

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17380
November 29, 2012**

R E S O L U T I O N

Resolution T-17380. Rural Telecommunications Infrastructure Grant Program funding of the Pine Mountain Learning Center Line Extension Grant Project.

Summary

This resolution authorizes a grant from the Rural Telecommunications Infrastructure Grant Program, in the amount of \$390,000, for the construction, by AT&T California (AT&T), of the Pine Mountain Learning Center Line Extension Grant Project (Pine Mountain Project) and authorizes the Executive Director of the California Public Utilities Commission (Commission) to enter into a contract with the El Tejon Unified School District to act as Fiscal Agent for the project.

Background

Legislation and Rulemaking

Public Utilities Code Section 276.5 sets forth the provisions for the Rural Telecommunications Infrastructure Grant Program (RTIGP). The RTIGP provides grants of up to five million dollars per project from the California High Cost Fund-A Administrative Committee Fund for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. The RTIGP was established by Assembly Bill 140¹ in 2001, and was most recently amended to extend the program to January 1, 2013, by Senate Bill 1149².

Under the RTIGP legislation the Commission was required to develop an application process and eligibility criteria for the grant program and to establish a government-

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

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

industry working group to review the technical criteria of the grant application. On February 27, 2003, the Commission issued an Order Instituting Rulemaking R.03-02-034³ to develop the application eligibility criteria. After consideration of comments, the Commission issued an Interim Decision (D.) 03-09-071⁴ adopting an application process and eligibility criteria for the grant program on September 18, 2003. On March 17, 2005, the Commission issued D.05-03-005⁵ which adopted the interim grant program administration rules of D.03-09-071 as final rules.

Application Process

The RTIGP application process is divided into two phases: Phase 1 is the qualifying phase, in which applicants must provide information required by statute. This includes 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. The application process also allows an applicant who has been approved for Phase 1, but is denied Phase 2 approval, to recover the cost of the Phase 2 application process from the grant funds.

Pine Mountain Project Description

The Pine Mountain Project proposes to provide a line extension of approximately 9,100 feet of direct buried cable to Pine Mountain Learning Center, a public elementary charter school with a current enrollment of 97 students that is part of the El Tejon Unified School District. The project will also provide service to the United States Forest Service Apache Saddle Fire Station, and Camp Condor, a camp for children near Pine Mountain Learning Center. The project is within Kern County.

The Pine Mountain Project is in an unserved area located within the Verizon California, Inc. (Verizon) Taft Exchange Area. However, due to the closer proximity of facilities in AT&T's Lebec Exchange, AT&T and Verizon have agreed to a boundary realignment and AT&T will include the project area in its Lebec Exchange. AT&T will file, at a later date, advice letters for boundary realignment for the Pine Mountain Project.

Due to the topographical constraints of the terrain, snowstorms during winter and the risk of fire during summer months, reliable phone service is a necessity to assure public safety. The facilities to be constructed will provide Plain Old Telephone Service (POTS)

³ Order Instituting Rulemaking Into Implementation of AB 140, establishing the Rural Telecommunications Infrastructure Grant Program, Feb. 27, 2003.

⁴ Interim Opinion On Implementation Of The Rural Infrastructure Grant Program, Sept. 18, 2003.

⁵ Opinion Closing Proceeding, March 17, 2005.

as other reliable options are not feasible. This project will use conventional wireline construction using direct buried 50-pair copper cable and a single innerduct which allows for future fiber deployment. The Pine Mountain Project is projected to take six months to complete, weather permitting. Total cost for construction, labor, and materials is approximately \$372,000.

Discussion

Review of Phase 1 and 2 Applications

On September 17, 2007, the Communications Division (CD) received a Phase 1 Application from Pine Mountain Learning Center for the Pine Mountain Project. After review of the Phase 1 Application, CD found the application compliant with the RTIGP requirements. On March 5, 2009, the applicant was notified, in writing, of the approval and their eligibility to submit a Phase 2 Application, the feasibility study detailing the engineering and cost aspects of the Pine Mountain Project. The Pine Mountain Learning Center, in concert with AT&T, submitted the Phase 2 Application on February 9, 2012. Copies of the Phase 2 Application were provided to the Government Industry Working Group for review.

The Government Industry Working Group Evaluation

The 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 Pine Mountain Project were sent out to the GIWG and a meeting was held on February 22, 2012. The GIWG approved the project.

Fiscal Agent Review

Section 276.5 of the California Public Utilities Code states, "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." R.03-02-034 further specifies Grant Program Administration Rules⁶. The Fiscal

⁶ "We will order that all funds disbursed from the grant program be kept and maintained in a separate bank account with the approved fiscal agent as the sole trustee of such funds. The fiscal agent shall provide the account information 60 days prior to the first request for disbursement according to the approved payment schedule. Payments will be made after completion of approved milestones and upon request for payment from the fiscal agent according to the approved payment schedule. Payment requests shall include an itemized accounting of reimbursable amounts. The Commission shall disburse

Agent is required in R.03-02-034 to provide an accounting, of expenditures and account balances, until no funds remain in the account. Upon completion of the infrastructure work, records are to be reviewed by an independent Certified Public Accountant (CPA) and an Attestation Report is required to be submitted to the Commission to ensure that the work is completed and paid for as represented.

The Phase 2 Application for the Pine Mountain Project designates the El Tejon Unified School District as the Fiscal Agent. The El Tejon Unified School District is a local agency as defined by Section 50001 of the Government Code. CD received a communication on March 8, 2012, from the El Tejon Unified School District is willing to act as the Fiscal Agent for the administration of the Pine Mountain Project. Accordingly, the Executive Director of the Commission shall enter into an agreement with the El Tejon Unified School District as the Fiscal Agent to receive the grant funds for the Pine Mountain Project and remit them to AT&T as directed by the Commission.

The El Tejon Unified School District will receive \$1,500 per month for each month work is performed on the Pine Mountain Project as Fiscal Agent; no more than \$18,000 will be paid to the El Tejon Unified School District.

California Environmental Quality Act (CEQA) Review

The issuances of grants pursuant to the RTIGP are discretionary actions subject to the requirements of CEQA. CEQA reviews for RTIGP grants are 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 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 subject CEQA, unless the project is found to meet a statutory or categorical exemption pursuant to the CEQA Guidelines.⁷

The project involves installation of a direct buried 50-pair copper cable and a single innerduct to be used for any future fiber placement. Installation of the cable will require trenching to a width of approximately one foot and a depth of approximately three feet within the shoulder of the road to provide room for the conduit, and the restoral of the roadway after construction. The length of the project is approximately 9,100 feet. The aboveground components will consist of plastic pedestals, which are approximately six inches in diameter, to be installed at access points, splice points, and grounding locations.

the funds within 60 days of receipt of a complete request for payment that conforms to the approved payment schedule or as soon as is otherwise practicable. Budgetary constraints or other factors may delay release of funds". September 18, 2003.

⁷ The CEQA Guidelines are codified at Title 14 California Code of Regulations section 15000 et seq.

This project is categorically exempt from CEQA pursuant to CEQA Guidelines § 15304(f), which applies to “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.” This guideline is consistent with the work that would be required for the Pine Mountain Project: “minor trenching and backfilling where the surface is restored.” The non-exclusive list of examples of minor land alterations also includes other activities of a similar scale including, grading and fill activities, and the creation of bicycle lanes in the rights-of-way. The project involves minor trenching and filling of land for installation of buried cable; the surface will be completely restored when the activities are complete. This work will not involve removal of any healthy, mature, scenic trees

Line Extension Tariffs

The Commission previously concluded 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 rural infrastructure grant project. 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 ILECs to recover from the fund infrastructure costs contained in the Commission-approved tariff”.

AT&T will file, at a later date, advice letters for compliance tariff and boundary realignment for the Pine Mountain Project.

Comments

A notice letter was e-mailed on October 30, 2012, informing: Peter Hayes of AT&T; Holly J. Matthews and Jessica Hawley, representatives for Pine Mountain Learning Center; Katie Kleier, Superintendent, El Tejon Unified School District, Fiscal Agent; the Government Industry Working Group and CHCF-A Administrative Committee of the availability of the draft resolution for public comments at the Commission’s website: <http://www.cpuc.ca.gov>. In addition, all were informed of the availability of the conformed resolution, once adopted by the Commission, at the same website.

The Commission received no comments.

Findings and Conclusions

1. The Rural Telecommunications Infrastructure Grant Program (RTIGP) was established by Assembly Bill 140 in 2001 and was most recently amended to extend the program to January 1, 2013, by Senate Bill 1149.
2. The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code.
3. In Decision (D.) 05-03-005, the Public Utilities Commission (Commission) adopted the interim RTIGP administration rules from D.03-09-071 as final rules.
4. The Pine Mountain Learning Center, a public elementary school for children, requested telephone service and did submit an RTIGP Phase 1 application for Pine Mountain Learning Center Line Extension Grant Project (Pine Mountain Project).
5. AT&T California (AT&T), in concert with Pine Mountain Learning Center, submitted an RTIGP Phase 2 application for the Pine Mountain Project.
6. The Pine Mountain Learning Center is requesting an RTIGP in the amount of \$390,000 for construction of the Pine Mountain Project.
7. The Commission approved the Phase 1 application on March 5, 2009, and approved the Phase 2 Application on October 18, 2012.
8. The Government Industry Working Group has approved the Phase 2 application of the Pine Mountain Project.
9. This project is categorically exempt from CEQA pursuant to CEQA Guidelines § 15304(f) because project involves minor trenching and filling of land for installation of buried cable; the surface will be completely restored when the activities are complete.
10. The Executive Director of the Commission finds that approving this resolution is in the public interest and that the grant funds for the Pine Mountain Project should be approved.
11. The Executive Director authorizes work on the Pine Mountain Project to begin.
12. The El Tejon Unified School District will act as the Fiscal Agent for the Pine Mountain Project.

13. The El Tejon Unified School District will receive \$1,500 per month for each month work is performed on the Pine Mountain Project as Fiscal Agent; no more than \$18,000 will be paid to the El Tejon Unified School District.
14. The source of the funds for this grant is the CHCF-A.
15. There are sufficient funds in the CHCF-A to cover the cost of the Pine Mountain Project.
16. The Commission finds that the approval of the Pine Mountain Project is based on the specifics of this Resolution.
17. The Commission concludes that this Resolution does not establish a precedent for the contents of future RTIGP filings or for Commission approval of similar requests.
18. A notice letter was e-mailed on October 30, 2012, informing: AT&T; Representatives for Pine Mountain Learning Center; El Tejon Unified School District (Fiscal Agent); the Government Industry Working Group and CHCF-A Administrative Committee of the availability of the draft resolution for public comments at the Commission's website: <http://www.cpuc.ca.gov>. In addition, all were informed of the availability of the conformed resolution, once adopted by the Commission, at the same website. The Commission received no comments.

THEREFORE, IT IS ORDERED THAT:

1. Funds shall be granted to El Tejon Unified School District, in the amount of \$390,000, from the California High Cost Fund-A for the construction of the Pine Mountain Line Extension Grant Project located in Pine Mountain, California.
2. The Executive Director of the California Public Utilities Commission is authorized to enter into an agreement with the El Tejon Unified School District to serve as the Fiscal Agent for the administration and disbursement of the California High Cost Fund-A funds to AT&T for the Pine Mountain Line Extension Grant Project.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on November 29, 2012. The following Commissioners approved it:

PAUL CLANON
Executive Director