately 62 miles of new distribution lines;
- Placement of approximately 52 miles of fiber in existing utility conduit; and
- Construction of 16 nodes or pre-fabricated buildings to support wireless systems.

The Digital 395 Middle Mile Project would make middle-mile fiber available for broadband service providers to bring cost effective, high-speed broadband services to areas that do not have access to it today. This middle-mile infrastructure would provide access to (1) unserved communities; (2) underserved communities; (3) schools, libraries, community colleges, and other institutions of higher education; (4) public safety agencies and healthcare providers; and would (5) stimulate demand for broadband, economic growth, and job creation. The goal of the Proposed Project is to make broadband capacity in the Eastern Sierra equal to that available in major metropolitan areas and more populated areas of California and Nevada.

## Alternatives

The purpose of an alternatives analysis pursuant to CEQA is to identify options that would feasibly attain the project's objectives while reducing the significant environmental impacts resulting from the Proposed Project. CEQA does not require the inclusion of an alternatives analysis in MNDs because the Initial Study concludes that, with incorporation of mitigation measures, there would be no significant adverse impacts resulting from the Proposed Project. Therefore, no alternatives analysis needs to be provided in the Initial Study. However, in accordance with NEPA, the EA/IS considers several alternatives, including a no action alternative, evaluation of alternate technology, and an alternate method of fiber installation. The EA/IS discusses each of these alternatives and why these alternatives would not meet the project's purpose and need.

## Environmental Determination

The Environmental Assessment/Initial Study (EA/IS) was prepared to identify the potential environmental effects resulting from implementation of the Proposed Project and to evaluate the level of significance of these effects. The EA/IS identifies mitigation measures to address potentially significant impacts, as well as APMs which are considered to be part of the description of the Proposed Project.

Based on the EA/IS analysis, the Proposed Project would have no significant impacts on the environment in the areas of aesthetics, agricultural and forestry resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, and utilities and service systems.



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Date