

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight & Programs Branch**

**RESOLUTION T-17216
October 15, 2009**

R E S O L U T I O N

Resolution T-17216. Rural Telecommunications Infrastructure Grant Program.

Authorizes Disbursement of California High Cost Fund-A funds for California Environmental Quality Act review of the Indian Springs School District Grant Project located in Shasta County.

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 Indian Springs School District Project (Indian Springs Project) located in Shasta County. The CEQA review contract has an estimated cost of \$327,000.

Background

Legislation and Rulemaking

The RTIGP was established by Assembly Bill 140¹ in 2001, and was subsequently extended until January 1, 2013². The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code³. 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

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

² Stats. 2008, Ch.358, SB 1149-Wiggins

³ "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."

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.03-02-034⁴ 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 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.

Indian Springs Project

The Indian Springs Project proposes to construct three cell towers along California State Route (SR) 299 in Shasta County. The Indian Springs Project will provide cellular service to residents and commuters within the coverage area of Hatchet Mountain, Round Mountain and Bear Mountain. The construction of the Indian Springs Project will consist of preparing the sites, placement of electrical service for two of the three towers and construction of the towers and service buildings. The construction phase of the project is estimated to be completed within four months.

Indian Springs School District (Indian Springs) submitted a Phase 1 Application on February 15, 2005, and on March 11, 2005, was notified of the Phase 1 approval and, of its eligibility to submit a Phase 2 Application, the feasibility study detailing the engineering and cost aspects of the project.

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.

Indian Springs submitted a Phase 2 Application on April 15, 2005. Copies of the Phase 2 Application were subsequently provided to the Government Industry Working Group for its review.

On May 13, May 26, June 6 and June 13, 2005, the Government-Industry Group (GIG) conducted a review of the Indian Springs Project Phase 2 Application. The GIG recommended that the Indian Springs Project, prior to the construction of each cell tower, provide CD with a Letter of Intent from at least one wireless carrier indicating that the wireless carrier will locate equipment upon a specified cell tower upon completion of construction.

Resolution T-16943 dated June 16, 2005, approved the Indian Springs Project and included the GIG recommendation to require Letters of Intent. Indian Springs provided said letters on March 25, 2009, for each of the three cell tower sites. Upon receipt of the Letters of Intent, CD approved the expenditure of funds to hire a contractor to prepare a Proponent's Environmental Assessment (PEA). Indian Springs submitted the PEA to CD on August 31, 2009. The PEA was reviewed by the Energy Division for completeness and subsequently sent to the CEQA vendor so that they may better develop the CEQA project scope and cost estimate.

Notice/Comments

Notice of the draft resolution was sent September 15, 2009, informing Indian Springs; 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 at <http://www.cpuc.ca.gov>.

On October 5, 2009, Shasta County Telecom (SCT) (U-7129-C) filed comments pursuant to Rule 14.5 of the Commission's Rules of Practice and Procedure.

In its comments SCT asserts that, "Indeed, the (Indian Springs Telecom LLC) LLC no longer is seeking to construct cell towers throughout the unserved area, but, instead, intends to construct only three towers."

Indian Springs initially intended to construct ten cell towers but no carriers expressed interest in seven of the ten tower locations. Therefore the project has been modified to include only the three towers that the cellular carrier has agreed to connect. In addition, the cost to construct cell towers has increased since the project was initially approved in 2005.

SCT also commented, "Accordingly, SCT strongly recommends that, before the Commission releases any further funds for the project, the Commission should investigate

whether the project, as now revised, will continue to meet the purposes of AB140 or will, instead, simply provide duplicate wireless coverage along already-served corridors.”

Indian Springs has certified to the Commission and provided documentation that shows that although two of the three proposed cell towers have coverage overlap with other cell towers, they will provide service in currently unserved areas.

This resolution only grants funds for CEQA review of the proposed project and does not approve the project.

Discussion

CEQA

Because the issuance of grants pursuant to the RTIGP are discretionary actions subject to the requirements of CEQA, the Commission is the lead agency for CEQA review of the Indian Springs 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 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 Indian Springs Project to be performed by a Commission authorized contractor for an amount not to exceed \$327,000. The funding source for this grant is the CHCF-A. Expenditures for construction can only be authorized after the Commission has certified the CEQA document.

Findings

1. The Indian Springs School District Project (Indian Springs Project) will provide cellular service to residents and commuters within the coverage area of Hatchet Mountain, Round Mountain and Bear Mountain.
2. Indian Springs School District (Indian Springs) submitted Rural Telecommunications Infrastructure Grant Program Phase 1 and Phase 2 Applications for the Indian Springs School District Grant Project (Indian Springs Project) in the amount of \$2,500,000.
3. The Indian Springs Project Phase 1 Application was received on February 15, 2005, and was approved on March 11, 2005.
4. The Indian Springs Project Phase 2 Application was received on April 15, 2005.
5. The Indian Springs Project was approved by Resolution T-16943 on June 16, 2005.
6. Shasta County Telecom (SCT) U-7129-C filed comments on October 5, 2009, in regards to the draft resolution.
7. The California Public Utilities Commission (Commission) is the lead agency for California Environmental Quality Act (CEQA) review of the Indian Springs Project.
8. Indian Springs submitted a Proponent's Environmental Assessment for CEQA review of the Indian Springs Project on August 31, 2009.
9. The Executive Director should be authorized to enter into an agreement for CEQA review of the Indian Springs Project for an amount not to exceed \$327,000.
10. The source of the funds for this grant is the California High Cost Fund-A.

THEREFORE, IT IS ORDERED THAT:

1. Funds shall be granted in an amount not to exceed \$327,000 from the California High Cost Fund-A for funding a California Environmental Quality Act review of the Indian Springs School District Grant Project located in Shasta County.
2. The Executive Director shall be authorized to enter into an agreement for California Environmental Quality Act review of the Indian Springs School District Grant Project for an amount not to exceed \$327,000.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 15, 2009. 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