

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In The Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U338E) for Authority to Lease Certain Fiber Optic Cables to CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS under the Master Dark Fiber Lease Agreement Pursuant to Public Utilities Code Section 851.

Application 17-02-001

**ASSIGNED COMMISSIONER AMENDED SCOPING MEMO AND RULING**

Two recent proceedings cause us to reconsider the scope of this proceeding. The scoping memo in this matter is amended to identify additional issues implicated by these related proceedings and to direct Southern California Edison Company (SCE) to file comments addressing the expanded scope of issues, as described below, by no later than October 11, 2017.

First, the related proceedings Investigation (I.) 17-06-027 “Investigation into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit in California,” and Rulemaking (R.) 17-06-028 “Rulemaking into Access by Competitive Communications Providers to California Utility Poles and Conduit, Consistent with the Commission’s Safety Regulations, which are consolidated with R.17-03-009 to consider Amendments to the Revised Right of Way Rules Adopted in [Decision (D.)]16-01-046”; and second, Application (A.) 17-04-010, Pacific Gas and Electric Company’s (PG&E) application for a CPCN to provide: (i) full facilities-based and resold competitive local exchange service throughout the service territories of AT&T California, Frontier California Inc., Consolidated Communications of California Company, and Citizens

Telecommunications Company of California; and (ii) full facilities-based and resold non-dominant interexchange services on a statewide basis. These proceedings inquire into strategies for increased and non-discriminatory access to poles and conduit by competitive communications providers, the impact of such increased access on safety, and how best to ensure the integrity of the affected communications and electric supply infrastructure going forward; the development of a data management platform that would allow stakeholders to share key pole attachment and conduit information and rules that would allow broadband Internet access service (BIAS) providers to attach facilities to poles and to use conduit following their classification as public utility telecommunications carriers pursuant to the Federal Communications Commission's 2015 *Open Internet Order*;<sup>1</sup> and whether and how our existing Rights-of-Way Rules should be applied to facilities (lines, antennas, etc.) installed by competitive local exchange carriers (CLECs) in order to support and enable the provision of service by wireless carriers. These related proceedings require us to take a closer look at the over-arching issue of whether the proposed Master Lease Agreement here is consistent with the revenue sharing mechanism set forth in D.99-07-070 and in the public interest.

## **1 Scope of Issues to be Determined**

The April 27, 2017, scoping memo identified the issues to be determined as:

1. Is the proposed lease adverse to the public interest?

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<sup>1</sup> *In re Protecting and Promoting an Open Internet*, Federal Communications Commission (FCC) Report and Order, 30 FCC Rcd 5601 (March 2015) (*Open Internet Order*), at ¶¶ 478-85.

2. Does the proposed lease require environmental review pursuant to the California Environmental Quality Act?

The scope of issues is amended to consider whether the proposed lease is adverse to public interest by addressing the following related issues:

1. Does SCE's application meet the requirements for revenue sharing established in D.99-07-070?
2. How does SCE's proposed MLA impact safety and reliability?
3. Does SCE's description of its fiber facilities in this proceeding meet the definition of dark fiber?
  - a. What is the difference between dark and lit fiber?
  - b. If this is lit fiber, are there existing provisions for how the facilities and costs/revenues should be handled?
4. What effects will SCE's MLA have on the competitive market for telecommunications services in California?
  - a. Is SCE's MLA proposal consistent with rules and regulations regarding competitive access to telecommunications infrastructure?
  - b. How will SCE ensure non-discriminatory access for carriers besides Verizon?
  - c. Is the proposal consistent with the Commission's Right of Way decision (D.98-10-085)?
5. Revenue sharing between SCE shareholders and ratepayers.
  - a. Is there a meaningful distinction between lit and dark fiber that justifies separate sharing rules?
  - b. Will existing fiber facilities be used to meet the Lease Route Orders by Verizon, or will new fiber facilities need to be built? Or both?
  - c. Will new fiber be built with shareholder funds or ratepayers funds?
6. What steps can the Commission take to ensure that SCE does not subsidize its CLEC business with its gas and electric customers?

- a. For the existing fiber capacity that will be used:
    - i. When and where was it built?
    - ii. How many fiber miles of excess capacity exist?
    - iii. What portion of existing excess capacity will be used by Verizon, and what portion will be reserved for SCE's own communications needs?
  - b. How are the excess capacity fiber facilities described in SCE's GRC, A.16-09-001?
  - c. Will SCE leverage poles and other support facilities that were built with ratepayer funds to provide service under the proposed MLA?
  - d. If this is dark fiber, is SCE's proposed 90/10 split reasonable?
  - e. If this is lit fiber what revenue sharing mechanism should be apply?
7. Should any new rules developed through the Pole Attachment and Right-of-Way proceedings (I1706027/R1706028/R1703009) be applied to this MLA, if approved?
  8. Is SCE's MLA proposal compliant with Orders 95 and 128, applicable local, state, and federal safety regulations, and best safety standards and practices?
  9. Should the terms of the MLA and/or Lease Route Orders with Verizon be public under General Order 96? If not, why not? Should SCE submit its Lease Route Orders to the CPUC?

## **2. Need for Hearing and Schedule**

As this is an uncontested matter, evidentiary hearings may not be necessary. However, if after receiving this Amended Scoping Memo other parties intervene, we will reconsider this determination after evaluating whether there disputed issues of material fact.

SCE shall file comments addressing each of these additional issues by no later than October 11, 2017.

This amended scoping memo and ruling shall be served for informational purposes on the service lists in I.17-06-027 et al. and A.17-04-010.

**IT IS SO RULED.**

Dated September 11, 2017, at San Francisco, California.

/s/ CLIFFORD R. RECHTSCHAFFEN  
Clifford R. Rechtschaffen  
Assigned Commissioner