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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division  
Licensing, Tariffs, Rural Carriers & Cost Support Branch

RESOLUTION T-17138  
May 29, 2008

R E S O L U T I O N

**Resolution T-17138. Rural Telecommunications Infrastructure Grant Program.**

**Resolution Authorizing Disbursement of California High Cost Fund A funds for California Environmental Quality Act (CEQA) review of the Nordheimer Flat Line Extension Grant Project located in the service area of the Siskiyou Telephone Company.**

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**Summary**

This resolution authorizes the Executive Director of the California Public Utilities Commission (CPUC) to enter into a contract for California Environmental Quality Act (CEQA) review of the Nordheimer Flat Line Extension Grant Project (Nordheimer Project) located in the service area of The Siskiyou Telephone Company (Siskiyou Telephone). The CEQA review contract has an estimated cost of \$341,000. Pending the results of the CEQA review, a subsequent resolution may consider (1) any mitigation required by the CEQA review, (2) authorizing the grant estimated to be \$951,200.00 for construction of the Nordheimer Project, (3) authorizing the Executive Director to enter into a contract with the City of Fort Jones, California for Fiscal Agent services associated with the Nordheimer Project and (4) authorizing the revisions to the existing line extension tariffs to address the Nordheimer Project.

The total cost of the Nordheimer Project will not exceed the maximum allowed amount per project of \$2.5 million.

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**Background**

**Legislation and Rulemaking**

The Rural Telecommunications Infrastructure Grant Program (RTIGP) was established by Assembly Bill 140<sup>1</sup> in 2001, was amended to extend the program, effective January 1, 2005<sup>2</sup> and remains in effect until January 1, 2009. The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code<sup>3</sup>. The RTIGP provides grants of up to \$2.5 million per project, with total grant funding of \$10 million per year, for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. The legislation required the Commission to develop eligibility criteria for community-based groups to apply for grants and to establish a government-industry working group to review the technical criteria of the grant application.

On February 27, 2003, the Commission issued an Order Instituting Rulemaking R.03-02-034<sup>4</sup> to develop application eligibility criteria. After consideration of comments, the Commission issued an Interim Decision D.03-09-071<sup>5</sup> adopting an application process and eligibility criteria for the grant program on September 18, 2003. On March 17, 2005, the Commission subsequently issued D.05-03-005<sup>6</sup> which adopted the interim grant program administration rules from D.03-09-071 as final rules and closed the Rulemaking.

**Application Process**

The application process is divided into two phases: Phase 1 is the qualifying phase, in which applicants must provide information required in the legislation (information about the community to be served, its residents, financial information, letters of support from the local government and other affected governmental agencies, letters of support from 75% of the identified residential community and identity of the fiscal agent). Upon successful completion of Phase 1, an applicant may submit a Phase 2 Application, detailing the feasibility study and the construction cost study. In the event an applicant has been approved for Phase 1, but is denied Phase 2 approval, the applicant may recover the cost of the Phase 1 Application from grant funds.

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<sup>1</sup>Stats. 2001, Ch.903, Sec. 1-5. AB 140- Strom-Martin Rural Telecommunications Infrastructure Grant

<sup>2</sup> Stats. 2004, Ch. 767, Sec. 3. AB 2758 Berg. Telecommunications: grants to areas not served by local exchange carriers.

<sup>3</sup> "The Commission shall establish a grant program to aid in the establishment of telecommunication service in areas not currently served by existing local exchange carriers. The program is to be funded out of California High Cost Fund-A, and the funding level may not exceed \$10,000,000 per year."

<sup>4</sup> Order Instituting Rulemaking Into Implementation of AB 140, establishing the Rural Telecommunications Infrastructure Grant Program, Feb. 27, 2003.

<sup>5</sup>Interim Opinion On Implementation Of The Rural Infrastructure Grant Program, Sept. 18, 2003.

<sup>6</sup> Opinion Closing Proceeding, March 17, 2005.

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**Discussion of Applications**

On August 17, 2007 the Communications Division received a Phase 1 Application from Siskiyou Telephone for the Nordheimer Project. After review of the Phase 1 Application, the Communications Division (CD) found the application compliant with all necessary requirements. The applicant was notified in writing of the approval on October 17, 2007, and their eligibility to submit a Phase 2 Application, the feasibility study detailing the engineering and cost aspects of the. The Phase 2 Application was submitted on November 7, 2007. Copies of the Phase 2 Application were provided to the Government Industry Working Group for review.

**The Government Industry Working Group**

The current Government Industry Working Group (GIWG) is comprised of six members and includes a former state legislator, a consumer advocate, an attorney specializing in telecommunications issues and representatives of three telecommunications companies operating in California. Copies of the Phase 2 Application for the Nordheimer Project were mailed out to the GIWG on February 6, 2008 requesting response by February 29, 2008. The CIWG raised issues/concerns about the Nordheimer Project. The issues/concerns were addressed by Siskiyou Telephone. At a CIWG meeting on April 18, 2008, the CIWG committee members indicated that all issues/concerns raised by the CIWG had been addressed.

**Nordheimer Flat Line Extension Grant Project**

This grant application proposes to provide line extensions to Nordheimer Flat, an unserved area located within Siskiyou Telephone Sawyers Bar Exchange Area. The Nordheimer Project will provide telephone service to two private residences and a United States Department of Agriculture (USDA) Forest Service campground. The USDA Forest Service campground does not have telephone service, and is requesting two phone lines. One line is to be dedicated for connection to a computerized system for monitoring water quality at the campground. This monitoring of the water system is mandated by the State of California. Currently, USDA employees must complete a four hour round trip for visual inspections of the water system. The other line is to be dedicated for public safety, providing emergency services for campground users and aid with fighting forest fires. The emergency line will not be a coin operated telephone.

Due to the topographical constraints of the terrain, cellular and satellite technologies are not feasible and cost prohibitive. Siskiyou Telephone proposes to utilize conventional landline telecommunications construction consisting of copper and fiber facilities, and will utilize Rural Utilities Service (RUS) standards and specifications to be compatible with Siskiyou Telephone's existing telecommunications network.

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The facilities to be constructed will provide Plain Old Telephone Service (POTS) and Digital Subscriber Line (DSL) service. The Nordheimer Project is projected to take eight weeks to complete (weather permitting) once the grant funds have been provided to the Fiscal Agent.. Total cost for construction, labor, and materials, federal and state taxes will be approximately \$950,200.00.

**Fiscal Agent**

Under Section 276.5 of the State Of California Public Utilities Code, "The criteria (for the RTGIP) shall include a requirement that a local agency, as defined by Section 50001 of the Government Code, or a town as defined by Section 21 of the Government Code, shall act as the community based group's fiscal agent for the receipt and distribution of funds."

The Phase 2 Application for the Nordheimer Project designates the City of Fort Jones, California, as the Fiscal Agent. The City of Fort Jones is a local agency as defined by Section 50001 of the Government Code, which states: "Local agency as used in this division means county, city, or city and county, unless the context otherwise requires."

The Communications Division received a letter from the City of Fort Jones, dated August 10, 2007, stating the willingness of the City of Fort Jones, California to act as the Fiscal Agent for the administration of the Nordheimer Flat Line Extension Grant Program.

**California Environmental Quality Act (CEQA)**

**The issuance of grants pursuant to the RTIGP are discretionary actions subject to the requirements of CEQA. CEQA review for RTIGP grants is conducted consistently with the two phase application process for RTIGP funding established in D.03-09-071.**

Approval of a Phase I Application means that the Commission has determined that a proposed project is eligible to receive funds under the RTIGP. Phase 1 determinations do not approve a "project" under CEQA and do not trigger environmental review.

Phase II Applications seek funds that are necessary for the construction of rural telecommunications infrastructure and are projects under CEQA. **Approvals of Phase 2 Applications are subject to a case-by-case factual analysis of environmental impacts.**

This Resolution, although approving a funding request made in a Phase II Application, only approves funds for preconstruction costs necessary to conduct environmental review. It does not authorize an activity that has the potential to have a significant impact on the environment. Thus, this Resolution is not a "project" under CEQA.

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This resolution approves funds for CEQA review of the Nordheimer Project to be performed by a CPUC authorized contractor for an amount not to exceed \$341,000. Upon completion of CEQA review, a subsequent resolution may be introduced seeking approval of a Phase 2 Application for funds, in an amount of approximately \$950,200.00, necessary for construction of the Nordheimer Project.

**Tariff**

In addressing Independent Local Exchange Carriers (ILEC's) cost recovery, the Commission found that existing line extension tariffs should not apply to the RTIGP. In D.03-09-071 (page 13) the Commission stated: "The line extension tariffs were not designed to address a state-administered program such as this one, where funds collected through a surcharge on telecommunications customers, are provided to pay for infrastructure costs. We find that existing line extension tariffs should not apply to this program. Instead ILEC's shall file advice letters setting forth line extension rates, charges and other terms and conditions applicable to each RTIGP. Such charges shall be reasonable and cost-based. Such terms shall be consistent with this decision. These tariffs shall supplement, not replace existing line extension tariffs. Where we find that a grant application should be approved, we will permit ILEC's to recover from the fund infrastructure costs contained in the Commissioner-approved tariff".

Pending the results of the CEQA review of the Nordheimer Project, the Siskiyou Telephone Company will file a compliance advice letter delineating the Nordheimer Project service area in a subsequent resolution.

**Notice**

Notice of this draft resolution will be mailed out on April 29, 2008 to the following parties:

Jim Lowers, President the Siskiyou Telephone Company.  
Shannon Flarity, Community Representative Nordheimer Flat.  
Linda Romaine, City Clerk, City of Fort Jones, California, Fiscal Agent.  
The Government Industry Working Group.

In compliance with PU Code § 311 (g), copies of the notice letter were e-mailed on April 29, 2008 to the CHCF-A Administrative Committee and the parties of record in R.01-08-002 and A.99-09-044 informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov> and is available for public comment. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.

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**Protests/Comments**

Interested parties may file protests or comments on the draft resolution (Rule 14.5)<sup>7</sup> The original and two copies must be filed with the Communications Division by May 15, 2008 at the address set forth below. Commenter's must also serve comments on the service list. An original and two copies of the protest or comments, with a certificate of service should be submitted to:

Jack Leutza, Director  
Communications Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**Findings**

1. The Siskiyou Telephone Company, in concert with the Nordheimer Flat customers requesting telephone service, did timely submit a Rural Telecommunications Grant Application Phase 1 and Phase 2 for Nordheimer Flat Line Extension Grant Project in the amount of approximately \$950,200.00. The Phase 1 Application was approved on October 17, 2007.
2. The City of Fort Jones, California, will be the Fiscal Agent for the Nordheimer Project.
3. The California Public Utilities Commission is the lead agency for California Environmental Quality Act (CEQA) review of the Nordheimer Project.
4. The Executive Director should be authorized to enter into an agreement for CEQA review of the Nordheimer Project for an amount not to exceed \$341,000.
5. The source of the funds for this grant is the California High Cost Fund (CHCF)-A.
6. There are sufficient funds in the CHCF-A to cover the cost of this project.

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<sup>7</sup> Rule 14.5 Comment On Draft Or Alternate Resolution: Any person may comment on a draft or alternate resolution by serving (but not filing) comments on the director of the Commission division that issued the draft resolution by no later than ten days before the Commission meeting when the draft or alternate resolution is first scheduled by consideration (as indicated on the first page of the draft or alternate resolution)

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7. The Commission finds that approval be based on the specifics found in this Resolution and the Resolution should not establish a precedent for the contents of future filings or for Commission approval of similar requests.

**THEREFORE, IT IS ORDERED THAT:**

1. Funds shall be granted in an amount not to exceed \$341,000 from the California High Cost Fund A for funding a California Environmental Quality Act (CEQA) review of the Nordheimer Flat Line Extension Grant Project located in the Sawyer's Bar Exchange of The Siskiyou Telephone Company.
2. The Executive Director is authorized to enter into an agreement for CEQA review of the Nordheimer Project for an amount not to exceed \$341,000.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 29, 2008. The following Commissioners approved it:

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PAUL CLANON  
Executive Director