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

**Communications Division  
Carrier Oversight & Programs Branch**

**RESOLUTION T-17207  
August 20, 2009**

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

**Resolution T-17207. Rural Telecommunications Infrastructure Grant Program.**

**Authorizes Disbursement of California High Cost Fund-A funds for California Environmental Quality Act review of the Eddy Gulch Line Extension Grant Project located in the service area of the Siskiyou Telephone Company.**

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**Summary**

As part of the Rural Telecommunications Infrastructure Grant Program (RTIGP), this resolution authorizes the Executive Director of the California Public Utilities Commission (Commission) to enter into a contract for a California Environmental Quality Act (CEQA) review of the Eddy Gulch Line Extension Grant Project (Eddy Gulch Project) located in the service territory of The Siskiyou Telephone Company (Siskiyou Telephone). The CEQA review contract has an estimated cost of \$345,000. Pending the results of the CEQA review, a subsequent resolution may consider (1) any mitigation required by the CEQA review, (2) authorizing the proposed grant of \$1,083,791 for construction of the Eddy Gulch Project, (3) authorizing the Executive Director to enter into a contract with the Town of Fort Jones, California, for Fiscal Agent services associated with the Eddy Gulch Project and (4) authorizing revisions to the existing line extension tariffs to address the Eddy Gulch Project.

## Background

### Legislation and Rulemaking

The RTIGP was established by Assembly Bill 140<sup>1</sup> in 2001, and was subsequently extended until January 1, 2013<sup>2</sup>. The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code<sup>3</sup>. RTIGP projects are funded by the California High Cost Fund-A (CHCF-A). The RTIGP provides grants of up to \$5 million per project for the construction of telecommunications infrastructure projects that serve low-income, rural communities currently without telephone service.

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 and Timeline

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 preparation cost of the Phase 2 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. 2008, Ch.358, SB 1149-Wiggins

<sup>3</sup> "The Commission shall establish the Rural Telecommunications Infrastructure Grant Program to aid in the establishment of telecommunications service in areas not currently served by existing local exchange carriers... No more than forty million dollars (\$40,000,000) shall be encumbered from the California High-Cost Administrative Committee Fund-A...during the four-year period ending on December 31, 2012, for the Rural Telecommunications Infrastructure Grant Program."

<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.

### **Eddy Gulch Project**

Siskiyou Telephone, in concert with the Eddy Gulch residents, submitted a Phase 1 Application on October 26, 2007, and was notified of the Phase 1 approval on June 3, 2008, of its eligibility to submit a Phase 2 Application, the feasibility study detailing the engineering and cost aspects of the Eddy Gulch Project.

Siskiyou Telephone submitted a Phase 2 Application on September 23, 2008. Copies of the Phase 2 Application were provided to the Government Industry Working Group for review. A Proponent's Environmental Assessment (PEA) was submitted by Siskiyou Telephone to the Communications Division (CD) on September 23, 2008, in order to facilitate California Environmental Quality Act (CEQA) review.

The Eddy Gulch Project proposes to provide line extensions to Eddy Gulch, an unserved area located within Siskiyou Telephone's Sawyers Bar Exchange. The Eddy Gulch Project will provide telephone service to eight private residences, approximately two miles south of Sawyers Bar. The distance between residences varies between one-quarter and one mile. The entire Sawyer's Bar Exchange is located in extremely rugged and mountainous terrain served by narrow paved and gravel roads. The construction of the Eddy Gulch Project will consist of two parts: 1. Project Material Purchase and; 2. Telephone Line construction consisting of Trenching, Placement of Conduit and Cable and Backfill with Class #2 Base Rock. The project is estimated to be completed within eight weeks, weather permitting.

Due to the constraints imposed by the terrain, cellular and satellite technology based solutions are not feasible and are cost prohibitive. Siskiyou Telephone proposes to utilize conventional landline telecommunications construction consisting of copper and fiber facilities. The facilities will be constructed utilizing Rural Utilities Service (RUS) standards and specifications so as to be compatible with Siskiyou Telephone's existing telecommunications network.

The facilities to be constructed will provide Plain Old Telephone Service and Digital Subscriber Line service. The total projected costs for construction, including labor, materials and federal and state taxes will be approximately \$1,083,791.

### **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 Eddy Gulch Project were mailed out to the GIWG on March 20, 2009, requesting response by April 2, 2009. At a

CIWG meeting on April 2, 2009, the CIWG committee members agreed that there were no issues or concerns regarding the technology chosen by Siskiyou Telephone for the Eddy Gulch Project.

### **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."

The Phase 2 Application for the Eddy Gulch Project designates the Town of Fort Jones, California, as the Fiscal Agent. The Town 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 CD received a letter from the Town of Fort Jones, dated August 9, 2007, stating the willingness of the Town of Fort Jones, California to act as the Fiscal Agent for the administration of the Eddy Gulch Project.

### **Notice/Comments**

Notice of the draft resolution was sent July 21, 2009, informing Siskiyou Telephone; the Community Representative for Eddy Gulch; the City Clerk Town of Fort Jones, California; the Government-Industry Group and the CHCF-A Administrative Committee of the availability of the draft resolution for public comment at the Commission's website @ <http://www.cpuc.ca.gov>. No comments were received.

### **Discussion**

#### **California Environmental Quality Act (CEQA)**

Because the issuance of grants pursuant to the RTIGP are discretionary actions subject to the requirements of CEQA, the California Public Utilities Commission (Commission) is the lead agency for CEQA review of the Eddy Gulch Project. CEQA review for RTIGP grants is conducted consistent with the two phase application process for RTIGP funding established in D.03-09-071.

Approval of a Phase 1 Application means that the Commission has determined that a proposed project would be 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. 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 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 Eddy Gulch Project to be performed by a Commission authorized contractor for an amount not to exceed \$345,000. The funding source for this grant is the CHCF-A. Upon completion of CEQA review, a subsequent resolution may be introduced seeking approval of a Phase 2 Application for funds, in the amount of \$1,083,791, for construction of the Eddy Gulch Project.

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

### **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 Eddy Gulch Project, Siskiyou Telephone will file a compliance advice letter delineating the Eddy Gulch Project service area.

## **Findings**

1. The Siskiyou Telephone Company, in concert with the Eddy Gulch residents requesting telephone service, did submit a Rural Telecommunications Infrastructure Grant Program Phase 1 and Phase 2 Application for the Eddy Gulch Line Extension Grant Project (Eddy Gulch Project) in the amount of \$1,083,791.
2. The Eddy Gulch Project will provide telephone service to eight private residences, approximately two miles south of Sawyers Bar.
3. The Eddy Gulch Project Phase 1 Application was received on October 26, 2007, and approved on June 3, 2008.
4. The Town of Fort Jones, California, will be the Fiscal Agent for the Eddy Gulch Project.
5. The California Public Utilities Commission (Commission) is the lead agency for California Environmental Quality Act (CEQA) review of the Eddy Gulch Project.
6. The Siskiyou Telephone Company has submitted a Proponent's Environmental Assessment for CEQA review of the Eddy Gulch Project.
7. The Executive Director should be authorized to enter into an agreement for CEQA review of the Eddy Gulch Project for an amount not to exceed \$345,000.
8. The source of the funds for this grant is the California High Cost Fund-A.
9. The Commission finds that approval be based on the specifics found this Resolution and the Resolution does not establish a precedent for the contents of future filings or for Commission approval of similar requests.
10. Notice of the draft resolution was sent July 21, 2009, informing Siskiyou Telephone; the Community Representative for Eddy Gulch; the City Clerk Town of Fort Jones, California; the Government-Industry Group and the CHCF-A Administrative Committee of the availability of the draft resolution for public comment at the Commission's website. No comments were received.

**THEREFORE, IT IS ORDERED THAT:**

