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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

**RESOLUTION T-17151
August 21, 2008**

R E S O L U T I O N

Resolution T-17151. Rural Telecommunications Infrastructure Grant Program.

Resolution Authorizing Disbursement of California High Cost Fund A Funds for California Environmental Quality Act (CEQA) review of the Channel Islands Telephone Company Project located in the Channel Islands.

Summary

This resolution authorizes the Executive Director of the California Public Utilities Commission (CPUC or the Commission) to enter into a contract for California Environmental Quality Act (CEQA) review of the Channel Islands Telephone Company (CITC) Project, located on the Channel Islands of California.

The CEQA contract has an estimated cost of \$325,000. 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 \$2.5 million, less the total funds expended for CEQA review and less the total contract amount with the Fiscal Agent, for construction of the CITC Project, (3) authorizing the Executive Director to enter into a contract with the County of Ventura, California, for Fiscal Agent services associated with the CITC Project, and (4) authorizing new tariffs for the CITC Project.

The total cost of the CITC Project will not exceed the total amount allowed 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 140¹ in 2001, was amended to extend the program, effective January 1, 2005², and remains in effect until January 1, 2009. The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code³. 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.) 03-02-034⁴ to develop application eligibility criteria. After consideration of comments, the Commission issued an Interim Decision (D.) 03-09-071⁵ adopting an application process and eligibility criteria for the grant program on September 18, 2003. On March 17, 2005, the Commission subsequently issued D.05-03-005⁶ 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 identify the fiscal agent). Upon Communications Division (CD) approval of the Phase 1 application, an applicant may submit a Phase 2 application, detailing the feasibility study and the construction cost study. In the event an

¹ Stats. 2001, Ch.903 AB 140- Strom-Martin Rural Telecommunications Infrastructure Grant.

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

³ "The Commission shall establish a grant program to aid in the establishment of telecommunications service in areas not currently served by existing local exchange carriers. The program shall be funded out of the California High Cost Fund-A Administrative Committee Fund and the funding level may not exceed ten million dollars per year".

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

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

⁶ Opinion Closing Proceeding, March 17, 2005.

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applicant has been approved for Phase 1, but is denied Phase 2 approval, the applicant may recover the cost of the Phase 2 application from grant funds.

Discussion of Applications

On December 19, 2006, CD received a Phase 1 application from CITC to provide telephone service and high speed internet to five of the Channel Islands - San Miguel, Santa Rosa, Santa Barbara, Anacapa and Santa Cruz Island. After review of the Phase 1 application, CD determined that the application complied with all necessary requirements with the exception of a written verification from County of Ventura of their agreement to act as fiscal agent for the project and the required letters from residents to show their willingness to sign up for service. CITC was notified of the conditional approval by the Director of CD on February 26, 2007, and of their eligibility to submit a Phase 2 application.

The Phase 2 application from CITC was received by CD on April 17, 2007. CD conducted a review of the application and found it to be incomplete. CD sent a letter to CITC on June 18, 2007, rejecting their Phase 2 application due to missing household income data.

The following two items resolved the open issues with the Phase 1 and Phase 2 applications: 1.) On June 29, 2007, CITC provided letters from island residents which included their annual income and an agreement to purchase telephone service from CITC for three years, and 2.) CITC provided CD a copy of a letter dated October 26, 2007, from County of Ventura stating that the County of Ventura, California, is willing to serve as the Fiscal Agent for the CITC Project, subject to approval of the Board of Supervisors.

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 CITC Project were mailed out to the GIWG on April 4, 2008, requesting response by April 11, 2008. The GIWG raised issues/concerns about the CITC Project. The issues/concerns were addressed by CITC. At a GIWG meeting on April 18, 2008, the GIWG committee members expressed additional concerns about technology planned for the CITC Project. CITC responded to these additional questions to the satisfaction of the Commission staff.

The Channel Islands

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There are eight Channel Islands including San Miguel, Santa Rosa, Santa Barbara, Anacapa, Santa Cruz, San Nicholas, San Clemente and Santa Catalina Island. San Nicholas and San Clemente Islands are controlled by the United States Navy. Santa Catalina is served by Pacific Bell Telephone Company.

The CITC Project includes only the northern Channel Islands of Anacapa, San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa. These northern islands were made into the Channel Islands National Park in 1980. They are often referred to as the "Galapagos of North America" as the Islands are virtually untouched.

Anacapa Island

Anacapa Island is volcanic and approximately 14 miles off the coast of Ventura, California, and is the smallest of the northern Channel Islands.

San Miguel Island

San Miguel Island is the sixth largest of the Channel Islands at 9,325 acres. The National Park Service maintains a ranger station and a research station on the island. The Navy has a dirt runway for airplanes. The island normally has less than 200 public visitors during a given year. The island is normally staffed by a ranger that enforces park laws, while also providing interpretive services for public visitors. Park employees and researchers are flown to the island by Channel Islands Aviation, the official concessionaire to the Channel Islands. Public visitors must reach the island by boat.

Eight foot seas are not uncommon between Santa Rosa and San Miguel Islands. Rough seas often result in cancellations of excursions. No more than 30 visitors are permitted on the island at any given time and sometimes less than ten campers might make the voyage. The National Park Service advises campers to carry an extra day's food and water in the event the pickup needs to be delayed due to bad weather.

Santa Barbara Island

Santa Barbara Island is the smallest of the eight Channel Islands at 640 acres.

Santa Cruz Island

Santa Cruz Island is the largest privately owned island off the continental United States at 61,765 acres. Three-fourths of Santa Cruz has been owned by The Nature Conservancy since 1987. The remaining fourth is part of the Channel Islands National Park.

Santa Rosa Island

Santa Rosa Island is the second largest of the Channel Islands at 53,195 acres and is part of the Channel Islands National Park. There are a variety of recreational activities on the island including kayaking, camping and hiking. A private boat charter company offers a

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number of trips to the island year round. Channel Islands Aviation provides air travel service to and from Santa Rosa Island for Park Service employees, Nature Conservancy personnel and the general public.

CITC Project

The Channel Islands are inhabited by park rangers and other employees of the United States Park Service, scientists and researchers conducting important studies on the islands, students, The Nature Conservancy caretakers and researchers and 30,000 annual visitors to the Channel Islands National Park.

Access to reliable telephone service and emergency services via 911 on the Islands is very important to its residents and visitors.

The total number of telephone lines needed is approximately 22. Approximately three pay phones or emergency phones are needed. Cellular service is needed in at least three areas. Approximately twelve internet connections are needed.

CITC will utilize Code Division Multiple Access (CDMA) wireless using Personal Communications Service (PCS) spectrum as it allows the best propagation of signal on the islands as well as the delivery of 3G data capabilities. PCS spectrum is used by digital cellular carriers with a number of existing PCS licenses that cover the islands. PCS can operate on low power and be powered by solar cells. CDMA also supports fixed wireless telephones allowing CITC to provide plain old telephone service (POTS) lines. The design utilizes satellite links as backhaul from each of the islands back to a switch on the mainland. All links between the base stations and POTS telephones will utilize wireless local loops (WLL). PCS is the best spectrum because significant numbers and types of handsets have been developed to work with these frequencies.

The proposed telecom system will utilize solar technology for power. CITC has designed an off-grid power system relying on the use of solar panels, batteries and inverters to generate and store electricity.

WiMAX will be utilized in areas where there is a need for more data than PCS can supply; though it cannot be solely used due to topography and vegetation considerations.

The shortest distance to the islands from the mainland is 18 miles and most are much farther away. Due to the high cost and unlikely regulatory approval, connection of the island to the mainland using underwater cable was not considered.

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The National Park Service has requested telephone service and internet service for various offices and other buildings on the islands. Private groups and research facilities on the islands would require phone and internet service. Researchers on the islands would want phone lines and internet connections for personal use. There will be the need for phone lines for air quality telemetry stations and cameras and data collection for the airplane runways. Also, there is a need for emergency telephones at various locations on the islands.

The CITC Project construction should take between three to five months, typically done during summer months, once the grant funds have been provided to the Fiscal Agent. Total cost for construction, labor and materials, and CEQA review will be no more than \$2.5 million.

Fiscal Agent

Under Section 276.5 of the State of California Public Utilities Code "The criteria (for the RTIGP) 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".

CITC provided CD a copy of a letter dated October 26, 2007, from County of Ventura stating that the County of Ventura, California, is willing to serve as the Fiscal Agent for the CITC Project, subject to approval of the Board of Supervisors. The County of Ventura, California, 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".

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 the RTIGP grant is conducted consistently with the two phase application process established in D.03-09-071.

Approval of a Phase 1 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 2 applications seek funds that are necessary for the construction of rural telecommunications infrastructure and are projects under CEQA. Approval of Phase 2 applications are subject to case-by-case factual analysis of environmental impacts.

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This Resolution, although approving a funding request made in a Phase 2 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.

This resolution approves funds for CEQA review of the CITC Project to be performed by a CPUC authorized contractor for an amount not to exceed \$325,000. Upon completion of CEQA review, a subsequent resolution may be introduced seeking approval of a Phase 2 application for funds, with a total project amount not to exceed on for the grant, fiscal agent contract and CEQA review contract.

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 Commission approved tariff".

Pending the results of the CEQA review of the CITC Project, a subsequent resolution may be introduced to authorize CITC to file an advice letter delineating the CITC Project service area and the line extension charges that will apply in the project service area.

Comments

In compliance with PU Code § 311 (g), copies of the notice letter were e-mailed on July 22, 2008, to CITC, County of Ventura and members of the Government-Industry Working Group for AB 140, informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov> and is available for public comments. In addition, the Communications Division (CD) informed these parties of the availability of the conformed resolution at the same website.

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Findings

1. Channel Islands Telephone Company (CITC) did submit a Rural Telecommunications Infrastructure Grant Program (RTIGP) application for Phase 1 and Phase 2 for the CITC Project in the amount of \$2,500,000. The Phase 1 application was approved conditionally on February 26, 2007, noting certain deficiencies, which were resolved.
2. The County of Ventura, California, will be the Fiscal Agent for the CITC Project subject to approval of the County of Ventura, Board of Supervisors.
3. The California Public Utilities Commission (Commission) is the lead agency for California Environmental Quality Act (CEQA) review of the CITC Project.
4. The Executive Director should be authorized to enter into an agreement for CEQA review of the CITC Project for an amount not to exceed \$325,000.
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 the project.
7. A Notice of Availability was e-mailed on July 22, 2008, to CITC, County of Ventura, members of the AB 140 Government-Industry Working Group informing these parties that this draft resolution is available at the Commission's website <http://www.cpuc.ca.gov> and is available for public comments. In addition, they were informed of the availability of the conformed resolution, when adopted by the Commission, at the same website.
8. 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 \$325,000 from the California High Cost Fund-A for funding a California Environmental Quality Act (CEQA) review of the Channel Islands Telephone Company (CITC) Project located in the Channel Islands.
2. The Executive Director is authorized to enter into an agreement for CEQA review of the CITC Project for an amount not to exceed \$325,000.

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This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on August 21, 2008. The following Commissioners approved it:

PAUL CLANON
Executive Director