

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Carrier Oversight and Programs Branch**

**RESOLUTION T- 17402
October 3, 2013**

R E S O L U T I O N

Resolution T-17402. Affirms the rejection of Resolution T-17382 that resulted in the denial of the Rural Telecommunications Infrastructure Grant Program request for the Channel Islands Telephone Company grant project; reimbursement approval for CITC Phase 2 Preparation Costs; and additional funds approval for the California Environmental Quality Act review contract.

By Advice Letter 2, filed on May 20, 2013.

Summary

On May 20, 2013, the Channel Islands Telephone Company (CITC), a certificated telephone company in California (U-7086-C), filed Advice Letter (AL) 2 requesting the issuance of a formal written opinion regarding Resolution T-17382. Resolution T-17382 was rejected by a vote of Commissioners at the March 21, 2013, Commission meeting.

This resolution affirms the rejection of T-17382, which resulted in the denial of CITC's Rural Telecommunications Infrastructure Grant Program (RTIGP) request, for \$2,693,000. This resolution also approves \$304,343.75 to reimburse the CITC for Phase 2 preparation costs, and \$18,000 to increase the Energy Division's California Environmental Quality Act (CEQA) review, contract no. 08PW5758.

Background

Legislation and Rulemaking

Public Utilities (PU) Code Section 276.5 sets forth the provisions for the RTIGP. At the time of the CITC's grant request, individual RTIGP grants were limited to \$2.5 million from the California High Cost Fund-A (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 Assembly Bill 140 ² in 2001, and was amended later to extend the program to January 1, 2013, by Senate Bill 1149. ³

Under RTIGP legislation, the California Public Utilities Commission (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.) 03-09-071⁵ 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 a 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.

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 proposed to provide telephone

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

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.

service to four of the eight Channel Islands, which are the northern Channel Islands of San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa.

CITC has asserted that 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 would have provided communication in the case of an emergency or accident to allow for swifter emergency response for the estimated 61,000 annual visitors to the islands.

The proposed project would have provided payphones and wireless service at campground sites and certain public areas on the four islands, specifically located on areas of the islands within an approximate 0.5-mile radius of fifteen proposed facility locations, as listed in the denied draft Resolution T-17382. The fifteen locations were studied in the Mitigated Negative Declaration prepared pursuant to the required CEQA review.⁷

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. National Park Service (NPS) personnel also possess cellular telephones; however, cellular service is unreliable because the islands are at the outer limit of the cellular service coverage 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.

This project would have proposed to provide payphones and fixed wireless antennas using Global System for Mobile Communications (GSM) cellular service. While initially proposing GSM service, the equipment is also Code Division Multiple Access (CDMA) - capable, and CITC reports that they were in the process of negotiating roaming agreements with carriers that are interested in providing coverage to their customers using CDMA.

To provide service to the fifteen proposed locations, CITC intended to install eleven wireless base stations on the islands. Some of these base stations would serve multiple locations as discussed previously. Power would have been obtained from solar panels and lead-acid batteries rated up to 300 amp hours to provide power storage. CITC asserts the batteries would provide sufficient backup capacity to ensure an uptime of 99.9999% throughout the year.

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

CITC provided aerial maps showing the coverage area of the proposed wireless system for each of the four islands, with concentric circles superimposed on the maps to represent signal coverage strength radiating from the respective base stations. The maps represented that the smallest circle of one-half mile radius would result in a cell phone display showing five bars of coverage. The largest circle superimposed on the maps showed an eight-mile radius, where calls in this band show one bar of coverage. Topography can affect all of the coverage areas discussed above. However, CITC asserted it would use the Personal Communications Services (PCS) spectrum, where the strongest signal is achieved by line-of-sight from the transmitter. CITC claims that these frequencies are more forgiving, by stating that PCS signals “can “see” around impediments in the environment like hills, trees, and tall buildings”, with signals able to “bounce” off intervening objects.

Telephone traffic between the islands and the mainland would be transmitted using satellite communications capacity (i.e. very small aperture terminal (VSAT) two-way dish antennas) between the CITC’s earth stations located on the four islands and the CITC’s earth station located on the mainland, and then to CITC’s central office in San Diego. From that point, traffic would be carried to and from the Public Switched Telephone Network via AT&T’s and Inteliquent’s respective tandem switches using fiber optics. Additionally, the Company would interconnect with any interexchange, competitive local exchange, or incumbent local exchange carrier that requests interconnection.

Internet communications would be transmitted between the islands and the mainland via VSAT satellite communications technology and then transmitted via leased fiber optic capacity to the Company’s internet routers/switches in Los Angeles. The Company would deliver traffic to the internet through a dual homing arrangement with XO Communications and Level 3 Communications.

For the proposed payphones, CITC stated that incoming calls, toll free, and 911 calls would be free. Outbound local calls would be billed at a rate of 20 cents per call, while the price of toll calls would be dependent on the long distance carrier selected by the caller. Payphones would accept payment by credit card, calling card, collect and third-party charges.

The proposed project’s updated construction budget was \$2.693 million, as itemized Table 1:

Table 1

Item	Units	Equipment	Engineering	Installation	Total
Wireless base stations	11	\$936,562	\$93,000	\$220,000	\$1,249,562
Hub/Switch	1	812,575	60,000	40,000	912,575
Electrical Backup System		45,372			45,372
Fixed telephone lines	25	4,987	1,000	9,000	14,987
Pay telephones	8	19,984	2,000	30,000	51,984
SONET satellite Transport		39,987	5,000	5,000	49,987
Equipment Shelters		75,127		50,000	125,127
Internet Service Provider Data Hub		35,323		5,000	40,323
Solar Power		149,324		45,000	194,324
Computers		8,648			8,648
Total		\$2,127,889	\$161,000	\$404,000	\$2,692,889

Review of Phase 1 and 2 Applications

On December 19, 2006, CITC submitted an application to provide telephone service to the Channel Islands, and submitted an RTIGP Phase 1 application for the CITC Grant Project. In reviewing the Phase 1 application, the Commission’s Communications Division (CD) determined that the application complied with all necessary requirements, with the exception of a written verification from County of Ventura of its agreement to act as fiscal agent for the project, and the required letters from residents to show their willingness to subscribe for service, both of which CITC provided later. The CD Director notified CITC of conditional approval on February 26, 2007, and of its eligibility to submit a Phase 2 application.

CITC submitted its Phase 2 RTIGP 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 letter issued by the County of Ventura stating that it was willing to serve as the Fiscal Agent for the CITC project, subject to approval of the County of Ventura Board of Supervisors.

At the time of the filing of the Phase 2 application, CITC reported there were two residents on the island, excluding NPS employees. In addition to providing letters of support from the two residents, CITC submitted three additional letters of support from visitors willing to utilize the services while on the island.

On July 13, 2007, Channel Islands Aviation, the official concessionaire to the Channel Islands National Park, wrote a letter to the Commission supporting the CITC project. On July 20, 2007, Terra Marine Research & Education, Inc., the official boat concessionaire to the Channel Islands National Park and operator of Island Packers, wrote a letter to the Commission supporting the CITC project.

The supplemental application information settled the remaining open issues with the Phase 1 and Phase 2 applications, including a revision to the application that did not provide for facilities installation on Anacapa Island.

The initial 2008 review of the consumer benefit for the CITC project included consideration that several consumers would benefit from the project including Vail and Vickers Company (an island resident), John Gherini (an island resident), and the NOAA's National Marine Mammal Lab. Additionally, the initial review indicated that the project would benefit the many visitors to the islands. However, the two island residents no longer live on the islands. Vail and Vickers Company, who once owned Santa Rosa Island, moved out in 2011. John Gherini and family members no longer reside on the Island.

Comments addressing Resolution T-17382

Draft Resolution T-17382 was mailed for comments on November 20, 2012. On November 28, 2012, the CITC 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.

On December 7, 2012, CITC provided documentation to forecast that the proposed project costs had increased to approximately \$2.693 million, as shown in the discussion and in Table 1.

CD reviewed the revised project forecast and agreed to increase the project funding. The total included \$18,000 for County of Ventura's fees to act as Fiscal Agent, and \$35,000 to increase the Commission CEQA Contract 08PW5758. No party submitted a protest to the Resolution, although the Commission received numerous letters expressing either support of or opposition to the project.

At this point, the volume of discussion regarding this draft resolution necessitated that the Commission vote be "held" for several consecutive Commission meetings. During January 2013, the Commission received nine letters of support from State Legislators.

On February 22, 2013, the Superintendent of the Channel Islands National Park, part of the NPS, expressed neutrality toward this project, but indicated that, "We are unaware that there is a public demand for cellular service on the islands. It is our opinion that the project will have limited utility to the visiting public."

On February 28, 2013, CD met with Mr. Freddie Romero, a representative for the Santa Ynez Chumash Tribal Elders Council of the Santa Ynez Band of Chumash Indians. This group is the only federally-recognized Chumash Tribe in the nation. Mr. Romero asserted the Tribal Elders' opposition, stating that the CITC project would add to the destruction of the spirit of the islands and its environment, and result in the future development of these islands that would destroy them for the generations of indigenous people to come.

On March 8, 2013, CITC submitted additional comments regarding the proposed CITC project including discussion of system coverage, the unknown history of attempts to access 9-1-1 from the islands, the NOAA's need for telephone and internet service, spectrum interference with military installations, revenue generating roaming agreements, and CITC compliance concerns regarding state and federal issues. CITC also provided comments from those who had lost a family member due to accident or medical emergency while visiting the islands. These families supported the CITC project.

A Commissioners' vote rejected Resolution T-17382 at the March 21, 2013, Commission meeting. Commissioners discussed several reasons regarding the rejection. However, no formal written opinion was issued.

Subsequently, CITC submitted AL 2 on May 20, 2013, in which CITC requests that the Commission issue a formal written opinion regarding its rejection. Notice of AL 2 was published in the Commission's Daily Calendar of May 28, 2013, and no parties submitted protests to this AL.

Resolution T- 17402 addresses this request, and is the formal opinion affirming the Commission's rejection of Resolution T-17382, which resulted in the denial of the RTIGP

request for the CITC grant project. This resolution also discusses the reasons for the rejection, and thus the denial of CITC's request for its grant project.

Discussion

RTIGP Funding Evaluation

PU Code 276.5 states, "In evaluating grant applications, the commission shall consider the cost effectiveness of the application, the number of people served, the level of local support, the ability of the community serviced to pay for the services delivered, and the effect on public health and safety."

The Reasoning for the rejection of Resolution T-17382

As discussed at the Commission meeting on March 21, 2013, this resolution affirms the denial of an RTIGP grant to CITC for the following reasons:

1. Cost Effectiveness To the Community

Section 276.5 provides that the Commission shall consider the cost effectiveness of the application, the number of people served, the level of local support, the ability of the community served to pay for the services delivered, and the effect on public health and safety..." In assessing the cost effectiveness of this project on the Channel Islands community, we note the cost of \$2.693 million would not serve a single residential customer on the islands. Moreover, the NPS, which resides on the islands, has its own communication system and would not be expected to subscribe to CITC service. Hence, because there is not a permanent island community that would benefit from the project, it is not demonstrated that this project is an appropriate use of public funds.

2. Questionable Benefits to Island Visitors

Although the CITC project is represented to benefit the thousands of island visitors by allowing telephone service, particularly in cases of accidents or medical emergencies, we are not persuaded that this project has been justified as needed. The NPS indicated in a letter dated February 22, 2013, that it does not believe the project is necessary, noting that it is unaware that there is a public demand for cellular service on the islands. Moreover, there are outstanding concerns about whether the CITC project would effectively benefit visitors on various parts of the islands where line-of-sight and terrain issues would limit wireless phone coverage. Finally, given the NPS letter, we are not persuaded that visitors would gain any significant change in the rate of responsiveness by emergency personnel.

3. This Project is Opposed by Chumash Community

As several Chumash Indian representatives have strongly emphasized that the Channel Islands are sacred grounds with a significant historic and cultural legacy to the tribe, we

are concerned that the project ultimately upsets a community that regards the Channel Islands as its ancestral home.

In responding to the request for a written opinion, the reasons for rejecting Resolution T- 17382 remain valid. Accordingly, we affirm our rejection of the resolution for the reasons stated above.

Cost Reimbursement For Phase 2 Preparation

D.03-09-071 states, “Section 276.5 also permits reimbursement for preliminary engineering feasibility studies, including but not limited to any approved cost of a local telecommunications carrier that contributes to the studies, to grant applicants whose proposals are rejected. Rejected grant applicants should submit a request for reimbursement and an itemized accounting of reimbursable amounts to the Commission within 90 days of the mailing of the notification rejecting the phase II, feasibility/construction, application.”

In compliance with D.03-09-071, CD e-mailed a letter to grant applicant Todd Lesser on March 28, 2013, regarding the denial of Resolution T-17382. CD advised Mr. Lesser that the 90-day period to submit documentation for Phase 2 reimbursement expired on June 26, 2013.

Upon CD inquiry, Mr. Lesser stated that the reimbursement request had been e-mailed to the Commission earlier and re-sent this information for CD review on July 2, 2013. Mr. Lesser requested reimbursement for Phase 2 preparation costs in the amount of \$487,692.50 as itemized in Table 2:

Table 2

Description	CITC Requested	CD Recommended
Helicopter rental to sites	\$4,785.00	\$4,785.00
National Park Service document review	48,250.00	14,303.33
Satellite purchase	19,825.37	\$0.00
Consultant	31,016.53	\$31,016.53
Dedicated employment	340,129.15	\$0.00
Legal: attorneys	43,686.45	43,686.45
Total	\$487,692.50	\$93,791.31

Before publishing the draft resolution and circulating to parties for comments, CD reviewed the reimbursement request, and disallowed \$33,946.67 for NPS document review; \$19,825.37 for satellite equipment that should not have been purchased before Phase 2 approval; and \$340,129.15 for a dedicated employee, also as itemized in Table 2.

National Park Service Document Review

The applicant requested reimbursement of \$48,250 paid by CITC to the NPS for CEQA document review and permitting purposes. CD then received information that NPS had refunded \$33,946.67 to the applicant. Therefore, CD reduced the NPS document review reimbursement amount by \$33,946.67 to \$14,303.33. Table 3 itemizes the payments by CITC to NPS, and the reported NPS refund to CITC.

Table 3

Date	Description	Refunds	Payments
6/16/2011	CITC Payment to NPS		\$250.00
9/26/2011	CITC Payment to NPS		\$12,692.45
6/15/2012	CITC Payment to NPS		\$35,307.55
	NPS Refund to CITC in 2013	\$33,946.67	
	Total	\$33,946.67	\$48,250.00
	Net paid by CITC to NPS		\$14,303.33

Satellite Purchase

The satellite purchase requested reimbursement of \$19,825.37, including associated equipment. Data could have been collected by a consultant, and CITC did not have Phase 2 approval to purchase equipment. CD disallowed \$19,825.37 for satellite purchase as not reasonable.

Dedicated Employment

Additionally, CD disallowed reimbursement for the Dedicated Employment line item for \$340,129.15. This employee worked for HFT, Inc., a company owned by the applicant, for the years 2009 through 2012. CD disallowed this full amount of \$340,129.15, as the reimbursement request spanned a period during which the employee could have done other work for the applicant, and the applicant did not adequately demonstrate that this employee was hired to work exclusively on this project until the applicant – during the draft Resolution’s comment period – forwarded a detailed line-item task sequence of duties performed by the employee during Phase 2. As CITC did not have Phase 2 approval, CD found that claiming an employee as a dedicated resource for this project was not reasonable. Also, a consultant was hired to work on this project as shown in Consultant line item. At that time, CD disallowed \$340,129.15 for Dedicated Employment, lacking the appropriate level of detail regarding this employee’s project assignments and associated task sequence.

CEQA Contract Increase

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 the project's CEQA analysis was nearly complete, the original contract amount of \$325,000 fell short of the \$343,000 funding that was actually needed to finalize the review. The Commission has determined that an additional \$18,000 should be authorized for Contract 08PW5758.

After CD calculated a recommended reimbursement amount of \$93,791.31, the draft resolution was published on August 6, 2013 and circulated to parties for comments.

Safety Considerations

Although this project is intended to promote public safety on the Channel Islands by enhancing access to 911 emergency services, the NPS already has communications resources available to meet emergency needs, and states that the project may provide limited benefits to the visiting public.

Comments

The Commission's CD e-mailed a notice letter on August 6, 2013, informing CITC, the CHCF-A Administrative Committee, and representatives of the Chumash Tribe 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 August 21, 2013, CITC filed comments on draft Resolution T-17402, stating that while CITC believes the project should have been approved by the Commission at the March 21, 2013, Commission meeting, CITC would follow appropriate procedures to appeal the Commission's formal denial of the RTIGP Application. Additionally, CITC commented on the following cost reimbursement issues involving Phase 2 preparation:

National Park Service Document Review

CITC originally requested reimbursement of \$48,250 paid by CITC to the NPS for CEQA document review and permitting purposes. During the comment period, CD learned from the NPS that—contrary to prior information—it had not yet refunded \$33,936.67 to CITC, but would do so during 2013. CITC comments acknowledge NPS' intention to refund this amount to CITC during 2013, rather than having the Commission reimburse this amount to CITC; hence CITC's request for NPS document review reimbursement has been decreased by \$33,967.67 to \$14,303.33, reducing CITC's total requested Phase 2 reimbursement to \$453,745.83. Accordingly, CD continues to propose reimbursement for this line item at \$14,303.33.

Satellite Purchase

CITC asserts that \$19,825.37 spent for satellite equipment had to be purchased for testing and to prove feasibility. CITC states that had they engaged an outside

consultant to conduct the testing, the outside consultant would have purchased the same equipment and the costs would have been passed along to the Commission for reimbursement. CITC states that the equipment was a necessary engineering feasibility cost as allowed under PU Code 276.5, which sunset on January 1, 2013.

CD disagrees that the equipment purchase was necessary to conduct testing as manufacturer specifications could have been utilized. Since the project was not approved by the Commission and the equipment purchase was not authorized. CD affirms its prior recommendation to deny the purchase of satellite equipment in the amount of \$19,825.37.

Dedicated Employment

CITC asserts that \$340,129.15 spent for dedicated employee/in-house engineering employment costs should be allowed. To support this position, CITC provided project detail documents to justify the dedicated employee costs that it had not previously provided. CITC’s project detail itemized each task, the number of hours – along with beginning and ending date – assigned to each task, the associated cost per hour paid to the employee over the four-year period, and the total cost for which the applicant requested for reimbursement.

Before analyzing the specific project tasks, CD analyzed the hourly rate paid to the employee. CD asserts that the hourly rate paid to the applicant’s employee increased excessively for the 2011 and 2012 years, as shown by the percentage salary increase as shown in Table 4.

Table 4

Year	Hourly Rate Claimed by Applicant	Annual Percentage Wage Increase
2009	\$36.06	
2010	\$36.11	0.14%
2011	\$40.31	11.63%
2012	\$51.04	26.62%

CD believes the salary increases shown in Table 4 are not reasonable. CD has used the Bureau of Labor Statistics, Consumer Price Index, All Urban Customers (CPI-U) instead, to calculate reasonable annual salary increases for 2010 through 2012 as shown in Table 5 below. These hourly wages are incorporated by CD in calculating approved costs for the applicant’s employee:

Table 5

	CPI-U	Percent	Revised

Year	Average Annual (1982-84=100)	Increase	Hourly Wage
2009	214.537		\$36.06
2010	218.056	1.64%	\$36.65
2011	224.939	3.16%	\$37.81
2012	229.594	2.07%	\$38.59

Hence, CD has assigned these hourly rates for the respective years for all hours and associated project tasks for which the Commission is approving employee reimbursement.

After determining a reasonable salary rate, CD analyzed the project task details submitted for the dedicated employee. While CD found many of the tasks and associated costs reasonable, CD adjusted for disallowance the work hours associated with either of the following reasons:

1. Tasks identified as repetitive redundant, or unclear, or associated with tasks not related to preliminary engineering.
2. Hours associated with Federal Holidays, and guidelines for normal allowance for vacation and sick days as set forth by Bureau of Labor Statistics Publication, August 2013, Vol.2, No. 18, and the U.S. Office of Personnel Management list of federal holidays.

Accordingly, CD recommends approval of \$210,552.44 of the \$340,129.15 request in dedicated employment expenses as shown in Table 6, incorporating wages at the respective assigned hourly rates for each approved line item:

Table 6

Description	CD Recommendation
Total Dedicated Employee Request	\$340,129.15
Disallowed as repetitive or not associated with preliminary engineering tasks	(86,389.91)
Disallowed for vacation, sick days, federal holidays	(43,186.80)
Total Approved	\$210,552.44

CD believes, within the context of PU Code 276.5 and consideration of comments and employees' detailed project work task to determine valid preliminary engineering feasibility studies, that these expenses are appropriate and reasonable and recommends that the Commission approve these Phase 2 reimbursement costs in the amount of \$304,343.75, as shown in Table 7. The Commission agrees with CD's recommendation.

Table 7

Description	CITC Requested	CD Recommended
Helicopter rental to sites	\$4,785.00	\$4,785.00
National Park Service document review	14,303.33	14,303.33
Satellite purchase	19,825.37	\$0.00
Consultant	31,016.53	31,016.53
Dedicated employment	340,129.15	\$210,552.44
Legal: attorneys	43,686.45	43,686.45
Total	\$453,745.83	\$304,343.75

CD will prepare a payment letter to Administrative Services Division within 60 days of the adoption of this Resolution, remitting payment of \$304,343.75 to the applicant.

Conclusion

This Resolution affirms the rejection of Resolution T- 17382, which resulted in a denial of a Rural Telecommunications Infrastructure Grant Program grant, to construct the CITC project in the amount of \$2,693,000.

This Resolution authorizes CITC to receive funds in the amount of \$304,343.75 for reimbursement of Phase 2 preparation costs as authorized by D.03-09-071 to CITC.

This Resolution increases the Energy Division’s CEQA review contract 08PW5758 in the amount of \$18,000.

Findings and Conclusions

1. The RTIGP provisions are set forth in Section 276.5 of the Public Utilities Code.
2. 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 in 2008. In Decision (D.) 05-03-005, the California Public Utilities Commission (Commission) adopted the interim RTIGP administration rules from D.03-09-071 as final rules.
3. In Decision (D.) 05-03-005, the California Public Utilities Commission (Commission) adopted the interim RTIGP administration rules from D.03-09-071 as final rules.

4. The CITC requested RTIGP funding in an amount to not exceed \$2,693,000 for construction of the CITC project which included \$18,000 for County of Ventura for Fiscal Agent Services and \$35,000 for California Environmental Quality Act Contract 08PW5758.
5. 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 project.
6. Upon receiving Phase 1 approval, the CITC submitted a RTIGP Phase 2 application for the CITC project.
7. The Commission's Communications Division (CD) approved the Phase 1 application on February 26, 2007.
8. On November 28, 2012, the CITC filed comments on the draft resolution asserting that funding for the project should be increased since the estimate provided for the Phase 2 filing was submitted in April of 2007, and included an updated cost forecast. CD concurred and recommended increasing proposed costs to \$2,693,000, of which \$18,000 is for the County of Ventura's fees to act as Fiscal Agent and \$35,000 is to increase the amount of the Commission's California Environmental Quality Act Contract, 08PW5758.
9. PU Code 276.5 states, "In evaluating grant applications, the commission shall consider the cost effectiveness of the application, the number of people served, the level of local support, the ability of the community serviced to pay for the services delivered, and the effect on public health and safety".
10. No party submitted a protest to this Resolution; however, a representative for the Santa Ynez Chumash Tribal Elders Council of the Santa Ynez Band of Chumash Indians asserted their opposition to this project.
11. At the Commission meeting on March 21, 2013, the Commissioners voiced their concerns about draft Resolution T-17382 regarding the cost effectiveness, questionable benefit to island visitors and project opposition by the Chumash Community. The Commissioners unanimously rejected Draft Resolution T-17382.
12. The Commissioners referred to a National Park Service (NPS) letter dated February 22, 2013, wherein the NPS believes the project is not necessary as there does not appear to be a public demand for cellular service on the islands. The Commissioners also expressed concerns about line-of-sight issues and terrain issues would limit wireless phone coverage.
13. The Commissioners also expressed concern that the visitors would not gain any significant change in the rate of responsiveness by emergency personnel.

14. On May 20, 2013, Channel Islands Telephone Company (CITC) filed Advice Letter 2, requesting the issuance of a formal written opinion addressing Resolution T-17382 which was not adopted at the March 21, 2013, Commission meeting.
15. D.03-09-071 also permits “reimbursement for preliminary engineering feasibility studies, including but not limited to any approved cost of a local telecommunications carrier that contributes to the studies, to grant applicants whose proposals are rejected. Rejected grant applicants should submit a request for reimbursement and an itemized accounting of reimbursable amounts to the Commission within 90 days of the mailing of the notification rejecting the phase II, feasibility/construction, application.”
16. CITC filed a timely request for reimbursement as outlined in D.03-09-071.
17. CITC submitted comments on August 21, 2013, to assert its case against reimbursement disallowances and update its reimbursement request.
18. CITC also submitted a detail of work and tasks performed by its dedicated project employee to justify approval of specific Phase 2 project-related costs.
19. CITC’s updated reimbursement request is \$453,745.83 as detailed in the table below. CD recommends reimbursement of \$304,343.75, and proposes this amount for adoption by the Commission.

Description	CITC Requested	CD Recommended
Helicopter rental	\$4,785.00	\$4,785.00
National Park Service	14,303.33	14,303.33
Satellite purchase	19,825.37	0.00
Consultant	31,016.53	31,016.53
Dedicated employment	340,129.15	210,552.44
Legal: Attorneys	43,686.45	43,686.45
Total	\$453,745.83	\$304,343.75

20. The NPS will reimburse the applicant \$33,946.67 of the \$48,250 total paid for CEQA document review and permitting purposes. CD recommends reimbursement to applicant in the amount of \$14,303.33 as shown in the Finding 19 table.
21. The Commission recommends disallowing reimbursement for “Satellite purchase” of \$19,825.37 as detailed in the Finding 19 table. CD asserts the purchase of equipment is not reasonable as CITC had not already received project approval, and therefore disallows \$19,825.37.

22. CD recommends allowing \$210,552.44 of a total \$340,129.15 requested for "Dedicated Employment" as detailed in the Findings 19 table. The applicant requests reimbursement for four years during which the employee could have done other work for the applicant. As CITC had not already received project approval, CD finds the hiring of an employee as a dedicated resource is not reasonable.
23. CD believes, within the context of PU Code 276.5, that expense Phase 2 reimbursement of \$304,343.75 is appropriate and reasonable and recommends that the Commission approve these Phase 2 reimbursement costs. The Commission agrees with CD's recommendation.
24. CD should prepare a payment letter to Administrative Services Division within 60 days of the adoption of this Resolution remitting payment to the applicant in the amount of \$304,343.75.
25. The Energy Division's contract no. 08PW5758 for California Environmental Quality Act review is increased by \$18,000.
26. The Commission's CD e-mailed a notice letter on August 6, 2013, informing the applicant and CITC, the CHCF-A Administrative Committee, and representatives of the Chumash Tribe 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.

THEREFORE, IT IS ORDERED THAT:

1. The Commission affirms the rejection of T-17382, which resulted in the denial of the Rural Telecommunications Infrastructure Grant Project request from Channel Islands Telephone Company, in the amount of \$2,693,000.
2. The Commission shall authorize \$304,343.75 from the Rural Telecommunications Infrastructure Grant Program to reimburse Channel Islands Telephone Company for the Phase 2 Application costs associated with the preliminary engineering and feasibility studies of the Channel Islands Telephone Company Project, denied by the Commission on March 21, 2013, and pursuant to Public Utilities Code section 276.5.

3. Communications Division shall prepare a payment letter to Administrative Services Division within 60 days of the adoption of this Resolution remitting payment to the applicant in the amount of \$304,343.75.
4. The Commission's Energy Division may increase contract No. 08PW5758 for California Environmental Quality Act review by \$18,000.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on October 3, 2013. The following Commissioners approved it:

PAUL CLANON
Executive Director