
September 3, 2009

ADVICE 79
(U 6096-C)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
COMMUNICATIONS DIVISION

SUBJECT: Request for Approval of Telecommunications Lease Between Southern California Edison Company and New Cingular Wireless PCS, LLC Pursuant to the Section 851 Pilot Program Adopted by Resolution ALJ-186 as Extended and Modified by Resolution ALJ-202

In compliance with Resolution ALJ-186 (the Section 851 Pilot Program) and Resolution ALJ-202 (extending and modifying the Section 851 Pilot Program), Public Utilities Code Section 851 (revised January 1, 2006), and General Order (GO) 96-B (effective July 1, 2007), Southern California Edison Company (SCE)¹ submits this request for approval of the Fiber Use Agreement (Lease) between SCE and New Cingular Wireless PCS, LLC (Cingular).²

PURPOSE

This advice filing requests approval from the California Public Utilities Commission (Commission) to permit SCE to lease to Cingular certain fiber optic cables as specified in the Lease executed by the parties on August 4, 2009.

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

¹ Contact: Carrier Solutions Contract Administrator, Edison Carrier Solutions, Southern California Edison Company, 4900 Rivergrade Rd., Suite B120, Irwindale, CA 91706.

² Contact: Karen Hobbs, Sr. Contract Manager, AT&T GBOS, 16221 NE 72nd Way, Redmond, WA 98052.

(D.)98-12-083. To make productive use of 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 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 Lease were constructed for electric utility purposes or to expand SCE's commercial telecommunications network. No construction by SCE will be necessary to implement this Lease. Since the leased portion of the fiber optic cables represents excess capacity, the Lease 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 Lease With Cingular

On August 4, 2009, SCE and Cingular executed a 5-year Lease of certain fibers on portions of SCE's fiber optic network. The Lease grants to Cingular the exclusive right to use thirty (30) specific, existing fibers along a specified portion of SCE's fiber optic network. The Lease is for a 5-year term and there is no purchase option. Cingular intends to use the fibers to supplement its telecommunications services to its customers. Other than the existing license pursuant to GO 69-C, there are no past or future transactions related to this Lease.

SCE will not provide service under this Lease until after Commission approval of this advice letter.

The Lease specifies a fixed annual payment (Annual Fee) by Cingular 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 Cingular, SCE believes that the Monthly Fee is equivalent to the fair market rental value of the specific fibers subject to the Lease. The Annual Fee is \$261,600.00. The net present value of the revenue from the Lease over five years is \$1,056,171.00 using a 12 percent discount rate derived from SCE's Capital Asset Pricing Model (CAPM) analysis of its telecommunications customers.

SCE's Ratepayer Sharing Mechanism

D.99-09-070 adopted a settlement between SCE and the Division of Ratepayer Advocates (DRA), formerly the Office of Ratepayer Advocates, concerning SCE's application for a mechanism for sharing revenues resulting from non-tariffed products and services between shareholders and ratepayers. (D.99-09-070 at 1)³ In the settlement, SCE and DRA agreed to classify all existing non-tariffed products and services as either active or passive, and their agreement is memorialized in an attachment to the settlement agreement, which was adopted by the Commission in D.99-09-070.

³ A copy of the settlement agreement between SCE and DRA is attached as Attachment A to D.99-09-070.

The leasing of unused (or dark) fiber on SCE's fiber optic system was an existing non-tariffed product or service at the time the settlement agreement with DRA was executed. In the attachment to the settlement agreement at page A-2, SCE and DRA agreed that "Dark fiber on fiber optic system" would be classified as "Active." (D.99-09-070, Settlement Agreement at A-2, "Use of Communications and Computing Systems.")

SCE's lease with Cingular is a lease of "dark fiber" on SCE's "fiber optic system." SCE's participation in the lease is therefore classified as "active," and the revenue from this lease will be shared between shareholders and ratepayers using a 90/10 split pursuant to the revenue sharing mechanism adopted in D.99-09-070.

The total amount of revenue to be collected from the Lease and shared pursuant to the ratepayer sharing mechanism is, as described above, a lease revenue of \$261,600 per year for five years, of which the ratepayers' share will be 10 percent of the gross revenue per year. The net present value of the revenue from the Lease over five years is \$1,056,171.00 using a 12 percent discount rate derived from SCE's CAPM analysis of its telecommunications customers.

The Lease Meets 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. Resolution ALJ-202 sets forth ten criteria that must be met in order for the transaction to be eligible for the Section 851 Pilot Program. The Lease described herein is eligible for the following reasons:

CEQA Checklist

The Lease is not a "project" for the purposes of CEQA. There is no work that requires CEQA review because the fibers subject to the Lease are already in place and no new construction will occur by SCE to make use of the capacity transferred to Cingular via the Lease.

Effect on the Public Interest or on the Ability of the Utility to Provide Safe and Reliable Service to Customers at Reasonable Rates

This transaction is in the public interest and will not diminish the safety or reliability of electric system operations because it employs existing utility infrastructure, will contribute to increased competition in the telecommunications marketplace, and will provide additional ratepayer revenue.

Distribution of Financial Proceeds

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

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 this transaction.

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 \$1,056,171, 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 Cingular, 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 Lease. The term of the Lease is five years, which is below the 25-year threshold for eligibility in the Section 851 Pilot Program. There is no purchase option.

No Material Impact on Utility Ratebase

Due to the small amount of revenue derived from this transaction compared to SCE's ratebase, the transaction will not materially impact SCE's ratebase.

Transfer of Facilities Used in Regulated Utility Operations

This criterion is inapplicable because the portion of fiber optic cables to be leased is not currently used for regulated electric utility operations.

No Need for Comprehensive Review Under Section 851

This transaction is typical of transactions for which the 851 Pilot Program was developed. This transaction does not contain any issues that would trigger a need for more comprehensive review via a formal Section 851 application.

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

TIER DESIGNATION

Pursuant to Section 851 (as amended, January 1, 2006) and GO 96-B, Telecommunications Industry Rule 7.3, this advice letter is submitted with a Tier 3 designation.

EFFECTIVE DATE

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 may object to this advice letter, which was filed on September 3, 2009, by sending a written protest to:

Telecommunications Advice Letter Coordinator
Communications Division
California Public Utilities Commission
505 Van Ness Avenue, 3rd Floor
San Francisco, California 94102-3298
E-mail: TD_PAL@cpuc.ca.gov

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

The protest must state specifically the grounds on which it is based. The protest must be received by the Telecommunications Advice Letter Coordinator no later than 20 days after the date that the advice letter was filed. On or before the day that the protest is sent to the Telecommunications Advice Letter Coordinator, the protestant must send a copy of the protest via facsimile or electronically to:

Akbar Jazayeri
Vice President of Regulatory Operations
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, California 91770
Facsimile: (626) 302-4829
E-mail: AdviceTariffManager@sce.com

Bruce Foster
Senior Vice President, Regulatory Affairs
c/o Karyn Gansecki
Southern California Edison Company
601 Van Ness Avenue, Suite 2040
San Francisco, California 94102
Facsimile: (415) 929-5540
E-mail: Karyn.Gansecki@sce.com

AT&T – GBOS
16221 NE 72nd Way
Redmond, WA 98052
Attn: Karen Hobbs, Sr. Contract Manager
E-mail: kh1008@att.com

To obtain information about the Commission's procedures for advice letters and protests, go to the Commission's Internet site (www.cpuc.ca.gov) and look for document links to GO 96-B.

In accordance with Section 4, et seq., of GO 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- 202, on the Telecommunications Division, the Division of Ratepayer Advocates, the Commission CEQA Team (clu@cpuc.ca.gov; jnr@cpuc.ca.gov; jmu@cpuc.ca.gov), and the relevant departments of the cities and counties where the property subject to this transaction is located (see Appendix A for list). Address change requests to the GO 96-B service list should be directed by electronic mail to 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.

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.

Southern California Edison Company

Akbar Jazayeri

AJ:rl:sq
Enclosures

APPENDIX A

City of:
Malibu

County of:
Los Angeles

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

(Date Filed / Received Stamp by CPUC Industry Division)

Date AL served on parties: September 3, 2009

Company Name: Southern California Edison Company

CPUC Utility Number: U 6096-C

Address: 2244 Walnut Grove Avenue

GRC-LEC URF-Carrier Other

City, State, ZIP:: Rosemead, CA 91770

Commission Resolution Requested
Carrier of Last Resort (See D.96-10-066)

Filing AL #: 79 Requested Effective Date: upon Commission approval

AL Tier I II III

	Name:	Email Address:	Phone No.:	Fax No.:
Filer	James Yee	advicetariffmanager@sce.com	626-302-2509	626-302-4829
Certif.	James Yee	advicetariffmanager@sce.com	626-302-2509	No. Tariff Sheets: -0-

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

Tariff Schedules (see keyword list on reverse): None

Keyword: Contracts

For Contract Keyword, Type: Government Other Date Executed: August 4, 2009 Contract Total Rev (\$) 1,056,171

Subject of filing (Service(s) included): **Request for Approval of Telecommunications Lease Between Southern California Edison Company and New Cingular Wireless PCS, LLC Pursuant to the Section 851 Pilot Program Adopted by Resolution ALJ-186 as Extended and Modified by Resolution ALJ-202**

Authorization for filing: Resolution ALJ-186, Resolution ALJ-202, Public Utilities Code Section 851, General Order 96-B
(Resolution #, Decision #, etc.)

Affected services:

(Other services affected, pending or replacement AL filings)

Rate Element(s) affected and % change:

(Non-recurring and / or recurring)

Customer Notice Required (if so, please attach)

Notes/Comments:

(Other information & reference to advice letter, etc.)

Confidential treatment requested? Yes No

If yes, specification of confidential information:

Confidential information will be made available to appropriate parties who execute a nondisclosure agreement.

Name and contact information to request nondisclosure agreement/access to confidential information:

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 to:

TD_PAL@cpuc.ca.gov

Protest also must be served on utility:

(see utility advice letter for more information)

GRC-LEC = Cost of Service LEC Carrier

URF-Carrier = Uniform Regulatory Framework Carrier
(see D.06-08-030/D.07-09-019)

OTHER = Wireless (CMRS) Carrier

(FOR CPUC USE ONLY)

Resolution Required

Executive Action Resolution Req'd.

TD Suspension on: ___ / ___ / ___

Comm. Suspension on: ___ / ___ / ___

Resolution No.: T - _____

Rev. 09/24/07

Supv. / Analyst _____ / _____

Due Date to Supv.: _____

Analyst Completion Date: _____

Supervisor Approval Date: _____

AL / Tariff Effective Date: _____

Notes: _____



James W. Yee
Supervisor of Advice Letters
James.Yee@sce.com

September 16, 2009

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Attn: Telecommunications Advice Letter Coordinator
Communications Division

Re: Substitute Sheet for Southern California Edison
Company's Advice 79

Enclosed is a substitute sheet for Southern California Edison Company's (SCE) Advice 79, Request for Approval of Telecommunications Lease Between Southern California Edison Company and New Cingular Wireless PCS, LLC, Pursuant to the Section 851 Pilot Program Adopted by Resolution ALJ-186 as Extended and Modified by Resolution ALJ-202.

Pursuant to a conversation with the Communications Division staff, the sentence below is added as the second paragraph of the section titled, "SCE's Fiber Optic Lease With Cingular," on page 2 of the advice letter.

SCE will not provide service under this Lease until after Commission approval of this advice letter.

Please include this sheet in your master file for Advice 79.

Should you have any questions, please contact me at (626) 302-2509.

Sincerely,

James W. Yee

JWY:sq
Enclosures

cc: Michael Evans, CPUC, Communications Division
Parties on SCE's GO 96-B service list