

Date of Issuance: 8/25/2009

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**Communications Division
Service Quality and Reporting Branch**

**RESOLUTION T - 17208
August 20, 2009**

R E S O L U T I O N

Resolution T - 17208. To grant the request of Southern California Edison Company, (U-6096-C) to lease six specific existing fiber optic cables to Tata Communications (America) Inc.

Summary

This Resolution approves Southern California Edison's (SCE) Advice Letter 71 seeking approval under Public Utilities Code § 851 to permit it to lease six specific fibers to Tata Communications. This lease was executed on March 26, 2009, is for a period of five years, and has a net present value of \$1,382,138.00. Advice Letter 71 was processed pursuant to Resolution ALJ-202, and was provided expedited action. This Resolution is effective immediately.

Background

Section 851 of the Public Utilities (P.U.) Code, states in relevant part as follows "[n]o public utility...shall sell, lease, assign, mortgage, or otherwise dispose of or encumber the whole or any part of its...line, plant, system, or other property necessary or useful in the performance of its duties to the public...without first having either secured an order from the commission authorizing it to do so..." Prior to the adoption of Resolution ALJ-186 (the 851 Pilot Program) on August 25, 2005, all requests for approval of property transfers, had to be made via formal application. However, since the adoption of Resolution ALJ-186 and its extension and modification set forth in Resolution ALJ-202, requests for property transfer pursuant to § 851 can be effected through the filing of an advice letter and the issuance of an approving resolution.

On April 6, 2009, (SCE) applied for approval to lease six Dark Fiber cables to Tata Communications for a period of five years, in Advice Letter 71. The stated purpose of this transaction is to increase telecommunications competition, and augment ratepayer revenues. This transaction was identified as having a net present value of \$1,382,138.00.

Notice

Notice of Advice Letter 71 appeared in the Commission's Daily Calendar on April 15, 2009.

Protests

The Commission received no protests to or comments in response to Advice Letter 71.

Discussion

In order for a transaction to be approved under the § 851 Pilot Program, it must not be subject to a California Environmental Quality Act (CEQA) review. Given that this transaction involves only the lease of currently existing fiber facilities, and not the construction of or modification to facilities, a CEQA review is not necessary. This resolution does not authorize any physical change to the environment as a result of, or in connection with the transaction described in Advice Letter 71.

P.U. Code § 851, confers on the Commission the obligation to determine if a transaction serves the public interest. The Commission also has the authority, to request additional terms or conditions be added to a transaction in order to ensure the public's interest is protected. Approval of this transaction will provide customers with an additional choice of service provider along with additional shared ratepayer revenues. As a consequence of these factors, this event is deemed to be in the public interest. Therefore, no additional conditions need be attached to this transaction.

The Communications Division has reviewed Advice Letter 71 of SCE, and finds that it satisfies the criteria identified in Resolution ALJ-202. By issuing this resolution, which permits SCE to dispose of property subject to P.U. Code § 851, we neither approve nor disapprove the lease itself nor any of its terms and conditions. The Communications Division finds no reason to deny approval of Advice Letter 71.

Comments

SCE's Advice Letter 71 is uncontested and this resolution grants the relief requested. Therefore, pursuant to P.U. Code §311(g)(2), the 30-day public review and comment period is waived.

Findings

1. On April 6, 2009, SCE filed Advice Letter 71 requesting approval for a lease of six specific optical fibers to Tata Communications for a period of five years.

2. Advice Letter 71 qualifies for review under the § 851 Pilot Program (Resolution ALJ-202).
3. This transaction is not a project subject to CEQA and will not result in activities which will cause a change to the physical environment.
4. This transaction is deemed to be in the public interest, given that it will increase customer choice for telecommunications services, and increase ratepayer revenue.
5. By issuing this resolution, which permits SCE to dispose of property subject to P.U. Code § 851, we neither approve nor disapprove the lease itself nor any of its terms and conditions.

THEREFORE, IT IS ORDERED that:

Pursuant to P.U. Code § 851, the CPUC authorizes Southern California Edison Company to lease six specific fiber optic cables to Tata Communications Company for a period of five years.

This Resolution is effective today.

I hereby certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on August 20, 2009, the following Commissioners voting favorably thereon:

/s/ Paul Clanon

PAUL CLANON
Executive Director

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CD/MDE

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners