

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) To Establish Marginal Costs, Allocate Revenues, Design Rates, and Implement Additional Dynamic Pricing Rates.

Application 14-06-014
(Filed June 20, 2014)

DECISION ADOPTING SETTLEMENT**Summary**

This decision addresses the unopposed Joint Motion of Southern California Edison Company and the City of Lancaster for Adoption of a Settlement Agreement filed on July 17, 2015. The Settlement Agreement is adopted as filed.

This proceeding remains open.

1. Procedural History

On June 20, 2014, Southern California Edison (SCE) filed Application (A.) 14-06-014 “to establish marginal costs, allocate revenues, design rates, and implement additional dynamic pricing rates that will ultimately be applied to SCE’s authorized revenue requirements.” This cost allocation and rate design proceeding is commonly referred to as “Phase 2” of a utility’s General Rate Case (GRC).

On February 27, 2015 the assigned Administrative Law Judge (ALJ) granted party status to the City of Lancaster (Lancaster). Lancaster submitted a Community Choice Aggregation (CCA) Implementation Plan to the

Commission, which the Commission certified on October 16, 2014.¹ The plan was revised and updated in February 2015, and the Commission certified the revised Implementation Plan on March 13, 2015. Lancaster rolled out the first phase of its Community Choice Aggregation program (Lancaster Choice Energy or LCE) in May of this year (municipal accounts), which is expected to be followed by a larger roll-out in a second phase later in the year beginning in October. The second phase is expected to consist of all remaining commercial, residential and industrial accounts in LCE's geographic territory, estimated to total nearly 55,000 service accounts.

As a CCA, LCE will offer generation procurement service to its residents and businesses while SCE will continue to provide transmission and distribution service to those customers plus metering, billing and other services on behalf of LCE. These metering, billing and other services are detailed in SCE's principal CCA fee schedule, tariff Schedule CCA-SF (Community Choice Aggregation Service Fees). Most of the services that SCE must provide to Community Choice Aggregation programs require the CCA to compensate SCE for providing the services to ensure that bundled service customers do not pay for them.²

¹ Pursuant to Public Utilities Code Section 366.2(c)(7), within 90 days after the Community Choice Aggregator establishing load aggregation files its implementation plan, the Commission is required to certify that it has received and reviewed the implementation plan, confirming that the plan contains all the information required by law, such as the structure of the program, its rate structure, and the rights and responsibilities of program participants.

² CCA fee schedules for the three major investor-owned utilities (IOUs) were initially adopted in Commission Rulemaking (R.) 03-10-003, "Order Instituting Rulemaking to Implement Portions of Assembly Bill 117 Concerning Community Choice Aggregation."

3. The July 17, 2015 Settlement Agreement

On July 17, 2015 SCE and Lancaster (Settling Parties) filed a “Joint Motion for Adoption of Settlement Agreement” (Joint Motion) in this proceeding.³

In the Joint Motion, Settling Parties request that the Commission adopt a settlement involving modification of Schedule CCA-SF. Specifically, Settling Parties agree that the Monthly Account Maintenance Fee (MAMF) should be modified.

The MAMF applies on a monthly basis for each service account that is participating in a CCA’s program, and covers administrative activities such as reporting, bill exception processing, and other CCA support. The current MAMF in Schedule CCA-SF is \$1.13 per service account per month. In the currently-pending Phase 1 of SCE’s General Rate Case, SCE proposes to increase the MAMF to \$1.50 per service account per month. In Exhibit Lancaster-1, Lancaster describes the MAMF as a fee

“that is unique, onerous, and could greatly impact the City’s ability to follow through in its CCA plan... It is unique in that neither SDG&E, nor more importantly, PG&E’s CCA service fee tariffs include an analogous fee. It is onerous in that is very high: \$1.50 per account per month. This is greater than the fees to both meter and bill a CCA customer, which are the primary activities that SCE provides to a Community Choice Aggregator. It is so large – at least \$750,000 a year for a fully-operational Lancaster CCA program – as to potentially thwart Lancaster Choice Energy before it begins service.”⁴

³ The Joint Motion with the Settlement Agreement attached may be found on the Docket Card for this proceeding, on the Commission’s website, www.cpuc.ca.gov

⁴ Exhibit Lancaster-1 at 3.

In the Settlement, Settling Parties agree to replace the MAMF as it is currently structured with two separate monthly fees: a variable “Billing Exception Fee” of \$0.37 per service account per month, and a fixed monthly “Reporting Activity Fee” of \$370 for each CCA.

Settling Parties state that the issue addressed in the Settlement Agreement is discrete and of interest only to SCE and Lancaster. The only other party to the proceeding that expressed an interest in the CCA fee issue when SCE provided notice of the settlement conference, The Utility Reform Network (TURN), has authorized the Settling Parties to represent to the Commission that, while TURN is not a signatory to the Settlement Agreement, TURN does not oppose the Settling Parties’ settlement of the CCA fee issues and does not intend to file comments opposing the Settlement Agreement. No parties filed comments on the Settlement.

Settling Parties request that the Commission provide relief as follows:

1. Grant the Settling Parties’ joint motion to move Lancaster’s testimony into the record;
2. Approve the proposed Settlement Agreement as reasonable in light of the record, consistent with law, and in the public interest; and
3. Adopt a decision by the September 17, 2015 Commission meeting, or, in the alternative, no later than the October 1, 2015 Commission meeting, authorizing SCE to implement changes to Schedule CCA-SF via a Tier 1 Advice Filing in accordance with the terms of the Settlement Agreement.

The Settling Parties believe hearings are not necessary because the Settling Parties are resolving only a single, discrete issue and the Settlement Agreement is uncontested by any party. Finally, Settling Parties request that, assuming the proposed decision (PD) adopts the Settlement Agreement without modification

and no party opposes the settlement, pursuant to Rule 14.6(c)(2), the period for public review and comment on the PD be reduced or waived.⁵

As a preliminary matter, Settling Parties' joint motion to move Lancaster's testimony into the record is granted. Lancaster's March 13, 2015 testimony is marked as Exhibit Lancaster-1 and received into the evidentiary record in this proceeding.

2. Standard of Review

The Commission has long favored the settlement of disputes. However, pursuant to Rule 12.1(d) of the Commission's Rules of Practice and Procedure, the Commission will not approve a settlement, whether contested or uncontested, unless it is found to be reasonable in light of the whole record, consistent with law, and in the public interest.

3. Review of the July 17, 2015 Settlement Agreement

Settling Parties assert that the Settlement Agreement complies with Commission guidelines and relevant precedent for settlements, including the general criteria for Commission approval of settlements as stated in Rule 12.1(d).

Settling Parties further state that each portion of the Settlement Agreement is dependent upon the other portions of the Settlement Agreement: "changes to one portion of the Settlement Agreement would alter the balance of interests and the mutually agreed upon compromises and outcomes that are contained in the Settlement Agreement. [Therefore], the Settling Parties request that the Settlement Agreement be adopted as a whole by the Commission, as it is

⁵ All references to Rules are to the Commission's Rules of Practice and Procedure.

reasonable in light of the whole record, consistent with law, and in the public interest.”⁶

We address each required criterion with respect to the Settlement Agreement below.

3.1. Is the Settlement Agreement Reasonable in Light of the Record

Settling Parties state that the record of this proceeding that is relevant to the discrete CCA fee issue includes (1) Lancaster’s motion for party status, (2) SCE’s response thereto, (3) Lancaster’s reply to SCE, (4) the ALJ’s ruling granting party status to Lancaster, (5) Lancaster’s direct testimony (now designated earlier in this decision as Exhibit Lancaster-1), and (7) the Joint Motion (together with the attached Settlement Agreement).

Settling Parties further state that, because SCE did not serve testimony on the issue of CCA fees, the Joint Motion provides “a more detailed explanation of the settled outcome than SCE normally would include in motions submitted under Article 12.”⁷

Settling Parties note that the MAMF fee is based on incremental costs of performing account maintenance activities for CCAs and their customers. As described in the Joint Motion, SCE examined and reexamined the categories of administrative activities – such as reporting, bill exception processing, and CCA support – that originally formed the basis for this charge in SCE’s testimony in R.03-10-003 in order to determine which were incremental to activities SCE already provides bundled service customers, which activities had become

⁶ Joint Motion at 11.

⁷ *Id.* at 7-8.

automated, and which activities were no longer necessary. SCE determined, based on interviewing approximately 12 subject matter experts whose job functions include the activities listed above, and updated time-and-motion studies, that it is reasonable to charge \$0.37 per CCA service account per month for these activities. Furthermore, the cost of generating daily, weekly and monthly reporting of exception billing and related activity for the CCA was determined to be \$370 per month. These values form the basis of the Settlement.

Finally, given the time required for SCE to complete its cost study of the components of the MAMF, and given the time-sensitive nature of the relief sought by Lancaster in light of its CCA implementation schedule, the Settling Parties agreed to limit their examination to the MAMF, without undertaking a similar review of the components of other CCA fees. Instead, the Settling Parties agreed that an updated examination of the MAMF, and the remaining CCA fee levels in Schedules CCA-SF as well as those in Schedule CC-DSF, and Schedule CCA-INFO, would be undertaken comprehensively in the 2018 GRC Phase 1 after SCE had built experience with, and recorded cost data about, CCA-related services.⁸ Settling Parties state that this aspect of the Settlement Agreement is in accord with Lancaster's recommendation in its testimony that CCA fees be reexamined in three years after SCE had a historical basis for determining appropriate fees reflecting "any synergies or technological advancements that have occurred in the interim."⁹ The Settlement Agreement's per-account fee for billing exceptions and per-month fee for certain reporting activity also reflects

⁸ CC-DSF governs "Customer Choice - Discretionary Service Fees"; Schedule CCA-INFO governs "Community Choice Aggregation-Information Fees".

⁹ Exhibit Lancaster-1 at 15.

Lancaster's recommendation that SCE determine which activities should be reflected in fixed service fees versus activities for which a per-unit cost or material charges should apply.

The Commission finds that based on the record regarding this discrete issue, as described by Settling Parties and summarized above, this uncontested Settlement Agreement reasonably resolves the identified issues.

3.2. Is the Settlement Agreement Consistent with the Law

The Settling Parties believe that the terms of the Settlement Agreement comply with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof. The Settling Parties state that, in agreeing to the terms of the Settlement Agreement, they have explicitly considered the relevant statutes and Commission decisions and believe that the Commission can approve the Settlement Agreement without violating applicable statutes or prior Commission decisions.

The Commission finds that the Settlement Agreement is consistent with law. As described by the Settling Parties, the process for conducting settlement discussions was in accordance with Article 12 of the Commission's Rules of Practice and Procedure. Further, the Settlement Agreement is not inconsistent in any way with the Public Utilities Code, Commission decisions, or the law in general.

3.3. Is the Settlement Agreement in the Public Interest?

In the Joint Motion, the Settling Parties assert that the Settlement Agreement is supported by parties that fairly represent the affected interests at stake in this proceeding. As the Settling Parties succinctly state,

Lancaster is the first CCA to become operational in SCE's service territory. Modifying only the MAMF to reflect updated cost studies pertaining to that fee, while deferring a comprehensive review of most other CCA service fees to Phase 1 of the 2018 GRC, will provide immediate relief to Lancaster without prejudicing the Commission's ability to re-examine the reasonableness of the CCA fees after additional data has been collected over the coming years.¹⁰

As further demonstration that the Settlement Agreement is in the public interest, Settling Parties note the following:

- In this instance, the signatories to the Settlement Agreement represent the interests of existing stakeholders concerned with the CCA fee issue;
- The Settlement Agreement is a reasonable compromise of the Settling Parties' respective positions, as summarized in Section III of the Joint Motion, and therefore fairly resolves issues and provides appropriate relief for Lancaster regarding fees that it incurs as a CCA. Timely resolution of these issues is in the public interest; and
- Adoption of the Settlement Agreement by the Commission would avoid the cost of further litigation, freeing Commission resources as well as the time and resources of SCE, so that it may focus on the rest of this proceeding and other proceedings, and the time and resources of Lancaster, so that it may focus on launching its CCA program.

Based on the reasoning provided by the Settling Parties and our review of the Settlement Agreement itself, the Commission finds that the Settlement Agreement is a reasonable compromise of Settling Parties' respective litigation positions. The Commission furthers find that the Settlement Agreement is in the

¹⁰ Joint Motion at 10.

public interest because it avoids the cost of further litigation, and conserves scarce resources of parties and the Commission.

4. Conclusion

On the basis of our findings that the proposed settlement agreement is reasonable in light of the whole record, consistent with law, and in the public interest, the Commission grants the July 17, 2015 Joint Motion to adopt the Settlement Agreement.

5. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

6. Assignment of Proceeding

Michel Peter Florio is the assigned Commissioner and Stephen C. Roscow is the assigned ALJ in this proceeding.

Findings of Fact

1. The July 17, 2015 Settlement Agreement is an uncontested settlement.
2. The July 17, 2015 Settlement Agreement was entered into by parties representing all impacted customer groups.
3. The July 17, 2015 Settlement Agreement was reached after demonstrable give and take between the settling parties.

Conclusions of Law

1. The July 17, 2015 Settlement Agreement is reasonable in light of the record, consistent with law, and in the public interest.
2. The July 17, 2015 Settlement Agreement should be approved.

3. Lancaster's March 13, 2015 testimony should be received into the evidentiary record in this proceeding.

4. This order should be effective immediately so that SCE may prepare the necessary advice letter, parties may review and comment on the Advice Letter, and rates may be timely adjusted.

O R D E R

IT IS ORDERED that:

1. The joint motion of Southern California Edison Company and the City of Lancaster dated July 17, 2015 requesting approval of the Settlement Agreement between Southern California Edison Company and the City of Lancaster is granted. The Settlement Agreement filed on July 17, 2015 is adopted.

2. Within 45 days of the date this order is mailed, Southern California Edison Company shall file a Tier 1 Advice Letter in compliance with General Order (GO) 96-B, to implement the changes to Schedule CCA-SF contained in the Settlement Agreement approved in this decision. The tariff sheets shall become effective no earlier than October 1, 2015. No additional customer notice for this advice letter filing need be provided pursuant to General Rule 4.2 of GO 96-B.

3. Lancaster's March 13, 2015 testimony is marked as Exhibit Lancaster-1 and received into the evidentiary record in this proceeding.

4. Application 14-06-014 remains open.

This order is effective today.

Dated _____, at San Francisco, California.