

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

Item 44 ID#3935

RESOLUTION E-3820

October 28, 2004

R E S O L U T I O N

Resolution E-3820. Southern California Edison (SCE) requests authorization to close Schedule AL-1, Outdoor Area Lighting Service – Metered (Schedule AL-1), to new customers as of October 31, 2002. This resolution approves SCE's request with modifications.

By Advice Letter 1656-E. Filed on October 30, 2002.

SUMMARY

SCE's request is approved with modifications.

- **AL-1 is a rate schedule offered by SCE under which a customer with outdoor area lighting load controlled by a photocell control device is charged the lower off-peak rate.**
- **SCE requests authorization to close Schedule AL-1 to new customers because of its loopholes that permit customers to pay the low off-peak rate while using some power during on-peak and mid-peak periods.**
- **Schedule AL-1 need not be offered to new customers because SCE has in place another schedule, AL-2, which appropriately offers lower rate for off-peak usage to eligible outdoor area lighting customers.**
- **SCE's request to close Schedule AL-1 to new customers is approved with the following modifications:**
 - **The effective date to close Schedule AL-1 to new customers is today.**
 - **SCE shall file an advice letter with revised tariff sheets to the Energy Division within 10 days from the effective date of this resolution to conform to the requirements of this resolution.**

BACKGROUND

Schedule AL-1 became effective in May 1996.

On June 13, 1996, SCE filed Advice Letter 1160-EA which contained Schedule AL-1. Schedule AL-1 provided outdoor area lighting customers with a cost based off-peak energy rate without the need for a time-of-use meter. It was required that a load control device be used (i.e. photocell) to ensure that energy could only be consumed during dusk to dawn hours. The advice letter became effective on May 1, 1996.

SCE attempted to revise Schedule AL-1 in 1996 to clarify that the entire load, including any incidental load, had to be controlled for dusk to dawn operation, but was prohibited from doing so due to Assembly Bill 1890¹ (AB 1890).

On August 2, 1996, SCE filed Advice Letter 1173-E to revise Schedule AL-1. The revisions included a lower Customer Charge when customers provided their own load control devices and clarification that the entire load, including any incidental load, had to be controlled for dusk to dawn operation. The Energy Division (ED) denied Advice Letter 1173-E requests, due to the rate freeze that was in effect. Advice Letter 1173-E was withdrawn on May 15, 1998.

SCE established a new outdoor area lighting rate schedule, Schedule AL-2, which incorporated the revisions to address the concerns with Schedule AL-1 that had been denied due to AB 1890.

On May 20, 1998, SCE filed Advice Letter 1318-E to establish a new outdoor area lighting rate schedule, Schedule AL-2, which incorporated the revisions to address the concerns with Schedule AL-1. Schedule AL-2 offers the lower off-peak rate for customers whose total load is controlled by a load controlled device for dusk to dawn operation. Advice Letter 1318-E became effective on June 29, 1998.

Irvine Apartment Management (Irvine) filed a complaint with the California Public Utilities Commission (Commission) stating that seven of its properties should have been assigned to Schedule AL-1 instead of Schedule AL-2.

¹ AB 1890, effective September 1996, froze utilities' rates that were in effect as of June 10, 1996. D.04-01-026, effective January 8, 2004, determined that AB 6X ended the rate control period effective January 18, 2001.

On October 19, 2001, Irvine filed a complaint, Case 01-10-019, with the Commission. Irvine believed that seven of its properties qualified for the lower outdoor lighting rates in Schedule AL-1. SCE disagreed and assigned the seven properties to Schedule AL-2.

In response to Irvine’s complaint, the Commission issued D.02-06-037 on June 25, 2002. The result of this decision was that two of the seven disputed Irvine properties qualified for Schedule AL-1.

D.02-06-037 determined that the “language of Schedule AL-1 is clear and unambiguous in stating that dawn-to-dusk operation applies only to lighting” and that “ambiguous tariff provisions are to be construed strictly against a utility and any doubt resolved in favor of the customer.” In addition, D.02-06-037 stated that the incidental, non-lighting loads shall not exceed 15% of the total connected load.

On October 30, 2002, SCE filed Advice Letter 1656-E to close Schedule AL-1 to new customers effective October 31, 2002.

At the same time, SCE filed Advice Letter 1657-E to request revisions to Schedule AL-2. On November 26, 2002, SCE withdrew Advice Letter 1657-E.

NOTICE

Notice of AL 1656-E was made by publication in the Commission’s Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

On November 19, 2002, Utility Cost Management LLC (UCM) protested SCE’s Advice Letter 1656-E. SCE responded to the protests of UCM on November 26, 2002.

The following is a more detailed summary of the three issues raised in UCM's protest:

- **UCM's first issue is that the closure of Schedule AL-1 would be grossly unfair.**

UCM states that D.02-06-037 determined that SCE was "incorrectly requiring customers' 'incidental, non-lighting load' to be controlled for dusk to dawn operations in order to qualify for Schedule AL-1." UCM asserts that based on its incorrect interpretation of Schedule AL-1, SCE seeks to close this coverage "forever" to customers who would have qualified for Schedule AL-1.

SCE states that "it is grossly unfair to other ratepayers to maintain this rate schedule in its present form."

According to SCE, it designed the rates in Schedule AL-1 for eligible customers whose entire load would be in the off-peak dusk to dawn period. Due to its "flawed tariff language," customers are able to use power in the on-peak and/or mid-peak periods and pay lower off-peak rates. SCE contends that that was not the intent of Schedule AL-1.

In addition, SCE indicates that Schedule AL-2 provides the coverage it intended in Schedule AL-1.

- **UCM's second issue is that because the proposals will result in a rate increase, SCE should be required to make a formal application.**

UCM states that SCE's "proposed changes constitute a change to a 'condition or classification so as to result in an increase', and pursuant to G.O. 96-A, they must be presented by formal application."

SCE believes that "G.O. 96-A does not state that every action that might result in a customer paying more for electric service must be effectuated through an application."

G.O. 96-A states that "a tariff may not be changed whereby any rate or charge is increased, or any condition or classification changed so as to result in an increase until a showing have been made before the Commission and a finding by the Commission that such an increase is justified." SCE contends that "through this

advice letter process, it is making that showing and requesting the appropriate finding in support of its request to close Schedule AL-1” and “is not requesting a rate increase. Thus, no formal application or evidentiary hearing is required.”

- **UCM’s last issue is that SCE’s proposals are based on material facts that are disputed**

UCM points to D.02-02-049 that states, in part, the following:

“If an advice letter and/or protest raise a disputed issue of material fact, an evidentiary hearing in a formal proceeding is required, and the advice letter must be rejected without prejudice, as noted above.”

UCM believes that Advice Letter 1656-E contained numerous factual misrepresentations and, as required by D.02-02-049, the Commission should resolve these factual issues by evidentiary hearing.

SCE states that this is not a complaint proceeding. According to SCE, the “arguments raised by UCM over the meaning of the current tariff language” or “SCE’s past actions is irrelevant and have been addressed in D.02-06-037. The only issue before the Commission is whether to close Schedule AL-1 as requested.”

DISCUSSION

Schedule AL-1 was intended for off-peak use only.

ED agrees with SCE that the energy rates designed in Schedule AL-1 are for dusk to dawn consumption only. Charging customers on Schedule AL-1 the lower off peak rate for on-peak and mid peak energy consumption was not the intent of Schedule AL-1.

SCE has demonstrated that it has attempted to require customer load on Schedule AL-1 to be off-peak.

Currently, SCE has two rate schedules for outdoor area lighting service customers. As of June 2004, there were 438 customers with Schedule AL-1 and

4,971 customers with Schedule AL-2. The major differences between the two schedules are as follows:

	Schedule AL-1	Schedule AL-2
Customer Charge per meter per month	\$19.66 Customer charge is higher than Schedule AL-2 since SCE will provide, install, own, and maintain the control device (i.e. photocell)	\$18.56 Customer charge is lower than Schedule AL-1 since customer will provide, install, own, and maintain the control device (i.e. photocell)
Incidental Load	Incidental, non-lighting loads may be served under this schedule only where such connected loads do not exceed 15 percent of the customer's total connected load.	In addition to what is stated for Schedule AL-1 is the following sentence: Incidental Loads must also be controlled for dusk to dawn operation exclusively.
Contract requirement	Contract is required.	No contract is required.

Both schedules charge the same energy rate of \$0.13713/kWh/Meter/Month.

SCE has demonstrated through its prior Advice Letter 1173-E filing and in its testimony in D.02-06-037² its attempts to implement the requirement in which the customer's entire load is to be in the off-peak dusk to dawn period in order to be eligible for Schedule AL-1.

We agree with SCE that the energy rates designed in Schedule AL-1 are for dusk to dawn energy consumption only. Charging customers on Schedule AL-1 the lower off-peak rate for on-peak and mid-peak energy consumption was not the intent of Schedule AL-1.

Schedule AL-1 need not be offered to new customers because Schedule AL-2 appropriately offers the off-peak rate for dusk to dawn outdoor area lighting consumption. Schedule AL-1 should be closed.

SCE's request to close Schedule AL-1 to new service by advice letter is appropriate in this case.

² D.02-06-037, pages 5-6.

Contrary to the position asserted by UCM, G.O. 96-A does allow advice letters to be filed that will result in increases or decreases in rates or charges, or changes in condition which may result in an increase or decrease, more or less restrictive conditions, or withdrawal of service, so long as any such increases or changes are minor in nature. In such instances, it is not necessary for a formal application to be filed. Moreover, in this case, SCE is not even proposing to increase any particular rate, it is merely seeking to close an existing tariff schedule to new customers because of the ambiguities and flaws in that tariff schedule.

In D.02-06-037 it was found that the “language of Schedule AL-1 is clear and unambiguous in stating that dawn-to-dusk operation applies only to lighting” and that “ambiguous tariff provisions are to be construed strictly against a utility and any doubt resolved in favor of the customer.” Because the Commission has previously found that certain of the provisions of Schedule AL-1 were ambiguous, it is reasonable for SCE to utilize the advice letter process to correct its “ambiguous tariff provisions” and seek authorization to close Schedule AL-1 to new customers.

The protests of UCM are denied.

COMMENTS

Public Utilities Code section 311(g) (1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. The draft resolution was mailed to parties for comment pursuant to PU Code section 311(g) (1) on September 28, 2004. Comments were filed by _____ on _____.

FINDINGS

1. On October 30, 2002, SCE filed Advice Letter 1656-E to close Schedule AL-1 to new customers effective October 31, 2002.
2. On November 19, 2002, UCM filed a protest to Advice Letter 1656-E.
3. On November 26, 2002, SCE responded to the protests of UCM.

4. Charging customers on Schedule AL-1 the lower off-peak rate for on-peak and mid-peak energy consumption was not the intent of Schedule AL-1.
5. Schedule AL-1 need not be offered to new customers because Schedule AL-2 appropriately offers the off-peak rate for dusk to dawn outdoor area lighting consumption. Schedule AL-1 should be closed.
6. SCE's request to close Schedule AL-1 to new service by advice letter is appropriate in this case.
7. UCM's protests are denied.

THEREFORE IT IS ORDERED THAT:

1. SCE's request to close Schedule AL-1, Outdoor Area Lighting Service – Metered (Schedule AL-1), to new customers is approved with the following modification:
 - The effective date to close Schedule AL-1 to new customers is today.
2. SCE shall file an advice letter with revised tariff sheets within 10 days from the effective date of this resolution to comply with the provisions of this order. The advice letter shall be effective on today's date subject to the Energy Division determining that it complies with this order.

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 October 28, 2004; the following Commissioners voting favorably thereon:

Steve Larson
Executive Director

September 28, 2004

Resolution E-3820
Commission Meeting
October 28, 2004

TO: PARTIES TO SOUTHERN CALIFORNIA EDISON ADVICE
LETTER NO. 1656-E

Enclosed is draft Resolution E-3820 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 30 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties to the proceeding may submit comments on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

A copy of the comments should be submitted to:

Laura Lei Strain
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Draft Resolution E-3820
Edison AL 1656-E

September 28, 2004
Page 2

Any comments on the draft Resolution must be received by the Energy Division by October 14, 2004. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on October 21, 2004, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Gurbux Kahlon

Program Manager
Energy Division

Enclosure: Service List
Certificate of Service

SERVICE LIST FOR RESOLUTION E-3820

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
Attn: James W. Yee

Utility Cost Management LLC
726 W. Barstow Avenue, Suite 108
Fresno, California 93704
Attn: Paul Kerkorian