

PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



**Southern California Edison  
IEC (Corp ID 6096)  
Status of Advice Letter 44  
As of September 21, 2007**

Subject: REQUEST FOR APPROVAL OF TELECOMMUNICATIONS LEASES BETWEEN SOUTHERN CALIFORNIA EDISON COMPANY AND US TELEPACIFIC CORP. PURSUANT TO SECTION 851 PILOT PROGRAM ADOPTED BY RESOLUTION ALJ-186

Division Assigned: Telecommunications

Date Filed: 08-02-2007

Date to Calendar: 08-08-2007

Authorizing Documents: None

<b>Disposition:</b>	<b>Accepted</b>
<b>Effective Date:</b>	<b>09-19-2007</b>

Resolution Required: No

Resolution Number: None

Commission Meeting Date: None

CPUC Contact Information:

415-703-1565

TD\_PAL\_COORDINATOR@cpuc.ca.gov

AL Certificate Contact Information:

James Yee

626-302-2509

James.Yee@sce.com

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



To: Telecommunications Carrier Filing Advice Letter

From: Telecommunications Division PAL Coordinator

Subject: Your Advice Letter Filing

The Telecommunications Division of the California Public Utilities Commission has processed your recent Advice Letter (AL) filing and is returning an AL status certificate for your records.

The AL status certificate indicates:

Advice Letter Number

Name of Filer

CPUC Corporate ID number of Filer

Subject of Filing

Date Filed

Disposition of Filing (Accepted, Rejected, Withdrawn, etc.)

Effective Date of Filing

Other Miscellaneous Information (e.g., Resolution, if applicable, etc.)

The Telecommunications Division has made no changes to your copy of the Advice Letter Filing; please review your Advice Letter Filing with the information contained in the AL status certificate, and update your Advice Letter and tariff records accordingly.

All inquiries to the California Public Utilities Commission on the status of your Advice Letter Filing will be answered by Telecommunications Division staff based on the information contained in the Telecommunications Division's PAL database from which the AL status certificate is generated. If you have any questions on this matter please contact the:

Telecommunications Division PAL Coordinator at **(415) 703-1565**, or by e-mail to ***td\_pal\_coordinator@cpuc.ca.gov***

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August 2, 2007

**ADVICE 44**  
**(U 6096-C)**

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
TELECOMMUNICATIONS DIVISION

**SUBJECT:** Request for Approval of Telecommunications Leases Between Southern California Edison Company and U.S. TelePacific Corp. Pursuant to the Section 851 Pilot Program Adopted by Resolution ALJ-186

In compliance with Resolution ALJ-186 (the Section 851 Pilot Program), Public Utilities Code Section 851 (revised January 1, 2006), and General Order 96-B (effective July 1, 2007), Southern California Edison Company (SCE) submits for approval seven Fiber Use Agreements (Leases) between SCE and U.S. TelePacific Corp. (TelePacific).<sup>1</sup>

**PURPOSE**

This advice filing requests approval from the California Public Utilities Commission (Commission) to permit SCE to lease to U.S. TelePacific Corp. certain fiber optic cables as specified in the Leases executed by the parties on July 16, 2007.

**BACKGROUND**

SCE owns and operates a fiber optic communications network within its service territory. The primary purpose of this network is internal communications and electric system monitoring and automation. SCE also operates a commercial wholesale telecommunications service over this network pursuant to a telecommunications Certificate of Public Convenience and Necessity (CPCN) granted in Decision (D.) 98-12-083. To make productive use of temporarily available capacity on the network, SCE licenses or leases available capacity to telecommunications companies and information services providers operating within SCE's service territory when

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<sup>1</sup> On July 24, 2007, the Commission circulated Draft Resolution ALJ-202, which proposes an extension of the Section 851 Pilot Program and makes certain changes to conform to amended Section 851 and General Order 96-B. This advice letter filing is intended to conform to amended Section 851 and General Order 96-B as contemplated by Draft Resolution ALJ-202.

third-party use of the capacity will not interfere with delivering reliable electric or telecommunications services.

All of the fiber optic cables subject to the Leases were constructed four or more years ago for electric utility purposes or to expand SCE's commercial telecommunications network. No construction by either party will be necessary to implement these Leases. Since the leased portion of the fiber optic cables represent excess capacity, the Leases will not diminish the reliability of electric system operations, they will contribute to increased competition in the telecommunications marketplace, and they will provide additional ratepayer revenue.

### **SCE's Fiber Optic Leases With TelePacific**

On July 16, 2007, SCE and TelePacific executed seven separate 15-year Leases of certain fibers on portions of SCE's fiber optic network. Each Lease grants to TelePacific the exclusive right to use two specific, existing fibers along a specified portion of SCE's fiber optic network. Each Lease is for a 15-year term, and there is no purchase option. TelePacific intends to use the fibers to supplement its telecommunications services to its customers. Other than the seven Leases themselves, there are no past or future transactions related to these Leases.

Each Lease specifies a fixed monthly payment (Monthly Fee) by TelePacific to SCE for use of the fibers. Based upon its experience with other dark fiber transactions, its knowledge of the marketplace, and the arms-length negotiations with TelePacific, SCE believes that the Monthly Fee is equivalent to the fair market rental value of the specific fibers subject to the Leases. The Monthly Fee of each Lease varies depending upon the length of the leased fibers. The combined monthly revenue from the seven Leases is \$52,224 or \$100 per mile per fiber per month. The net present value of the revenue from the Leases over 15 years is \$4,351,391, using a 12% discount rate derived from SCE's CAPM analysis of its telecommunications customers.<sup>2</sup>

Each Lease is a separate project representing different portions of SCE's fiber optic network (i.e., the seven Leases are not one project broken into seven parts). For purposes of this advice filing, however, since all the Leases are between the same parties, the seven Leases have been aggregated for approval. Whether considered separately or in the aggregate, the net present value of the seven Leases is below the \$5 million minimum threshold for inclusion in the Section 851 Pilot Program.

### **The Leases Meet the Criteria for Inclusion in the Section 851 Pilot Program**

The Section 851 Pilot Program permits certain transactions to be approved via advice letter rather than via a Section 851 Application. This advice letter is timely because it is

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<sup>2</sup> When a range of discount rates is considered, the net present value of the revenue from the Leases remains below the \$5 million threshold: a discount rate of 10% yields \$4,859,832 over 15 years while 13% yields \$4,127,589.

filed prior to August 25, 2007, the current expiration date of the Pilot Program (unless extended per Draft Resolution ALJ-202). Resolution ALJ-186 sets forth eight criteria that must be met in order for the transaction to be eligible for the Section 851 Pilot Program. The seven Leases described herein are eligible for the following reasons:

#### CEQA Checklist

The Leases are not a "project" for the purposes of CEQA. There is no work that requires CEQA review because the fibers subject to the Leases were constructed four or more years ago and no new construction will occur by either SCE or TelePacific to make use of the capacity transferred to TelePacific via the Leases.

#### Effect on the Public Interest

These transactions are in the public interest because they will not diminish the safety or reliability of electric system operations, they will contribute to increased competition in the telecommunications marketplace, and they will provide additional ratepayer revenue.

#### Distribution of Financial Proceeds

The financial proceeds received by SCE from the Leases will be shared between SCE's ratepayers and shareholders through the Ratepayer Sharing Mechanism for Non-Tariffed Products and Services.

#### Fair Market Value of Real Property Transaction

This criterion is inapplicable to this transaction because the fibers are being leased, not sold.

#### Fair Market Value of Sale of Buildings

This criterion is inapplicable because no buildings are being sold in connection with these transactions.

#### Fair Market Value of Depreciable Assets

This criterion is inapplicable because no depreciable assets are being sold in connection with this transaction.

#### Lease Term and Fair Market Value of Lease Payments

The net present value of the lease payments is \$4,351,391 (all seven Leases, aggregated), which is below the \$5 million threshold for eligibility in the Section 851 Pilot Program. Based upon its experience with other dark fiber transactions, its knowledge of the marketplace, and the arms-length negotiations with TelePacific, SCE believes that the net present value of the lease payments is equivalent to the fair market rental value

of the specific fibers subject to the Leases. The term of the Leases is 15 years, which is below the 25-year threshold for eligibility in the Section 851 Pilot Program. There is no purchase option.

### Transfer of Facilities Used in Regulated Utility Operations

This criterion is inapplicable because the portion of fiber optic cables to be leased are not currently used for regulated electric utility operations.<sup>3</sup>

No cost information is required for this advice filing.

This filing will not increase any rate or charge, cause the withdrawal of service, nor conflict with other schedules or rules.

### EFFECTIVE DATE

Pursuant to Section 851 (as amended, January 1, 2006), this is a Tier 3 advice letter. This filing triggers a 30-day initial review period. The Commission shall act to approve, modify, or deny this filing within 120 days unless the time to act is extended. This filing shall become effective when approved by the Commission.

### NOTICE

Anyone wishing to protest this advice filing may do so by sending a letter no later than 20 days after the date of this advice filing. Protests should be mailed to:

TD PAL Coordinator  
Telecommunications Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, California 94102  
Facsimile: (415) 703-2200

Copies should also be mailed to the attention of the Director, Telecommunications Division (same address above).

In addition, protests and all other correspondence regarding this advice letter should also be sent by letter and transmitted via facsimile or electronically to the attention of SCE and TelePacific as follows:

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<sup>3</sup> Draft Resolution ALJ-202 adds three new criteria, each of which is inapplicable or satisfied in this case. First, no easement or right-of-way is transferred here; second, the transaction is too small to impact SCE's ratebase; and third, the transaction does not warrant a more comprehensive review that would be provided through a formal Section 851 application.

Akbar Jazayeri  
Vice President, Revenue and Tariffs  
Southern California Edison Company  
2244 Walnut Grove Avenue  
Rosemead, California 91770  
Facsimile: (626) 302-4829  
E-mail: [AdviceTariffManager@sce.com](mailto:AdviceTariffManager@sce.com)

Bruce Foster  
Senior Vice President of Regulatory Operations  
c/o Karyn Gansecki  
Southern California Edison Company  
601 Van Ness Avenue, Suite 2040  
San Francisco, California 94102  
Facsimile: (415) 673-1116  
E-mail: [Karyn.Gansecki@sce.com](mailto:Karyn.Gansecki@sce.com)

Erich Everbach  
General Counsel  
U.S. TelePacific Corp.  
515 South Flower Street, 47<sup>th</sup> Floor  
Los Angeles, CA 90071  
Facsimile: 213-213-3691  
Email: [eeverbach@telepacific.com](mailto:eeverbach@telepacific.com)

Nancy E. Lubamersky  
Vice President, Strategic Initiatives and Public Policy  
U.S. TelePacific Corp.  
620 Third Street  
San Francisco, CA 94107  
Facsimile: (510) 995-5603  
Email: [nlubamersky@telepacific.com](mailto:nlubamersky@telepacific.com)

There are no restrictions on who may file a protest, but the protest shall set forth specifically the grounds upon which it is based and shall be submitted expeditiously.

In accordance with Section 4, et seq., of General Order No. 96-B, SCE is serving copies of this advice filing to the interested parties shown on the attached GO 96-B service list and, in accordance with Resolution ALJ-186 and Draft Resolution ALJ-202, on Lynn Carew ([luc@cpuc.ca.gov](mailto:luc@cpuc.ca.gov)), Peter V. Allen ([pva@cpuc.ca.gov](mailto:pva@cpuc.ca.gov)), the Division of Ratepayer Advocates, and the Commission CEQA Team ([clu@cpuc.ca.gov](mailto:clu@cpuc.ca.gov); [jnr@cpuc.ca.gov](mailto:jnr@cpuc.ca.gov); [jmu@cpuc.ca.gov](mailto:jmu@cpuc.ca.gov)). Address change requests to the GO 96-B service list should be directed by electronic mail to [AdviceTariffManager@sce.com](mailto:AdviceTariffManager@sce.com) or at (626) 302-2930. For changes to all other service lists, please contact the Commission's Process Office at (415) 703-2021 or by electronic mail at [Process\\_Office@cpuc.ca.gov](mailto:Process_Office@cpuc.ca.gov).

Further, in accordance with Public Utilities Code Section 491, notice to the public is hereby given by filing and keeping the advice filing at SCE's corporate headquarters. To view other SCE advice letters filed with the Commission, log on to SCE's web site at <http://www.sce.com/AboutSCE/Regulatory/adviceletters/>.

For questions, please contact Robert F. LeMoine at (626) 302-4182 or by electronic mail at [Robert.F.LeMoine@sce.com](mailto:Robert.F.LeMoine@sce.com), or Thomas K. Braun at (626) 302-4413 or by electronic mail at [Thomas.K.Braun@sce.com](mailto:Thomas.K.Braun@sce.com).

**Southern California Edison Company**

Akbar Jazayeri

Enclosures  
AJ:rl:sq

**CALIFORNIA PUBLIC UTILITIES  
COMMISSION**  
Advice Letter Filing Summary Sheet  
(PAL)

(Date Filed / Received Stamp by CPUC Industry Division)

Date AL served on parties: 8/2/07

<b>Company Name:</b> Southern California Edison Company		<b>CPUC Utility Number:</b> U 6096-C	
<b>Address:</b> 2244 Walnut Grove Avenue		<input type="checkbox"/> LEC	<input type="checkbox"/> IEC <input type="checkbox"/> IER
<b>City, State, ZIP:</b> Rosemead, CA 91770		<input checked="" type="checkbox"/> CLC	<input type="checkbox"/> CLR <input type="checkbox"/> CMRS
<b>Filing AL #:</b> 44	<b>Requested Effective Date:</b> upon Commission approval	<b>NRF Category</b> (if applicable):	
<b>Name:</b>	<b>Email Address:</b>	<b>Phone No.:</b>	<b>Fax No.:</b>
<b>Filer</b> James Yee	<a href="mailto:James.Yee@sce.com">James.Yee@sce.com</a>	626-302-2509	626-302-4829
<b>Certif.</b> James Yee	<a href="mailto:James.Yee@sce.com">James.Yee@sce.com</a>	626-302-2509	No. Tariff Sheets: -0-

(Name, email address & Phone and FAX numbers are Required for "Filer")

**Annual Revenues:** \$

**Keyword:** Contracts

**Tariff Schedules:** None

**Subject of Filing:** Request for Approval of Telecommunications Leases Between Southern California Edison Company and U.S. TelePacific Corp. Pursuant to the Section 851 Pilot Program Adopted by Resolution ALJ-186  
(Service(s) included)

**Authorization for Filing:** Resolution ALJ-186, PU Code Section 851  
(Resolution #, Decision #, etc.)

**Related Service:**  
(Other service, replacement AL filing)

**Rate Element(s) Affected and % Change:**  
(Non-recurring and / or recurring)

**Notes/Comments:**  
(Other information & reference to advice letter, etc.)

**File Protest and/or Correspondence to:**  
Director, Telecommunications Division  
505 Van Ness Ave., San Francisco, CA 94102  
**and if you have email capability, ALSO email protest to:**  
[TD\\_PAL@cpuc.ca.gov](mailto:TD_PAL@cpuc.ca.gov)  
**Protest also must be served on utility:**  
(see utility advice letter for more information)

**LEC** = Local Exchange Carrier  
**IEC** = Interexchange Carrier  
**CLC** = Competitive Local Carrier  
**IER** = Interexchange Carrier Reseller  
**CLR** = Competitive Local Carrier Reseller  
**CMRS** = Commercial Mobile Radio Service

(FOR CPUC USE ONLY)

<input type="checkbox"/> WTS Required  <input type="checkbox"/> Resolution Required <input type="checkbox"/> Executive Action Resolution Req'd. <input type="checkbox"/> TD Suspension on: ___ / ___ / ___ <input type="checkbox"/> Comm. Suspension on: ___ / ___ / ___  Resolution No.: T - _____  Rev. 04/15/05	Supv. / Analyst: _____ / _____  Due Date to Supv.: _____  Analyst Completion Date: _____  Supervisor Approval Date: _____  AL / Tariff Effective Date: _____  Notes: _____
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