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

MICHAEL J. SHIREY,

Complainant,

vs.

ECP Case No. 11-10-001

SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)

Defendant.

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SOUTHERN CALIFORNIA EDISON'S (U 338-E)  
ANSWER TO COMPLAINT

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Dated: October 27, 2011

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**I.**

**INTRODUCTION**

Pursuant to Rule 4.4 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedures, Southern California Edison Company (“SCE”) respectfully answers the Complaint (“Complaint”) of Mr. Michael Shirey (“Complainant”).

**II.**

**SUMMARY**

SCE began providing electric service to Complainant at 40550 Ventana Court in Palm Desert in 2004. According to information provided by the Complainant,<sup>1</sup> Complainant relocated to San Diego in March of 2006 and as such, no one has

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<sup>1</sup> Informal Complaint, reference number 146607, received February 2, 2011.

permanently occupied the Ventana Court residence since that time. Regardless of occupancy, electricity has remained turned on at this residence and it is presumed at a minimum, incidental usage has occurred (e.g., refrigeration, pool pump/filter, automatic sprinklers, outdoor lighting, etc.).

On November 16, 2010, Complaint's cumulative analog meter was replaced with an SCE SmartMeter.<sup>2</sup> For the next two months after the SmartMeter was installed, the Complainant's electric bill amount tripled in amount and approximately doubled in usage in comparison to the same time frame in 2009. It is interesting to note, however, that the Complainant's electric bill amount and usage from January 2011 to present has remained below average since the installation of the SmartMeter in comparison to previous years even when no one was occupying the house.

Rather than focusing on actual bill amounts, however, attention should be focused on the Complainant's usage due to the following information regarding Baseline.

#### **Baseline Allocation**

In accordance with Public Utilities Code Section 739, residential customers are provided a daily Baseline allocation. "Baseline" refers to a specific amount of energy allocated for residential customers that is charged at a lower price than energy used in excess of that amount. At this location, the Complainant receives the "Basic" baseline allocation.<sup>3</sup> As such, the Complainant receives the following amount of Baseline

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<sup>2</sup> A smart meter is an advanced, digital electric meter designed to help customers make smarter energy choices and manage their energy use to save money. Based on next-generation communications technology, smart meters transmit important and money-saving information to the customer from the utility, safely within a secure wireless network. Complainant received an *Edison SmartConnect*<sup>TM</sup> Meter which is an SCE-owned advanced interval data recorder (IDR) meter having two-way wireless remote communication and interface capability.

<sup>3</sup> Please refer to SCE's Preliminary Statement, Part H, Baseline Service, Section 2.a., for the applicable criterion for the Basic Allocation classification.

allocation per day as indicated within the boxes in the tables below.<sup>4</sup> Since Baseline allocations are specific to geographical location and season, Palm Desert’s Summer Baseline allocation is five times greater than the Winter Baseline allocation to accommodate the Desert’s high Summer temperatures. Therefore, if a Palm Desert customer uses the same amount of kilowatthours (kWh) in the Summer as in the Winter, the customer’s bill will be higher in the Winter in comparison because he receives less Baseline per day and essentially has less kWhs charged at the lower price. This is exactly what has happened at 40550 Ventana Court.

Summer Season *		kWh Per Day	
Baseline Region	Basic Allocation	All-Electric Allocation	
5	9.1	10.0	
6	9.2	10.0	
8	10.2	10.0	
9	13.9	16.9	
10	16.0 (I)	17.4 (I)	
13	18.6 (R)	29.0	
14	16.1 (R)	20.3 (R)	
15	43.9 (R)	42.7	
16	11.5 (I)	14.3 (I)	

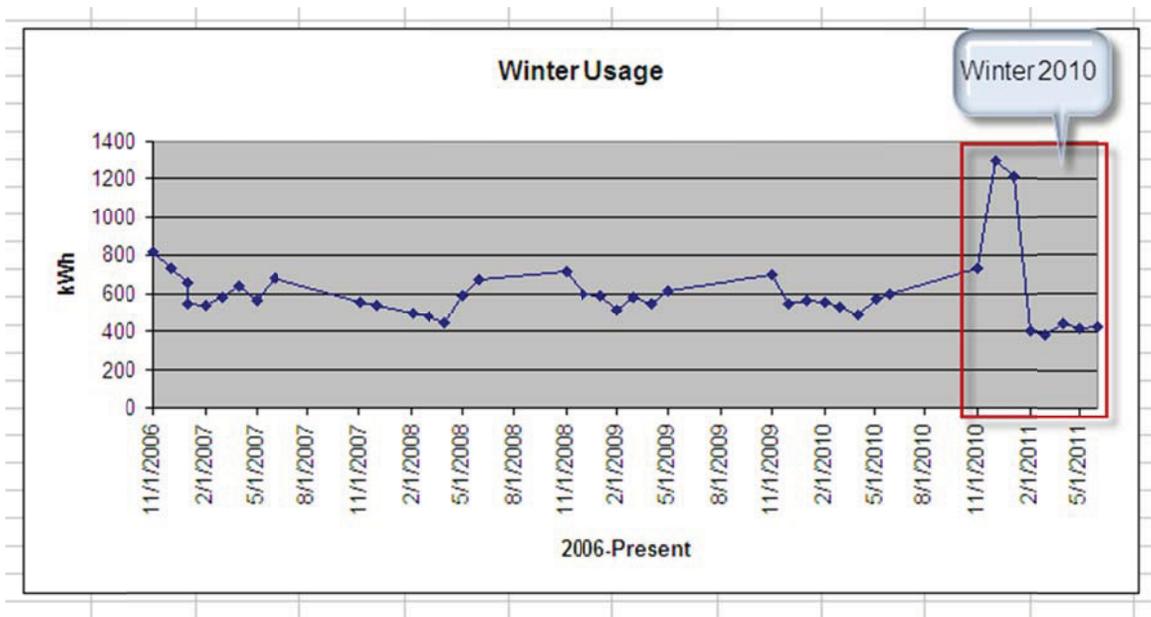
  

Winter Season **		kWh Per Day	
Baseline Region	Basic Allocation	All-Electric Allocation	
5	9.8	16.7	
6	9.6	16.2	
8	9.2	16.2	
9	10.5	24.1	
10	10.5	24.1	
13	11.0 (R)	32.8	
14	10.6 (R)	29.5	
15	9.0 (R)	27.4	
16	10.9 (I)	28.5	

<sup>4</sup> Complainant’s residence is in Palm Desert and falls into Baseline Region 15. Please refer to SCE’s List of Index & Communities at [www.sce.com](http://www.sce.com) to see a listing of all cities and communities and their respective Baseline Region.

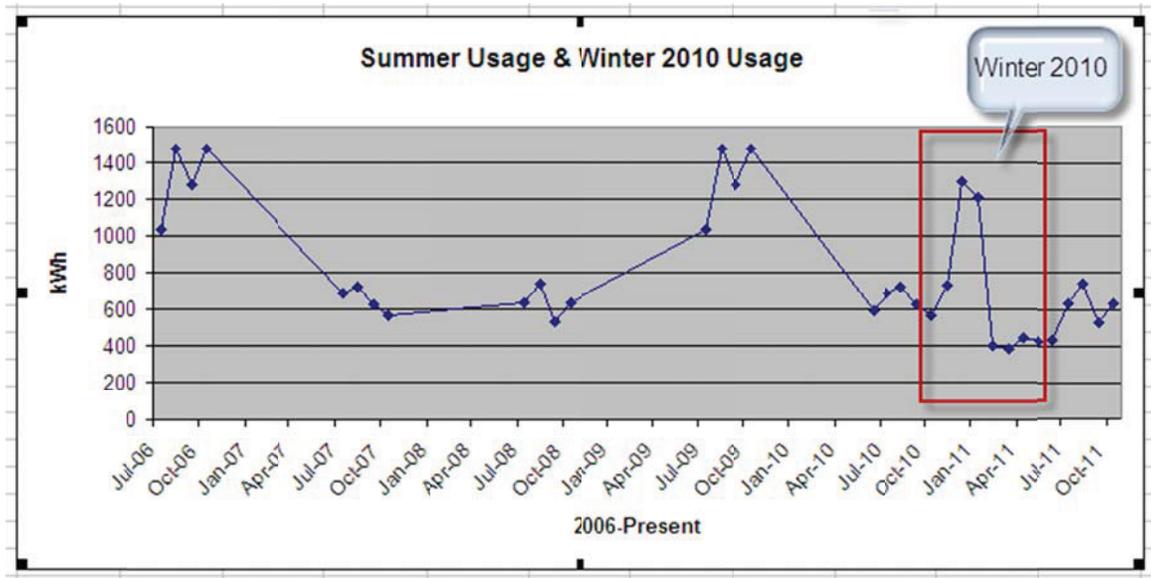
The Complainant's total monthly kWh usage during the November and December 2011 time frame (and displayed on Complainant's December 2010 and January 2011 electric bills) is comparable to if not lower than the monthly usage in the summer months, presumably when the air conditioner is turned on. What this indicates is, 1) the usage is capable of being produced and 2) the usage recorded in December 2010 and January 2011 is analogous to previous historical usage, albeit summer usage.<sup>5</sup>

The graph below compares the Complainant's 2010 winter monthly usage to his historical winter monthly usage beginning in 2006. Unquestionably, Complainant's 2010 winter usage is higher.



<sup>5</sup> The summer season commences at 12:00 a.m. on June 1 and continues until 12:00 a.m. on October 1 of each year. The winter season commences at 12:00 a.m. on October 1 of each year and continues until 12:00 a.m. on June 1 of the following year.

The graph below compares the Complainant’s 2010 winter monthly usage to his historical summer monthly usage beginning in 2006. When compared against the summer usage, the winter 2010 usage is comparable, although lower when directly compared to 2006 and 2009.



**Interval Data**

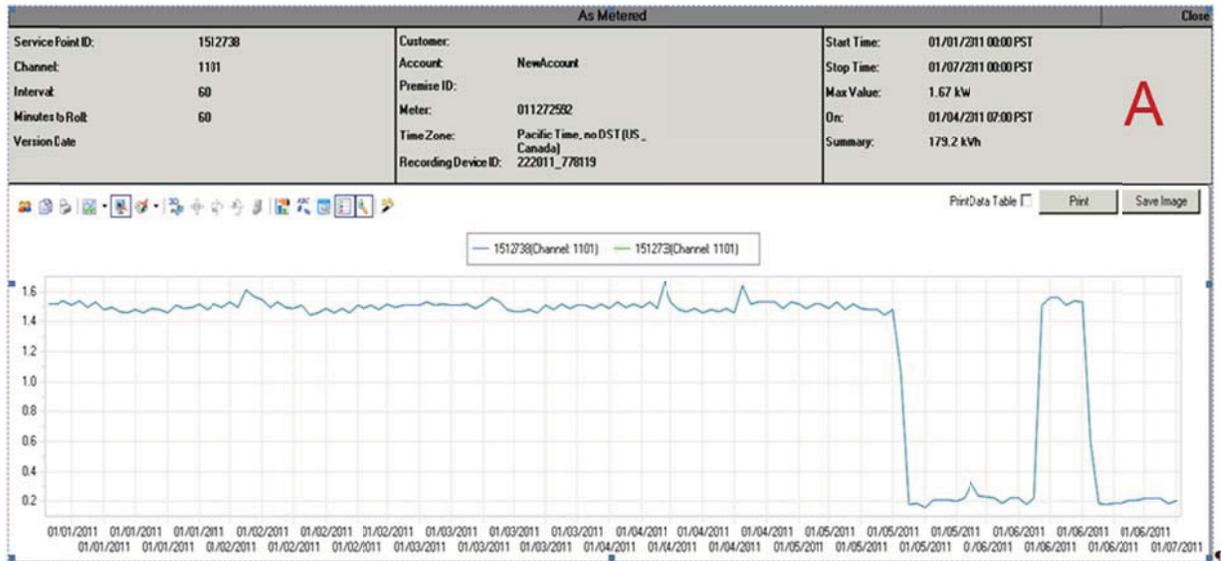
Since the installation of the Complainant’s SmartMeter and the fact that the meter is now billing ready,<sup>6</sup> interval data from the Complainant’s meter is available as of November 17, 2010, and has been obtained from SCE’s Meter Data Management Department.

The data obtained has been broken down into hourly kWh increments or intervals and displays that the Complainant’s usage pattern was constant and consistent 24 hours a day from November 17 to January 5, 2011 with an hourly range of approximately 1.45 to 2.21 kWh. On January 5, this constant usage dropped off at around 1:00 p.m. PST to

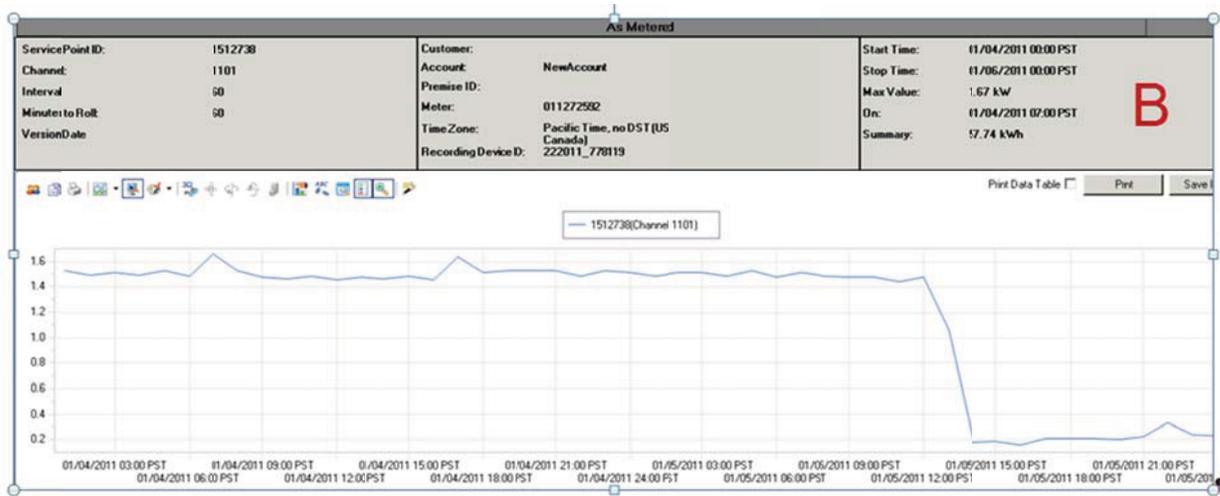
<sup>6</sup> A billing ready meter is an installed, properly functioning meter that is located in a geographical area where the Edison SmartConnect™ communications network is operational.

0.18 kWh and only increased back up to previous levels (i.e., levels prior to January 5, 2011) during the hours of 7 a.m. to Noon on each day.

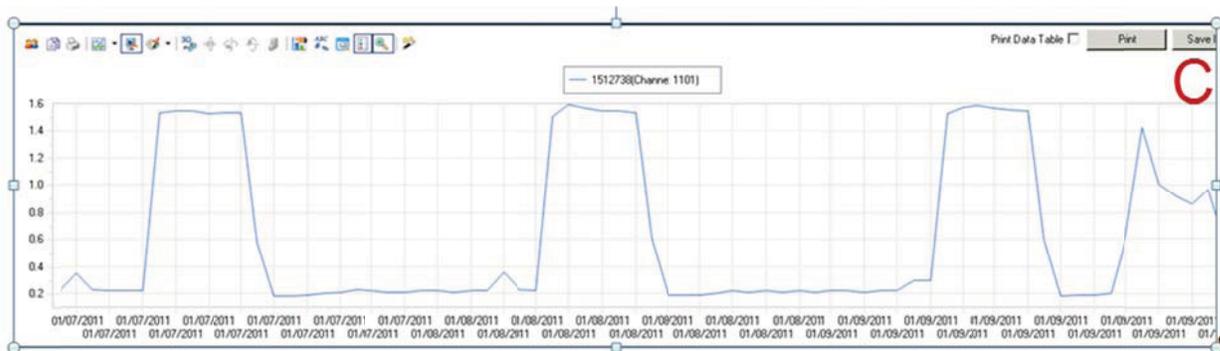
The graph below, labeled with an “A,” displays: 1) the constant kWh usage, 2) the sudden reduction in load, and 3) the increase in load during 7 a.m. to Noon.



The graph below, labeled with a “B,” displays time intervals and denotes the approximate time the sudden reduction in load occurred.



The graph below, labeled with a “C,” denotes the increase in load which occurred daily from 7 a.m. to Noon.



Additionally, on January 10, 2011, Complainant’s meter was tested in his presence and the meter tested within Commission approved guidelines set forth in SCE’s Rule 17.B.2. One day later, on January 11, the usage pattern changed again from 7 a.m. to Noon to the hours of 7 a.m. to 11 a.m. PST and remained at this pattern until March 25, 2011 when the time span was further reduced in duration to 7 a.m. to 10 a.m.

Looking at this usage pattern, SCE can only reasonably presume that a pool timer is being activated during these hours. SCE can also only reasonably assume that either Christmas lights, appliances, or perhaps a malfunctioning pool pump or timer caused the continual usage from November 17, 2010 until January 5, 2011.<sup>7</sup> Regardless of what was specifically turned on or malfunctioning to generate the 24-hour usage, the inferential fact is that usage occurred. It is equally important to note as well, that coupled with the unexplained abnormal usage, the Winter Season began October 1 and provided five times less Baseline allocation than did the Summer Season, which would likely increase the Complainant's bill to a dollar amount higher than usual.

SCE contends it has complied with all applicable rules, laws, and tariffs, and based on the inferential facts provided, SCE finds it unreasonable for the Commission to grant the Complainant's requested relief of a refund for the total bill amounts for December 2010 and January 2011 of \$593.61, or for an alternative settlement amount of \$200.

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<sup>7</sup> Interval data is only available from the point in time that the SmartMeter was installed.

### III.

#### ANSWER TO COMPLAINT

The contentions concerning SCE, as well as SCE's responses, are as follows:

1. Complainant contends he was excessively billed by SCE for the months of November and December 2010 due to the installation of SCE's SmartMeter.

SCE denies Complainant was overcharged due to the installation of the SmartMeter. SCE does agree however that the Complainant's November and December usage contained within his December 2010 and January 2011 bills is higher than his bills normally are for this same time period. In addition, SCE affirms Complainant was billed accordingly and pursuant to Commission-approved billing factors and Baseline allocations based on the kWh usage recorded by the meter. SCE also affirms Complainant's meter tested within the Commission-approved guidelines set forth in SCE's Rule 17.

2. Complainant contends his bill following the SmartMeter installation tripled to \$310.58 with no one living in the house, and the next electric bill was \$283.03, again with no one living in the house.

SCE agrees with the stated bill amounts of \$310.58 and \$283.03, although comments that regardless if anyone was living in the house, interval data obtained denotes usage albeit minimal usage, and that usage patterns changed three times over the course of approximately four months. Additionally, the first usage pattern change on January 5, 2011, resulted in reducing the Complainant's subsequent bills to amounts lower than bills for the same time period dating back to 2006.

3. Complainant contends that when the SCE employee tested his meter in January 2011, the employee “informed me that when the old meter was removed, that CORIX (Edison’s installation contractor) could very well have written down an incorrect number for the old meter or perhaps installed the Smart meter without “zeroing” it out, which indeed would give inaccurate readings...I believe that this is a significant admission by Edison and is what may have occurred since my records indicate...”

SCE neither denies nor affirms that the SCE employee made these comments. SCE’s standard process however when installing SmartMeters is to reset the meter to zero if any pre-installation testing and usage occurred before the installation of such meter. Moreover, if such “zeroing” out did not occur, it is unlikely that the usage from pre-installation testing would have caused the Complainant’s bill to triple. Also, if a misread inadvertently occurred with the old meter; however, since meter reads are cumulative, this misread would only affect one month’s billing rather than November and December 2010. Lastly, interval data affirms usage occurred on the meter - how much usage occurred and for how long.

## **AFFIRMATIVE DEFENSES**

### **FIRST, SEPARATE, AND AFFIRMATIVE DEFENSE**

#### **Affirmative Allegations**

SCE realleges and incorporates herein as set forth in full each and every one of its affirmative allegations set forth above.

### **SECOND, SEPARATE, AND AFFIRMATIVE DEFENSE**

#### **Failure to State a Cause of Action**

The Complaint fails to state facts sufficient to constitute a cause of action for relief against SCE.

### **THIRD, SEPARATE, AND AFFIRMATIVE DEFENSE**

#### **Compliance with Tariffs**

Complainant is barred from recovery because SCE has complied with all applicable rules, laws, and tariffs. Complainant has failed to allege any act or thing done or omission by SCE, including any rule or charge established or fixed by or for SCE, in violation or claimed to be in violation, of any provision of the law of any order or rule of the Commission as required by Public Utilities Code Section 1702.

**FOURTH, SEPARATE, AND AFFIRMATIVE DEFENSE**

**Proximate/Intervening Cause**

If Complainant suffered any injury as alleged in the Complaint, which SCE specifically disputes and denies, the intervening and superseding actions and/or inactions of Complainant himself or persons other than SCE proximately caused such injury in whole or in part.

Respectfully submitted,

/s/Darrah Morgan

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Dated: October 27, 2011

