GO 69-C Data Request Report for End of Year 2020
By Alexander Abramson, Lisa Clark, and Eric van Wambeke

Key Findings

- Approx. 3.58% of the utilities' total disclosed General Order 69-C transactions reveals rampant misclassification and failure to seek CPUC approval, resulting in roughly 14.34% of unreported income in 2020.
- The lifetime value of the unreported, categorized General Order 69-C revenues exceeds $1 billion, with the annual revenue roughly $122 million in their most recent report.

GO 69-C permits utilities to enter into specific transactions without Commission approval (such as leasing of space in a utility's tower, space on a pole, a utility's conduit, but not the fiber, etc.). Beginning 2020, Communications Division required the Independent Local Exchange Carriers (ILECs) (AT&T, Frontier, and Consolidated), the thirteen smaller LECs (small ILECs),[1] and the three energy Investor-Owned Utilities (IOUs) (PG&E, SCE, and SDG&E) to annually report certain data in order to track potential abuse and misclassification of General Order 69-C transactions. Initial reports by the utilities failed to account for the leasing and/or licensing of Dark and Lit Fiber, as well as leased and/or licensed properties and communications facilities that fall outside of GO 69-C (e.g., leasing office space, towers, communications equipment, etc.) but require Commission approval pursuant to GO 173 or Section 851. Consequently, the income generated by these agreements went unreported in the IOUs' and Small LECs' respective General Rate Cases and unreported by the ILECs (AT&T, Consolidated, Frontier) through the general advice letter process.

CD Staff clarifications of GO 69-C annual reporting for 2021 resulted in a much higher overall volume of agreements than originally discovered in 2020. All three energy IOUs underreported their GO 69-C agreements, mistakenly disclosing only those agreements that commenced on the year of Review. When properly instructed to divulge all currently operating agreements, the number of reported GO 69-C agreements in 2021 increased by more than 1450% from the previous year. While AT&T is still the most egregious utility when it comes to potential misuse, SCE ($3.53 M/134 Agreements), SDG&E ($1.087 M/31 Agreements), and the Small ILECs ($1.17M/54 Agreements) are the largest rate regulated entities who have utilized General Order 69-C to not report income to the Commission.

[1] Calaveras, Cal-Ore, Ducor, Foresthill, Happy Valley), Hornitos, Kerman, Pinnacles, Ponderosa, Sierra, Siskiyou, Volcano, and Winterhaven.

This shift can be seen in the below tables:

Providers	2020 Annual Report GO 69-C Agreements		2019 Earnings	Potential Misuse of GO 69-C			
	Total Number of Agreements	Lifetime Value of Agreements		#	% of Total Agreements	2019 Earnings	% of $ Earned in 2019 Agreements
AT&T[2]	4,878	$186 M	$34.98 M	4,588	94.05%	$12.702 M	36.46%
Frontier	169	Unknown[3]	$ 4.76 M	18	10.65%	$282.3 K	5.93%
Consolidated	3	$150 K	$46.8 K	3	100.00%	$46.8 K	100%
PG&E[4]	2,914	$57.9 M	$6.55 M	173	5.93%	$6.332 M	96.67%
SCE[5]	1,883	$305.13 M	$26.63 M	9	>.001%	$431.3 K	100%
SDG&E	3	$336.37 K	$62.4 K	3	100.00%	$62.4 K	1.62%
13 Small LECs[6]	73	$9.39 M	$1.52 M	61	83.56%	$1.194 M	78.53%
Total	**9,923**	**$559.21 M[7]**	**$74.56 M**	**4,855**	**48.93%**	**$ 21.105 M**	**29.78%**

Providers	2021 Annual Report GO 69-C Agreements		2020 Earnings	Potential Misuse of GO 69-C			
	Total Number of Agreements	*Lifetime Value of Agreements*		#	% of Total Agreements	2020 Earnings	% of $ Earned in 2020 Agreements
AT&T	5246	$192.9 M	$37.65 M	4,952	94.39%	$11.45 M	30.42%
Frontier	170	Unknown	$4.77 M	38	22.35%	$256 K	5.37%
Consolidated	4	$222 K	$5 K	4	100.00%	$5 K	100%
PG&E	137,146	$526.2 M	$44.57 M	4	5.93%	$20.79 K	<.001%
SCE	2,330	$325.58 M	$28.62 M	134	<.001%	$3.53 M	12.33%
SDG&E	638	$35.34 M	$5 M	31	4.85%	$1.087 M	21.62%
13 Small LECs	70	$11.48 M	$1.51 M	54	77.14%	$1.17 M	77.41%
Total	**145,604**	**$1.09 B**	**$ 122.16 M**	**5,217**	**3.58%**	**$17.52 M**	**14.34%**

As seen above, the percentage of misclassified General Order 69-C agreements decreased between 2019 and 2020. PG&E contributed to this decline by more accurately describing the nature of some of their agreements (dropping those misclassified from 173 to only four agreements). And while the IOU's total number of agreements increased

---

[2] AT&T filed no Dark fiber leases under Sec. 851 potentially due to AT&T misinterpreting D.10-05-019 regarding assets exempt from Sect. 851. AT&T continues to claim that none of its Fiber leases fall under Sec. 851, even with the number of active agreements elaborated upon.

[3] Frontier could not provide these values, claiming records issues.

[4] PG&E's recent Data Request Response included 3 entities in total, include their New Revenue Division, which included the by far the largest share of the agreements.

[5] SCE filed for both itself and its three subsidiary organizations that also were party to filing agreements in the prior request.

[6] Calaveras, Cal-Ore, Ducor, Foresthill, Happy Valley), Hornitos, Kerman, Pinnacles, Ponderosa, Sierra, Siskiyou, Volcano, and Winterhaven.

[7] Total excludes Frontier

significantly in 2021, CD Staff determined much of the unreported transactions were properly classified. **However, even with this decrease, the utilities have misclassified a substantial number of agreements as non-reportable under General Order 69-C – approximately 3.58% of all agreements should have been reviewed under Section 851, GO 173, or General Rate Case, with roughly 14.34% of the utilities income in 2020 going unreported.**

The lifetime value of the unreported, categorized General Order 69-C revenues exceeds $1 billion, with the annual revenue roughly $122 million in their most recent report. These numbers are nearly double of what was reported last year, with a lifetime value of the agreements set at $559 million and annual revenues at $74.5 million in the 2019 report. This is a substantial amount of money that is not reported in rate cases, nor reported in any way to the Commission outside of this Annual Data Request. While the ILECs do not have General Rate Cases per the Commission's deregulation, the value of their proportion of these agreements is roughly half that of the IOUs, which benefit from no legal requirement to report these agreements.