

Decision 97-10-020 October 9, 1997

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

In the Matter of the Application of Southern California Edison Company (U 338-E) for Authority to Lease Available Land at the Garvey Avenue Site to Everest Storage, LLC.

Application 97-07-009  
(Filed July 11, 1997)

**ORIGINAL**

**OPINION**

**1. Summary**

Southern California Edison Company (Edison) seeks authority to lease 6.75 acres of land it owns in the City of Rosemead to a self-storage firm in a manner that will not interfere with Edison's use of the property for transmission facilities. The application is granted.

**2. Background**

Edison owns property located on Garvey Avenue in the City of Rosemead.<sup>1</sup> Edison acquired portions of the land in 1923 and the rest in 1969. The site is used for electrical facilities, including electrical towers, steel and wood poles and above-ground power lines, that transmit electricity to homes and businesses in San Gabriel Valley, Pasadena and Eagle Rock. In the past, the land below the power lines was licensed for horticultural use pursuant to a license that expired in December 1995.

Edison now proposes to lease the land to Everest Storage, LLC, for development and operation of a self-storage facility. Throughout the lease period, Edison would continue to own and operate its transmission facilities, and it would retain unobstructed access to the facilities. Edison states that revenue from the lease will be substantially higher than revenue from the previous

<sup>1</sup> The site is bounded on the north by Garvey Avenue, on the west by Charlotte Avenue, on the south by other Edison property, and on the east by Angelus Avenue and a private drive.

horticultural lease, and that the lease revenue would be shared with Edison's ratepayers.

**3. Terms of the Lease**

The lease agreement grants Everest Storage an option to license the property for an initial term of 25 years. The storage company can renew the license for one additional 10-year term. Everest Storage would pay an annual base license fee of \$35,004 in the first year; \$65,004 in the second year; and \$130,008 in the third through tenth years of the license term. The base license fee would be adjusted upon exercise of the renewal option based on the then-current fair market value of the property, but in no event would the adjusted fee be less than \$130,008. As an additional fee, at the end of each year beginning with the fourth year of the license, Everest Storage would pay the excess of 18.5% of gross revenues over the base license fee for that year, and, commencing in year seven of the lease, the excess of 20% of gross revenues over the base license fee.

The agreement provides that Everest Storage's activities must not interfere with the operation of the electrical transmission facilities located on the site. Everest Storage would not be permitted to use any area directly underneath electrical towers, and it would be required to maintain a 50-foot radius around all tower legs and a 10-foot radius around all steel and wood poles. Everest Storage would provide and maintain access roads on the property. The lessee would be responsible for obtaining all permits and approvals for construction, as well as any zoning changes or use permits required for the operation of a self-storage facility. Edison would have the right to approve construction plans and specifications and the selection of a general contractor for the development property.

Under the lease, Everest Storage would be responsible for all personal property taxes and fees levied against the property and improvements, and would maintain comprehensive liability insurance. Everest Storage would

indemnify Edison against all liability for damages or injury to persons or property not caused by Edison's negligent or willful misconduct.

**4. Determination of Best Secondary Use**

Edison states that its objective in selecting secondary uses for utility property is to find those uses that will provide the greatest revenue consistent with the utility's obligation to maintain the safety and reliability of its facilities. Because of the above-ground power lines crossing the property, secondary uses are limited by restrictions on height and clearances.

To evaluate secondary uses for this type of property, Edison in 1990 conducted a survey of the secondary use policies of nine utilities across the nation. Edison states that the survey showed four appropriate uses for the unused portions of similar properties: auto parking, recreation vehicle storage, equipment storage, and self-storage. Of those uses, Edison states that a self-storage facility offered the highest level of revenue for the Garvey Avenue site.

To evaluate the rental value for the Garvey Avenue site, Edison's financial analyst reviewed rent paid by comparable self-storage facilities in Southern California. According to Edison, the annual base license fee that Edison will receive from Everest Storage (approximately 20% of projected gross revenues) falls within the acceptable market range established by the analysis of similar uses.

**5. Selection of Developer**

Edison in January 1996 mailed a request for proposal to prospective developers. The request was not limited to self-storage developers. Edison received four responses, three for self-storage facilities and one for a warehouse facility. Edison states that it selected Everest Storage because of its proposed use of the property and the background and financial position of the company.

Everest Storage is a newly formed, limited-liability company, incorporated in California. It was formed in September 1996 by Everest Properties, Inc., a California corporation, and Carl Beckmann. Everest Properties

is owned 75% by W. Robert Kohorst and 25% by a subsidiary of Imperial Bancorp. Although Everest Storage is a newly formed company, its principals have more than 25 years of experience in the real estate industry, with an emphasis on self-storage properties. Both Beckmann and Kohorst were senior executives responsible for property acquisition and management at Public Storage, Inc., which is the nation's largest owner/operator of self-storage facilities.

#### **6. Treatment of Revenues**

In its application, Edison states that all of the revenues from the proposed lease will be treated as Other Operating Revenue. Under presently authorized ratemaking treatment for Other Operating Revenue, Edison will record 50% of the revenues from the Everest Storage lease in a Secondary Land Use Revenue Memorandum Account pending a final disposition on the ratepayers' share of such revenues.

Edison is raising the issue of disposition of Secondary Land Use Memorandum Account revenue in Edison's Application (A.) 97-06-021, filed on June 12, 1997. That application seeks approval of a new sharing mechanism for gross revenues received from enhanced utilization of utility assets, including leases of available land. A.97-06-021 is in the early stages of deliberation. Accordingly, until the Commission rules on the sharing mechanism issue, Edison proposes to file an advice letter adding the Everest Storage lease to the Secondary Land Use Revenue Memorandum Account, with final disposition of revenue sharing subject to a Commission decision. In the meantime, Edison and Everest Storage could proceed with development of the Garvey Avenue property.

#### **7. Comments by Advocacy Staff**

On August 14, 1997, the Commission's Office of Ratepayer Advocates (ORA) submitted comments supporting Edison's application on the condition that ratepayers share in the revenues realized by the proposed secondary use.

ORA notes that it is participating in the proceedings in A.97-06-021, and it does not oppose temporary placement of 50% of lease revenues in the Secondary Land Use Revenue Memorandum Account subject to a Commission decision on the accounting treatment to be accorded in transactions of this nature. ORA states that it will review applications of this nature on a case-by-case basis, and its support of this application does not imply its approval of other Section 851 applications.

#### 8. Discussion

Section 851 of the Public Utilities Code (PU Code) provides that no public utility "shall...lease...[property] necessary or useful in the performance of its duties to the public...without first having secured from the [C]ommission an order authorizing it so to do." The relevant inquiry for the Commission in Section 851 proceedings is whether the proposed transaction is "adverse to the public interest." (See, e.g., Universal Marine Corporation (1984) 14 CPUC2d 644.)

The proposed lease satisfies this test. The public interest is not harmed since the lease will not affect the utility's operation of the electrical transmission facilities located at the Garvey Avenue site. Indeed, the Commission has determined that the public interest is served when utility property is used for other productive purposes without interfering with the utility's operation.<sup>2</sup> Because the proposed agreement will increase the level of revenues Edison can obtain from secondary use of the land in question, with no additional ratepayer risk, the application should be approved.

There remains the issue of ratemaking treatment to be accorded the revenues from the lease. In the past, revenues received prior to January 1, 1995, have been treated as a direct credit to Edison's electric revenue adjustment mechanism (ERAM) balancing account for disposition and ratepayer accrual in

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<sup>2</sup> In D.93-01-019, we observed: "Joint use of utility facilities has obvious economic and environmental benefits. The public interest is served when utility property is used for other productive purposes without interfering with the utility's operation or affecting service to utility customers."

Edison's test year general rate case. As we changed to Performance-Based Ratemaking, we recognized that there might be no opportunity in the future to recognize lease revenues not included in the forecasts. Accordingly, in D.96-07-058, issued on July 17, 1996, we adopted an interim mechanism that would not only benefit ratepayers but would give Edison an incentive to negotiate sensible and lucrative lease agreements. We directed Edison to use a sharing mechanism for revenue, providing for a 50/50 split between Edison's shareholders and its ratepayers, with the ratepayers' share to be treated as a direct credit to the ERAM account.

In D.96-09-092, issued on September 20, 1996, we adopted a Performance-Based Ratemaking mechanism for Edison beginning January 1, 1997. That decision eliminated the ERAM balancing account as a ratemaking tool.

On December 9, 1996, in approving a lease application similar to this one, the Commission in D.96-12-024 directed Edison to preserve a 50/50 sharing of revenue between the utility and ratepayers. All of the revenues from the lease in D.96-12-024 were credited to Edison's Other Operating Revenue Account 454.611 (Secondary Land Use), with Edison's 50% to be credited to the utility, and the ratepayers' 50% placed in a Memorandum Account until further order by the Commission.

We are considering this ratemaking treatment in Edison's application (A.97-06-021) filed in June 1997. Pending further Commission action on the ratemaking issue, our order today directs Edison to deal with the revenue from the Garvey Avenue lease in the same manner that we directed in D.96-12-024.

#### **Findings of Fact**

1. Edison is an electric public utility subject to the jurisdiction and regulation of this Commission.
2. Edison has property on Garvey Avenue in the City of Rosemead available for secondary use, and it seeks to obtain a higher level of revenue for ratepayers

and shareholders than it obtained in a prior lease of this property for horticultural use.

3. Subject to Commission authorization required under PU Code Section 851, Edison has negotiated a long-term lease proposal for the available property to provide higher future revenues with no interference with the operation of its transmission facilities at the Garvey Avenue site.

4. The proposed lessee, Everest Storage, is a newly formed, limited-liability company, the management of which is experienced in the design, construction and management of self-storage facilities throughout the United States.

5. Everest Storage will finance, construct and maintain a self-storage facility at the Garvey Avenue site, bearing the costs and making payments to Edison.

6. Revenue will be shared 50/50 between the utility and ratepayers, by crediting all revenue, with appropriate workpapers, through Edison's Other Operating Revenue Account 454.611 (Secondary Land Use), with Edison's 50% credited to the utility, and the ratepayers' 50% held in a Memorandum Account until further order by the Commission.

7. It can be seen with reasonable certainty that the proposed use will produce no significant effect on the environment.

8. ORA does not oppose this application, and it does not oppose the proposed method of dealing with revenue pending a final Commission decision on secondary land use revenue.

#### **Conclusions of Law**

1. No public hearing is necessary.
2. Joint use of utility property should be encouraged in appropriate cases because of the obvious economic and environmental benefits.
3. Our approval of this application is exempt from provisions of the California Environmental Quality Act.

4. Edison should be authorized pursuant to PU Code Section 851 to lease the designated 6.75 acres of available land at its Garvey Avenue site to Everest Storage on the terms and conditions set forth in the application.

5. The proposed 50/50 split of the revenues to be derived from the lease is consistent with the division determined to be applicable to license/lease agreements not involving incremental costs, as adopted in D.96-07-058.

6. Because of the benefits of this lease agreement for the utility and for ratepayers, approval of this application should be made effective immediately.

### **O R D E R**

#### **IT IS ORDERED that:**

1. Southern California Edison Company (Edison) is authorized to enter into a lease of 6.75 acres of its Garvey Avenue property in the City of Rosemead to Everest Storage, LLC, under the terms and conditions set forth in this application.

2. As received, all revenues from the lease authorized shall be credited to Edison's Other Operating Revenue Account 454.611 (Secondary Land Use) with workpapers showing the calculation of this credit. Fifty percent of this credit shall accrue to the utility, and 50% to the ratepayers, with the ratepayers' portion to be held in a separate Memorandum Account until further order by the Commission as to its disposition.

3. Edison shall notify the Director of the Energy Division, in writing, of any substantial amendments to, extension of, or termination of the lease agreement,



A.97-07-009 ALJ/GEW/gab

within 30 days following the execution of such amendments, extensions or termination.

4. Application 97-07-009 is closed.

This order is effective today.

Dated October 9, 1997, at San Francisco, California.

P. GREGORY CONLON  
President  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
Commissioners