

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Communications Division  
Broadband, Video and Market Branch**

**RESOLUTION T-17737  
June 24, 2021**

**R E S O L U T I O N**

**Resolution T-17737:** Granting the Petition for Modification of Resolution T-17502 (the Tuolumne Mariposa Project), submitted by Cal.net, Inc., (U-7309-C) to remove the construction phase performance bond requirement, approving the Categorical Exemption prepared in compliance with the California Environmental Quality Act and authorizing the release of \$3,608,224 in California Advanced Services Fund grant monies to construct the Project.

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**I. SUMMARY**

This Resolution grants the Petition for Modification of Resolution T-17502 submitted by Cal.net, Inc. ("Cal.net") on December 29, 2020 requesting removal of the performance bond requirement for the Tuolumne Mariposa Project. This Resolution also approves a categorical exemption prepared in compliance with the California Environmental Quality Act (CEQA)<sup>1</sup> and authorizes the release of California Advanced Services Fund (CASF) grant monies to Cal.net to construct the Project.

**II. BACKGROUND**

On December 15, 2016, the Commission adopted Resolution T-17502, conditionally authorizing a CASF grant of \$3,608,224 to Cal.net to construct the Tuolumne Mariposa Project, subject to the Commission's completion of CEQA review and the procurement of a performance bond during the construction phase.

Cal.net (U-7309-C) is a Wireless Internet Service Provider (WISP) with its base of operations in Shingle Springs, California. Cal.net began its business in 1997, as a facilities-based broadband service provider serving the communities of Davis, Woodland, and western El Dorado County area. Since 2006, Cal.net has been providing

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<sup>1</sup> California Public Resources Code Sections 21000 *et seq.*

fixed wireless rural broadband service. In January 2015, Cal.net began providing facilities-based interconnected Voice over Internet Protocol (VoIP) telephony service to residential and business customers. On February 9, 2017, Cal.net received a Certificate of Convenience and Necessity (CPCN) and is now a telephone corporation subject to the Commission's regulatory authority. Cal.net currently uses a variety of different methodologies to deliver fixed-wireless (FWA) broadband services, including license-exempt 5 GHz spectrum, lightly-licensed 3.65 GHz WiMAX, license-exempt 2.4 GHz spectrum, license-exempt 900 MHz spectrum, and TV White Space in the UHF bands.

The Tuolumne Mariposa Project is a last-mile fixed wireless infrastructure project that will provide broadband Internet and VoIP telephony services to 834 Census blocks, 7,711 households, 16 fire stations, and 19 anchor institutions with speeds of up to 25 Mbps download and 4 Mbps upload in the underserved rural communities of Tuolumne and Mariposa Counties. The fixed-wireless equipment will be deployed on towers owned by Cal.net or leased from other providers. Cal.net will deploy different FWA technologies to customers depending on terrain and topology including but not limited to the following: Unlicensed National Information Infrastructure (U-NII) equipment for line-of-sight applications, fixed-LTE (a non-mobile variation of the LTE commonly used in cell phones) in near-line-of-sight areas (minor obstructions) and TV White Space in the UHF and upper-VHF bands for heavily-obstructed non-line-of-sight terrain.

On December 29, 2020, Cal.net filed a Petition for Modification (Petition) of T-17502 and served it on the CASF service list. In the Petition, Cal.net requests that the Commission modify Resolution T-17502 to remove the requirement for a construction-phase performance bond for the Tuolumne Mariposa Project, just as the Commission had previously done so for by Resolution T-17591 for the El Dorado North Project. Cal.net also requested that its Petition be expedited.

### **III. REMOVAL OF CONSTRUCTION BOND DISCUSSION**

In Resolution T-17502, the Commission ordered Cal.net to obtain a performance bond for the Tuolumne Mariposa project because according to applicable CASF rules, all non-telephone corporations were required to post a performance bond for the construction phase of the project in order to ensure completion.<sup>2</sup> Specifically, Resolution T-17502 required Cal.net to send an executed bond, equal to the total amount of the CASF

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<sup>2</sup> D.14-02-018, pp. 2-3, and 12-19; see also Resolution T-17443, Appendix 2, Revised Application Requirements and Guidelines, p. 11

award, to the CPUC's Executive Director and to the Director of the Communications Division within five business days after the completion of the CEQA review.

In its Petition, Cal.net states that the requirement to obtain a performance bond for the construction phase of the project was based on its status as a non-telephone corporation at the time the CASF grant was awarded. Cal.net states that having received a CPCN on February 9, 2017, the requirement no longer applies. Specifically, Cal.net states that their status as a telephone corporation subject to the Commission's regulatory authority provides greater protection for CASF funds.

Staff agrees that the facts warranting modification of Resolution T-17502 were not in existence at the time the Resolution was issued. CD staff further agrees that the Petition is now warranted because Cal.net is now a certified telephone corporation (CPCN) subject to full regulatory authority by the Commission and therefore the obligation to post a bond is no longer necessary.

#### **IV. ENVIRONMENTAL COMPLIANCE DISCUSSION**

In Resolution T-17502, the Commission conditionally authorized a CASF grant to Cal.net to construct the Tuolumne Mariposa Project, which also triggered the requirement that the Commission act as the lead agency for environmental review pursuant to CEQA. Consistent with the Commission's requirements, Cal.net, Inc. provided a Proponent's Environmental Assessment (PEA) to the Energy Division's Infrastructure Permitting and CEQA Unit in February 2021. After reviewing the information contained in the PEA, the CEQA Unit determined that the CEQA process has been completed for the project.

The Tuolumne Mariposa project will cover 420.31 square miles and will provide broadband speeds of up to 25 megabits per second (Mbps) download and 4 Mbps upload to 7,711 households. The Tuolumne Mariposa project includes communities of Bear Valley, Columbia, Coulterville, Groveland, Pine Mountain Lake, Jamestown, Pinecrest, Sonora, Soulsbyville, Tuolumne, Twain Harte, Strawberry, Long Barn, Sierra Village, Cold Springs, Mi-Wuk Village, Cedar Ridge, Tuttletown, Moccasin, Greeley Hill, and Blanchard. The proposed project will serve 834 Census Blocks and cover 420.31 square miles in portions of Tuolumne and Mariposa counties. This project encompasses the geographical areas of Bear Valley Area, Greeley Hill Area, Cold Springs, Pinecrest, Strawberry area, Don Pedro/Tuolumne City Area, and Pine Mountain Lake (near Groveland) that have been identified as "High Priority Areas" in Resolution T-17443.

As part of the PEA, Cal.net provided the completed CEQA review and permits of project components in Mariposa and Tuolumne counties separately. The CEQA unit has determined this is appropriate and Resolution T-17502 allowed the applicant to file a completed CEQA review by another agency acting as the Lead Agency pursuant to CEQA.<sup>3</sup>

In Mariposa County, Cal.net will collocate antennas on four existing towers and install two new communication tower facilities at two different locations in Mariposa County under individual Building Permits. On January 15, 2021, the Mariposa County Planning Department determined the permitted uses at the proposed locations require only building permits, and therefore are ministerial actions exempt per CEQA Guidelines §15268, Ministerial Projects.<sup>4</sup>

In Tuolumne County, Cal.net will construct nine new fixed-wireless broadband tower facilities subject to Conditional Use Permits and the three fixed-wireless broadband antennas collocated on existing towers on a mix of public and private properties. Tuolumne County's Office of Environmental Coordinator determined that Conditional Use Permits (CUP)20-002, 20-003, 20-005, 20-008, 20-009, 20-010, 20-011, 20-013, and 20-015<sup>5</sup> are categorically exempt from review pursuant to Section 15303 of the State CEQA Guidelines.<sup>6</sup>

Based on the information contained in the PEA, the CEQA process has been completed for the Tuolumne Mariposa project.

## V. RELEASE OF CASF FUNDS DISCUSSION

With the confirmation of CEQA categorical exemptions for the project by the Energy Division, Cal.net has satisfied the CEQA Compliance Requirements in Resolution T-17502. Therefore, the Commission shall authorize CASF grant funds to be released for the construction of the Tuolumne Mariposa Project, in accordance with the scope and budget specifications provided in Resolution T-17502.

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<sup>3</sup> Res. T-17502, p. 11.

<sup>4</sup> See CEQA Guidelines, 14 C.C.R. § 15268; see also PEA Attachment B.

<sup>5</sup> CUP 20-002 approved on October 30, 2020; CUP 20-003 approved on December 17, 2020; CUP 20-005 approved on December 17, 2020; CUP 20-008 approved on October 22, 2020; CUP 20-009 approved on October 22, 2020; CUP 20-010 approved on October 30, 2020; CUP 20-011 approved on October 30, 2020; CUP 20-013 approved October 22, 2020; and CUP 20-015 approved on October 22, 2020.

<sup>6</sup> See 14 C.C.R. § 15303; see also PEA Attachment E.

## **VI. SAFETY IMPACT**

The proposed project will allow Cal.net to provide broadband services to 16 fire stations in the area. Cal.net will offer free entry-level broadband services or discounts to higher level broadband services to these fire stations. The proposed project will also allow Cal.net to leverage its infrastructure to supply public safety officials with a comprehensive interconnected public safety data network in the 700-MHz and 4.9-GHz radio bands.

## **VII. COMMENTS ON DRAFT RESOLUTION**

In compliance with Public Utilities Code, §311(g), a notice letter was emailed on May 13, 2021, informing all parties on the CASF Distribution List of the availability of the draft of this Resolution, at the Commission's documents website at <http://www.cpuc.ca.gov/documents/>, and of the opportunity to comment. This letter also informed parties that the final conformed Resolution adopted by the Commission will be posted and available at the same website. The Commission received no public comments.

## **VIII. FINDINGS**

1. Resolution T-17502 (adopted December 15, 2016) conditionally authorized a California Advanced Services Fund (CASF) grant of \$3,608,224 to Cal.net to construct the Tuolumne Mariposa Project, and the ordered Cal.net to post a performance bond for the construction phase of the Project.
2. On February 9, 2017 Cal.net received a Certificate of Public Convenience and Necessity (CPCN) to provide full facilities-based and resold competitive local exchange (CLEC) telecommunications services and interexchange service in California.
3. On December 29, 2020, Cal.net filed a Petition for Modification of Resolution T-17502 seeking an expedited modification to remove the construction phase performance bond requirement.
4. Communications Division reviewed Cal.net's Petition for Modification of T-17502 and recommends Commission approval of the requested modification.
5. Resolution T-17502 (adopted December 15, 2016) conditionally authorized a CASF grant of \$3,608,224 to Cal.net to construct the Tuolumne Mariposa Project, subject to the Commission's completion of California Environmental Quality Act (CEQA)

review.

6. The Counties of Mariposa and Tuolumne are the lead agencies for the CEQA environmental review of the Tuolumne Mariposa Project.

7. The applicant provided the required Proponent's Environmental Assessment (PEA) to Energy Division's CEQA Unit on February 16, 2021.

8. Based on the information contained in the PEA, CEQA has been completed for the project.

9. Energy Division's CEQA Unit notified Communications Division of its finding via e-mail on March 22, 2021.

10. With the adoption of this Resolution, Cal.net, has satisfied the environmental conditions required to release funds for the construction of the Tuolumne Mariposa Project, as set forth in Resolution T-17502.

11. A notice letter was e-mailed on May 13, 2021, informing all parties on the CASF distribution list of the availability of the draft of this Resolution at the Commission's website <http://www.cpuc.ca.gov/documents/>, and of the opportunity for comment. This letter also informed parties that the final confirmed Resolution adopted by the Commission will be posted and available at this same website. The Commission received no public comments.

**THEREFORE, IT IS ORDERED THAT:**

1. The Commission grants the Petition for Modification of Resolution T-17502, submitted by Cal.net on December 29, 2020 to remove the construction phase performance bond requirement for the Tuolumne Mariposa Project, effective as of the date of this Resolution, on the condition that Cal.net maintains its status as a public utility and holds a CPCN.

2. The Commission authorizes \$3,608,224 in CASF grant funds to be released for the construction of the Tuolumne Mariposa Project, in accordance with the scope, budget specifications, and payment guidelines provided in Resolutions T-17502 and T-17737.

3. Cal.net shall comply with all guidelines, requirements, and conditions specified in D.12-02-015, D.14-02-018, Resolutions T-17502 and T-17737.

4. If Cal.net fails to complete the project in accordance with the terms of approval granted by the Commission in Resolutions T-17502 and T-17737, Cal.net may be required to reimburse some or all of the CASF funds that it has received.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on June 24, 2021. The following Commissioners approved it:

/s/ RACHEL PETERSON

Rachel Peterson  
Executive Director

MARYBEL BATJER

President

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE L. HOUCK

Commissioners