

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17382
January 24, 2013**

R E S O L U T I O N

**Resolution T-17382. Rural Telecommunications
Infrastructure Grant Program funding of the Channel
Islands Telephone Company Grant Project.**

Summary

This resolution authorizes a grant from the Rural Telecommunications Infrastructure Grant Program, in the amount of \$2,693,000, for construction of the Channel Islands Telephone Company Grant Project by the Channel Islands Telephone Company. This resolution also authorizes the Executive Director of the California Public Utilities Commission to enter into a contract with the County of Ventura to act as a fiscal agent for the Channel Islands Telephone Company project. The project amount of \$2,693,000 includes \$18,000 to the County of Ventura for Fiscal Agent Services and \$35,000 for California Environmental Quality Act Contract 08PW5758.

Background

Legislation and Rulemaking

Public Utilities (PU) Code Section 276.5 sets forth the provisions for the Rural Telecommunications Infrastructure Grant Program (RTIGP). At the time of the Channel Islands Telephone Company (CITC) grant request, individual RTIGP grants were limited to \$2.5 million from the California High Cost Fund (CHCF) -A Administrative Committee Fund for construction of telecommunications infrastructure to low-income, rural communities currently without telephone service. Subsequent legislation has increased the RTIGP to five million dollars per project. ¹ The RTIGP was established by

¹ Stats. 2008, Ch. 358. SB 1149-Wiggins

Assembly Bill 140 ² in 2001, and was most recently amended to extend the program to January 1, 2013, by Senate Bill 1149. ³

Under RTIGP legislation, the Commission was required to develop an application process and eligibility criteria for the grant program and establish a government-industry working group to review the technical criteria of the grant application. On February 26, 2003, the Commission issued an Order Instituting Rulemaking (R.) 03-02-034 ⁴ to develop the application eligibility criteria. After considering comments, the Commission issued an Interim Decision (D.) 03-09-071 ⁵ adopting an application process and eligibility criteria for the grant program on September 18, 2003. On March 17, 2005, the Commission issued D.05-03-005 ⁶ 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 identification 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.

Discussion

CITC Project Description

There are eight Channel Islands located off the coast of Ventura County, which include San Miguel, Santa Rosa, Santa Barbara, Anacapa, Santa Cruz, San Nicholas, San Clemente and Santa Catalina Island. The CITC Project proposes to provide telephone service to four of the eight Channel Islands, which are the northern Channel Islands of San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa.

² Stats. 2001, Ch.903, AB 140- Strom-Martin Rural Telecommunications Infrastructure Grant

³ Stats. 2008, Ch. 358. SB 1149-Wiggins

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.

Of the remaining islands, San Nicholas and San Clemente Islands are controlled by the United States Navy, and Santa Catalina is served by Pacific Bell Telephone Company. Anacapa Island is not included in this project. The northern islands became part of the National Park Service (NPS) in 1980. They are often referred to as the “Galapagos of North America” as the Islands are virtually untouched. The following is a brief description of the four islands to be served by this project.

Santa Barbara Island

Santa Barbara Island is one square mile in size, or 640 acres. It is the smallest of the eight Channel Islands, yet hosts many visitors who come to see the island’s plant and wildlife.

San Miguel Island

San Miguel Island is 9,325 acres. The NPS maintains a ranger station and a research station on the island. The Navy has a dirt runway for airplanes. The island normally has less than 200 public visitors during a given year. It is normally staffed by a ranger that enforces park laws, while also providing interpretive services for public visitors. Park employees and researchers are flown to the island by Channel Islands Aviation, the official concessionaire to the Channel Islands. Public visitors must reach the island by boat. Eight foot seas are not uncommon between Santa Rosa and San Miguel Islands. Rough seas often result in cancellations of excursions. No more than 30 visitors are permitted on the island at any given time and sometimes less than ten campers might make the voyage.

Santa Rosa Island

Santa Rosa Island is 53,195 acres. There are a variety of recreational activities on the island including kayaking, camping and hiking. A private boat charter company offers a number of trips to the island year round. Channel Islands Aviation provides air travel service to and from Santa Rosa Island for Park Service employees, Nature Conservancy personnel and the general public.

Santa Cruz Island

Santa Cruz Island is 61,765 acres. Three-fourths of Santa Cruz has been owned by The Nature Conservancy since 1987. The remainder of the island is part of the Channel Islands National Park.

The proposed project is needed because park visitors and National Oceanic and Atmospheric Administration (NOAA) staff currently have limited ability to communicate between locations within the Channel Islands National Park and with personnel and other contact points on the mainland. In addition, the project will provide communication in the case of an emergency or accident to allow for swifter emergency response.

The proposed project would provide cellular telephone and landline service at campground sites and certain public areas on four islands, as well as on all portions of the islands within an approximate 0.5-mile radius of each of the up to 11 proposed facility locations.

Currently, the islands have a very high frequency radio system that allows communication among radio-equipped ranger stations on the islands, as well as from hand-held radios. Satellite internet service is also available at some ranger stations that allow secure access to government internet provider addresses on the mainland. NPS personnel also possess cellular telephones; however, cellular service is unreliable because the islands are at the outer limit of the cellular service area. The location of the islands makes cellular telephone service unreliable on some parts of the islands and completely absent on others. Recreational visitors to the islands have no land-line telephone access and little to no cellular telephone reception.

Section 276.5 of the P.U. Code, Part (b)(1) states that "...with consideration given (1) to areas that lack access to an emergency telephone system described in the Warren-911-Emergency Assistance Act..." This project will provide an important link between the Channel Islands and emergency response personnel on the mainland.

Review of Phase 1 and 2 Applications

On December 19, 2006, the Channel Islands Telephone Company (CITC), a certificated telephone corporation in California, requested telephone service for the Channel Islands and submitted an RTIGP Phase 1 application for the CITC Grant Project. Specifically, CITC requested to provide telephone service and high speed internet to four of the Channel Islands - San Miguel, Santa Rosa, Santa Barbara, and Santa Cruz Island. After review of the Phase 1 application, CD determined that the application complied with all necessary requirements with the exception of a written verification from County of Ventura of their agreement to act as fiscal agent for the project and the required letters from residents to show their willingness to subscribe for service. CITC was notified of the conditional approval by the CD Director on February 26, 2007, and of their eligibility to submit a Phase 2 application.

CITC submitted the Phase 2 application on April 17, 2007. CD reviewed the application and notified CITC by letter, on June 18, 2007, that the application was rejected due to missing household income data.

CITC then responded by submitting information that was missing from the application, supporting the application with the following:

1. On June 29, 2007, CITC provided letters of support for this project.
2. On October 29, 2007, CITC provided CD with a copy of a letter issued by the County of Ventura dated October 26, 2007, stating that it is willing to serve as the Fiscal Agent for the CITC Project, subject to approval of the County of Ventura Board of Supervisors.

The supplemental application information settled the remaining open issues with the Phase 1 and Phase 2 applications. Since the initial application submittal by CITC, the application has been revised to exclude the installation of any telecommunications facilities on Anacapa Island.

The Government Industry Working Group Evaluation

The current Government Industry Working Group (GIWG)⁷ 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 CITC Project were mailed to the GIWG on April 4, 2008, requesting response by April 11, 2008. Although the GIWG raised some concerns about the project, the GIWG approved the project application.

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." D.03-09-071 further specifies grant program administration rules.⁸ The Fiscal Agent is required in D.03-09-071 to provide an accounting of expenditures and account balances until no funds remain in the account. Upon completion of the infrastructure work, records may be reviewed by an independent Certified Public Accountant, and an

⁷ Established by D.03-09-071, Ordering Paragraph 4.

⁸ D.03-09-071 at 15: "Each applicant shall have an approved fiscal agent. 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."

Attestation Report may be 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 CITC Project designated the County of Ventura as the Fiscal Agent. The County is a local agency as defined by Section 50001 of the Government Code. The County sent CD a letter dated October 26, 2007, stating their willingness to act as the Fiscal Agent for the administration of the CITC Project. The contract between County of Ventura and the Commission was approved by the County of Ventura Board of Supervisors so that the County of Ventura could fulfill its role as fiscal agent. Accordingly, the Executive Director of the Commission is authorized to enter into an agreement with the County of Ventura as the Fiscal Agent to receive the grant funds for the CITC project and remit them to CITC as directed by the Commission, contingent on Department of General Services approval of the contract. The County of Ventura will receive \$1,500 per month performing as Fiscal Agent for the CITC Project; no more than \$18,000 will be paid to the County of Ventura.

Channel Islands Telephone Company

CITC has a certificate of public convenience and necessity (CPCN) which is limited-facility-based and has Application (A.) 10-02-009 pending before the Commission to expand its existing CPCN to include full facilities-based authority to construct telecommunications facilities to serve certain previously unserved Channel Islands. CITC must receive their full facilities-based authority from the Commission for this project to move forward. On December 20, 2012, the Commission received confirmation from the Secretary of State's office that CITC's business license status is active. Since the CITC project requires facilities deployment, project and funds approval are contingent on the Commission's approval of CITC's full-facilities CPCN.

California Environmental Quality Act Resolution T-17151

Resolution T-17151, relating to the CITC Project, was adopted by the Commission on August 21, 2008. The resolution appropriated the sum of \$325,000, to identify, analyze, and mitigate the potential environmental impacts of the construction and operation of the project in accordance with the requirements of the California Environmental Quality Act (CEQA). On October 10, 2008, the Energy Division awarded Contract 08PW5758 to an environmental consultant to perform the environmental review required for the proposed project. Although CEQA analyses of the project is nearly complete, the original contract amount of \$325,000 has fallen slightly short of the funding that will actually be needed to finalize the review. The RTIGP has determined that an additional allotment of \$35,000 should be authorized for expenditure under Contract 08PW5758 to complete the required CEQA review. There is hereby appropriated the amount of \$35,000, out of the RTIGP to finalize the CEQA review currently underway for Contract 08PW5758.

California Environmental Quality Act Review

The issuances of grants pursuant to the RTIGP are discretionary actions subject to the requirements of the 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 determines whether a proposed project is eligible to receive funds under the RTIGP. If a Phase 1 of the application is approved, the application is moved onto Phase 2. In Phase 2, the Commission determines how much grant money should be approved for the proposed project and performs a CEQA review, unless the project is exempt under the CEQA guidelines.⁹

In this instance, the Commission is the lead agency under CEQA with respect to the environmental review of the CITC Grant Project and preparation of both the Draft and Final Mitigated Negative Declaration (MND). A “Draft Initial Study/Environmental Assessment (IS/EA) and Notice of Intent to Adopt a Mitigated Negative Declaration” was prepared for the proposed project in accordance with CEQA. The Commission prepared the Draft IS/EA and MND to provide the public and responsible and trustee agencies with information about the potential environmental effects of the proposed project. A draft Environmental Assessment was also prepared under the National Environmental Policy Act (NEPA), concurrently with this Draft IS/EA and MND. The NPS is the federal lead agency for this project under NEPA. In addition to environmental review under NEPA and CEQA, other federal, state, regional, and local permits and approvals are required. The Draft Mitigated Negative Declaration may be viewed at:

<http://www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm>

All environmental issues identified in Appendix G of the State CEQA Guidelines are discussed in the Draft IS/EA and MND. In addition to applicant proposed measures, environmental protection measures to protect sensitive environmental resources have been incorporated into the project. Because these measures would be incorporated into project design, construction and operation, impacts to sensitive environmental resources will be avoided or minimized to less than significant levels. Federal and state resource agencies may add further mitigation measures to the project, reducing the environmental impacts even further, as a result of their separate permit application and consultation process. The Commission has reviewed the Draft MND “Notice of Intent to Adopt a MND/Notice of Availability, issued on November 14, 2012, for the Channel Islands Telecommunications Project, and finds that the Draft MND, as modified,

⁹ CEQA Guidelines are codified at Title 14 California Code of Regulations section 15000 et seq.

represents our independent judgment regarding the environmental impact of the proposed project. The findings of the draft IS/EA and MND are that the proposed project, as mitigated, would not have any significant effects on the environment. Therefore, we will adopt the Draft MND, including the Mitigation Monitoring and Reporting Program, with modifications as the Final MND for the proposed project pursuant to and in compliance with CEQA. The Final MND may be viewed at:

<http://www.cpuc.ca.gov/Environment/info/mha/channelislands/channelislands.htm>

Line Extension Tariffs

The Commission previously concluded that existing line extension tariffs should not apply to the RTIGP projects. 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, telephone companies 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 telephone companies to recover from the fund infrastructure costs contained in the Commission-approved tariff."

CITC will file, at a later date, advice letters to address the line extension tariffs and any other issues that might be relevant to its project.

Safety Considerations

This project would promote public safety. At present, four of the Channel Islands impacted by this project lack communications services, and accordingly, access to 9-1-1-emergency service.

The lack of access to 9-1-1 on the Channel Islands is an important consideration in approving this resolution. In 2011, there were 243,000 visitors to the Channel Islands National Park. Access to 9-1-1 service for Channel Islands visitors will provide a safer visitor experience.

Conclusion

The Commission's CD recommends that a Rural Telecommunications Infrastructure Grant Program grant, at an amount to not exceed \$2,693,000, be approved to construct

the CITC Project, which includes \$18,000 for County of Ventura for fiscal agent services and increases the CEQA Contract 08PW5758 by \$35,000 in order to complete the environmental review. The Commission finds that approving this resolution is in the public interest and that the grant funds for the CITC Project should be approved.

In summary, resolution approval is contingent on CITC receiving:

1. Department of General Services contract approval.
2. Commission approval of a full-facilities CPCN.
3. Approval of all required permits.
4. Meeting with the Commission's Communications Division to ensure that all requirements have been satisfied before beginning construction activities.

Comments

The Commission's CD e-mailed a notice letter on November 20, 2012, informing Todd Lesser of CITC; Christy Madden, Deputy Executive Officer, County of Ventura, Fiscal Agent; the Government Industry Working Group, and the 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.

On November 28, 2012, the Channel Islands Telephone Company (CITC), a certificated telecommunications company in California, U-7068-C, filed comments on the draft resolution. CITC asserted in its comments and ensuing discussions with CD that funding for the project should be adjusted to account for increased costs since their Phase 2 filing in April of 2007.

CITC provided documentation to forecast that project costs are now approximately \$2.693 million:

Equipment	\$2,128,000
Engineering	161,000
Installation	404,000
Total	\$2,693,000

CD has reviewed the revised project forecast and finds it reasonable. CD notes that the amount includes \$18,000 for County of Ventura's fees to act as Fiscal Agent and \$35,000 to increase the Commission CEQA Contract 08PW5758.

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 Channel Islands Telephone Company (CITC), a certificated telephone corporation in California, requested to provide telephone service for the Channel Islands and submitted an RTIGP Phase 1 application for the CITC Grant Project.
5. CITC submitted an RTIGP Phase 2 application for the CITC Project.
6. CITC is requesting RTIGP funding in an amount to not exceed \$2,693,000 for construction of the CITC Project which includes \$18,000 for County of Ventura for Fiscal Agent Services and \$35,000 for California Environmental Quality Act Contract 08PW5758.
7. The source of the funds for the CITC project is the California High Cost Fund (CHCF)-A.
8. The Commission's Communications Division (CD) approved the Phase 1 application on February 26, 2007, and approved the Phase 2 Application on June 29, 2007.
9. The Government Industry Working Group ordered by D.03-09-071 has approved the Phase 2 application of the CITC Project.
10. The fiscal agent contract with the County of Ventura for the CITC project was approved by the Board of Supervisors of the County of Ventura.
11. The County of Ventura will receive \$1,500 per month for each month work is performed on the CITC Project as Fiscal Agent; no more than \$18,000 will be paid to the County of Ventura.
12. Project approval remains contingent on the fiscal agent contract being approved by the Department of General Services. The Commission's Executive Director is authorized to enter into an agreement with the County of Ventura as the Fiscal Agent to receive the grant funds for the CITC Project and remit them to CITC as directed by the Commission.

13. CITC project approval remains contingent on CITC receiving a full-facilities-based certificate of public convenience and necessity, as submitted for in Application 10-02-009.
14. This resolution authorizes an increase of \$35,000 for Contract 08PW5758 for the California Environmental Quality Act review of the CITC Project.
15. The Draft Final Mitigated Negative Declaration (MND), as modified, reflects the Commission's independent judgment that the proposed project, as mitigated, would not have any significant effects on the environment.
16. The Commission has reviewed and considered the Draft MND, as modified, prior to adopting it as a final MND.
17. Final MND should be adopted by the Commission as adequate for our decision-making purposes pursuant to California Environmental Quality Act.
18. In addition to environmental review under the National Environmental Policy Act (NEPA and CEQA), other federal, state, regional, and local permits and approvals are required.
19. The Commission's CD e-mailed a notice letter on November 20, 2012, informing CITC; Deputy Executive Officer, County of Ventura, Fiscal Agent; the Government Industry Working Group, and the 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.
20. On November 28, 2012, the CITC filed comments on the draft resolution asserting that funding for the project should be increased since their Phase 2 filing in April of 2007 and included an updated cost forecast. CD concurred and recommends increasing Resolution T-17382 to \$2,693,000, of which \$18,000 is for County of Ventura's fees to act as Fiscal Agent and \$35,000 to increase the Commission's California Environmental Quality Act Contract 08PW5758.
21. The Communications Division finds CITC's updated cost forecast of \$2,693,000 to be reasonable and recommends approval of the project.
22. The Commission finds that approving this resolution is in the public interest and that the grant funds for the CITC Project should be approved.

THEREFORE, IT IS ORDERED THAT:

1. The California Public Utilities Commission (Commission) authorizes funds to be granted to Channel Islands Telephone Company, in an amount to not exceed \$2,693,000, from the California High Cost Fund-A for the construction of the Channel Islands Telephone Company Grant Project and for the County of Ventura to serve as the fiscal agent for this project.
2. The Executive Director of the California Public Utilities Commission is authorized to enter into an agreement with the County of Ventura to serve as the Fiscal Agent for the administration and disbursement of California High Cost Fund-A funds to the Channel Islands Telephone Company for the Channel Islands Telephone Company Grant Project.
3. The Final Mitigated Negative Declaration for the Channel Islands Telephone Company Grant Project is adequate for the California Public Utilities Commission's decision-making purposes and is hereby adopted pursuant to the California Environmental Quality Act Guidelines and the Public Resources Code.
4. The Channel Islands Telephone Company shall not begin construction activities or purchase equipment for the Grant Project until it has obtained 1) Department of General Services approval; 2) A full facilities-based Certificate of Public Convenience and Necessity; 3) all required Federal permits and approvals; and 4) consent to begin construction after meeting with the Commission's Communications Division to ensure that all requirements have been satisfied.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on January 24, 2013. The following Commissioners approved it:

PAUL CLANON
Executive Director