

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Broadband, Policy, and Analysis Branch**

**RESOLUTION T-17379
September 27, 2012**

R E S O L U T I O N

Resolution T-17379. Approval of a Fiscal Agent for the Inland Empire Regional Broadband Consortium Under the California Advanced Services Fund's Rural and Urban Regional Broadband Consortia Grant Account

Summary

This resolution approves a new fiscal agent for the Inland Empire Regional Broadband Consortium (IERBC) of Riverside and San Bernardino Counties, pursuant to Decision (D.)11-06-038, Section (§) 6.4.4. The Commission approved a California Advanced Services Fund Rural and Urban Regional Broadband Consortia grant and budget allowance amounting to \$450,000 over a three-year grant period to IERBC in Resolution T-17355 (February 16, 2012) pursuant to California Public Utilities (P.U.) Code § 281 and D.11-06-038.

Background

The California Advanced Services Fund (CASF), established in D.07-12-054, promotes the deployment of broadband infrastructure in unserved and underserved areas by providing grants representing 40% of the total construction costs to eligible broadband projects. Senate Bill (SB) 1040 (Stats. 2010, c. 317, codified at P.U. Code § 281) extended CASF indefinitely and expanded it to include three accounts: (1) Broadband Infrastructure Grant Account¹, (2) Rural and Urban Regional Broadband Consortia Account, and (3) Broadband Infrastructure Revolving Loan Account. The purpose of the Rural and Urban Regional Broadband Consortia Account (Consortia Grant Account) is "to fund the cost of broadband deployment activities other than the capital cost of

¹ Senate Bill 1193 (Stats. 2008, c.393) established the CASF as a new universal service program geared towards the deployment of broadband infrastructure in unserved and underserved areas in California. The Commission implemented the CASF program in D.07-12-054. The CASF funds 40% of a broadband infrastructure total project costs and 10% of the broadband infrastructure total project costs in the case of projects funded by CASF and the American Recovery and Reinvestment Act.

facilities, as specified by the Commission.” (P.U. Code § 281(d).) SB 1040 also increased the CASF fund from \$100 million to \$225 million as follows: funding for the Broadband Infrastructure Grant Account was increased by \$100 million while funding for the Consortia Grant Account and the Broadband Infrastructure Revolving Loan Account was set at \$10 million and \$15 million, respectively. (P.U. Code § 281(b)(1).)

In D.11-06-038 (June 23, 2011), the Commission adopted administrative procedures, guidelines, and a selection process for the Consortia Grant Account. The decision limited consortia grants to only one regional consortium per geographic region and capped grant funding at \$150,000 per year for each consortium for the first year and a maximum cap of \$450,000 total for three years.² In addition, the Commission adopted a process for any subsequent changes in the fiscal agent of a Regional Consortium. A change in the fiscal agent must be approved by a Commission Resolution.

On December 2, 2011, the Commission approved Resolution T-17349 which awarded grant funding to a group of seven consortia. On February 16, 2012, Resolution T-17355 awarded funding to another group of seven consortia that includes the IERBC. The fiscal agent approved as part of the IERBC changed and in accordance with D.11-06-038 § 6.4.4, this resolution approves a new fiscal agent.

Discussion

The IERBC began its first-year operations on March 1, 2012, with the Commission’s approval of Resolution T-17355. The San Bernardino Economic Development Corporation (SBEDC) was approved as the fiscal agent.³ The Commission approved IERBC for CASF consortium funding to promote broadband deployment, access, and adoption in Riverside and San Bernardino Counties. IERBC will receive consortia funding of \$150,000 in Year 1 and has the option to renew Years 2 and 3 for \$150,000 each year subject to satisfactory performance and submission of annual work plans.

The IERBC is a collaborative regional broadband consortium formed to address broadband infrastructure gaps within Riverside and San Bernardino Counties. Its primary mission is focused on prioritizing issues of developing capital improvement projects, establishing broadband programs for underserved and disadvantaged residents, improving government policies and best practices, and continuing to advocate for funding in the region. The goals to achieve its mission are to:

² With exception to the Los Angeles County region where the Commission adopted a higher funding level per D.11-06-038 and D.11-07-034.

³ Due to California state law changes to redevelopment agencies, Communications Division’s interim director approved on April 5, 2012, the consortium’s fiscal agent change from the San Bernardino Economic Development Agency to the San Bernardino Economic Development Corporation under the same umbrella organization, the City of San Bernardino. Staff considered the change of entity name as a result of the internal reorganization to be ministerial and approved it via a letter from the CD interim director.

- Establish strong community and stakeholder support through well-designed outreach and education that will obtain commitment from residents, businesses, and service providers to promote broadband infrastructure projects and ultimately connectivity; and,
- Develop a broadband infrastructure and access plan that prioritizes needs, sets forth a plan to identify viable projects, and plans ways to obtain investment and grant funding, as needed.

The IERBC has broad representation and support from diverse groups and possesses experience collaborating with diverse community groups in building regional support, commitments, and/or partnerships geared towards achieving broadband deployment, access, and adoption in their regions. Representatives of the City of San Bernardino, the County of Riverside, and SmartRiverside compose the executive board of IERBC. SmartRiverside is a 501(c)(3) non-profit organization formed by the City of Riverside and operates a city-wide wi-fi network within Riverside as well as a community digital inclusion program. SmartRiverside actively participated in the formation of the IERBC and was well-involved in planning its goals and deliverables over the three-year project.

In the first quarter of Year 1, on May 17, 2012, the consortium project manager contacted Communications Division (CD) staff to state that the consortium's approved fiscal agent, SBEDC, notified her that immediate changes within the City of San Bernardino and its economic development department were in progress due to the California Department of Finance's announcement to closedown economic development agencies throughout the state. The effects of the statewide budget impacts on economic development agencies included possible transfer of funds to the state's general fund and such action would have a severe effect on SBEDC's operations budget and its role as IERBC's fiscal agent. The City of San Bernardino's reorganization plans included a closedown of its economic development agency that includes SBEDC and as a result, IERBC put its work plan activities on hold in June 2012.

In a letter dated July 25, 2012, the City of San Bernardino's interim city manager notified CD's interim director that the SBEDC no longer existed due to the state's redevelopment legislation and, therefore, would not serve as fiscal agent to the Inland Empire Regional Broadband Consortium.

Consequently, the consortium project manager, in consultation with CD staff, began to reorganize the IERBC to identify a suitable fiscal agent for the consortium in order for it to continue its mission under the Commission-approved CASF grant. At that time, the IERBC reached out to SmartRiverside, a consortium board member and part of its executive committee, as discussed above, to inquire if it would step in as the fiscal agent.

On July 26, 2012, CD staff met with SmartRiverside executive board members to present the Commission's rules and regulations under which a CASF consortium fiscal agent is

bound. SmartRiverside's executive board opted to discuss the proposal so as to decide whether it had sufficient resources to act as the consortium's fiscal agent.

On July 31, 2012, via conference call, CD staff and the consortium's project manager reviewed IERBC's Year 1 work plan and budget in order to identify needed modifications due to the suspension of work plan activities as of June 1, when SBEDC ceased its involvement with the consortium. The consortium's project manager confirmed and adjusted the work plan line-by-line. The consortium's project manager determined that the modified work plan activities would have minimal impact on the consortium meeting its Year 1 planned year-end deliverables. In addition, Year 1 budget modifications on a line item basis were also completed for the year and CD staff found the adjustments to be reasonable and consistent with the modified work plan activities. By reviewing, updating, and approving the work plan and budget, IERBC is able to resume its activities on October 1 if the Commission approves a new fiscal agent in September.

CD's interim director received a letter dated July 31, 2012, in which SmartRiverside officially requested consideration and approval to become the Inland Empire Regional Broadband Consortium's fiscal agent. SmartRiverside included the revised Year 1 work plan, the revised Year 1 budget, and descriptions of the executive board members' experience. As fiscal agent, SmartRiverside stated it agrees to have lead responsibility and legal authority to represent the consortium for purposes of sponsoring the CASF grant application and the administration of the consortium activities, including receipt and disbursement of the CASF consortium grant funds. SmartRiverside agrees to comply with the Commission's directives and conditions relating to the review, approval, and administration of any consortium application grants pursuant to D.11-06-038 and the CASF Consortia Administrative Manual. SmartRiverside continues to serve as a member of the IERBC and its executive committee while awaiting Commission approval.

CD staff recommends SmartRiverside to be IERBC's new fiscal agent to perform the fiscal duties including, but not limited to, preparing and administering payment requests, filing quarterly activity reports, and maintaining and producing expense documentation for the CASF program. CD reviewed and approved the revised Year 1 work plan and budget for deliverables due for completion on or before February 28, 2013. With the Commission's approval of SmartRiverside as the new fiscal agent, the Inland Empire Regional Broadband Consortium will resume its work without a change in its Year 1 project schedule and can do so beginning October 1, 2012.

Comments on Draft Resolution

In compliance with PU Code § 311(g), a notice letter was emailed on August 28, 2012, to parties on the service lists of Rulemaking (R.) 10-12-008 and R.06-06-028, to CASF applicants, and to telecommunications carriers registered with the Commission of the availability of the draft of this resolution for public comments at the Commission's web

site <http://www.cpuc.ca.gov>. This letter also informed parties that the final resolution adopted by the Commission will be posted and available at the same web site.

Findings

1. Senate Bill (SB) 1040 (Stats. 2010, c. 317, codified at California Public Utilities (P.U.) Code Section (§) 281) extended CASF indefinitely and expanded it to include three accounts: (1) Broadband Infrastructure Grant Account, (2) Rural and Urban Regional Broadband Consortia Account, and (3) Broadband Infrastructure Revolving Loan Account.
2. Pursuant to P.U. Code § 281(d), the Rural and Urban Regional Consortia Account (Consortia Grant Account) is “to fund the cost of broadband deployment activities other than the capital cost of facilities, as specified by the Commission.” Pursuant to P.U. Code § 281(b)(1), the Consortia Grant Account for \$10 million.
3. In D.11-06-038 (June 23, 2011), the Commission adopted administrative procedures, guidelines, and a selection process for the Consortia Grant Account and limited consortia grants to only one regional consortium per geographic region and capped grant funding at \$150,000 per year for each consortium for the first year and a maximum cap of \$450,000 total for three years.
4. In addition, the Commission adopted a process for any subsequent changes in the fiscal agent of a regional consortium. A change in the fiscal agent must be approved by a Commission resolution.
5. With the Commission’s approval of Resolution T-17355 (February 16, 2012), the Inland Empire Regional Broadband Consortium began its first-year operations on March 1, 2012.
6. The San Bernardino Economic Development Corporation was approved as the fiscal agent for the Inland Empire Regional Broadband Consortium.
7. Due to the California Department of Finance’s closedown of economic development agencies throughout the state, the San Bernardino Economic Development Corporation could not continue its role as IERBC’s fiscal agent and notified CD’s interim director in a letter dated July 25, 2012.
8. The IERBC consortium project manager began work to reorganize the consortium and identify a suitable fiscal agent in order for to continue its mission under the Commission-approved grant. The IERBC reached out to SmartRiverside, a board member and part of its executive committee, to inquire if it would step in as the fiscal agent.
9. The consortium’s project manager revised the Year 1 work plan activities and budget noting that modifications would have minimal impact on the year-end deliverables. CD staff found the adjustments to be reasonable. IERBC is prepared to resume its consortium activities beginning October 1, 2012, with Commission approval.

10. SmartRiverside officially requested approval to become the Inland Empire Regional Broadband Consortium's fiscal agent in a letter to CD's interim director dated July 31, 2012. SmartRiverside agrees to comply with the Commission's directives and conditions relating to the review, approval, and administration of any consortium application grants, as per D.11-06-038 and the CASF Consortia Administrative Manual.
11. CD staff recommends SmartRiverside to be IERBC's new fiscal agent to perform the fiscal duties including, but not limited to, preparing and administering payment requests, filing quarterly activity reports, and maintaining and producing expense documentation for the CASF program.
12. CD approved the revised Year 1 work plan and budget for deliverables due for completion on or before February 28, 2013. With the Commission's approval of SmartRiverside as the new fiscal agent, the Inland Empire Regional Broadband Consortium will resume its work per its Year 1 project schedule.
13. A notice letter was emailed on August 28, 2012, informing the parties of record in Rulemaking (R.) 10-12-008 and R.06-06-028, CASF applicants, and telecommunications carriers registered with the Commission of the availability of the draft resolution for public comments at the Commission's web site <http://www.cpuc.ca.gov>.

THEREFORE, IT IS ORDERED that:

1. SmartRiverside is approved as the fiscal agent for the Inland Empire Regional Broadband Consortium.
2. SmartRiverside shall administer the fiscal responsibilities of the Inland Empire Regional Broadband Consortium in accordance to Commission Decision 11-06-038 and the California Advanced Services Fund Regional Consortia Administrative Manual.
3. To receive Year 2 and Year 3 of the budget allowances authorized by this resolution, the Inland Empire Regional Broadband Consortium shall submit work plans for approval by October 1 of each year.
4. The disbursement of funds shall be subject to the requirements set forth in Decision 11-06-038 including the submission of quarterly progress reports and supporting documentation for payment reimbursement.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 27, 2012. The following Commissioners approved it:

PAUL CLANON
Executive Director