Date of Issuance: June 1, 2011

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Communications Division **RESOLUTION T- 17320**
Carrier Oversight and Programs Branch **May 26, 2011**

R E S O L U T I O N

Resolution T-17320 Modifies Resolution T-17279 by Removing the California Advanced Services Fund Performance Bond Requirement for the Race Telecommunications, Inc., (U-7060-C) Mojave Air and Space Port Last Mile Project.

Summary

This resolution modifies Resolution T-17279 adopted by the Commission on June 24, 2010, approving funding under the California Advanced Services Fund (CASF) for the Race Telecommunications, Inc., (Race) Mojave Air and Space Port last mile project. This resolution approves Race's request for an exemption from the performance bond requirement since Race will pay the total project costs of $1,265,497 upfront from its own capital budget without seeking CASF progress payment reimbursement until final construction is completed.

Background

Race Telecommunications, Inc., is certified by the Commission as a competitive local exchange carrier (U-7060-C) since 2008. Race offers a wide range of communication products and services to residential and business customers throughout California. Race owns and operates a full-service voice, video, and Internet network in both Northern and Southern California.

In Resolution T-17279 (June 24, 2010), the Commission approved funding of $506,199, equivalent to 40% of the project costs for the Mojave Air and Space Port last mile project in Kern County. The award required Race to comply with several requirements attendant to the award such as the posting a performance bond equal to the CASF award and completion of CEQA review.

On March 4, 2011, Race sent a letter to the Director of the Communications Division (CD) requesting modification of Resolution T-17279 which, per Ordering Paragraph 2, requires Race to post a performance bond equal to the total amount payable under the CASF award. This same letter was emailed to the service list of Resolution T-17279.

Notice/Protests

CD received no comments in response to Race's notification email of March 4, 2011.

Discussion

This resolution modifies Resolution T-17279 by addressing Race's request for an exemption from the CASF performance bond requirement.

In its letter to the Director of the CD, Race requested exemption from the performance bond requirement. Race proposes that it will fund 100% of the project costs, or $1,265,497, upfront from its existing capital budget thereby removing the risk associated with the non-completion of the project. By paying all costs of the Mojave project construction upfront, Race will not seek progress payment reimbursements. Once the project is completed, Race will prepare a final project report, as required, and will submit it with a reimbursement request for full payment of its 40% award, or $506,199.

In its review of the request for modification, CD staff concludes that exemption of the performance bond neither adversely impacts the grant nor puts risk on CASF funds. Granting the exemption will speed the progress of this project by channeling the time, effort, and money otherwise spent for securing a performance bond to the construction of the project. Further, since Race will not seek reimbursement until after the project is completed, the explicit purpose of the bond, i.e., to ensure completion of the project while protecting ratepayer funds, is moot because grant funds are not at risk during construction. Without the performance bond requirement to fulfill, Race can proceed directly to project build-out activities once it obtains the required California Environmental Quality Act (CEQA) review and permitting approvals.

This resolution does not affect other provisions or requirements associated with the granting of CASF funds as specified in Resolution T-17279. Race cannot conduct ground breaking activities until the Commission has completed CEQA review.

Comments on Draft Resolution

In compliance with Public Utilities Code Section 311(g), a notice letter was e-mailed on April 26, 2011, informing a) all CASF applicants filing under Decision 09-07-020 and b) parties on the service list of R.06-06-028 of the availability of this draft resolution for public comment at the Commission's website http://www.cpuc.ca.gov/static/documents/index.htm. This letter also informed parties that the final conformed resolution adopted by the Commission will be posted and available at this same website.

The Commission did not receive any comments on this resolution.

Conclusion

The Commission finds CD's recommended modification to Resolution T-17279 as discussed in this resolution to be reasonable and consistent with Commission orders and, therefore, approves the modification.

Findings

1. Race Telecommunications, Inc., is certified by the Commission as a competitive local exchange carrier (U-7060-C) since 2008.
2. The Commission approved Resolution T-17279 (June 24, 2010) for Race Telecommunications, Inc., funding the Mojave Air and Space Port last mile project in Kern County with a California Advanced Services Fund (CASF) grant amounting to 40% of the total project costs, or $506,199.
3. On March 4, 2011, Race Telecommunications, Inc., sent a letter to the Director of the Communications Division (CD) requesting modification of T-17279 which, per Ordering Paragraph 2, requires a performance bond equal to the total amount payable under the CASF award. This same letter was emailed to the service list of Resolution T-17279.
4. Race Telecommunications, Inc., requested exemption from the performance bond requirement by proposing to fund 100% of the project costs, or $1,265,497, upfront from its existing capital budget. Race Telecommunications, Inc., will not seek progress payment reimbursements. Instead, after construction is completed, it will submit a reimbursement request for full payment of its 40% award, or $506,199, with its project completion report, as required.
5. CD staff concludes that approving the exemption of the performance bond does not impact or put risk on CASF funds. Granting the exemption will speed the progress of this project by redirecting grantee's resources into timely construction of the project. With 100% upfront costs paid by the grantee, the purpose of the bond, i.e., to ensure

completion of the project, is moot because grant funds are not at risk during construction.

6. This resolution does not affect other provisions or requirements associated with the granting of CASF funds as specified in Resolution T-17279. Race Telecommunications, Inc., cannot conduct ground breaking activities until the Commission has completed California Environmental Quality Act review.
7. Payment to Race Telecommunications, Inc., will be made after completion of the project. All other terms and conditions of the payment process will be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of Resolution T-17279.
8. CD mailed a notice letter on April 26, 2011, informing a) all CASF applicants filing under D.09-07-020 and b) parties on the service list of R.06-06-028 of the availability of the draft of this resolution for public comments at the Commission's website http://www.cpuc.ca.gov/static/documents/index.htm. This letter also informed parties that the final conformed resolution adopted by the Commission will be posted and available at this same website.
9. The Commission finds the Communication Division's recommended modification of Resolution T-17279 regarding exemption from the posting of a performance bond by Race Telecommunications, Inc., for the Mojave Air and Space Port last mile project in Kern County reasonable and consistent with Commission orders and should be adopted.
10. The Commission did not receive any comments on this resolution.

THEREFORE, IT IS ORDERED that:

1. The Commission approves Race Telecommunications, Inc.'s request for exemption from the requirement of posting a performance bond as specified in Resolution T-17279 for the Mojave Air and Space Port project in Kern County approved on June 24, 2010.
2. Except for the performance bond exemption, this resolution does not affect other provisions or requirements associated with the granting of California Advanced Services Fund (CASF) funds to Race Telecommunications, Inc., as specified in Resolution T-17279.
3. Payment to Race Telecommunications, Inc., shall be made after completion of the project and all other terms and conditions of the payment process shall be in accordance with Section IX of Appendix A of Resolution T-17143 and in accordance with the process defined in the "Payments to CASF Recipients" section of Resolution T-17279.

This Resolution is effective today.

I hereby certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on May 26, 2011. The following Commissioners approved it:

/s/ Paul Clanon

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners