



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

FILED

09-20-11
04:59 PM

Application of Southern California Edison)	
Company (U 338-E) for Expedited Authorization)	
to Change Residential Electric Rates Effective)	Application 09-10-014
January 1, 2010, as Permitted by Newly Enacted)	
Public Utilities Code Section 739.9)	
_____)	
)	
And Related Matters)	Application 09-10-013
)	
_____)	Application 09-10-015

**PETITION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO
MODIFY DECISION 09-12-048**

BRUCE A. REED

Attorney for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-4183
Facsimile: (626) 302-6693
E-mail:bruce.reed@sce.com

Dated: **September 20, 2011**

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

Application of Southern California Edison)	
Company (U 338-E) for Expedited Authorization)	
to Change Residential Electric Rates Effective)	Application 09-10-014
January 1, 2010, as Permitted by Newly Enacted)	
Public Utilities Code Section 739.9)	
_____)	
)	
And Related Matters)	Application 09-10-013
)	
_____)	Application 09-10-015

**PETITION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) TO
MODIFY DECISION 09-12-048**

Pursuant to Rule 16.4 of the California Public Utilities Commission’s Rules of Practice and Procedure, Southern California Edison Company (SCE) respectfully submits this Petition to Modify Decision (D.)09-12-048 (Petition).

SCE makes two requests in this Petition:

1. Based on D.11-05-047, modify D.09-12-048 to authorize SCE to increase its existing residential customer charges for California Alternate Rates for Energy (CARE) and non-CARE customers by the same annual percentage increases authorized for Tier 1 volumetric rates under Public Utilities Code Section (§) 739.9(a) and § 739.1(b)(2); and
2. Based on D.11-05-047 and Resolution E-4391, modify D.09-12-048 to permit SCE to adjust its composite baseline rate, *i.e.*, its Tier 1 volumetric rate and fixed customer charge, more than once per year by means of an advice letter based on

changes in SCE's system average rate (SAR) under the two following circumstances:

- a. If a subsequent reduction to the SAR requires a reduction to the composite baseline rate in order to maintain compliance with § 739.9(b), or
- b. If a subsequent increase to the SAR allows an increase to the composite baseline rate, and the composite baseline rate was previously limited by § 739.9(b) to less than the increase permitted by § 739.9(a) in that same year.

These requested changes should be authorized expeditiously by the Commission. They reflect the Commission's interpretation of the relevant statutory provisions of Senate Bill (SB) 695 that were adopted in D.11-05-047 as well as in Resolution E-4391. Specific changes to the text of D.09-12-048 are provided in Appendix A to this Petition.

I.

D.09-12-048 AUTHORIZED CHANGES TO RESIDENTIAL TIER 1 AND TIER 2 VOLUMETRIC RATES BUT NOT TO SCE'S FIXED CUSTOMER CHARGE

D.09-12-048 authorized SCE, Pacific Gas and Electric Company (PG&E), and San Diego Gas and Electric Company (SDG&E) to file annual advice letters to increase residential CARE and non-CARE volumetric rates for usage up to 130 percent of baseline quantities, *i.e.*, Tier 1 and Tier 2 volumetric rates, with commensurate reductions in rates for usage above 130 percent of baseline, *i.e.*, Tiers 3 and above. Increases to non-CARE rates for Tiers 1 and 2 are limited by § 739.9(a) and § 739.9(b), which were enacted by SB 695 in October 2009. Subdivision (a) states:

The commission may, subject to the limitation in subdivision (b), increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities, as defined in Section 739, by the annual percentage change in the Consumer

Price Index from the prior year plus one percent, but not less than three percent and not more than five percent per year.¹

Subdivision (b) limits the sum of the Tier 1 volumetric rate and the customer charge to no more than 90 percent of the utility's SAR. It states:

The rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, shall not exceed 90 percent of the system average rate...²

In D.09-12-048, the Commission agreed with the request made by the utilities to offset any increase to the non-CARE Tier 1 and Tier 2 rates by a commensurate decrease in the rates for Tiers 3 and above so as to not alter the revenue requirement that is allocated to the residential rate group.³

Increases to CARE customer rates for Tiers 1 and 2 are limited by § 739.1(b)(2) to no more than three percent, but would correspond to the annual increase, if any, in benefits provided under the CalWORK's program. Such increases have been suspended for each year since SB 695 was enacted. Thus, no increases to CARE rates have been authorized under SB 695.

Among the three utilities whose applications were considered by the Commission in D.09-12-048, only SCE had an existing residential customer charge. SCE understood at the time it filed Application (A.)09-10-014 that the increases permitted under § 739.9(a) applied only to non-CARE Tier 1 and Tier 2 *volumetric* rates and the increases permitted under § 739.1(b)(2) applied only to CARE Tier 1 and Tier 2 *volumetric* rates. Because of this understanding, SCE did *not* request any increase in its then-existing fixed residential customer charges in A.09-10-014.⁴ No party in those proceedings contended that § 739.9(a) or § 739.1(b)(2) applied to both the Tier 1 volumetric rate as well as SCE's customer charge. The Commission did not

¹ The annual percentage change in the CPI is to be calculated using the same formula used to determine the annual Social Security cost of living adjustment (COLA) on January 1, 2008.

² Note that SCE includes minimum charge revenues in determining compliance with § 739.9(b) in addition to the customer charge revenues and Tier 1 volumetric charges. This method was used by SCE and the Commission confirmed SCE's compliance with § 739.9(b) at page 17 of D.09-12-048.

³ D.09-12-048, p. 13; Conclusion of Law 2, p. 25.

⁴ SCE currently has an 88 cent per month non-CARE customer charge, a 70 cent per month CARE customer charge, and also differentiates between the customer charge for single-family and multi-family dwellings.

consider whether it should authorize the same percentage increase to SCE’s customer charge as it authorizes to SCE’s Tier 1 and Tier 2 volumetric rates. As discussed below, the Commission did consider this issue recently in D.11-05-047. D.09-12-048 should be modified based on that interpretation.

II.

THE COMPOSITE BASELINE INTERPRETATION OF SECTION 739.9(A) THAT WAS ADOPTED IN D.11-05-047 REQUIRES MODIFICATION OF D.09-12-048 TO AUTHORIZE INCREASES TO SCE’S EXISTING RESIDENTIAL CUSTOMER CHARGE EQUAL TO THE TIER 1 VOLUMETRIC RATE INCREASES

In A.10-03-014, PG&E requested authority to implement a fixed \$3.00 per month residential customer charge. The Commission denied PG&E’s request in D.11-05-047, finding that “based on accepted standards of statutory construction, a fixed customer charge is included in baseline rate limitations ‘for usage up to 130 percent of baseline quantities’ as prescribed in §§ 739.1(b)(2) and 739.9(a).”⁵ The Commission also concluded that “[c]onsistent with legislative intent, the rate restrictions in §§ 739.1(b)(2) and 739.9(a) should be interpreted as including fixed customer charges as an unavoidable rate element for usage within baseline.”⁶ The Commission’s interpretation of these statutory provisions — based primarily on arguments of The Utility Reform Network (TURN) and Division of Ratepayer Advocates (DRA) — includes any customer charge together with the Tier 1 volumetric rate in what is known as the composite baseline rate. The import of this statutory interpretation, adopted in D.11-05-047, is that SCE should be authorized to increase its residential customer charge by the same percentage increase permitted for the Tier 1 volumetric rate. The Commission stated:

Since SCE already has a residential customer charge, TURN’s composite “baseline rate” interpretation of Sec. 739.9(a) ***would allow an increase both in SCE’s Tier 1 rate and to the existing***

⁵ D.11-05-047, p. 84, Conclusion of Law 6.

⁶ D.11-05-047, p. 84, Conclusion of Law 8.

customer charge (or some combination of the two) because both components exist as part of the composite “baseline rates” that may be increased by 3-to-5 percent pursuant to Sec. 739.9(a).⁷

Because D.11-05-047 concluded that a customer charge must be inferred to be part of the baseline rate percentage increase limits of § 739.9(a), SCE should be allowed to request increases to *both* its existing non-CARE customer charge and its non-CARE Tier 1 volumetric rate annually by the same percentage, with the composite baseline rate remaining subject to the further limit imposed by § 739.9(b). Similarly, SCE should be authorized to increase its CARE customer charge by the same percentage increase permitted under § 739.1(b)(2) for CARE customers. Thus, for the Commission to consistently apply the interpretation adopted by D.11-05-047, D.09-12-048 should be modified to explicitly permit such annual increases for a utility that has a customer charge through January 1, 2019. SCE notes that the magnitude of the customer charge increases that could be implemented by this modification of D.09-12-048 is small. Given the fact that SCE’s current non-CARE customer charge is 88 cents per month, a maximum annual increase of five percent will result in an increase of only 4.4 cents per month.

SCE also notes that it disagrees with the Commission’s interpretation of § 739.9(a) that was adopted in D.11-05-047 and has joined PG&E, SDG&E and Kern County Taxpayers’ Association in filing an application for rehearing of that decision. Nonetheless, even the minimal increase to SCE’s current customer charges that would be allowed by D.11-05-047 is a step in the proper direction of a more equitable and cost-based rate structure for residential customers. By filing this Petition, SCE does not waive its right to seek an increase to its residential customer charges in excess of the limits specified by § 739.9(a) and 739.1(b)(2) if the Commission or a Court of Appeal modifies or rejects the interpretation adopted by D.11-05-047.

⁷ *Id.* at p. 23, emphasis added. TURN witness Florio (now Commissioner Florio) confirmed this conclusion during SCE’s cross-examination. See A.10-03-014, Tr. 3 pp. 480 - 481, 485, November 18, 2010.

III.

THE ANNUAL ADVICE LETTER PROCESS ADOPTED BY D.09-12-048 SHOULD BE MODIFIED TO ENSURE CONTINUED COMPLIANCE WITH SECTION 739.9(B) AND TO EXPLICITLY ALLOW MORE THAN ONE RATE CHANGE EACH YEAR

D.09-12-048 adopted an annual advice letter process for future annual residential rate changes on the default residential tariffs. It states:

Future annual filings to implement proposed changes in residential rates as authorized by Senate Bill 695 (Ch. 337, Stats. 2009) shall be by Tier 2 advice letter as set forth in General Order 96-B, filed no later than 45 days before the proposed effective date.⁸

In accordance with D.09-12-048, SCE filed its first annual advice letter (AL 2526-E) on November 16, 2010, proposing to increase non-CARE residential rates for Tiers 1 and 2 effective January 1, 2011. SCE explained that it used the Social Security COLA effective on January 1, 2011 which represents the change in the CPI-W from the third quarter of 2009 to the third quarter of 2010, which was 1.5 percent. Standing alone, this would allow the Tier 1 and Tier 2 rates to increase by the minimum of three percent under § 739.9(a). However, an increase of three percent to the Tier 1 rate — including the effective rate for customer charge revenues — would have exceeded the 90 percent of SAR limit established by § 739.9(b).² SCE therefore requested authority to implement a Tier 1 rate increase of two percent rather than three percent effective January 1, 2011, since that Tier 1 rate added to the effective rate for customer charge revenues would then equal 90 percent of SCE’s SAR. SCE also requested authority to adjust its

⁸ D.09-12-048, Ordering ¶ 5, p. 27.

² In Advice Letter (AL) 2526-E SCE refers to “customer and minimum charge revenues” while P.U. Code § 739.9(b) refers only to customer charge revenues. SCE’s residential rate schedules include basic and minimum charges, in addition to charges for kWh usage. SCE’s basic and minimum charges are assessed on a \$ per meter per day basis, and represent “customer charge revenues” as defined in § 739.9(b). References to “customer charge revenues” include what SCE calls “customer charge and minimum charge revenues” in AL 2526-E.

Tier 1 volumetric rate later in 2011 if SCE's SAR increased or decreased.¹⁰ While no protests were filed, the Energy Division suspended SCE's advice letter to consider whether the Commission could authorize a Tier 1 volumetric rate increase of less than three percent, an issue that had not been addressed by D.09-12-048. Thus, no rate changes were authorized effective on January 1, 2011.

Resolution E-4391 concluded that the three percent minimum rate increase permitted by § 739.9(a) could be reduced, if necessary, to less than three percent in order to comply with § 739.9(b).¹¹ However, the increase to SCE's Tier 1 volumetric rate effective June 1, 2011, was limited by § 739.9(b) to one percent instead of two percent because SCE's SAR had decreased compared to SCE's January 1, 2011 SAR.¹² If a two percent Tier 1 rate increase had been authorized for January 1, 2011, as SCE initially requested, that Tier 1 rate would have had to decrease on June 1, 2011 to comply with § 739.9(b). However, Resolution E-4391 relied on Ordering Paragraph 5 of D.09-12-048 to conclude that Tier 1 and Tier 2 rate changes should be allowed no more than once in 2011.¹³

With respect to 2012, SCE's composite baseline rate increase will once again likely be limited to less than three percent by § 739.9(b) based on an effective date of January 1, 2012. However, increases to SCE's SAR will likely occur after January 1, 2012 due to the effective date of decisions in Phase 1 of SCE's 2012 General Rate Case (GRC) and SCE's Energy Resource Recovery Account proceedings. Thus, within a relatively short period after January 1, 2012, the composite baseline rate increase for 2012 will probably no longer be limited by § 739.9(b) and should be adjusted accordingly.

For the reasons discussed above, the Commission should modify D.09-12-048 to clarify that more than one composite baseline rate (Tier 1 plus customer charge rate) change per year is

¹⁰ TURN witness Florio testified in PG&E's 2011 GRC Phase 2 proceeding that he agreed with SCE's proposal to make more than one adjustment to the Tier 1 rate in 2011. See A.10-03-014, Tr. 3, p. 493, November 10, 2010.

¹¹ Resolution E-4391, p. 11.

¹² Resolution E-4391, pp. 1, 7, 11.

¹³ Resolution E-4391, p. 12.

allowed. There is no need to make more than one Tier 2 rate change, as only the composite baseline rate is subject to the further restriction provided by § 739.9(b). Approval of the annual Tier 2 advice letter that is submitted in November (at least 45 days before its effective date) will determine whether or not the Commission will permit any increase and the maximum percentage increase for the next year.¹⁴ Thus, any subsequent adjustment to the composite baseline rate will only require a mathematical calculation of the appropriate Tier 1 rate and customer charge based on a revised SAR and should be requested by means of a Tier 1 advice letter. Because authorized revenue changes affecting the SAR are generally consolidated, these adjustments should not be frequent.

IV.

PROCEDURAL REQUIREMENTS

A. Compliance with Rule 16.4 (d)

Rule 16.4(d) provides that a petition for modification must be filed within one year of the effective date of the decision proposed to be modified or else explain why the petition could not have been presented within one year of the effective date of the decision. With respect to D.09-12-048, the request to increase SCE's customer charge by the percentages permitted by §§ 739.9(a) and 739.1(b)(2) is based on the Commission's interpretation of these statutes in D.11-05-047. Thus, SCE's request could not have been presented within one year of the effective date of D.09-12-048.

With respect to SCE's request to allow more than one modification by advice letter of residential Tier 1 composite rates, this request was triggered by the suspension of SCE's advice letter for 2011 rate changes as well as D.11-05-047 and Resolution E-4391, both of which were issued in May 2011. Thus, this request could not have been presented within one year of the effective date of D.09-12-048.

¹⁴ Section 739.9(c) provides that any residential rate increases permitted by § 739.9 are discretionary.

B. Proposed Schedule

SCE’s request to be authorized to adjust its residential Tier 1 volumetric rate and its customer charge is consistent with the interpretation of the relevant statutory provisions of SB 695 that was adopted in D.11-05-047. SCE’s request to be authorized to make more than a single revision per year by advice letter to its residential Tier 1 volumetric rate and customer charge will both assure continued compliance with § 739.9(b) and allow the increase that is permitted under § 739.9(a). Thus, the requests are straightforward and, in accordance with the intent of SB 695, and should be authorized to become effective by January 1, 2012.

Accordingly, SCE requests a ruling from the Assigned Administrative Law Judge or Assigned Commissioner that responses if any, to this Petition under Rule 16(f) be filed within 15 days of the filing of this Petition, which would be October 5, 2011. SCE also requests permission to reply to responses to this Petition, if any, under Rule 16.4(g) and that its reply be filed on October 11, 2011. Similarly, SCE requests a reduction to the period in which to file opening comments on the proposed decision.

Proposed Schedule

Petition Filed	September 20, 2011
Responses to Petition Filed	October 5, 2011
Reply to Responses Filed	October 11, 2011
Proposed Decision Mailed	November 2011
Comments on Proposed Decision Filed	10 days after PD mailed
Reply Comments Filed	5 days after opening comments on PD filed
Final Decision	Last Commission meeting in 2011

C. Service of Petition

Pursuant to Rule 16.4(c), this Petition is being served on all parties to A.09-10-013, -014, and -015. In addition, SCE is serving this Petition on parties to A.10-03-014, PG&E’s 2011

GRC Phase 2 proceeding and parties to A.11-06-007, which is Phase 2 of SCE's 2012 GRC. The Petition is also being served on the Chief Administrative Law Judge, Assigned ALJ, and Assigned Commissioner.

V.

CONCLUSION

For the reasons discussed above, the Commission should grant SCE's request to modify D.09-12-048.

Respectfully submitted,

BRUCE A. REED

/s/ Bruce A. Reed

By: Bruce A. Reed

Attorney for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-4183
Facsimile: (626) 302-6693
E-mail: bruce.reed@sce.com

September 20, 2011

Appendix A

Proposed Changes to D.09-12-048

Proposed Changes to D.09-12-048

Ordering Paragraph 5:

5. Future annual filings to implement proposed changes in residential rates as authorized by Senate Bill 695 (Ch. 337, Stats. 2009) shall be by Tier 2 advice letter as set forth in General Order 96-B, filed no later than 45 days before the proposed effective date. **Based on the Commission's interpretation of § 739.9(a) in D.11-05-047, a utility that has a residential customer charge may propose an increase to its composite baseline rate equal to the same annual percentage increases requested for Tier 1 volumetric rates under § 739.9(a) and § 739.1(b)(2) in its annual advice letter. Such increases are limited by § 739.9(b) to no more than 90 percent of the utility's system average rate.**

5.a. A Tier 1 advice letter as set forth in General Order 96-B shall be filed, if necessary, to maintain continued compliance with § 739.9(b) if there is a reduction to the utility's system average rate that requires a reduction to the composite baseline rate.

5.b. A Tier 1 advice letter as set forth in General Order 96-B may be filed to adjust the composite baseline rate if it was previously limited by § 739.9(b) to less than the increase permitted by § 739.9(a) and the utility's system average rate subsequently increases in the same year.