



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE **FILED**

STATE OF CALIFORNIA

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Application of Consumers Power Alliance; Public Citizen, Coalition of Energy Users; Eagle Forum of California; Neighborhood Defense League of California; Santa Barbara Tea Party; Concerned Citizens of La Quinta; Citizens Review Association; Palm Spring Patriots Coalition; Desert Valley Tea Party; Menifee Tea Party; Hemet Tea Party; Temecula Tea Party; Rove Enterprises, Inc.; Schooner Enterprises, Inc.; Eagle Forum of San Diego; Southern Californians for Wired Solutions to Smart Meters; and Burbank Action for Modification of D.08-09-039 and a Commission Order Requiring Southern California Edison Company (U338E) to File an Application for Approval of a Smart Meter Opt-Out Plan

Application 11-07-020  
(Filed July 26, 2011)

**COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E)**  
**ON THE PROPOSED DECISION MODIFYING DECISION 08-09-039 AND ADOPTING**  
**AN OPT-OUT PROGRAM FOR SOUTHERN CALIFORNIA EDISON COMPANY'S**  
**EDISON SMARTCONNECT PROGRAM**

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Dated: **April 4, 2012**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 of the California Public Utilities Commission's (CPUC's or Commission's) Rules of Practice and Procedure, Southern California Edison Company (SCE) hereby submits these comments on the Proposed Decision (PD) Modifying Decision 08-09-039 and Adopting an Opt-Out Program for SCE's Edison SmartConnect Program.

SCE generally supports the PD as it strikes a reasonable balance among the various interests in this proceeding. However, SCE has identified several issues in the PD that require modification or clarification. SCE details these issues and provides recommendations to modify the PD in the following section.

## II. DISCUSSION

### A. **The PD Should Be Modified to Recognize That an Exit Fee Is Reasonable**

The PD declines to adopt an exit fee stating, “The current record does not contain sufficient evident [*sic*] to justify why such a fee is necessary nor the appropriate amount. Therefore, we will consider the appropriateness of an exit fee in the second phase of the proceeding.”<sup>1</sup> This is incorrect. In SCE’s Technological Feasibility and Cost Information Compliance Proposal, filed on November 28, 2011, SCE discussed the need for an exit fee to ensure that costs to terminate participation in the opt-out program be properly paid by opt-out participants. Specifically, SCE stated, “The exit fee covers costs associated with restoring an Edison SmartConnect meter at the customer’s residence, thus providing the next resident access to Smart Grid functionality through Edison SmartConnect-enabled programs and tools.”<sup>2</sup> SCE also evaluated the exit fee and included the analysis in the workpapers filed with the Technological Feasibility and Cost Information Proposal. If the Commission does not adopt an exit fee for opt-out participants, the costs to terminate participation in the opt-out program will be borne by other customers. Thus, the PD should be modified to recognize that an exit fee is appropriate, and that the fee amount will be determined in the second phase of the proceeding.

### B. **The PD Should Be Modified to Allow the Flexibility for SCE to Notify Delay List Customers of the Opt-Out Program by Certified Mail or by an Equivalent Service**

The PD requires that SCE notify customers on the delay list of the opt-out program by certified mail to provide 30 days prior notice that their current meter will be replaced with a smart meter if they do not choose to enroll in the opt-out program.<sup>3</sup> A reasonable equivalent service to Certified Mail is the United States Postal Service’s (USPS) Critical Mail service. Critical Mail is a new, expedited service for commercial mailers seeking confirmed delivery of urgent and secure mail that has higher delivery rates than Certified Mail. SCE is planning to use

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<sup>1</sup> PD at pp. 19-20

<sup>2</sup> SCE’s Technological Feasibility and Cost Information Compliance Proposal, pp. 11, 14, 20.

<sup>3</sup> PD at p. 24.

this service to contact delay list and opt-out customers. Thus, the PD should be modified to allow SCE to contact delay list customers for mailings via Certified Mail or equivalent service, including the USPS Critical Mail service.

**C. The PD Should Clarify That the Second Phase of the Proceeding Should Begin No Earlier Than August 1, 2012**

The PD establishes a second phase of the proceeding to consider cost and cost allocation issues associated with offering an opt-out option.<sup>4</sup> SCE recommends that the PD clarify that the second phase of the proceeding will begin no earlier than August 1, 2012. This is because by August 1, 2012, SCE expects to have gathered two months of operational data and will have sufficient time to understand the cost implications of the actual opt-out program participation rate.<sup>5</sup> The actual participation rate could affect the final fees and cost subsidization. SCE could then update its cost forecasts for Commission consideration in the second phase of the proceeding. Thus, SCE recommends that the PD be modified to allow for the second phase of the proceeding to begin no earlier than August 1, 2012.

**D. The PD Should Clarify That Customers Who Do Not Provide Reasonable Access to Their Meter Will Be Mandatory Participants in the Opt-Out Program**

The PD requires SCE to implement an opt-out program utilizing an option that "...shall have the customer retain the meter currently installed at their location, or receive the meter form, (*i.e.*, an analog meter or non-analog, non-smart digital meter) that had been at the customer's location prior to the installation of a wireless smart meter."<sup>6</sup> SCE supports this provision of the PD; however, SCE recommends that the Commission clarify this requirement so that it is applicable to situations where customers do not provide reasonable access to the meter (*e.g.*, deny access to property, locks the meter, etc.). As such, the PD should clarify that in such a

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<sup>4</sup> PD, Conclusions of Law 11, p. 27

<sup>5</sup> Assuming the CPUC adopts this PD on April 19, SCE would be required to begin Phase 1 opt-out program enrollments on May 9.

<sup>6</sup> PD at p. 18.

scenario, if SCE has notified the customer of her/his eligibility for service under the opt-out program, and the customer does not subsequently enroll in the opt-out program or make her/his meter accessible, SCE may default the customer into the opt-out program and assess the applicable initial and monthly fees. This is consistent with the procedures adopted as part of PG&E's opt-out program.

**E. The PD Should Be Clarified to Provide That a Customer May Enroll in the Opt-Out Option Once Per Twelve-Month Period**

The PD provides opt-out guidelines that specify, "A customer may only enroll in the opt-out option once *per calendar year* at the same residence."<sup>7</sup> Although this would prevent certain process inefficiencies,<sup>8</sup> the proposed guideline is inconsistent with SCE's tariff provisions in Rule 12, which provide conditions for rate changes using a twelve-month period. To accommodate the proposed calendar year guideline, SCE would need to make unnecessary process and system changes, adding to the program costs. However, the intent of this guideline would also be served if the guideline specified that customers may enroll once per twelve-month period. As such, the PD should be modified to provide that a customer may enroll in the opt-out option once *per twelve-month period* at the same residence.

**F. The PD Should Clarify That SCE's Opt-Out Program Costs Will Not Be Subject to After-the-Fact Reasonableness Review**

The PD authorizes SCE to establish a new two-way memorandum account to track revenues and costs associated with the opt-out program until a final decision on cost recovery and cost allocation is adopted. As discussed in the text of the PD, the establishment of this two-way memorandum account solely precludes retroactive ratemaking and offers no assurance of future recovery. The PD further states that "the utility shall bear the burden when it requests recovery of the recorded costs, to show that separate recovery of the types of costs recorded in

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<sup>7</sup> PD at p. 23.

<sup>8</sup> See Opening Comments of Southern California Edison Company on Decision Modifying Pacific Gas and Electric Company's SmartMeter Program to Include an Opt-Out Option, December 12, 2011, p. 7.

the account is appropriate, that the utility acted prudently when it incurred these costs and that the level of costs is reasonable.”<sup>9</sup> As stated in Conclusion of Law 8, the PD allows for future recovery of all costs found to be reasonable:

Since SCE’s deployment of the Edison SmartConnect Program is consistent with the requirements of D.08-09-039, it should be allowed to recover the costs associated with offering the opt-out option to the extent those costs are found to be appropriate, reasonable and not already being recovered in rates.<sup>10</sup>

The PD states that the second phase of this proceeding will address cost allocation and issues concerning the actual costs to be recovered by SCE for offering the opt-out program. The Commission should perform a full review of forecasted costs and approve the scope of the opt-out program in this second phase. SCE’s incurred costs that are consistent with the scope and costs as adopted by the Commission should not be subject to an after-the-fact reasonableness review. Similar to other SCE balancing and memorandum accounts, the Commission would review the recorded activity of the opt-out memorandum account in SCE’s ERRR Review proceedings to ensure the costs are recorded correctly and are consistent with the approved scope of activities and funding levels as adopted by the Commission in the second phase of this proceeding. The PD should make clear that after the Commission verifies that the costs are recorded correctly and are consistent with the approved scope of activities and funding levels, recovery of all costs found reasonable will be permitted.

### **III. CONCLUSION**

For the foregoing reasons, the Commission should modify the PD to: (1) recognize that an exit fee is reasonable and the amount of the fee will be evaluated in the second phase of the proceeding, (2) allow the flexibility for SCE to notify delay list customers of the opt-out program

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<sup>9</sup> PD, p. 20, fn45 (emphasis added).

<sup>10</sup> PD, Conclusions of Law 8, p. 27.

by Certified Mail or by an equivalent service, (3) allow the second phase of the proceeding to begin no sooner than August 1, (4) clarify that customers who do not provide reasonable access to their meter will be mandatory participants in the opt-out program, and (5) clarify that SCE's opt-out program costs are not subject to after-the-fact reasonableness review. Specific modifications to applicable Conclusions of Law are included in Appendix A for Commission's consideration.

Respectfully submitted,

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**APPENDIX A**

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**SCE's Proposed Modifications to Conclusions of Law**

**Conclusions of Law**

6. Customers who participate in the opt-out option should retain the meter currently installed at their location or receive the meter form (i.e., an analog meter or a non-analog, non-smart digital meter) that had been at the customer's location prior to the installation of a wireless smart meter. **Customers who do not provide reasonable access to their meter will be a mandatory participant in the opt-out program.**

8. Since SCE's deployment of the Edison SmartConnect Program is consistent with the requirements of D.08-09-039, it should be allowed to recover the costs associated with offering the opt-out option to the extent those costs are found to be appropriate, reasonable and not already being recovered in rates. **These costs are not subject to an after-the-fact reasonableness review.**

9. A residential customer selecting the opt-out option should be assessed an initial charge and a monthly charge. **An exit fee is reasonable and will be determined in the second phase of this proceeding.**

11. There should be a second phase in this proceeding to consider cost and cost allocation issues associated with offering an opt-out option **that will commence no sooner than August 1, 2012.**

**19. Certified Mail or equivalent services, such as USPS Critical Mail, should be used to contact delay list and opt-out customers by mail.**