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PROPOSED DECISION Agenda ID #23915 (Rev. 1)
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Decision **PROPOSED DECISION OF ALJ DUGOWSON (Mailed 12/12/2025)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851.

Application 23-11-002

DECISION FINDING SOUTHERN CALIFORNIA EDISON COMPANY'S PROPOSED TRANSACTION MEETS REQUIREMENTS OF GENERAL ORDER 69-C

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ORDER 58

**PROPOSED DECISION FINDING SOUTHERN CALIFORNIA EDISON
COMPANY'S PROPOSED TRANSACTION MEETS REQUIREMENTS OF
GENERAL ORDER 69-C**

Summary

This decision authorizes Southern California Edison Company (SCE), under certain conditions, to contract with a third party to market, execute, and manage contracts with telecommunications companies to install telecommunications infrastructure on otherwise-unused space on SCE's property. This authorization is conditioned on SCE filing, and the Commission approving, a Tier 3 Advice Letter that contains the contracts/agreements at issue in this application, and the identity and qualifications of the third party with which SCE proposes to contract. Certain additional conditions and requirements apply to the approval the Commission grants today: First, subject to review by the Commission's Communications Division, SCE shall put in place a process to monitor for and report on any violations of General Order 69-C associated with its proposed transaction. Second, SCE shall ensure that its ratepayers bear no financial risks from the proposed transaction. Third, SCE shall ensure that the revenue from the proposed transaction is fairly and appropriately divided between SCE's ratepayers and shareholders.

This proceeding is closed.

1. Background

**1.1. Non-Tariffed Programs and Services and
Revenue Sharing**

Non-Tariffed Products and Services (NTP&S) are products and services provided by a utility, outside of the utility's traditional offerings as part of its core utility service, that make secondary use of that utility's assets or personnel. As a simple example, an electric utility may lease space under its power lines to plant nurseries, thereby earning extra revenue from real estate that would otherwise go unused. Each utility may have a different mechanism in place for allocating that revenue between the utility's customers and shareholders. For Southern California

Edison Company (SCE), this policy is called the Gross Revenue Sharing Mechanism (GRSM).

On September 16, 1999, the California Public Utilities Commission (Commission) approved Decision (D.) 99-09-070 which created the GRSM pursuant to a settlement agreement between SCE and the Office of Ratepayer Advocates.¹ Under the GRSM, the first \$16.672 million of NTP&S revenue each year is sent directly to SCE's customers. Revenue beyond that threshold is allocated differently depending on whether earning that revenue required "active" or "passive" shareholder participation. "Passive" revenue is allocated 70 percent / 30 percent between shareholders and customers, respectively, while "active" revenue is allocated 90 percent / 10 percent between shareholders and customers, respectively.²

1.2. Public Utilities Code Section 851 and General Order 69-C

Pub. Util. Code Section 851,³ among other things, requires Commission-regulated utilities to file an application and obtain Commission approval before engaging in real estate transactions valued at more than \$5 million. The Commission's General Order (GO) 69-C, however, lays out certain conditions under which utilities are exempt from that requirement. Specifically, GO 69-C ordered:

all public utilities covered by the provisions of Section 851 of the Public Utilities Code of this State be, and they are hereby authorized to grant easements, licenses or permits for use or occupancy on, over or under any portion of the operative property of said utilities for rights of way, private roads, agricultural purposes, or other limited uses of their several properties without further special authorization by this Commission whenever it shall appear that the exercise of such

¹ The Office of Ratepayer Advocates is now known as the Public Advocates Office.

² D.99-09-070 requires that all new NTP&S revenue is treated as "passive" until SCE demonstrates otherwise.

³ All code section references, unless stated otherwise, are to the California Public Utilities Code.

easement, license or permit will not interfere with the operations, practices and service of such public utilities to and for their several patrons or consumers.

GO 69-C further provides that any such grant should be revocable at the request of the Commission or when the utility requires to use the property to serve its customers.

On January 3, 2019, the Director of the Commission's Communications Division issued a Guidance Letter for Appropriate Use of General Order 69-C (2019 Guidance Letter) which, among other things, outlined "general principles that underlie appropriate use of GO 69-C across all utility industries."⁴

1.3. SCE's Site Access Agreements to Date

For more than two decades, SCE has earned NTP&S revenue by contracting with communications companies to install communications equipment on SCE property that would otherwise go unused. SCE entered into some of these agreements pursuant to GO 69-C (i.e., without notifying the Commission) and for other agreements obtained Commission approval under Section 851 in six decisions issued between 2000 and 2004.⁵ This decision will refer to the agreements signed pursuant to those decisions as the "Legacy 851 Agreements" and the full collection of agreements (i.e., those entered into pursuant to GO 69-C or Section 851) simply as the "Legacy Agreements."

SCE clarifies that certain agreements allow the installation of equipment on and around transmission towers (Tower Sites) while other agreements allow for the construction and operation of communication facilities on the ground (Ground Sites). For the purpose of revenue sharing under the GRSM, the Commission has

⁴ The guidance letter is available at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/communications-division/documents/licensing-compliance/go-69-c-easements-on-property-of-public-utilities/go-69-c-guidance-letter.pdf>. Accessed December 19, 2024.

⁵ D.00-07-010, D.02-12-023, D.02-12-024, D.02-12-025, D.04-02-041, and D.04-02-042.

previously designated revenue from Tower Sites as “active” and revenue from Ground Sites as “passive.”⁶

1.4. Procedural Background

On November 2, 2023, SCE filed Application (A.) 23-11-002, Application Of Southern California Edison Company (U 338-E) For Authority To Proceed Under General Order 69-C With A Site Marketing And Access Agreement And SCE’s Assignment Of Existing Agreements Or, In The Alternative, Approval Of The Same Pursuant To Public Utilities Code Section 851 (Application). In its Application, SCE sought Commission approval to contract with a third party to market, execute, and manage contracts with wireless communications carriers and wireless telecommunications site management companies (“Carriers”) to attach or install telecommunications infrastructure on temporarily available space on SCE’s property, and assign to that third party certain rights associated with existing contracts between SCE and various entities (Proposed Transaction). SCE sought Commission confirmation that the Proposed Transaction meets the requirements laid out in GO 69-C and is therefore exempt from the requirement to file an application under Section 851 or, alternatively, Commission approval of the Proposed Transaction under Section 851. SCE also asks the Commission to remove certain conditions and reporting requirements imposed on existing agreements. The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) and The Utility Reform Network (TURN) timely filed protests on December 8, 2023.

A prehearing conference was held on January 19, 2024, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. At the prehearing conference, the Center for Accessible Technology (CforAT) moved for and was granted party status.

⁶ Ex. SCE-01 at V-5 to V-6.

On February 28, 2024, the Assigned Commissioner's Scoping Memo and Ruling (Scoping Memo) was issued, dividing the proceeding into two phases.

On March 8, 2024, the assigned Administrative Law Judge (ALJ) issued a ruling directing parties to meet and confer and to file by April 5, 2024, a joint case management statement identifying any contested material issues of fact, indicating whether the parties believe an evidentiary hearing is necessary, and if so, proposing a schedule to submit testimony and to hold an evidentiary hearing. On April 5, 2024, the parties filed the joint case management statement and on April 23, 2024, the assigned ALJ issued a ruling setting a schedule for parties to submit Intervenor Testimony, Rebuttal Testimony, hold an evidentiary hearing if necessary, Opening Briefs, and Reply Briefs. On May 31, 2024, Cal Advocates, CforAT, and TURN submitted Intervenor Testimony, and on June 14, 2024, SCE submitted its Rebuttal Testimony.

On June 28, 2024, the parties submitted a Joint Case Management Statement in which Cal Advocates, CforAT, and SCE waived their requests for an evidentiary hearing, while TURN requested one. On July 5, the assigned ALJ denied TURN's request for an evidentiary hearing. On July 23, 2024, all parties submitted Opening Briefs, and on August 6, 2024, all parties submitted Reply Briefs.

1.5. Submission Date

This matter was submitted on August 6, 2024, upon submission of Reply Briefs.

2. Issues Before the Commission

Pursuant to the Scoping Memo, dated February 28, 2024, the proceeding was divided into two phases, where the second phase would only be necessary if certain issues from the first phase cannot be resolved. The issues to be determined in this proceeding are as follows:

2.1. Phase One

1. Whether SCE's proposal to contract with a third-party broker to market, execute, and manage contracts with Carriers to attach or install telecommunications infrastructure on temporarily available space on SCE's property as part of the Proposed Transaction meets the requirements of GO 69-C and is therefore exempt from the requirement to file an application pursuant to Section 851.
2. Whether SCE's proposal to assign to the third-party broker certain rights associated with the Legacy 851 Agreements as part of the Proposed Transaction meets the requirements of GO 69-C and is therefore exempt from the requirement to file an application pursuant to Section 851.
3. Whether the Commission should waive the condition and notification requirements imposed on the Legacy 851 Agreements.
4. What conditions, notifications, and approvals the Commission should impose upon SCE for entry into new contracts.
5. Whether SCE's proposal to contract with a third-party broker, by consolidating the revenues from existing and future agreements into a lump-sum payment in a single year rather than recurring annual payments, results in ratepayers receiving a smaller portion of the total revenues over the lifetime of the agreements; and, if so, whether this outcome is consistent with the intent of the Gross Revenue Sharing Mechanism (GRSM) established in Decision (D.) 99-09-070.
6. Whether it is appropriate to amend the GRSM in this proceeding.
7. Whether SCE's proposal would impact the affordability and reliability of telecommunications services.

2.2. Phase Two

1. Whether SCE's proposal to contract with a third-party broker to market, execute, and manage contracts with Carriers to attach or install telecommunications infrastructure on temporarily available space on SCE's property should be approved under Section 851.

2. Whether SCE's proposal to assign to the third-party broker certain rights associated with the Legacy 851 Agreements should be approved under Section 851.
3. Whether the final forms of agreement for the Proposed Transaction should be approved via a Tier 2 Advice Letter.

3. Discussion

3.1. Impact on Telecommunications and Broadband Services

SCE argues the Proposed Transaction "is designed to increase the number of sites used by Carriers, which can help to expand and expedite the deployment of wireless network infrastructure."⁷ SCE contends that the Buyer will "increase the use of temporarily available tower and ground space by Carriers can help expand, improve, and update wireless communication networks throughout the region, including advanced 5G networks, and do so more quickly compared to SCE's own ability."⁸ Accordingly, SCE asserts that the Proposed Transaction will benefit consumers of telecommunications services, including customers in rural and tribal areas as well as disadvantaged communities.⁹ SCE claims this outcome is consistent with the Commission's previous finding that "it is in the public interest to use existing utility property for the siting of telecommunications equipment."¹⁰

3.1.1. Affordability and Reliability of Telecommunications and Broadband Services

CforAT believes that SCE's proposal creates the risk of substantial impacts on the affordability and reliability of telecommunications services and therefore requires review under Section 851. Even if the Proposed Transaction does provide a

⁷ Ex. SCE-01 at I-8.

⁸ Ex. SCE-01 at I-6.

⁹ Ex. SCE-01 at I-7.

¹⁰ Ex. SCE-01 at I-6, citing to D.04-07-021 and D.02-12-018 (referencing "the Commission's policy of favoring the use of existing utility facilities for the development of telecommunications infrastructure").

net benefit to electric customers, CforAT is concerned that benefit may be outweighed by negative impacts to communications customers.¹¹ Additionally, CforAT claims it is challenging to forecast the consumer impacts of the Proposed Transaction without knowing the identity of the proposed third-party broker.¹²

CforAT argues the Proposed Transaction will likely result in higher prices for licenses to access SCE's infrastructure because (a) SCE now needs to recoup a profit margin for the third-party broker¹³ and (b) the third-party broker may raise its prices in areas where few entities are providing space to communications companies.¹⁴ CforAT asserts the competitiveness of the site-access market also informs the risks of the Proposed Transaction, and requests the Commission undertake a market analysis.¹⁵ CforAT assert that until the identity of the Buyer is known, the Commission has no way of evaluating that broker's motivations or potential profit-maximizing strategy. CforAT hypothesizes that a communications firm and a private equity firm would each implement their role as the Buyer differently, with significant impacts for telecommunications reliability and cost.¹⁶ The Commission, therefore, should direct SCE to identify the candidate for third-party broker. Finally, CforAT asserts that the Proposed Transaction represents a merger between SCE and the Buyer due to the value and duration of the transaction, and therefore merits review pursuant to Section 854.¹⁷

¹¹ Ex. CforAT-01 at 14-15.

¹² Ex. CforAT-01 at 13.

¹³ Ex. CforAT-01 at 9.

¹⁴ Ex. CforAT-01 at 11.

¹⁵ Ex. CforAT-01 at 10 to 13.

¹⁶ Ex. CforAT-01 at 9.

¹⁷ CforAT Opening Brief at 7.

SCE disagrees with CforAT's contentions, arguing that CforAT's market power concerns are hypothetical and not supported by evidence.¹⁸ SCE asserts there is no justification to study market power in connection with activities eligible for GO 69-C, and even if there were, SCE's towers are a small percentage of all the communications towers in SCE's service territory and communications tower expenses represent less than one percent of Carriers' operating expenses.¹⁹ Furthermore, SCE notes that no Carrier has protested or otherwise expressed concern about the Proposed Transaction. This lack of protest is particularly significant, SCE argues, because two years ago, Pacific Gas & Electric (PG&E) entered into a transaction similar to SCE's Proposed Transaction, yet SCE contends that there is no evidence of negative market impacts resulting from PG&E's transaction and no stakeholders have expressed concern to the Commission.²⁰

SCE disagrees with CforAT's assertion that the Proposed Transaction will increase costs for communications companies. SCE argues first that the Buyer will not have market power, as described above. Second, SCE believes that if carriers choose to enter into a site agreement with SCE or the Buyer, they choose to do so because it is a lower cost alternative to constructing their own infrastructure on other land. SCE's site agreements therefore inherently reduce costs for communications companies. Third, according to SCE, CforAT's argument that the identity and business model of the Buyer will affect the pricing and quality of service is purely speculative, and that the Buyer's incentive is to offer as many sites as possible at a competitive rate.²¹

¹⁸ Ex. SCE-02 at I-13.

¹⁹ Ex. SCE-02 at I-13.

²⁰ Ex. SCE-02 at I-14.

²¹ Ex. SCE-02 at I-14 to I-15.

CforAT responds that SCE does not account for “the downstream effects of the transaction on the market for communication services” and does not explain how the Proposed Transaction will support 5G infrastructure and the development of wireless technology.²² Further, SCE’s market analysis is based on simplified assumptions about the density and geographic location of telecommunications equipment, which reduce the quality of the market analysis.²³ CforAT calls for a detailed review of the Proposed Transaction and the communications and broadband markets.

SCE objects to CforAT’s characterization of the Proposed Transaction as a merger, stating that (1) SCE reserves the rights discussed above, as well as responsibility for all utility activities; (2) the Proposed Transaction does not involve any exchange of equity, ownership interests, or control over SCE; and (3) the rights to ground sites are non-exclusive.²⁴ Further, SCE believes that CforAT’s reference to Section 854 is inapplicable because that section concerns the merger of public utilities.²⁵

Upon review of the record, the Commission finds that the evidence in this proceeding was insufficient to support a finding that the Proposed Transaction would not negatively impact the telecommunications or broadband markets. The Commission agrees with SCE’s position that the Proposed Transaction incentivizes the Buyer to sign as many agreements as possible, in part due to contractual requirements to sign new agreements at a certain rate. If the Buyer does increase the total supply of sites, the price paid by telecommunications companies may actually fall (relative to the counterfactual). Accordingly, the Commission finds

²² CforAT Opening Brief at 14, 15, 17.

²³ CforAT Opening Brief at 17.

²⁴ SCE Reply Brief at 7.

²⁵ SCE Reply Brief at 7.

the evidence does not demonstrate a need to evaluate the market impacts of the Proposed Transaction.

That said, troublesome scenarios akin to the ones laid out by CforAT could arise if the Buyer, the identity of which is unknown to this Commission at this time, were to make serious errors in executing its basic duties or purposefully engage in anticompetitive behavior (e.g., withholding sites from the market to create an artificial scarcity and drive up prices). The Commission can mitigate this risk by requiring SCE to provide the identity and qualifications of the proposed Buyer for review by the Commission and stakeholders via a Tier 3 Advice Letter. The Tier 3 Advice Letter shall contain the original agreements approved by the Commission under Section 851 that are the subject of this application, the assignment contracts, the identity of the Buyer, and detailed information about the Buyer, such as the Buyer's financial fitness, the Buyer's experience in the field, and whether the Buyer has any potential conflicts of interest in fairly executing its role. The Tier 3 Advice Letter shall also explain how SCE selected the proposed Buyer, why SCE is confident the proposed Buyer is able to execute the responsibilities it will take on as part of the Proposed Transaction, and a description of the policies and controls in place to ensure the proposed Buyer does not improperly exert market power. SCE shall file and serve a Tier 3 advice letter with this information for any new, additional, and/or replacement Buyers.

3.1.2. Ensuring Non-Discriminatory Access

Cal Advocates conducted an analysis that concluded the Proposed Transaction might have a significant impact on the telecommunications and broadband markets within SCE's service territory.²⁶²⁷ SCE agreed to update its contracts to modify the definition of "Carrier" to include agreements for tower

²⁶ Ex. CalAdv-01 at 2-14.

²⁷ Ex. CalAdv-01 at 2-14.

attachment sites with other telecommunications carriers or broadband internet service providers.²⁸ Cal Advocates agrees that this resolves its primary concern regarding non-discriminatory access and requests the Commission adopt the proposed revision.²⁹

The Commission supports the modification and directs SCE to update the appropriate documents to use the agreed-upon definition of “Carrier.”

Cal Advocates also argues the Commission should ensure SCE provides non-discriminatory and technology-neutral access to its assets and facilities by, at minimum, “[establishing] timelines for SCE responses to requests for access or information, [placing restrictions] on exclusive agreements, [setting] requirements for the disclosure of rates.”³⁰

SCE disagrees that these are additional measures are necessary to ensure non-discriminatory access, asserting that “Cal Advocates provides no evidence or argument to show that there is any risk of non-discriminatory access or that the change to the definition does not fully address whatever speculative concern might exist.”³¹ SCE further argues that “this is not the proceeding to make up rules governing that the broadband market in the absence of any evidence of discriminatory access and concrete proposals, particularly where those rules would only apply to this buyer in this transaction.”³²

The Commission agrees that Cal Advocates did not provide evidence of discriminatory access. However, the Commission also recognizes that it is difficult to provide this evidence without knowing the identity of the Buyer. The Commission

²⁸ Ex. SCE-02 at I-15.

²⁹ Cal Advocates Reply Brief at 14.

³⁰ Ex. CalAdv-01 at 2-14.

³¹ SCE Reply Briefs at 15.

³² SCE Reply Briefs at 15-16.

therefore orders SCE to include in its Tier 3 Advice Letter the identity and background information of the Buyer described above, and an explanation of how SCE and the proposed Buyer will ensure that access to SCE poles and facilities on a non-discriminatory basis.

3.2. Eligibility for General Order 69-C

SCE has requested the Commission affirm that the entire Proposed Transaction meets the requirements of GO 69-C and therefore does not require Commission approval under Section 851.³³ Cal Advocates, CforAT, and TURN all disagree with SCE and argue that the Proposed Transaction is ineligible for exemption pursuant to GO 69-C and must be considered under Section 851.

SCE's Proposed Transaction would assign to a Third-Party Buyer (Buyer) three sets of rights and obligations: first, the Buyer would assume SCE's rights and obligations under the existing Legacy Agreements, including the obligation to manage those sites, the right to collect and retain revenue from those sites, and the right to renew or terminate the agreements; second, the Buyer would obtain exclusive rights for a limited period of time to market, manage, and execute new agreements for new tower sites; third, the Buyer would obtain non-exclusive rights for a limited period of time to market, manage, and execute agreements for new ground sites.³⁴ Under the Proposed Transaction, SCE would retain the right to enforce SCE's safety protocols and Commission Orders and would also retain the right to revoke sites at the order of the Commission or if necessary to provide service to its utility customers.³⁵ In exchange, the Buyer would provide SCE with (1) a lump-sum payment upon execution of the Proposed Transaction, (2) a portion of

³³ SCE Application at 2.

³⁴ Ex. SCE-01 at I-3.

³⁵ Ex. SCE-01 at I-4.

the ongoing revenue from site agreements between the Buyer and Carriers, and (3) payments for services SCE provided at the sites.³⁶

To determine whether an agreement meets GO 69-C's criteria for exemption from Section 851, SCE looks to a three-part test established by the Commission and to the Commission's 2019 Guidance Letter.³⁷ The three-part test was described in D.04-03-038, where the Commission explained that "[GO 69-C] establishes three key criteria for permitting a utility to grant minor interests in utility property. These are: (1) The interest granted must not interfere with the utility's operations, practices, and services to its customers; (2) The interest granted must be revocable either upon the order of the Commission or upon the utility's determination that revocation is desirable or necessary to serve its patrons or consumers (i.e. at will); and (3) The interest granted must be for a 'limited use' of utility property."³⁸ SCE also quotes the 2019 Guidance Letter, asserting "Communications Division Staff used 'the attachment of equipment owned by others on utility property such as utility poles, towers and buildings,' and the 'granting of access to utility rights-of-way,' as examples of the type of 'limited uses' that appropriately fall within GO 69-C."³⁹ SCE contends the Proposed Transaction meets the requirements described above and therefore qualifies for a GO 69-C exemption from Section 851 review.⁴⁰ Cal Advocates, CforAT, and TURN disagree and ask the Commission to conduct a detailed Section 851 review. The intervenors' objections are discussed below.

³⁶ Ex. SCE-01 at V-4 to V-5.

³⁷ SCE Application at 23-24.

³⁸ D.04-03-038 at 16.

³⁹ SCE Application at 24, referencing the 2019 Guidance Letter at pdf page 2.

⁴⁰ Ex. SCE-01 at I-13 to I-14.

3.2.1. Impact on Utility Operations

Cal Advocates and TURN argue the activities in the Legacy Agreements have already negatively impacted utility operations and may do so again in the future. The Proposed Transaction, they argue, would therefore not meet GO 69-C's requirement that the activity "not interfere with the operations, practices and service" of the utility, and therefore requires Section 851 review.

Cal Advocates argues that the Proposed Transaction may interfere with utility operations because (a) the template agreements SCE submitted in its application contemplate situations that the Occupational Health and Safety Administration (OSHA) deems dangerous,⁴¹ (b) SCE has, in the course of work undertaken pursuant to the Legacy Agreements, interrupted utility service by de-energizing lines on at least three occasions,⁴² and (c) there has been at least one instance where SCE improperly installed telecommunications attachments to utility property, resulting in the ignition of the Silverado Fire and a \$2.404 million fine from the Commission's Safety and Enforcement Division.⁴³ Cal Advocates further notes that SCE did not maintain "formal documentation or even a process to identify" records of de-energizations driven by the Legacy Agreements and therefore the true number of incidents is unknown.⁴⁴

SCE counters that the de-energizations did not actually impact customers because energy was re-routed and therefore did not result in an outage for either residential or commercial SCE customers.⁴⁵ SCE asserts that, contrary to Cal Advocates' perspective, the fact that there were only three documented cases of de-

⁴¹ Ex. CalAdv-01 at 1-3 to 1-5.

⁴² Ex. CalAdv-01 at 1-5 to 1-6.

⁴³ Cal Advocates Opening Brief at 17, referencing citation E.24-02-001.

⁴⁴ Cal Advocates Reply Brief at 6.

⁴⁵ SCE Opening Brief at 20.

energization in the history of the Legacy Agreements demonstrates that the Proposed Transaction will not impact SCE's ability to provide utility service.⁴⁶

SCE argues that Cal Advocates' reference to the Silverado Fire is misplaced because the circumstances were "categorically different" from the attachments subject to the Proposed Transaction. SCE argues that the citation related to the Silverado Fire involved distribution poles (while the Proposed Transaction concerns transmission towers), did not involve wireless attachments, and involved third-party wired conductor lines on joint poles.⁴⁷

The Commission finds that the available evidence does not demonstrate that the Legacy Agreements have negatively impacted utility operations or that the Proposed Transaction would likely do so. First, the fact that the contracts contemplate activities potentially governed by OSHA standards does not inherently imply the Proposed Transaction threatens the safe and reliable operation of SCE's utility service. The Proposed Transaction will not change the fundamental nature of SCE's existing site-access business: while originating, executing, and managing contracts (including marketing activities) may transfer to the Buyer, SCE's core offerings will stay the same. To an outside observer, the only thing that may change is the pace of new agreements (SCE expects that the Buyer's specialized skillset and focus will result in more towers than if SCE continued to operate the business entirely in-house); absent the Proposed Transaction, SCE would still continue to manage its Legacy Agreements and originate new tower and ground sites.

While SCE's assertion that the Silverado citation is disanalogous to the activities taking place under the site agreements is not robust, the citation does not affect the Proposed Transaction's compliance with GO 69-C. As noted above, the primary consequence of the Proposed Transaction is a potential increase in the

⁴⁶ SCE Opening Brief at 20.

⁴⁷ SCE Reply Brief at 7.

number of site agreements and attachments of telecommunications equipment to utility property. There will be no fundamental change in the type of activities SCE and the companies with which it contracts undertake. The Commission has reviewed and approved these activities on multiple occasions, including, implicitly, in the citation. The Commission had (and has) the power to evaluate whether to permit its regulated utilities to continue to offer its site-access business. The evidence in this proceeding does not justify a reevaluation.

That said, Cal Advocates has identified an important gap in information available to the Commission. SCE is required to ensure the Proposed Transaction does not negatively impact utility operations, and SCE should be responsible for collecting and reporting any violations of that requirement. Any such violation would have implications for the GO 69-C status of the site-access agreements and would merit further investigation by the Commission. Accordingly, this decision imposes certain reporting requirements on SCE, which are discussed in a later section.

3.2.2. Assignment of Rights of Legacy Agreements

TURN argues the Commission has already determined in six separate decisions that the Legacy 851 Agreements required Section 851 approval, which means, in turn, that assigning the rights of those agreements should also require Section 851 approval.⁴⁸ Cal Advocates agrees.⁴⁹ SCE disagrees, arguing that under the Proposed Transaction, the buyer would obtain rights to only limited use of SCE property and SCE would retain the right to revoke access and to prioritize utility needs.⁵⁰ Cal Advocates argued in its Intervenor Testimony that the assignment of

⁴⁸ Ex. TURN-01 at 4.

⁴⁹ Ex. CalAdv-05 at 1-8.

⁵⁰ Ex. SCE-01 at I-13.

rights constitute a lease and is impermissible under GO 69-C, but takes the opposite position in its Opening Brief.⁵¹

TURN further notes that in two decisions authorizing Legacy 851 Agreements, the Commission required SCE to file another Section 851 application to make any “substantive amendments” to its agreements.⁵² TURN argues that the Proposed Transaction represents a substantive amendment because it would assign SCE’s rights to a “profit-maximizing entity that falls outside of the CPUC’s jurisdiction, a monumental shift.”⁵³ TURN concludes that either a Commission decision or approval of a petition for modification would be necessary to remove the obligations imposed on SCE by those decisions.⁵⁴

In rebuttal, SCE argues that the Legacy 851 Agreements themselves contemplate and allow for the assignment of rights and, relatedly, that the assignment under the Proposed Transaction does not qualify as a substantive amendment because the rights being assigned are neither necessary nor useful in the performance of SCE’s responsibilities as a utility.⁵⁵ Cal Advocates argues that the fact that the Legacy 851 Agreements allow for the assignment of rights is not relevant because the issue is not the assignment of any individual contract, but rather the bundling of the contracts and granting management and marketing rights to a Buyer.⁵⁶ Therefore, Cal Advocates concludes, the “Proposed Transaction fundamentally changes the nature of the original [agreements] in a manner the Commission did not contemplate when it approved the original agreements.”⁵⁷

⁵¹ Ex. CalAdv-05 at 1-9, Cal Advocates Opening Brief at 9.

⁵² D.04-02-041 (Ordering Paragraph 3) and D.04-02-042 (Ordering Paragraph 3).

⁵³ Ex. TURN-01 at 4.

⁵⁴ Ex. TURN-01 at 4.

⁵⁵ Ex. SCE-02 at I-6.

⁵⁶ Cal Advocates Opening Brief at 10.

⁵⁷ Cal Advocates Opening Brief at 10.

CforAT agrees that the Proposed Transaction is a novel type of agreement that requires additional scrutiny via Section 851 review.⁵⁸ TURN references a recent decision in which the Commission found that it may consider whether a transaction is in the public interest during the review process.⁵⁹ Relatedly, CforAT argues that GO 173, which lays out the conditions under which regulated utilities may seek Section 851 approval via advice letter, indicates the Commission is inherently concerned when transactions exceed \$5 million in value or last longer than twenty-five years.⁶⁰

SCE has sufficiently demonstrated that, under the Proposed Transaction, the assignment of rights of any individual site meets the three-part test for compliance with GO 69-C. The assignment of rights will not change the nature of the work at the sites themselves, so the Commission's earlier determination that the Legacy Agreements represent a limited use of utility property that will not interfere with utility operations still holds. Under the Proposed Transaction, SCE retains the right to revoke access to sites. Thus, the assignment of rights of any individual site does not require Section 851 review. CforAT's contention that the text of GO 173 indicates a need for Section 851 review is incorrect. GO 173 provides guidance for activities that the Commission has already determined require Section 851 review. The text excerpted by CforAT is designed to help practitioners determine whether a regulated utility can request Section 851 of a particular activity via advice letter, rather than submit a full application.⁶¹ Using the text of GO 173 as CforAT proposes would be a misapplication of the GO. These conclusions are predicated on SCE's assertion that the contracts it wishes to assign to a third-party Buyer explicitly

⁵⁸ CforAT Reply Brief at 5.

⁵⁹ Cal Advocates Opening Brief at 4.

⁶⁰ CforAT Opening Brief at 10-11.

⁶¹ GO 173 at 1. ("These regulations authorize regulated utilities to request Commission approval pursuant to Public Utilities Code Section 851 of certain transactions...by advice letter.")

authorize assignment, but SCE did not include those contracts with its application. Accordingly, this decision requires SCE to include in its Tier 3 Advice Letter copies of the contracts it seeks to assign to the third-party Buyer.

Cal Advocates, CforAT, and TURN argue the Proposed Transaction requires Section 851 review because the bundling of the contracts and granting management and marketing rights to a third party not regulated by the Commission represents a fundamental change in the nature of the contract and therefore requires close scrutiny. The intervenors, however, do not give concrete examples of the risk of assigning the Legacy Agreements to a profit-driven entity outside the Commission's regulation.⁶² Unless and until intervenors demonstrate that the assignment of management and marketing rights to a third party contains inherent, material risks, the Commission finds that the assignment of rights of the Legacy Agreements under the Proposed Transaction (1) meets the requirements of GO 69-C and is, therefore, exempt from Section 851 review and (2) does not constitute a substantive amendment to the agreements.

3.2.3. Ground Sites and “Limited Use”

TURN argues that SCE failed to consider portions of the 2019 Guidance Letter indicating that Ground Sites do not qualify for a GO 69-C exemption. TURN references the following excerpt:

Transactions related to the lease of Dark Fiber and Real Estate (land and/or buildings) fall under either § 851 or GO 173, but not GO 69-C. These transactions relate to the use of utility property for the property's intended purpose (e.g. use a building for office space), and not for the purpose of obtaining an

⁶² Intervenors separately argue that the Proposed Transaction may impact the telecommunication and broadband markets – an issue addressed separately in this decision – but that is distinct from the question of whether the bundling of rights and assignment of management and marketing rights to a third party inherently requires Section 851 review.

easement or a license for access to rights of way or attachment of equipment to utility facilities (e.g. utility poles or buildings).⁶³

TURN also notes the 2019 Guidance Letter also states that use of GO 69-C “should be limited to only the granting of revocable easements, licenses, or permits for access to rights of way or the attachment of facilities on utility property, or other limited use.”⁶⁴ TURN argues that SCE’s proposed Ground Sites will include the “installation or construction of structures, facilities, and monopolies,” activities that clearly fall outside of “obtaining an easement or a license for access to rights of way or attachment of equipment to utility facilities.”⁶⁵

In rebuttal, SCE argues that TURN misreads the 2019 Guidance Letter and that the Commission has previously determined that the proposed activities at Ground Sites constitute a limited use of utility assets, permissible by GO 69-C.

SCE argues that the portion of the 2019 Guidance Letter that requires transactions related to dark fiber and real estate to undergo review under Section 851 or GO 173 does not apply to the Proposed Transaction. SCE argues that the excerpted portion of the 2019 Guidance Letter explicitly relates only “to the use of utility property for the property’s intended purpose” but not to activities such as the “attachment of equipment to utility facilities (e.g. utility poles or buildings).”⁶⁶

SCE also argues that the Commission has previously determined that activities at Ground Sites qualify for GO 69-C. SCE references D.02-03-059, where “the Commission determined that the attachment of communications antennas and related hardware and supports, small microwave dishes, coaxial cabling, and monopolies on utility property ‘consists of minor installations that can be easily removed if necessary,’ and therefore ‘is consistent with the ‘limited uses’ for which

⁶³ 2019 Guidance Letter at 2.

⁶⁴ 2019 Guidance Letter at 2.

⁶⁵ TURN Opening Brief at 3, citing Ex. SCE-01 at I-2 and 2019 Guidance Letter at 2.

⁶⁶ 2019 Guidance Letter at pdf page 2.

GO 69-C is reserved.”⁶⁷ Similar language appears in several other decisions.⁶⁸ TURN argues those decisions are inapposite because they were approved by the Commission more than fifteen years before the 2019 Guidance Letter, implying the Commission has changed (or should change) how it interprets the GO 69-C requirements.⁶⁹

The Commission finds that the activities at Ground Sites qualify as a “limited use” under GO 69-C. As noted by SCE, the Commission has issued decisions that explicitly identify the activities at Ground Sites as consistent with GO 69-C, and the 2019 Guidance Letter cannot be read in a way that the Ground Sites would obviously no longer meet the requirements of GO 69-C. TURN’s argument that the earlier decisions are out of date would need to be supplemented by evidence that the Commission has updated its understanding of “limited use” such that activities in the Proposed Transaction would no longer qualify. Accordingly, the Commission finds that the Ground Sites qualify under GO 69-C for an exemption from Section 851 review.

3.3. Advance Approval of Buyer

SCE requests that if the Commission chooses to evaluate the Proposed Transaction under Section 851, that the Commission allow SCE to “submit the final signed agreements with the buyer via a Tier 2 Advice Letter for approval by Commission staff following a decision on this Application and to close the Proposed Transaction upon such staff approval.”⁷⁰ SCE further notes that PG&E has pursued this same parallel two-step process for marketing and regulatory approval.⁷¹

⁶⁷ Ex. SCE-02 at I-7, citing D.02-03-059 at 5.

⁶⁸ Ex. SCE-02 at I-7. SCE further identifies D.02-12-018, D.04-02-041, D.01-06- 059, and D.03-04-010 as decisions that reached similar conclusions.

⁶⁹ TURN Reply Brief at 2.

⁷⁰ SCE Application at 30.

⁷¹ SCE Application at 33.

TURN asserts the proposed advice letter process is similar to one recently denied by the Commission and should be rejected here as well. TURN points to D.24-05-004, which denied Pacific Gas and Electric's application to sell interest in its generation assets, where the Commission found it inappropriate to defer consideration of the identity of an investor.⁷² TURN argues the same principle applies here. SCE argues the Commission should reject TURN's testimony as out of scope, as the issue is scoped into Phase 2 of the instant proceeding, but also asserts that D.24-05-004 considers only one specific transaction and does not preclude the use of a Tier 2 Advice Letter as proposed by SCE.⁷³

The Commission conditions its approval of the Proposed Transaction on SCE filing and serving, and the Commission approving, a Tier 3 Advice Letter that contains the identity and qualifications of the proposed Buyer. This Advice Letter shall: describe SCE's process for selecting the proposed Buyer; explain why SCE is confident the proposed Buyer is able to execute the responsibilities it will take on as part of the Proposed Transaction; describe the policies and controls in place to ensure the proposed Buyer does not improperly exert market power; and describe the policies and controls in place to ensure the proposed Buyer provides non-discriminatory access to the appropriate parties. The Advice Letter shall also contain copies of the contracts SCE seeks to assign to the third-party Buyer.

3.4. Responsibility and Accountability for Compliance with General Order 95 and Other Applicable Regulations

As the Proposed Transaction involves a third party taking on duties currently held by SCE, the Commission wants to clarify that SCE retains ultimate responsibility and accountability for ensuring that the equipment installed pursuant to the Proposed Transaction – and the process to install that equipment – complies

⁷² Ex. TURN-01 at 17.

⁷³ Ex. SCE-02 at I-9

with GO 69-C, GO 95, and any other applicable statutes, regulations, rules, policies and decisions. While SCE may assign the rights discussed above to a third-party Buyer, SCE retains the responsibility to and is accountable for ensuring compliance with the relevant laws and rules.

3.5. Conditions and Notifications for Site Agreements

SCE's Application explains that the Legacy Agreements include certain conditions and notification requirements. The application reads that:

in authorizing SCE to enter into agreements with Carriers for access to and use of tower sites and ground sites under Section 851, the Commission has imposed certain non-uniform notification and approval requirements. These include notifications to the Office of Ratepayer Advocates (now Cal Advocates) and the Commission's Energy Division of all new Standard Agreements and extensions or terminations of Standard Agreements under the Legacy 851 Agreements.

Additionally, two of the Commission's decisions approving certain Legacy 851 Agreements require SCE to file a Section 851 application for approval of any substantive amendments to the applicable agreements... [and three] of the Commission's decisions approving certain of the other Legacy 851 Agreements require SCE to notify Energy Division and Cal Advocates of such substantive amendments in writing.⁷⁴

SCE proceeds to argue that, essentially, because the entire Proposed Transaction meets the requirements of GO 69-C (which does not impose any reporting obligations), the Commission should remove the Legacy Agreements' ongoing notification requirements and any requirements to file a Section 851 application for substantive amendments of the agreements.⁷⁵ SCE further argues that removing these requirements will reduce the regulatory burden for SCE and the Buyer, potentially increasing the price the Buyer is willingness to pay.⁷⁶ TURN

⁷⁴ SCE Application at 27.

⁷⁵ SCE Application at 27-30.

⁷⁶ Ex. SCE-02 at I-10.

disagrees with SCE and asks the Commission to maintain the conditions and notifications because the Proposed Transaction requires Section 851 review.⁷⁷

SCE's assertion that the Proposed Transaction and the underlying activities are consistent with GO 69-C is not sufficient justification to end the condition and notification requirements. SCE fails to address why the Commission imposed those conditions and notification requirements in the first place. SCE correctly notes that some of the decisions authorizing the Legacy Agreements acknowledged that the site activities met GO 69-C requirements; nonetheless, the Commission chose to impose the aforementioned requirements. For the Commission to consider removing those requirements, SCE should address the original justification for their inclusion and explain why the facts have changed.

Cal Advocates offers further recommendations for the Legacy Agreements that require SCE to obtain Commission approval of any "substantive amendments" to the contracts.⁷⁸ Cal Advocates argues that the terms "substantive amendment" and "material impact" have important implications for the execution of those agreements but are not well-defined. Cal Advocates proposes definitions for each of those terms.⁷⁹ SCE asserts that adopting those definitions would effectively eliminate the authority granted by GO 69-C and "virtually require SCE to file an application for Section 851 approval for SCE or the Buyer to take nearly any action with a Carrier after the Proposed Transaction."⁸⁰

The Commission does not order SCE to adopt Cal Advocates' proposed definitions. SCE is correct that to adopt these definitions effectively nullifies the

⁷⁷ Ex. TURN-01 at 16.

⁷⁸ Ex. CalAdv-05 at 1-9.

⁷⁹ Ex. CalAdv-05 at 1-11.

⁸⁰ Ex. SCE-02 at I-12.

Section 851 exemption granted by GO 69-C, and Cal Advocates has not presented evidence to justify such action.

Cal Advocates also expresses concern that the agreements included in the Proposed Transaction are written such that if there is a conflict between a template agreement (between the Buyer and a Carrier) and the master agreement (between the Buyer and SCE), the template agreement would govern and the master agreement would be subordinate. This is problematic, Cal Advocates argues, because the Commission is reviewing the master agreement but would have no visibility of or authority over the template agreements. If a template agreement contained provisions that put SCE's safe and reliable operations at risk, its terms would govern and the Commission would not even be aware of the issue.⁸¹ SCE does not agree that there is risk of a template agreement overriding the master agreement, but nonetheless SCE offers to revise the language in its template agreements to address Cal Advocates' concern.⁸² Cal Advocates finds that SCE's proposed changes address their concerns.⁸³

This decision directs SCE to adopt its proposed changes to its template agreement. SCE's proposed changes appropriately resolve any conflicts that arise between the master agreement and a template agreement.

Cal Advocates argues that the Commission should require SCE to submit an annual report to "ensure Commission is aware of any new agreements, ongoing agreements, as well as any service disruptions customers may experience."⁸⁴ The general categories of reporting would include:

- Copies of Buyer-Carrier agreements, whether existing, terminated, renewed, or newly negotiated.

⁸¹ Ex. CalAdv-05 at 1-12 to 1-13.

⁸² Ex. SCE-02 at I-12 to I-13.

⁸³ Cal Advocates Opening Brief at 21.

⁸⁴ Ex. CalAdv-05 at 1-13.

- Details on SCE assets affected by those agreements.
- Rents paid by Carriers to the Buyer, and how that rent is divided between the Buyer and SCE.
- List and narrative description of all service interruptions and defaults due to contract violations related to utility safety standards and site use and access, among others.⁸⁵

SCE opposes these proposed reporting requirements, asserting that Cal Advocates provides “no rationale for this expansion and modification of long-standing practices under GO 69-C other than to ‘maintain visibility’ to agreements with Carriers.”⁸⁶

This decision has found that the Proposed Transaction meets the requirements of GO 69-C, and SCE correctly notes that GO 69-C imposes no reporting requirements. Cal Advocates’ rationale for expanded reporting relies on the argument that the Proposed Transaction is a novel transaction that merits Section 851 review. The Commission does not agree with Cal Advocates and does not adopt their proposed reporting requirements. However, as noted in Section 3.1.1, SCE does not have a process to collect and report evidence of violations of GO 69-C. When a regulated utility chooses to forgo a Section 851 application under the auspices of GO 69-C, it should take reasonable steps to monitor for and report on any violations of GO 69-C. Within thirty days of the execution of the Proposed Transaction, SCE shall file a Tier 2 advice letter explaining how SCE (and, where necessary, other parties such as the Buyer) will monitor for and report on any violations of GO 69-C (particularly the requirement not to negatively impact utility operations) caused by its site-leasing activities. If SCE has not executed the Proposed Transaction within nine months of the issuance of this decision, SCE shall file a Tier 2 advice letter explaining how SCE will monitor and report on any

⁸⁵ Ex. CalAdv-05 at 1-13.

⁸⁶ Ex. SCE-02 at I-11 to I-12.

violations of GO 69-C caused by the Legacy Agreements and any future site-leasing agreements.

3.6. Ratepayer Benefit

SCE asserts the Proposed Transaction will benefit ratepayers and shareholders because it is selling the right to future revenue streams in exchange for an up-front, lump-sum payment, “accelerating” the payment stream and providing positive net present value to all stakeholders.⁸⁷ SCE expects that a Buyer will place a higher value on the revenue streams from the Proposed Transaction than SCE does because the Buyer will likely have expertise in developing and managing agreements with Carriers and may have a lower discount rate than SCE. These factors would lead the Buyer to raise their bid for the Proposed Transaction.⁸⁸ SCE further notes that the Buyer may be able to source and execute more agreements than SCE could, which drives additional revenue for SCE.⁸⁹ Finally, SCE notes that “all revenue, whether the lump-sum payment or the share of future revenue from new site agreements will be shared under the GRSM. Thus, shareholder and customer interests are aligned with respect to ensuring that the overall Proposed Transaction is net present value positive.”⁹⁰

TURN obtained SCE’s financial model designed to calculate the net present value of the Proposed Transaction. As originally configured by SCE, the model indicates the Proposed Transaction has a positive net present value for SCE’s ratepayers and shareholders. TURN does not contest the functionality of the model (i.e., TURN does not assert the model uses inaccurate formulas or contains

⁸⁷ Ex. SCE-01 at I-9.

⁸⁸ Ex. SCE-01 at I-9.

⁸⁹ Ex. SCE-01 at I-9 to I-10.

⁹⁰ SCE Opening Brief at 38.

erroneous calculations) but contends that SCE improperly accounts for how the revenue is treated under the GRSM.⁹¹

SCE's model calculates the net present value of the transaction by comparing the present value of the cash flows under the Proposed Transaction with the present value of the cash flows under the status quo. If the present value of the cash flows is higher under the Proposed Transaction than under the status quo, the Proposed Transaction is of net benefit. This analysis is conducted separately from the perspective of shareholders and ratepayers.

SCE and TURN disagree over how to account for the fact that, for any given year, the first \$16.67 million of NTP&S revenue flows directly to ratepayers, and all subsequent revenue is split between shareholders and ratepayers.

Because of this disagreement, SCE and TURN calculate the value of the status quo differently. SCE's calculation assumes that under the status quo, all the revenues from the Tower and Ground sites are split between customers and shareholders as active and passive revenue, respectively.⁹² TURN's calculation assumes that \$16.67 million of revenue from those sites go directly to ratepayers (i.e., the revenue is treated like the "first" revenue under GRSM) and any remaining revenue is split as active and passive revenue.⁹³ Accordingly, TURN's estimate of the value of the status quo for ratepayers is much higher than SCE's estimate. It follows that TURN's estimates of the net present value of the transaction to ratepayers is much lower than SCE's estimate.⁹⁴ TURN expects that under the Proposed Transaction, SCE's shareholders will almost always see enormous benefits, while SCE's ratepayers may face losses or, at best, modest benefits.

⁹¹ Ex. TURN-01 at 12-14.

⁹² Ex. TURN-01 at 13.

⁹³ Ex. TURN-01 at 13.

⁹⁴ Ex. TURN-01 at 13.

SCE argues that TURN's methodology only makes sense if, after the Proposed Transaction, all of SCE's NTP&S revenue were to drop to zero. So long as SCE's NTP&S revenues continue to exceed the \$16.67 million threshold, SCE argues, the revenue from the Tower and Ground sites will be split between shareholders and ratepayers.⁹⁵ SCE notes that for the last ten years, NTP&S revenues have consistently exceeded \$70 million; in 2022, NTP&S revenues were \$89 million.⁹⁶ SCE asserts that when its methodology is used, the net present value demonstrates that shareholders and customers both benefit. Further, TURN's calculation of shareholder return is inaccurate both because of the accounting issue for the first \$16.67 million in revenue, as well as the fact that TURN does not account for the expenses SCE shareholders incurred in originating and executing the Proposed Transaction.⁹⁷

TURN defends its calculation, asserting that "the status quo should be 'blind' to the Proposed Transaction."⁹⁸ TURN argues that when SCE determines how the revenue from the Proposed Transaction is split between shareholders and ratepayers, SCE has "arbitrarily" decided that the revenue should not be treated as part of the \$16.67 million that flows directly to ratepayers, but instead as part of the additional revenue that is shared between ratepayers and shareholders according to whether it is deemed active or passive revenue.⁹⁹

Separately but relatedly, TURN finds that the Proposed Transaction's plan to split future site revenue between the Buyer and SCE unduly benefits shareholders at ratepayers' expense.¹⁰⁰

⁹⁵ Ex. SCE-02 at II-2 to II-3.

⁹⁶ Ex. SCE-01 at A-1.

⁹⁷ Ex. SCE-02 at II-5.

⁹⁸ TURN Reply Brief at 3.

⁹⁹ TURN Reply Brief at 3.

¹⁰⁰ TURN Opening Brief at 7.

This decision finds SCE's financial calculations to be sound. SCE convincingly demonstrates that NTP&S revenue reliably exceeded the \$16.67 threshold by a considerable margin for the last ten years and is likely to continue to do so in the future. Therefore, SCE's decision to assume ratepayers will continue to receive the \$16.67 million is reasonable and not arbitrary. Accordingly, the financial model should treat revenue from the Tower and Ground sites as split between shareholders and ratepayers when evaluating the value of the status quo as well as the value of the Proposed Transaction. Regarding TURN's assertion that the Proposed Transaction's plan to split future site revenue between the Buyer and SCE benefits shareholders at ratepayers' expense, while TURN is correct that the Proposed Transaction will reduce future NTP&S revenue streams, it will not benefit shareholders at ratepayers' expense. Instead, both shareholders and ratepayers will see reduced revenue in later years in exchange for the lump-sum payment provided by the Buyer upon execution of the transaction. This decision finds the Proposed Transaction is expected to benefit ratepayers.

As intervenors have asserted and SCE has recognized,¹⁰¹ customers should receive a share of the revenue from the Proposed Transaction without assuming any risk. SCE argues it is unlikely that future NTP&S revenues drop beneath the \$16.67 million threshold, but if this were to occur, the lost revenue would not be split between SCE's ratepayers and shareholders but instead borne entirely by SCE's ratepayers.¹⁰² This would result in a direct transfer of money from SCE's ratepayers to shareholders. SCE's shareholders should protect SCE's ratepayers from this risk. Accordingly, every five years after the execution of the Proposed Transaction, SCE shall review its NTP&S revenues from the preceding five-year period. If, for any year within that period, SCE's NTP&S revenues fell below \$16.67 million, SCE shall

¹⁰¹ Ex. SCE-02 at III-1, citing to D.99-09-070, p. 17 and n.10.

¹⁰² Ex. TURN-01 at 12-14.

calculate how much revenue SCE ratepayers lost due to the Proposed Transaction and file a Tier 2 advice letter explaining its calculation and proposing a plan to return the present value of that revenue to ratepayers. If revenues stayed above the \$16.67 million threshold for the entire period, SCE shall file a Tier 1 advice letter affirming that it performed the check and no action was required. In either case, SCE shall file the advice letter within sixty days of the conclusion of the five-year period. SCE may file this advice letter under seal. This practice shall continue for thirty years following the execution of the Proposed Transaction or while any of the Legacy Agreements still earn revenue, whichever is longer.¹⁰³

During the same period, if the Commission considers whether to alter or replace the GRSM, SCE shall ensure the Commission is aware of the Proposed Transaction and SCE shall estimate how any proposed change to the GRSM affects the net present value of this transaction for SCE ratepayers.

Finally, SCE repeatedly emphasizes that, in the context of this transaction, the financial interests of shareholders and ratepayers are fully aligned. Nonetheless, SCE may execute the Proposed Transaction only if SCE's calculations, conducted in good faith, find that the Proposed Transaction will provide a net benefit to SCE's ratepayers.

3.7. Revenue Sharing Between Ratepayers and Shareholders

SCE proposes to allocate revenue from the Proposed Transaction between shareholders and ratepayers according to the GRSM and Commission precedent. SCE elaborates that the GRSM revenue allocation depends on whether the NTP&S revenues require "active" or "passive" shareholder involvement: "active" revenues

¹⁰³ Site-leasing agreements can last for decades, with the opportunity for renewal. This thirty-year period is designed to last for the approximate potential duration of agreements signed shortly after the execution of the Proposed Transaction or while the Legacy Agreements still earn revenue. Furthermore, from a net present value perspective, the value of revenue in the next thirty years is higher than revenue in revenue after that.

are split 90 percent / 10 percent between shareholders and ratepayers, while “passive” revenues are split 70 percent / 30 percent between shareholders and ratepayers. SCE cites past Commission decisions concluding that revenue from Tower Sites as well as revenue from services provided to Carriers count as “active” revenue, while revenue from Ground Sites is “passive” revenue.¹⁰⁴

SCE explains that the Proposed Transaction will result in three revenue sources for SCE: (1) a lump-sum payment from the Buyer upon execution of the Proposed Transaction, (2) a portion of the ongoing revenue that site agreements between the Buyer and Carriers, and (3) payments from the Buyer for services at the sites.¹⁰⁵ Revenue allocation for the latter two categories is straightforward: SCE proposes to determine whether revenue from site agreements is active or passive based on whether the revenue comes from a tower or ground site, respectively. Similarly, SCE proposes to continue to treat payments for site services as active revenue.¹⁰⁶ Dividing the revenue from the lump-sum payment is more complicated, as the Buyer is paying for the rights to future revenue streams from a mix of Tower and Ground Sites, including the existing sites associated with the Legacy Agreements and future agreements negotiated by the Buyer. SCE proposes to determine the portion of the purchase price that is allocable for each category, then split each portion of the lump-sum revenue between ratepayers and shareholders according to the applicable GRSM ratio. In other words, the portion of the purchase price that pays for the revenue from Tower Sites will be split 90 percent / 10 percent between shareholders and ratepayers, and the remainder of the purchase price will be split 70 percent / 30 percent between shareholders and ratepayers.¹⁰⁷

¹⁰⁴ SCE Application at 20, Ex. SCE-01 at V-5 to V-6.

¹⁰⁵ Ex. SCE-01 at V-4.

¹⁰⁶ Ex. SCE-01 at V-7 to V-8.

¹⁰⁷ Ex. SCE-01 at V-6 to V-7.

SCE states that the calculation for allocating the purchase price between Tower and Ground Sites will depend on the terms of the agreement between the Buyer and SCE.¹⁰⁸

Cal Advocates and TURN argue the use of a third-party Buyer as an intermediary between the Carriers and SCE eliminates shareholder risk and costs associated with site leasing, rendering GRSM inapplicable.¹⁰⁹ Cal Advocates contends that the Proposed Transaction would remove all shareholder responsibility for incremental costs associated with sourcing and maintaining the site access agreements, and therefore the revenues should be split equally between shareholders and ratepayers.¹¹⁰ At minimum, all the revenue should be treated as “passive” revenue under the GRSM, and therefore split 70/30 between shareholders and ratepayers.¹¹¹ TURN agrees and highlights that the Commission adopted the GRSM to compensate shareholders for incurring risks or costs. TURN further argues the Proposed Transaction is a financial transaction, not an offering of NTP&S, and therefore the GRSM is not the appropriate revenue-sharing protocol.¹¹² TURN proposes a 25 percent shareholder / 75 percent ratepayer revenue split, pointing to the Sempra Utilities 2012 General Rate Case, an Intellectual Property sale by San Diego Gas and Electric (SDG&E), and a Proposed Decision on a 2017 SCE Application.¹¹³

¹⁰⁸ Ex. SCE-01 at V-7.

¹⁰⁹ Ex. CalAdv-03 at 6-8.

¹¹⁰ Cal Advocates Reply Brief at 12 to 13.

¹¹¹ Ex. CalAdv-03 at 9.

¹¹² TURN Opening Brief at 10.

¹¹³ Ex. TURN-01 at 15, referencing D.13-05-010 (Sempra Utilities' 2012 GRC) at 600 and 1023-1024, A.17-03-019 (SDG&E Application) at 6, and a Proposed Decision in A.17-02-001 dated January 9, 2018, at 8.

SCE disagrees with the premise of Cal Advocates' and TURN's argument, asserting that even after the Proposed Transaction, SCE will continue to bear the cost and risk of the NTP&S activities.¹¹⁴ SCE explains that under the Proposed Transaction, "SCE will continue to review and evaluate site requests, continue to coordinate and provide services and construction, and ensure that there is no interference with utility operations. In terms of day-to-day operations, nothing will fundamentally change. The only difference is SCE will contract through a single customer (the [Buyer]) rather than multiple Carriers."¹¹⁵ SCE adds that while its marketing expenses will drop, SCE's shareholders have and will continue to pay for other incremental costs such as legal fees.¹¹⁶ TURN responds that past costs incurred by shareholders in sourcing this deal are irrelevant and should not be included in calculations.¹¹⁷

SCE further argues that the Cal Advocates and TURN use flawed logic that, if adopted, would support unreasonable conclusions. According to SCE, the intervenors are arguing that once a transaction is complete and the major costs and risk hurdles have been overcome (i.e., the costs and risks of executing the transaction), the future revenue streams from that contract are now "riskless" and therefore the GRSM should not apply.¹¹⁸ This would imply that every time SCE enters a site agreement with a Carrier, the revenue sharing agreement should be revisited, which would be an absurd outcome.

SCE disagrees with TURN's assertion that the Proposed Transaction will enable SCE's shareholders to unduly benefit from cost-plus billing. SCE argues that it

¹¹⁴ Ex. SCE-02 at III-4.

¹¹⁵ Ex. SCE-02 at III-4.

¹¹⁶ Ex. SCE-02 at III-4.

¹¹⁷ TURN Opening Brief at 9.

¹¹⁸ Ex. SCE-02 at III-5.

currently implements cost-plus billing (which the Commission has previously designated “active revenue” under the GRSM and is therefore split between shareholders and ratepayers) and will continue to do so, in the same manner, should the Proposed Transaction go through.¹¹⁹

Regarding TURN’s proposal for 25 percent shareholder / 75 percent ratepayer revenue split, SCE argues that the decisions TURN referenced in support of its proposal do not apply here. Those decisions involve “two narrow activities [undertaken by SDG&E] and make no mention of any amounts invested by shareholders to obtain those revenues, unlike [the Proposed Transaction], where SCE shareholders have invested substantial sums to build the site attachment business. To the contrary, the Commission’s rationale for adopting the SDG&E sharing percentage was to “reward ratepayers for providing all of the funds for the venture.”¹²⁰ Furthermore, the SDG&E decisions concerned entirely new opportunities and did not involve an existing business earning revenue that already split revenue between shareholders and customers according to an earlier agreement.¹²¹

The Commission finds it appropriate to apply the GRSM to the Proposed Transaction. Cal Advocates and TURN contend that the Proposed Transaction substantially reduces the risks and costs borne by SCE’s shareholders, and thus merits an adjustment to the revenue allocation methodology. On balance, SCE’s arguments are more compelling. First, SCE did bear the risks and costs associated with originating the Proposed Transaction; if the Commission were to deny this request, those costs would be sunk and unrecoverable. Second, SCE will continue to provide (and charge for) supporting services such as engineering and equipment

¹¹⁹ Ex. SCE-02 at III-5.

¹²⁰ Ex. SCE-02 at III-6.

¹²¹ Ex. SCE-02 at III-6.

installation, which are activities that the Commission referenced as justification to classify tower sites as “active” revenue sources for the sake of GRSM. More broadly, SCE’s fundamental NTP&S business (selling access to real estate and supporting services) is not changed by the Proposed Transaction. Under the Proposed Transaction, SCE will receive an upfront, lump-sum payment as well as recurring revenue streams for the same type of activities it has and would continue to undertake if the Proposed Transaction were to fall through. Accordingly, it is consistent to apply the GRSM to the revenues from the proposed transaction.

The Proposed Transaction will result in three revenue streams, and SCE proposes revenue splits for each of them. SCE proposes to continue to treat payments for services and revenue from Tower Sites as “active revenue” and treat revenue from Ground Sites as “passive revenue.” These are commonsense proposals, and the Commission directs SCE to implement them. SCE’s proposal for dividing the revenue from the lump-sum payment, however, is consequential and contains little detail.

SCE’s core principle for allocating the lump-sum payment is that the revenue should be divided based on the portion of the purchase price allocable to each category (i.e., the portion paying for Tower Site revenue should be treated as “active revenue” the portion paying for Ground Site revenue should be treated as “passive” revenue). The challenge with this approach is two-fold: First, SCE has the incentive to encourage the Buyer to attribute as much of the purchase price to Tower Sites/active revenue as possible, and the Buyer has the more subtle incentive to do the same, to make the transaction more attractive to SCE. This would result in a wealth transfer from SCE’s ratepayers to its shareholders.¹²² Second, when possible,

¹²² It is not certain that whatever allocation is used to divide the lump-sum payment will be representative of the actual mix of Tower and Ground Sites developed during the course of the Proposed Transaction. If, in an extreme hypothetical, the lump-sum deal were premised on one hundred percent of future revenue coming from Tower Sites but the sites that were ultimately

Footnote continued on next page.

GRSM revenue should be divided according to each category's actual, realized contribution to the revenue streams. This presents a challenge in that the actual breakout is forecasted and uncertain and will change over time.¹²³ Accordingly, this decision requires SCE to true-up the allocation of the lump-sum at five-year intervals for the thirty years following the execution of the Proposed Transaction or while any of the Legacy Agreements still earn revenue, whichever is longer.¹²⁴ For the initial lump-sum, SCE shall allocate the revenue between ratepayers and shareholders using the methodology proposed in their application. The true-up mechanism will work as follows: Every five years following the execution of the Proposed Transaction, SCE shall calculate the present value of all the revenue earned by the Buyer pursuant to the Proposed Transaction (not just the revenue from the most recent five-year period) and break that revenue out between active and passive revenue. SCE will then calculate how that revenue would be divided between customers and shareholders based on the GRSM, then compare that allocation to the present value of the money customers and shareholders received during the initial allocation or at the most recent re-balancing, whichever occurred

developed were predominantly Ground Sites, the revenue allocation for the lump-sum payment (primarily designated as "active") would not represent the actual reality of the future revenue (primarily designated as "passive"), and the allocation would have improperly favored shareholders over ratepayers. The reverse could also occur.

¹²³ An illustrative example: If at the time of the Proposed Transaction the revenue from the Legacy Sites were split evenly between tower and ground sites, there would be an even balance of active and passive revenue. Then, if the Buyer were to execute new site agreements that were exclusively at tower sites, the balance would shift toward active revenue. Next, the Buyer could pursue exclusively ground sites, shifting the balance back toward an even split. Accordingly, the mix of tower and ground sites may shift from year to year and is impossible to forecast exactly. As the Buyer made the lump-sum payment for the rights to the revenue for decades, there is no single cut-off point after which future revenue definitively no longer contributed to the Buyer's payment.

¹²⁴ This duration of this "true-up" period matches the duration of the "ratepayer protection" period because the underlying rationale is the same and synchronizing the filings reduces compliance complexity.

most recently.¹²⁵ If the totals are not equal, SCE shall file a Tier 2 advice letter within sixty days of the conclusion of each five-year period with details explaining their calculation and a proposal to return money to customers or shareholders, as appropriate. SCE may file this advice letter under seal.

Given that this decision finds the GRSM should apply to the Proposed Transaction, there is no need to determine whether this proceeding is an appropriate forum to alter the GRSM. Thus, Issue 6 from the Scoping Memo is moot.

Finally, due to the complexity and age of the existing GRSM, this decision encourages Commission staff to evaluate whether the Commission should consider modifications to the GRSM, including taking broader action to establish consistent revenue-sharing mechanisms among the large investor owned utilities.

3.8. Returning Revenue to Customers

SCE proposes to return the ratepayers' share of the revenue from the Proposed Transaction annually, based on the actual revenues received (i.e., not on a forecast basis).¹²⁶ SCE will track ratepayers' share in the Gross Revenue Sharing Tracking Account; every year, SCE will transfer the Commission-jurisdictional portion of the balance to Electric Deferred Refund Account (EDRA), and the Federal Electric Regulatory Commission (FERC)-jurisdictional portion to FERC customers

¹²⁵ For example, assume the lump-sum payment was for \$10 million, and the initial allocation of revenue was fifty percent active revenue and fifty percent passive revenue. This would average out to an 80 percent / 20 percent split between shareholders and ratepayers, resulting in payments of \$8 million and \$2 million. If, at the conclusion of the first five-year period, the Buyer had executed enough site agreements that the present value of the revenue the Buyer earned was three-quarters active revenue and one-quarter passive revenue, the revenue allocation between shareholders and ratepayers would be 85 percent and 15 percent, respectively. ($3/4 * 90\% + 1/4 * 70\% = 85\%$ for shareholders; $3/4 * 10\% + 1/4 * 30\% = 15\%$ for ratepayers). Accordingly, had the lump-sum been distributed using that allocation, shareholders would have received \$0.5 million more, and customers would have received \$0.5 million less. In this case, SCE would file an advice letter seeking to transfer the present value of that revenue between shareholders and customers.

¹²⁶ Ex. SCE-01 at V-1 to V-2.

via established formula.¹²⁷ SCE returns the EDRA balance to customers every year on January 31.

Should the Proposed Transaction go through, SCE proposes to give customers their share of the lump-sum payment at the next available rate change, rather than wait until January 31 of the following year, when any EDRA balance is scheduled to go into rates. SCE proposes to file a Tier 2 advice letter to return the EDRA balance via a reduction in rates, rather than a bill credit, asserting that it would be “costly and slow” to provide the bill credit.¹²⁸ No intervenors commented on this portion of SCE’s proposal.

The Commission finds SCE’s proposal to return revenue to customers to be reasonable and authorizes SCE to go forward as proposed.

3.9. Review of General Order 69-C

As noted above, PG&E executed a transaction several years ago that was similar in nature to SCE’s Proposed Transaction. The different approaches SCE and PG&E took to similar transactions suggest there is some uncertainty and ambiguity in determining whether a given activity meets the requirements of GO 69-C. Accordingly, the Commission may consider outside of this proceeding whether there is opportunity to review and update changes to GO 69-C, and if so, the best manner to proceed. As GO 69-C has not been updated in nearly 30 years, the Commission will direct Commission staff to evaluate the opportunity to review and update GO 69-C, and if so, recommend the best manner to proceed.

4. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that

¹²⁷ Ex. SCE-01 at V-3 to V-4.

¹²⁸ Ex. SCE-01 at V-4.

relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. No member of the public submitted comments.

5. Conclusion

The Commission conditions its approval of the Proposed Transaction on SCE filing and serving, and the Commission approving, a Tier 3 Advice Letter containing the identity and qualifications of the proposed Buyer with which SCE intends to contract. If the Commission approves the Tier 3 Advice Letter, then SCE will be authorized to execute the Proposed Transaction subject to the conditions and requirements described above. The Commission will consider whether to open a Rulemaking to review and make changes to GO 69-C.

6. Procedural Matters

6.1. Pending Motions

This decision addresses the following motions:

- On July 23, 2024, TURN filed a *Motion Of The Utility Reform Network For Leave To File The Confidential Version Of Its Opening Brief Under Seal*.
- On July 23, 2024, Cal Advocates filed a *Motion Of The Public Advocates Office For Leave To File Its Confidential Opening Brief Under Seal*.
- On July 23, 2024, SCE filed *Southern California Edison Company's (U 338-E) Motion For Leave To File The Confidential Version Of Its Opening Brief Under Seal*.
- On August 6, 2024, TURN filed a *Motion Of The Utility Reform Network For Leave To File The Confidential Version Of Its Reply Brief Under Seal*.
- On August 6, 2024, Cal Advocates filed a *Motion Of The Public Advocates Office For Leave To File Its Confidential Reply Brief Under Seal*.
- On August 6, 2024, SCE filed *Southern California Edison Company's (U 338-E) Motion For Leave To File The Confidential Version Of Its Reply Brief Under Seal*.

- On August 6, 2024, SCE filed on behalf of itself, Cal Advocates, CforAT, and TURN, a *Joint Motion Of Southern California Edison Company (U 338-E), Public Advocates Office, The Utility Reform Network, And Center For Accessible Technology To Seal The Evidentiary Record*.

Each of the motions above is granted. All motions not ruled on are deemed denied.

This decision affirms all rulings made by the assigned Administrative Law Judge and assigned Commissioner in this proceeding.

6.2. Identification and Receipt of Exhibits into the Evidentiary Record

Pursuant to the approval of the *Joint Motion Of Southern California Edison Company (U 338-E), Public Advocates Office, The Utility Reform Network, And Center For Accessible Technology To Seal The Evidentiary Record*, this decision hereby marks, identifies, and receives into evidence as of October 31, 2025 the following documents:

Exhibit	Witness	Description
SCE-01	Zachary Buhler Sergio Deana Connor Flanigan Erin Pulgar Brian Ryan Rafael J. Schnitzler	Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851
SCE-01 E	Connor Flanigan	Errata to Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851

SCE-01 E2	Zachary Buhler	Second Errata to Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851
SCE-02	Connor Flanigan Brian Ryan Sergio Deana Zachary Buhler	Rebuttal Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851
SCE-02 E	Zachary Buhler	Errata to Rebuttal Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851 Confidential Version
SCE-02 C	Connor Flanigan Brian Ryan Sergio Deana Zachary Buhler	Rebuttal Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851 Confidential Version
SCE-02 C E	Zachary Buhler	Errata to Rebuttal Testimony in Support of Application of Southern California Edison Company (U 338-E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCE's Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851 Confidential Version
SCE-03	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-001
SCE-03 C	Various	SCE's Various Responses Response to Data Request Cal Advocates-SCE-001 Confidential

SCE-04	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-002
SCE-04 C	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-002 Confidential
SCE-05	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-003
SCE-05 C	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-003 Confidential
SCE-06	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-004
SCE-06 C	Various	SCE's Various Responses to Data Request Cal Advocates-SCE-004 Confidential
SCE-07	Various	SCE's Various Responses to Data Request CforAT-SCE-001
SCE-07 C	Various	SCE's Various Responses to Data Request CforAT-SCE-001 Confidential
SCE-08	Various	SCE's Response to Data Request TURN-SCE-001 Q.03 Supplemental
SCE-08 C	Various	SCE's Response to Data Request TURN-SCE-001 Q.03 Supplemental Confidential
Cal Adv-01	David Espinoza	Opening Testimony on Southern California Edison Company's Request to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and Impact on Affordability and Reliability of Telecommunications Services
Cal Adv-01 C	David Espinoza	Opening Testimony on Southern California Edison Company's Request to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and Impact on Affordability and Reliability of Telecommunications Services
Cal Adv-02	David Espinoza	APPENDIX B Exhibits to the Opening Testimony on Application of Southern California Edison Company (U338E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCEs Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851.
Cal Adv-02 C	David Espinoza	APPENDIX B Exhibits to the Opening Testimony on Application of Southern California Edison Company (U338E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCEs Assignment of Existing Agreements or, in the Alternative, Approval of the

		Same Pursuant to Public Utilities Code Section 851 Confidential
Cal Adv-03	Stacey Hunter	Opening Testimony on Application of Southern California Edison Company for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCEs Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851
Cal Adv-04	Stacey Hunter	Exhibits to the Opening Testimony on Application of Southern California Edison Company (U338E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCEs Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851
Cal Adv-05	Charlotte Perrault	Opening Testimony on Southern California Edison Company's Legacy Agreements
Cal Adv-05 C	Charlotte Perrault	Opening Testimony on Southern California Edison Company's Legacy Agreements
Cal Adv-06	Charlotte Perrault	APPENDIX B Exhibits to the Opening Testimony on Southern California Edison Company's Legacy Agreements
Cal Adv-06 C	Charlotte Perrault	APPENDIX B Exhibits to the Opening Testimony on Southern California Edison Company's Legacy Agreements
CforAT-01	Paul Goodman	Intervenor Testimony of Paul Goodman on behlaf of Center for Accessible Technology
TURN-01 Redacted	David Cheng	Prepared Testimony of David Cheng Application Of Southern California Edison Company to Proceed With a Site Marketing and Access Agreement and Assignment Of Existing Agreements
TURN-01 Attachments	David Cheng	Prepared Testimony of David Cheng Addressing Application of Southern California Edison Company to Proceed With a Site Marketing and Access Agreement and Assignment of Existing Agreements
TURN-01C	David Cheng	TURN Testimony Cheng_Final_Confidential

TURN-01C Attachments	David Cheng	TURN Testimony Cheng Confidential Attachments
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7. Comments on Proposed Decision

The proposed decision of ALJ Andrew Dugowson in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, January 2, 2026, by the Center for Accessible Technology (CfAT), SCE, and TURN. and rReply comments were filed on January 7, 2026, by CfAT, SCE, and TURN.

CfAT suggested small revisions to the PD to ensure that the PD could not be read to contradict certain elements of Section 851 or Section 854. Specifically, applications submitted to Section 851 or Section 854 require the applicant to demonstrate that the application would result in a net benefit to the public interest, and CfAT offered that certain language in the PD could be read to imply the opposite (i.e., that intervenors opposed to the application bear the burden of proving the application is not in the public interest). CfAT's recommendations are reasonable and have been adopted.

SCE expresses concern that the PD implies that if the Commission ever chooses to modify or replace the existing GRSM, the changes to the GRSM would apply to the Proposed Transaction. SCE points out that the existing GRSM stipulates that allocations between customers and shareholders should apply for the life of a product or service offering, including relevant contracts. SCE also identified typographical errors identifying to certain services as "passive" under the GRSM when they should be marked as "active." SCE's recommendations are largely adopted.

SCE argued that the Commission should condition approval of the transaction on a Tier 2, rather than Tier 3, advice letter. This recommendation is not adopted.

TURN argues that the PD incorrectly states that the Proposed Transaction will benefit shareholders at ratepayers' expense. Specifically, TURN argues that allowing the third-party Buyer to share in future revenue streams harms ratepayers by, in effect, deducting expenses from revenue streams before splitting those revenue streams between customers and shareholders – a practice currently prohibited by the GRSM. The record, however, does not support TURN's claim; instead, the record indicates that the third-party Buyer is purchasing the right to a portion of future revenue streams through its lump-sum payment. TURN's recommendation is not adopted.

8. Assignment of Proceeding

Karen Douglas is the assigned Commissioner and Andrew Dugowson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Section 851, among other things, requires Commission-regulated utilities to file an application and obtain Commission approval before engaging in real estate transactions valued at more than \$5 million.
2. GO 69-C sets conditions under which utilities are exempt from the requirements of Section 851.
3. The Commission has developed a three-part test to determine whether an activity complies with GO 69-C. Any interest granted must: not interfere with the utility's operations, practices, and services to its customers; be revocable either upon the order of the Commission or upon the utility's determination that revocation is desirable or necessary to serve its patrons or consumers (i.e., at will); and must be for a "limited use" of utility property.
4. For more than two decades, SCE has earned NTP&S revenue by executing contracts with communications companies to install communications equipment on SCE property that would otherwise go unused (Site Agreements). While SCE entered

into some of these agreements pursuant to GO 69-C, for others, it sought and obtained Commission approval pursuant to Section 851.

5. The Commission imposed certain conditions and reporting requirements on SCE for some of the agreements approved pursuant to Section 851.

6. SCE divides its NTP&S revenue between its customers and shareholders according to the GRSM. Each year, the first \$16.67 million of NTP&S revenue goes directly to customers. Beyond that threshold, “active” revenue is shared 90 percent / 10 percent between shareholders and customers, while “passive” revenue is shared 70 percent / 30 percent between shareholders and customers.

7. The evidence in the record does not demonstrate that SCE’s activities associated with existing Site Agreements have negatively impacted utility operations or that future activities associated with the Proposed Transaction are likely to do so.

8. The assignment of rights in the Proposed Transaction meets the three-part test to determine whether an activity complies with GO 69-C (it will not negatively impact SCE’s core utility operations, the rights are revocable under appropriate conditions, and it qualifies as a limited use of utility assets).

9. The record of this proceeding indicates that the assignment of rights in the Proposed Transaction meets the requirements of GO 69-C.

10. The Commission, in decisions authorizing SCE to enter into a subset of its existing Site Agreements, required SCE to obtain Commission approval of “substantive amendments” to the documents.

11. SCE asserts those agreements contemplate and allow for the assignment of rights but did not provide copies of those contracts in this proceeding.

12. The evidence in the record does not demonstrate that assigning a third party the rights to originate (i.e., market), execute, manage, and earn revenue from Site Agreements represents a fundamental change in the nature of the work conducted pursuant to the Site Agreements.

13. The record of this proceeding indicates that the assignment of rights in the Proposed Transaction does not constitute a substantive amendment to the existing agreements.

14. The Commission has previously found that SCE's activities undertaken to implement its existing Site Agreements meet the definition of "limited use" under GO 69-C.

15. The activities necessary for SCE to implement the Proposed Transaction are functionally identical to activities the Commission previously designated a "limited use" under GO 69-C.

16. The activities necessary for SCE to implement the Proposed Transaction meet the definition of "limited use" under GO 69-C.

17. The record indicates that SCE's current activities associated with existing Site Agreements and anticipated future activities associated with the Proposed Transaction are consistent with GO 69-C.

18. SCE retains ultimate responsibility and accountability for ensuring that the equipment installed pursuant to the Proposed Transaction – and the process to install that equipment – complies with GO 69-C, GO 95, and any other applicable statutes, regulations, rules, policies and decisions. While SCE may assign the rights discussed above to a third-party Buyer, SCE retains the responsibility to and is accountable for ensuring compliance with the relevant laws and rules.

19. The evidence in the record indicates that the sites SCE offers to telecommunications companies represent a small portion of the sites used by those companies.

20. The evidence in the record indicates that site access costs represent a small portion of telecommunications companies' total costs and a small portion of their customers' bills.

21. PG&E executed a transaction similar to SCE's Proposed Transaction at least two years ago, and there has been no indication that telecommunications companies believe the market for sites agreements is distorted or otherwise unfair.

22. No telecommunications company has expressed concern to the Commission about the Proposed Transaction.

23. The evidence in the record is sufficient to demonstrate that the Proposed Transaction would not necessarily negatively impact the telecommunications or broadband markets. However, there is risk that such negative impacts could occur if the Buyer were to make serious errors in executing its basic duties or purposefully engage in anticompetitive behavior.

24. The Commission mitigates those risks by conditioning its approval of the Proposed Transaction on SCE filing submitting and serving, and the Commission to approving, a Tier 3 Advice Letter that contains the original agreements approved by the Commission under Section 851 that are the subject of this application; the assignment contracts, including the identity of the Buyer, and detailed information about the Buyer, such as the Buyer's financial fitness, the Buyer's experience in the field, and whether the Buyer has any potential conflicts of interest in fairly executing its role. The Tier 3 Advice Letter would need to describe SCE's process for selecting the proposed Buyer; explain why SCE is confident the proposed Buyer is able to execute the responsibilities it will take on as part of the Proposed Transaction; describe the policies and controls in place to ensure the proposed Buyer does not improperly exert market power; and describe the policies and controls in place to ensure the proposed Buyer provides non-discriminatory access to the appropriate parties.

25. The Commission can require SCE to file submit a Tier 3 Advice Letter with similar information if the Buyer seeks to introduce any new, additional, and/or replacement Buyer(s) and thereby mitigate the risks that those Buyer(s) are incapable or ill-intentioned..

26. The language in SCE's contract templates can be clarified by updating the definition of "carrier" to be more inclusive of various types of telecommunication carriers and broadband internet service providers.

27. The language in SCE's contract templates can be clarified to emphasize that the master agreement reviewed by the Commission always supersedes any contracts between the Buyer and a telecommunications company.

28. Regulated utilities that take an action under the auspices of GO 69-C should have a process to monitor for, record, and report occasions where that action causes a violation of GO 69-C.

29. SCE has not demonstrated that it has a process to monitor for, record and report occasions where existing or future activities associated with Site Agreements cause violations of GO 69-C.

30. The Commission can address this gap by requiring SCE to file a Tier 2 Advice Letter explaining how SCE (and, where necessary, other parties such as the Buyer) will monitor for and report on any violations of GO 69-C (particularly the requirement not to negatively impact utility operations) by its site access agreements.

31. GO 69-C does not automatically impose reporting requirements beyond the implied responsibility to monitor for and report violations of GO 69-C.

32. Financial modeling indicates that the Proposed Transaction is expected to provide a higher net present value to SCE's ratepayers than the status quo (i.e., ratepayers are better off if the Proposed Transaction goes through).

33. The Proposed Transaction will provide SCE with a lump sum of NTP&S revenue in the year it is executed but will result in lower NTP&S revenues in subsequent years.

34. It is unlikely that SCE's NTP&S revenue will drop beneath \$16.67 million in the foreseeable future, but if it does, the Proposed Transaction may cause a substantial loss of NTP&S revenue for SCE ratepayers.

35. The Commission created the GRSM with the goal that shareholders would experience zero risk of revenue loss due to SCE's NTP&S activities.

36. It is consistent with the purpose of the GRSM for the Commission to authorize SCE to move forward with the transaction only if its good-faith financial models demonstrate that SCE's ratepayers are expected to benefit from the Proposed Transaction.

37. It is consistent with the purpose of the GRSM for the Commission to require SCE to regularly evaluate whether the Proposed Transaction's increased or decreased the amount of revenue SCE's ratepayers receive.

38. It is consistent with the purpose of the GRSM for the Commission to hold SCE's shareholders responsible for ensuring that ratepayers are, at worst, financially indifferent to the Proposed Transaction.

39. The Commission can protect ratepayers by requiring SCE, every five years after the execution of the Proposed Transaction, to review its NTP&S revenues from the preceding five-year period. If, for any year within that period, SCE's NTP&S revenues fell below \$16.67 million, SCE would calculate how much revenue SCE ratepayers lost due to the Proposed Transaction and file Tier 2 advice letter explaining its calculation and propose a plan to return the present value of that revenue to ratepayers. If SCE's NTP&S revenues stayed above the \$16.67 million threshold for the entire period, SCE would file a Tier 1 advice letter affirming no action was required. In either case, SCE would file the advice letter within sixty days of the conclusion of the five-year period.

40. As the Buyer will execute contracts that can last for multiple decades, the Commission would similarly put those requirements in place for thirty years following the execution of the Proposed Transaction or while any of the Legacy Agreements in place when the Proposed Transaction was executed still earns revenue, whichever is longer.

41. The costs and benefits of this transaction for SCE's shareholders and ratepayers are sensitive to any changes in the structure of the GRSM. Accordingly, if a future Commission considers adopting any changes to the GRSM, the Commission should be made aware of how such changes would affect this transaction.

42. This Commission can ensure that any future Commission is made aware of those impacts by requiring SCE to ensure the Commission is aware of the Proposed Transaction and SCE shall estimate how any proposed change to the GRSM affects the Net Present Value of the Proposed Transaction for SCE ratepayers.

43. The activities necessary for SCE to implement the Proposed Transaction are functionally identical to activities that the Commission previously determined were covered by the GRSM.

44. The Proposed Transaction will result in three revenue sources for SCE: (1) a lump-sum payment upon execution of the Proposed Transaction, (2) a portion of the ongoing revenue from Site Agreements between the Buyer and Carriers, and (3) payments for SCE's services at the sites.

45. The Commission has previously determined that revenue from Site Agreements is "active" if derived from a Tower Site and "passive" if derived from a Ground Site, and that revenue from payments for SCE's services is "active."

46. The Buyer is making a lump-sum payment to SCE in exchange for the rights to future revenue streams derived from Site Agreements. Those revenue streams will come from both Tower Sites ("active" revenue) and Ground Sites ("passive" revenue), but it is not possible to accurately predict the proportion of revenue that will come from each category; furthermore, the proportions will change over time.

47. The Commission directs SCE to fairly and appropriately split the revenue from the lump-sum payment between SCE's shareholders and ratepayers by authorizing SCE to use the allocation methodology SCE proposed to divide the initial lump-sum revenue between shareholders and ratepayers, then require SCE to regularly reevaluate that allocation.

48. SCE's standard practice is to track its ratepayers' share of NTP&S revenue in its Gross Revenue Sharing Tracking Account, then annually transfer the Commission-jurisdictional portion of the balance to the Electric Deferred Refund Account and the Federal Energy Regulatory Commission-jurisdictional portion via an established formula.

49. SCE's proposal to disburse the ratepayers' share of the lump-sum payment quickly, rather than wait for the regular annual process, would provide benefits to ratepayers sooner than would standard practice.

Conclusions of Law

1. It is reasonable for the Commission to authorize SCE to enter into the Proposed Transaction under the condition that SCE files submits and serves, and the Commission approves, a Tier 3 Advice Letter that contains the original agreements approved by the Commission under Section 851 that are the subject of this application, the assignment contracts, the identity of the Buyer, and detailed information about the Buyer, such as the Buyer's financial fitness, the Buyer's experience in the field, and whether the Buyer has any potential conflicts of interest in fairly executing its role. The Tier 3 Advice Letter shall describe SCE's process for selecting the proposed Buyer; explain why SCE is confident the proposed Buyer is able to execute the responsibilities it will take on as part of the Proposed Transaction; describe the policies and controls in place to ensure the proposed Buyer does not improperly exert market power; and describe the policies and controls in place to ensure the proposed Buyer provides non-discriminatory access to the appropriate parties.

2. It is reasonable for the Commission to require SCE to file submit and serve a Tier 3 Advice Letter with that same information for any new, additional, and/or replacement Buyers.

3. It is reasonable for the Commission to require SCE to adopt its proposed change to the definition of “Carrier” that intervenors agreed addressed concerns that the original definition was too narrow.

4. It is reasonable for the Commission to require SCE to adopt the changes to the contract language that SCE proposed, and intervenors supported, to ensure that the master agreement always supersedes any contracts between the Buyer and a telecommunications company.

5. It is reasonable for the Commission to direct SCE to establish a process to monitor for and report on any violations of GO 69-C.

6. It is reasonable for the Commission to only authorize SCE to move forward with the transaction if its good-faith financial models demonstrate that SCE’s ratepayers are expected to benefit from the Proposed Transaction.

7. It is reasonable for the Commission to hold SCE’s shareholders responsible for ensuring that ratepayers are, at worst, financially indifferent to the Proposed Transaction.

8. It is reasonable for the Commission to apply the GRSM to the Proposed Transaction.

9. It is reasonable for the Commission to direct SCE to consider revenue from Tower Sites as “active” and Ground Sites as “passive,” and allocate that revenue between its shareholders and ratepayers according to the GRSM.

10. It is reasonable for the Commission to direct SCE to consider revenue from services provided at sites as “passiveactive” revenue and allocate that revenue between its shareholders and ratepayers according to the GRSM.

11. It is reasonable for the Commission to direct SCE to consider revenue from the lump-sum agreement as split between “active” and “passive” revenue according to each category’s actual, realized contribution to the revenue streams. As the mix will change over time, it is reasonable for the Commission to require SCE to regularly reevaluate the allocation.

12. It is reasonable for the Commission to require SCE, upon receiving the lump-sum payment from the Buyer, to allocate that payment between ratepayers and shareholders using the methodology proposed in their application (i.e., working with the Buyer to estimate what portion of the lump-sum pays for revenue from Tower Sites versus revenue from Ground Sites, and dividing the revenue in accordance with the GRSM).

13. It is reasonable for the Commission to adopt the following process to ensure the revenue from the lump-sum payment is divided between ratepayers and shareholders in accordance with the GRSM in effect when the Proposed Transaction is executed: Every five years following the execution of the Proposed Transaction, SCE shall calculate the present value of all the revenue earned by the Buyer pursuant to the Proposed Transaction (not just the revenue from the most recent five-year period) and determine which portions of that total were active and passive revenue (i.e., revenue from Tower Sites and revenue from Ground Sites), then determine what portion of that revenue was sent to SCE's shareholders and what portion sent to SCE's ratepayers. SCE shall then compare how the present value of the lump-sum revenue would have been divided between shareholders and ratepayers using the new ratio SCE just calculated to how the present value of the lump-sum revenue was divided between shareholders and ratepayers during the initial allocation or at the most recent re-balancing, whichever occurred most recently.

14. It is reasonable for the Commission to keep that requirement in place for thirty years following the execution of the Proposed Transaction or while any of the Site Agreements in place when the Proposed Transaction was executed still earns revenue, whichever is longer.

15. It is reasonable for the Commission to authorize SCE to track and disburse the ratepayers' share of the revenue from the Proposed Transaction according to the proposal in their application.

16. The Commission should consider opening a Rulemaking to review and make changes and updates to GO 69-C.

O R D E R**IT IS ORDERED** that:

1. Southern California Edison Company (SCE) is authorized to enter into the Proposed Transaction under the condition that SCE files submits and serves, and the Commission approves, a Tier 3 Advice Letter that contains the original agreements approved by the Commission under Section 851 that are the subject of this application, the assignment contracts, the identity of the Buyer, and detailed information about the Buyer, such as the Buyer's financial fitness, the Buyer's experience in the field, and whether the Buyer has any potential conflicts of interest in fairly executing its role. The Tier 3 Advice Letter shall describe SCE's process for selecting the proposed Buyer; explain why SCE is confident the proposed Buyer is able to execute the responsibilities it will take on as part of the Proposed Transaction; describe the policies and controls in place to ensure the proposed Buyer does not improperly exert market power; and describe the policies and controls in place to ensure the proposed Buyer provides non-discriminatory access to the appropriate parties.
2. Southern California Edison Company shall submit and serve a Tier 3 Advice Letter with that same information for any new, additional, and/or replacement Buyers.
3. Southern California Edison Company shall adopt its proposed change to the definition of "Carrier" that intervenors agreed addressed concerns that the original definition was too narrow.
4. Southern California Edison Company (SCE) shall adopt the changes to the contract language that SCE proposed, and intervenors supported, to ensure that the master agreement always supersedes any contracts between the Buyer and a telecommunications company.

5. Southern California Edison Company (SCE) shall only move forward with the transaction if its good-faith financial models demonstrate that SCE's ratepayers are expected to benefit from the Proposed Transaction.

6. Southern California Edison Company shall consider revenue from Tower Sites as "active" and Ground Sites as "passive," and allocate that revenue between its shareholders and ratepayers according to the Gross Revenue Sharing Mechanism.

7. Southern California Edison Company shall consider revenue from services provided at sites as "passiveactive" revenue and allocate that revenue between its shareholders and ratepayers according to the Gross Revenue Sharing Mechanism.

8. Within thirty days of the execution of the Proposed Transaction, Southern California Edison Company (SCE) shall file a Tier 2 advice letter explaining how SCE (and, where necessary, other parties such as the Buyer) will monitor for and report on any violations of General Order 69-C (particularly the requirement not to negatively impact utility operations) by its site access agreements. If SCE has not executed the Proposed Transaction within nine months of the issuance of this decision, SCE shall file a Tier 2 advice letter explaining how SCE will monitor and report on any violations of General Order 69-C caused by the existing Site Agreements.

9. Every five years after the execution of the Proposed Transaction, Southern California Edison Company (SCE) shall review its Non-Tariffed Products & Services (NTP&S) revenues from the preceding five-year period. If, for any year within that period, SCE's NTP&S revenues fell below \$16.67 million, SCE shall calculate how much revenue SCE ratepayers lost due to the Proposed Transaction and file Tier 2 advice letter explaining its calculation and proposing a plan to return the present value of that revenue to ratepayers. If SCE's NTP&S revenues stayed above the \$16.67 million threshold for the entire period, SCE shall file a Tier 1 advice letter affirming no action was required. In either case, SCE shall file the advice letter within sixty days of the conclusion of the five-year period. SCE may file this advice

letter under seal. This requirement shall stay in place for thirty years following the execution of the Proposed Transaction or while any of the Legacy Agreements in place when the Proposed Transaction was executed still earns revenue, whichever is longer.

10. If, in the future, the Commission considers whether to alter or replace the GRSM, Southern California Edison Company (SCE) shall ensure the Commission is aware of the Proposed Transaction and SCE shall estimate how any proposed change to the Gross Revenue Sharing Mechanism affects the Net Present Value of the Proposed Transaction for SCE ratepayers. This requirement shall remain in effect for thirty years following the execution of the Proposed Transaction or while any of the Site Agreements in place when the Proposed Transaction was executed still earns revenue, whichever is longer.

11. Southern California Edison Company, upon receiving the lump-sum payment from the Buyer, shall allocate that payment between ratepayers and shareholders using the methodology proposed in their application (i.e., working with the Buyer to estimate what portion of the lump-sum pays for revenue from Tower Sites versus revenue from Ground Sites, and dividing the revenue in accordance with the Gross Revenue Sharing Mechanism).

12. Every five years following the execution of the Proposed Transaction, Southern California Edison Company (SCE) shall calculate the present value of all the revenue earned by the Buyer pursuant to the Proposed Transaction (not just the revenue from the most recent five-year period) and determine which portions of that total were active and passive revenue (i.e., revenue from Tower Sites and revenue from Ground Sites), then determine what portion of that revenue was sent to SCE's shareholders and what portion sent to SCE's ratepayers. SCE shall then compare how the present value of the lump-sum revenue would have been divided between shareholders and ratepayers using the new ratio SCE just calculated to how the present value of the lump-sum revenue was divided between

shareholders and ratepayers during the initial allocation or at the most recent rebalancing, whichever occurred most recently. SCE shall file a Tier 2 advice letter within sixty days of the conclusion of each five-year period with details explaining their calculation and a proposal to return money to customers or shareholders, as appropriate. SCE may file this advice letter under seal. This requirement shall stay in place for thirty years following the execution of the Proposed Transaction or while any of the Site Agreements in place when the Proposed Transaction was executed still earns revenue, whichever is longer.

13. Southern California Edison Company shall track and disburse the ratepayers' share of the revenue from the Proposed Transaction according to the proposal in their application.

14. Application 23-11-002 is closed.

This order is effective upon issuance.

Dated , at San Francisco, California