



ALJ-186 (adopted August 25, 2005) for an additional three years, that provides for an expedited process for certain transactions meeting criteria specified in the ALJ Resolution. The PU Code 851 pilot program generally requires Commission approval of any sale, lease, encumbrance, mortgage, or other transfer or disposition of an interest in utility property that is used or useful in the provision of the utility's service to the public. For proposals that meet the requirements, an Advice Letter may be filed demonstrating the applicability of the pilot program to the utility's proposal and requesting an expedited review of the Advice Letter. In order to approve projects under the pilot program, the Commission must pass a Resolution confirming that the proposal meets the requirements of Resolution ALJ-202. These include satisfying all GO96B applicable requirements for Advice Letters plus specific requirements describing the transaction and a CEQA checklist or an explanation that the transaction is not a project under CEQA.

On January 8<sup>th</sup>, 2009 SCE filed Advice Letter 66 requesting approval to permit SCE to lease to Covad two specific fiber optic cables for the intent of supplementing its telecommunications services to its customers.

### **NOTICE**

Notice of Advice Letter 66 was made by publication in the Commission's Daily Calendar.

### **PROTESTS**

No protests or comments to Advice Letter 66 were filed.

### **DISCUSSION**

As part of the resolution it is necessary under Resolution ALJ-202 to assess whether a CEQA review is necessary or has already been undertaken. In the case of AL 66, the lease between SCE and Covad does not constitute a project under CEQA as there is no foreseeable activity that may cause direct or indirect physical change to the environment. This approval does not authorize and will not result in any construction activities, only the lease of two fiber optic cables.

The Commission has broad discretion to determine if it is in the public interest to authorize a transaction pursuant to Section 851. The primary standard used by the Commission is whether the transaction will serve the public interest. Where necessary and appropriate, the Commission may attach conditions to a transaction in order to protect and promote the public interest. In this case no conditions are attached as the transfer is in fact in the public interest.

The Communications Division has reviewed SCE's Advice Letter 66 and finds that it satisfies the criteria for inclusion in the pilot program specified in Resolution ALJ-202.

The Communications Division finds that expedited treatment pursuant to Section II of Appendix A to Resolution ALJ-202 is appropriate for AL 66 and that no reason to deny the approval of Advice Letter 66 exists pursuant to Section VII. A. 3 of Appendix A to Resolution ALJ-202.

### **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), otherwise applicable 30 day period for public review and comment is waived.

### **FINDINGS**

1. On January 8, 2009 SCE filed Advice Letter 66 requesting the granting of approval to permit the lease of two fiber optic cables to Covad for the intent of supplementing its telecommunications services to its customers.
2. Granting of said approval is in the public interest and will not diminish the safety or reliability of the existing telecommunications infrastructure.
3. The granting of this approval will contribute to increased competition in the telecommunications marketplace and will provide additional ratepayer revenue.
4. The transaction is not a project under CEQA as there is no foreseeable activity that may cause direct or indirect physical change to the environment (Public Resource Code Section 21065).

