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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item #32

Agenda ID 13155

ENERGY DIVISION

RESOLUTION E-4675 (Rev. 2)

AUGUST 14, 2014

R E S O L U T I O N

Resolution E-4675. Expedited Issuance of Southern California Edison Interim Economic Development Rates Pending Issuance of Decision in A.14-03-013.

PROPOSED OUTCOME:

- Within five (5) days of the approval of this resolution, Southern California Edison Company (SCE) shall file a Tier 1 advice letter to implement Interim Economic Development Rates (EDRs) until EDR tariffs for all eligible customers have been approved by the Commission.

SAFETY CONSIDERATIONS:

- Safety impacts associated with implementation of SCE's interim EDRs pursuant to this Resolution have not been identified.

ESTIMATED COST:

- The estimated value of the EDR discounts is expected to be minimal.

By Advice Letter 3064-E, Filed on June 26, 2014.

SUMMARY

Approval of this Resolution would authorize Southern California Edison (SCE) to offer eligible customers interim standard and enhanced (12% and 30% discount off the otherwise applicable tariff (OAT), respectively, without

reference to a price floor¹). Economic Development Rates (EDRs) from the date of Commission approval until EDR tariffs are potentially adopted in A.14-03-013, SCE's Application for Approval of 2014-18 Economic Development Rates (Application). At that time, interim EDR contracts will be modified to conform to any EDR tariff requirements set forth in a final decision in A.14-03-013, should an EDR be adopted.² However, a customer that signs a written affidavit declaring, under penalty of perjury, that the interim enhanced EDR was a substantial motivating factor in the customer's time-sensitive decision about whether to locate or retain their business in California may remain on the rate.³

The proposed interim EDRs are intended for customers who proactively notified SCE that without the availability of discounted rates by August 15, 2014, their load would "cease to exist in, or (would) not be attracted to nor expanded in California."⁴ SCE states that "in order to minimize the risk of putting customers on rates that would be subject to prospective adjustment to conform to a final decision in A.14-03-013" it will not market interim EDRs to potential customers.⁵

Given the robustness of the record established in PG&E's EDR proceeding (A.12-03-001), SCE proposes interim EDR tariff requirements that are generally consistent with PG&E EDR tariff requirements as follows⁶⁷:

- Customer Eligibility: EDRs will be offered to bundled service, direct access, community aggregator, or community choice aggregator customers with loads of at least 200 kW.

¹ An enhanced EDR may be offered to a customer if their load is located in California cities and counties with unemployment rates that are 125 percent or more of the previous year's statewide unemployment rate.

² SCE Advice 3064-E at 8.

³ *Id* at 8, footnote 5.

⁴ *Id* at 3.

⁵ *Id*.

⁶ *Id* at 2

⁷ *Id* at 3

- Enhanced EDR Eligibility: Eligible customers must have opened or plan to open service accounts in cities or counties that have unemployment rates of at least 125 percent of the prior year's statewide unemployment rate. To make the determination of eligible counties, SCE will utilize the list included in the "Report 400C, Monthly Labor Force Data for Counties, Annual Average - Revised" issued by the California Employment Development Department (EDD) and other data on EDD's website to determine eligible cities.⁸
- Standard and Enhanced EDR Discounts: As stated above, eligible customers can qualify for either a standard 12% discount off their OAT without regard to a price floor, or a 30% discount off their OAT if their load is sited in cities and counties where the unemployment rate is 125 percent or more of the previous year's statewide unemployment rate.
- Free Ridership Safeguards: SCE will utilize three methods identified in A.14-03-013 to address free-ridership, defined as "a customer whose decision to close, locate or expand facilities in [the utility's] territory is not based upon the proposition that 'but for' the lower rates the customer would locate, relocate or expand somewhere outside of [the utility's] territory, or close."⁹
 1. GO-Biz Review - Eligibility for the interim EDRs will be verified by the Office of California Business Investment Services (formerly CalBIS).
 2. Liquidated Damages Provision - A liquidated damages provision will be included in the EDR contract to ensure that "neither SCE nor its ratepayers are financially or otherwise damaged if the interim EDR contract is terminated prematurely before the end of its term based on fraud or misrepresentation." The Liquidated Damages amount will be equal to "200 percent of the cumulative difference between the amount the EDR customer would have paid for energy

⁸ *Id.*

⁹ *Id* at 4.

and demand if billed under its OAT, and the amount billed under the EDR.”¹⁰

3. “But-For” Affidavit – For the interim EDRs, SCE will require that retention customers, in addition to expansion and attraction customers, sign affidavits that “but for” the discount provided by the EDR tariff, either alone or in combination with other incentives, they would relocate load outside of California or discontinue business operations.^{11,12}
- Reporting Requirements: SCE proposes that annual reports will be filed on March 1st for each year during the existence of the interim EDR program. The reports will address the prior calendar year’s EDR activity and/or any prorated months according to when the Commission approves the application.¹³
 - Program Cap: SCE proposes that interim EDR customer loads will count towards the 200 MW program cap proposed in A.14-03-013.

BACKGROUND

Given the uncertainty of when a decision will be issued in A.14-03-013, SCE proposed that interim EDRs should be approved to provide customers with assurance that discounted rates will be available prior to evaluating options to retain, expand or locate load. Since a prehearing conference for A.14-03-013 was recently scheduled on July 9, 2014 and a scoping memo has not yet been issued, potential EDR customers would likely not be able to make informed decisions about siting their load in California by August 15, 2014, as indicated by SCE.

¹⁰ *Id* at 5.

¹¹ *Id* at 4.

¹² Note that PG&E’s EDR tariff only require customers that intend to retain load in California to sign a “but-for” affidavit.

¹³ *Id* at 5.

Until a decision is adopted in A.14-03-013, SCE proposes to update EDR tariff schedules and Commission-approved filed forms that relate to the prior EDR program that closed as of December 2012. These changes include:

- Offering a standard 12% and an enhanced 30% discount off the OAT;
- Removing the requirement that electricity accounts for 5% or more of the customers' operating costs.

Note that interim EDR customers must sign "but-for" affidavits as previously required in prior SCE EDR program tariffs.¹⁴

1. Authority to shorten an advice letter protest period

GO 96-B, Section 1.3 authorizes Directors of Commission Industry Divisions to shorten protest and reply periods based upon good cause as follows:

"The General Rules and Industry Rules shall be liberally construed to secure just, speedy, and inexpensive handling of informal matters, as set forth in this General Order. The Commission in a specific instance may authorize an exception to the operation of this General Order where appropriate. In a specific instance and for good cause, the Director of the appropriate Industry Division may shorten the protest and reply period under the General Rules."

In order to expedite resolution of AL 3064-E, Energy Division issued a letter on June 30, 2014 that shortened the protest period until July 7 based upon SCE's request.

NOTICE

Notice of AL 3064-E was made by publication in the Commission's Daily Calendar. Southern California Edison states that a copy of the Advice Letter was

¹⁴ *Id* at 4.

mailed and distributed to the A. 14-03-013 service list in accordance with Section 4 of General Order 96-B.

PROTESTS

SCE's Advice Letter AL 3064-E was timely protested by the Office of Ratepayer Advocates ("ORA") on July 7, 2014. In addition, the Small Municipal Utilities Coalition ("SMU Coalition") issued a response to AL 3064-E that did not request its denial but rather the addition of language to clarify its scope and intent.

Since SCE waived its right to respond to protests, no replies were filed.

On July 11, 2014, ORA withdrew its protest.

DISCUSSION

A significant rate change of this sort would not typically be resolved via advice letter. However, given the immediacy of the need for rate relief for some customers who may otherwise not remain SCE customers, and the fact that the issues will ultimately be resolved in SCE's EDR Application, parties are willing to resolve this situation through the advice letter process in these extraordinary circumstances.

General Order (GO) 96-B, Section 5.1 provides guidance: "The advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions." The advice letter offers a more immediate solution that could prevent the departure of some customers from SCE's service territory. Furthermore, while protests for SCE's EDR application were filed, no party protested this advice letter.

Although SCE has provided assurance that it will not proactively market interim EDRs, it is possible that additional eligible customers could subscribe to interim EDRs beyond SCE's initial prediction. In view of this uncertainty around subscription levels, and in order to minimize the cost shift to non-participating ratepayers, SCE shall cap the interim EDR program at 200 MW. Consequently, Energy Division estimates a minimal loss of annual revenues for an aggregate interim EDR customer load up to this 200 MW program cap.

In their response to AL 3064-E, the SMU Coalition requests that SCE's interim EDR tariffs should clarify that they are intended for customers to retain, expand, or attract load in California and not specifically to locate load within SCE's service territory. In SMU Coalition's view, this language provides assurance that SCE's interim EDRs do not act as an incentive to "attract or retain a customer that was already located in California or that was otherwise committed to locating in California."¹⁵

Energy Division agrees with the SMU Coalition recommendation that SCE interim EDR tariff language should explicitly state that EDRs are intended to retain, expand or attract load to California.

COMMENTS

The 30-day comment period is reduced to 15 days per Rule 14.6 (c)(2), given that AL 3064-E is uncontested and that this resolution grants SCE its requested relief. The comment period will commence when this draft resolution is served.

Comments were received from ORA and SMU Coalition. Appropriate changes have been made to this Resolution in response to the received Comments.

FINDINGS

Given the urgent need of SCE customers to ensure that discounted rates are in place prior to deciding to retain, expand, or locate load in California, the Commission finds that the availability of interim EDRs may lead to ratepayer benefits that would not exist had they not been approved. In addition, through SCE's assurance that the interim EDRs will not be marketed proactively and due to other program elements, ratepayer risks have been reduced.

¹⁵ SMU Coalition Response to AL 3064-E at 1.

THEREFORE IT IS ORDERED THAT:

1. SCE's request to adopt interim EDRs in AL 3064-E is approved.
2. SCE is directed to file a Tier 1 AL that implements interim standard and enhanced EDRs, including the following program elements: basic eligibility criteria, "but-for" affidavit signature, GO-Biz review, liquidated damages provision, and reporting requirements as described in AL 3064-E when this resolution is adopted.
3. SCE shall implement a 200 MW program cap for the interim EDR program. Interim EDR customer loads will apply to the program cap adopted in A.14-03-013.
4. SCE is directed to modify its interim EDR tariff language to clarify that it is intended to retain, expand, or attract load in California relative to out-of-state options, and is not intended to attract either in-state or out-of-state customers from one service area to another within California.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 14, 2014 the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director