



PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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March 6, 2015

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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 14-03-013

This is the proposed decision of Administrative Law Judge DeAngelis. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 9, 2015 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ KAREN V. CLOPTON

Karen V. Clopton, Chief
Administrative Law Judge

KVC:ek4
Attachment

Decision **PROPOSED DECISION OF ALJ DEANGELIS**
(Mailed on March 6, 2015)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison
Company (U338E) for Approval of 2014-
2018 Economic Development Rates.

Application 14-03-013
(Filed March 24, 2014)

**DECISION APPROVING OF SETTLEMENT AGREEMENT ON ECONOMIC
DEVELOPMENT RATES PREVIOUSLY APPROVED IN RESOLUTION E-4675****Summary**

This decision approves of the settlement between Southern California Edison Company (SCE) and the Office of Ratepayer Advocates on matters related to SCE's request for economic development rates, previously approved by the Commission in Resolution E-4675 (August 14, 2014). SCE shall file an Advice Letter to implement the approved economic development rates. This proceeding is closed.

1. Background

Pursuant to Article 12 of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure (Rules), Southern California Edison Company (SCE) and the Office of Ratepayer Advocates (ORA) (referred to hereinafter collectively as Settling Parties or individually as Party), jointly request that the Commission find reasonable and adopt the *Settlement Agreement Resolving Southern California Edison Company's Application for Approval of 2014-2018 Economic Development Rates* (Settlement Agreement), which was

appended to a motion dated October 8, 2014, *Joint Motion of Southern California Edison Company (U 338-E) and The Office of Ratepayer Advocates for Approval of Settlement Agreement* (Motion).

The other parties to the proceeding, The Greenlining Institute (Greenlining) and the Small Municipal Utilities Coalition (SMU), did not protest SCE's Application and, in addition, authorized the Settling Parties to represent to the Commission that while they are not signatories to the Settlement Agreement, they do not oppose it.

The Settlement Agreement purports to resolve all issues related to this proceeding, including the intersection between SCE's Commission-approved interim economic development rates (EDR) program and the longer-term program addressed in detail by the Settlement Agreement.

Section 3 of this decision describes the procedural background related to this proceeding and, in addition, to the Resolution in which the Commission approved SCE's Advice Letter seeking an interim EDR program, dated August 14, 2014.¹

Section 4 of this decision describes the positions advocated by the parties and summarizes the terms of the Settlement Agreement.

Sections 5, 6, 7 and 8 address whether the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest pursuant to Rule 12.1(d), and whether it should be adopted without modification.

¹ CPUC Resolution E-4675, *Expedited Issuance of Southern California Edison Interim Economic Development Rates Pending Issuance of Decision in A.14-03-013* (August 14, 2014).

Section 9 addresses the procedural requests of the Settling Parties related to expeditious resolution of this motion.

2. Procedural History

The Settlement Agreement, attached hereto as Attachment A and at Paragraph 3 (Recitals), provides the procedural background of both this proceeding and of SCE's Advice Letter 3064-E (filed June 26, 2014) requesting approval of an interim EDR program.² This procedural background is summarized here.

The Commission first authorized EDR tariffs for SCE in Decision (D.) 96-08-025 as a way of offering incentives to SCE customers who would otherwise not retain, expand, or locate their load in California. Then, in D.05-09-018, as modified by D.07-09-016 and D.07-11-052, the Commission approved a second vintage of EDRs for SCE (and for Pacific Gas and Electric Company (PG&E)) with a sunset date of December 2009.

In D.10-06-015, as modified by D.11-05-029, the Commission approved a settlement agreement between SCE, PG&E and several other parties³ for a new 200 Megawatt (MW) EDR Program (for each of SCE and PG&E) that closed to new customers on December 31, 2012.

In March 2012, PG&E filed an Application (A.12-03-001) for approval of new EDRs. SCE was an active party to that proceeding, which culminated in the issuance of D.13-10-019.

² CPUC Resolution E-4675, *Expedited Issuance of Southern California Edison Interim Economic Development Rates Pending Issuance of Decision in A.14-03-013* (August 14, 2014).

³ Those additional parties were the Division of Ratepayer Advocates (now, the Office of Ratepayer Advocates), The Utility Reform Network (TURN), and the Energy Users Forum.

In D.13-10-019, the Commission approved a 200 MW program for PG&E for a Standard (12%) and Enhanced (30%) EDR discount.

On March 24, 2014, SCE filed this Application and supporting testimony. SCE explains in these documents that it is seeking relief substantially similar to the outcome PG&E obtained in its proceeding.

SCE served errata testimony on May 14, 2014.

ORA protested SCE's Application, arguing that SCE failed to demonstrate that a new EDR program modeled on PG&E's is justified. ORA also argued that the marginal generation capacity cost (MGCC) used to determine "contribution to margin" under SCE's proposed EDRs should be set to at least 50%, not zero, given the impact of SCE's loss of the San Onofre Nuclear Generation Station (SONGS), and given the MGCC value adopted by the Commission in the context of another proceeding that SCE settled with ORA and the City of Long Beach.

Two parties filed responses to this Application, Greenlining and SMU. Greenlining noted that SCE's Application included proposed reporting requirements that incorporated suggestions that Greenlining had made in A.12-03-001, the proceeding on PG&E's EDR application. Greenlining indicated that it would "continue to monitor SCE's EDR application to ensure the job reporting is instituted."⁴ SMU sought to make "clear in this proceeding that SCE's program should apply only to businesses new to the State, expanding within SCE's service area, or considering closure."⁵

SCE filed a reply to the protest and responses on May 8, 2014.

⁴ Greenlining Response at 2-3.

⁵ SMU at 3.

On June 26, 2014, SCE filed a Tier 3 Advice Letter, Advice Letter 3064-E, in which SCE sought expedited Commission approval of interim EDR rates consistent with those proposed in this Application, subject to prospective adjustment to conform to any EDR tariff requirements set forth in a final Commission decision in this Application proceeding. SCE also proposed that should a customer sign a written affidavit declaring, under penalty of perjury, that the interim EDR was a substantial motivating factor in the customer's time-sensitive decision about whether to locate or retain their business in California, the customer may remain on the interim rate until the conclusion of their contract period.

ORA filed a protest to Advice Letter 3064-E but subsequently withdrew it. SMU filed comments about Advice Letter 3064-E in which it sought the same clarifications that it had included in its response to this Application proceeding.

The Administrative Law Judge (ALJ) assigned to SCE's Application proceeding held a Prehearing Conference (PHC) on July 9, 2014, during the pendency of Advice Letter 3064-E. At the PHC, the ALJ questioned whether any legal authority existed to support the filing of the pending Advice Letter. The ALJ also directed SCE to file (a) confidential and public versions of the final two EDR annual reports prepared by SCE in compliance with D.05-09-018 and D.10-06-015; (b) a chart comparing attributes from the EDRs that were adopted in D.10-06-015 and those proposed in this Application; and (c) a list of ten scenarios illustrating the rate impacts of the proposed EDRs compared to the customers' non-EDR tariffs. SCE filed confidential and public versions of its response on July 16, 2014.

The assigned Commissioner issued her Ruling and Scoping Memo on July 24, 2014 setting the procedural schedule and defining the scope of the proceeding.

On August 19, 2014, the Commission issued Resolution E-4675 approving the Advice Letter 3064-E and ordering SCE to adopt interim EDRs subject to a 200 MW program, with interim EDR customer loads applying to the program cap adopted in connection with this Application. The Commission also directed SCE to include in its interim EDR tariffs language clarifying that EDRs are intended to retain, expand, or attract load in California relative to out-of-state options, and are not intended to attract either in-state or out-of-state customers from one service area to another within California.

On August 19, 2014, the same day the Commission issued Resolution E-4675, SCE filed a Tier 1 Advice Letter, Advice Letter 3095-E, with interim EDR tariff schedules and agreements consistent with the August 19, 2014 Resolution E-4675. The Director of the Energy Division signed a letter approving Advice Letter 3095-E on August 20, 2014, noting that the interim tariffs and agreements were effective retroactively on the date on which they were filed (August 14, 2014), several days before the Commission approved of the rate change in Resolution E-4675.

SCE began informal settlement negotiations with ORA on July 9, 2014, and thereafter properly noticed an all-party settlement conference pursuant to Article 12 for Monday, August 4, 2014 to discuss resolution of its Application.

SCE and ORA filed the motion seeking approval of the Settlement Agreement that we consider today on October 8, 2014.⁶

3. Summary of Positions and Settlement Agreement

As described above, the terms and conditions of PG&E's EDR program were fully litigated in A.12-03-001 in a record that the Commission has referred to as "robust,"⁷ and SCE's proposal in this Application did not differ substantially from the outcome PG&E obtained.

As indicated on pages 14-15 of SCE's prepared testimony in support of its Application, in D.13-10-019,⁸ the Commission required PG&E to present cost-effective demand-side management (DSM) options to Enhanced EDR customers (i.e., customers receiving the 30% EDR) and to achieve a 5% energy usage reduction over the life of the Enhanced EDR tariff across all participating customers. PG&E was also encouraged to pursue DSM at facilities on the Standard EDR tariff (12% discount) and to try to achieve a 5% energy usage reduction across all of the participating Standard EDR customers over the life of the Standard EDR tariff.

These requirements were based on the Commission's concern that all 200 MW could be consumed by Enhanced EDR customers, a contingency that is not possible under SCE's Settlement Agreement with ORA. Thus, the Settling Parties have agreed here to have SCE commit to exploring DSM options with its

⁶ *Joint Motion of Southern California Edison Company (U 338-E) and the Office of Ratepayer Advocates for Approval of Settlement Agreement* (October 8, 2014).

⁷ CPUC Resolution E-4675 at 2.

⁸ D.13-10-019, *Decision Authorizing Pacific Gas And Electric Company To Offer Economic Development Rate Tariff Options* (October 3, 2013). This was the final decision resolving PG&E's EDR proceeding, A.12-03-001.

Standard and Enhanced EDR customers and to set aspirational goals to the extent they are reasonable on a customer-by-customer basis.

ORA protested the Application principally on the grounds that SCE's proposed EDRs would not provide a positive contribution to margin if the 200 MW cap were comprised principally of customers taking service on the Enhanced (30%) discount.⁹ In ORA's view, that level of discount in areas of SCE's service territory where ORA believed marginal generation capacity costs are high (constrained areas) risked creating a situation in which the discounted rates were insufficient to collect the marginal costs of serving SCE's customers plus nonbypassable charges.

To address ORA's concern, while at the same time leveraging PG&E's "flat" discount structure that is unburdened by a price floor computation, the Settling Parties suggest instituting three types of "caps" to SCE's EDR Program, while leaving most other features of PG&E's Commission-approved program intact. First, the overall program will be capped at 200 MW regardless of the type of discount (Standard or Enhanced). Second, of the 200 MW total, there will be a 40 MW cap on customers taking service on the Enhanced EDR. Third, of the 40 MW cap on the Enhanced EDR, no more than 10 MW will be reserved for customers whose businesses are located (or are planned to be located) in constrained areas.

4. Request for Adoption of the Settlement Agreement

The Settling Parties state that Settlement Agreement is consistent with Commission decisions on settlements, which express the strong public policy

⁹ ORA did not specifically protest the 12% Standard EDR discount proposal.

favoring settlement of disputes if they are fair and reasonable in light of the whole record.¹⁰

This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce Settlement Agreement unacceptable results to parties.¹¹ As long as a settlement taken as a whole is reasonable in light of the record, consistent with the law, and in the public interest, it should be adopted without change.

The general criteria for Commission approval of settlements are stated in Rule 12.1(d) as follows:

The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.¹²

The Settlement Agreement meets the criteria for a settlement pursuant to Rule 12.1(d), as discussed below.

5. The Settlement Agreement is Reasonable In Light of the Record

The record of this proceeding includes SCE's Application and the protests, the two responses, and this motion (together with the attached Settlement Agreement). The Settling Parties requested the admission of direct testimony SCE served on March 24, 2014, and the errata to the direct testimony served on May 14, 2014.

¹⁰ See, e.g., D.88-12-083, 30 CPUC 2d 189, 221-223 and D.91-05-029, 40 CPUC 2d, 301, 326.

¹¹ D.92-12-019, 46 CPUC 2d 538, 553.

¹² See also, *Re San Diego Gas & Electric Company*, D.90-08-068, 37 CPUC 2d 360: "[S]ettlements brought to this Commission for review are not simply the resolution of private disputes, such as those that may be taken to a civil court. The public interest and the interest of ratepayers must also be taken into account and the Commission's duty is to protect those interests."

This request is granted.

The Settlement Agreement represents a reasonable compromise of the Settling Parties' positions. Specifically, with respect to the two "sub-caps" within the overall 200 MW program cap, the result is reasonable because the 40 MW sub-cap is roughly consistent with the proportion of eligible EDR customers whose businesses are or could be located in cities or counties with unemployment rates that are at least 125% of last year's statewide average. The 10 MW sub-cap is roughly consistent with the proportion of customers eligible for the Enhanced EDR who reside in an area designated as "constrained" by SCE in the context of the Local Capacity Resource Request for Offers that was launched in September 2013. These reasonable limits on the Enhanced EDR discount are designed to achieve a positive contribution to margin on a program-wide basis. The program otherwise mirrors PG&E's Commission-adopted EDRs, which are streamlined relative to SCE's and PG&E's last EDR program cycle in which discount computations had relied on a marginal cost price floor that unintentionally left too minimal of room for the discounts to be meaningful for eligible customers.

The Settlement Agreement also reasonably addresses the relationship between SCE's long-term EDR program and the interim EDR program approved in Resolution E-4675, in that it does not differ from the interim program except in three limited respects.

First, the interim program does not contain a sub-cap for the Enhanced EDR or constrained areas. Any incongruity between the interim EDRs' 200 MW program cap and the sub-caps proposed in the attached Settlement Agreement will be eliminated or mitigated by timely issuance of a Commission decision

approving the Settlement Agreement (which will have the effect of supplanting the interim EDR program entirely).¹³

Second, the Commission ordered SCE to refrain from proactively marketing the interim EDR program in order to reduce any ratepayer risks associated with the interim EDRs. This requirement will no longer apply upon Commission approval of the Settlement Agreement.

Third, the Commission required all applicants for SCE's interim EDR program to sign affidavits stating that "but-for" the EDR discount, either alone or in combination with other incentives, the customer would not have retained or located its load in California. Consistent with PG&E's program, this Settlement Agreement applies the but-for requirement to only retention customers (not to expansion or attraction customers).

The balance of the rate discount features is consistent across the interim EDR program and the one proposed to be adopted without modification in the attached Settlement Agreement. These include important safeguards against free-ridership, such as a continued requirement for applicants to obtain a recommendation from a third-party government agency, the Office of California Business Investment Services, before being deemed eligible to take service on the EDR; liquidated damages provisions to make nonparticipating ratepayers whole in cases of fraud or early termination; the but-for affidavit requirement for retention customers; and detailed annual reporting requirements listing a number of program attributes proposed by stakeholders in PG&E's proceeding.

¹³ The interim EDR Agreements each contain a provision stating explicitly that they would be automatically superseded by the EDR Agreements (*see* Appendix B to the Settlement Agreement) approved in connection with this proceeding.

Together, the above documents provide the information necessary for the Commission to find the Settlement Agreement reasonable.

6. The Settlement Agreement is Consistent with the Law

The Settling Parties state that the terms of the Settlement Agreement comply with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof. In agreeing to the terms of the Settlement Agreement, the Settling Parties 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. We agree with the Settling Parties that the Settlement Agreement is consistent with the law.

7. The Settlement Agreement is in the Public Interest

The two-party Settlement Agreement is “supported by parties that fairly represent the affected interests” at stake in this proceeding.¹⁴ As the Commission has found, “[w]hile it is true that we employ a ‘heightened’ focus on the individual elements of a settlement when all interest groups are not accommodated, the focus itself is on whether the parties seeking settlement brought to the table representatives of all groups affected by the settlement. This is not necessarily the same as accommodating the litigation positions of all parties.”¹⁵ SCE believes the Settlement Agreement is in the public interest because it provides relief to businesses struggling in the current economic climate, and ORA supports the Settlement Agreement and believes it is in the

¹⁴ See D.07-11-018, *Order Denying Rehearing of Decision 07-03-044*.

¹⁵ *Id.*, citing to *Re Southern California Edison Company*, 1996, 64 Cal.P.U.C.2d 241, 267.

public interest because it places limits on the Enhanced EDR contracts and, in so doing, limits the discounts paid by non-participating ratepayers.

The Settlement Agreement is a reasonable compromise of the Settling Parties' respective positions. The Settlement Agreement is in the public interest in that it balances the concerns of SCE's business customers and SCE's other ratepayers. The Settlement Agreement, if adopted by the Commission, avoids the cost of further litigation, and frees up Commission resources for other proceedings, including other rate design proceedings, especially in light of resources already recently committed to reviewing PG&E's EDR program. The Settling Parties 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 which are contained in the Settlement Agreement. As such, the Settling Parties request that the Settlement Agreement be adopted as a whole by the Commission, as it is reasonable in light of the whole record, consistent with law

Based on our discussion above, we find the Settlement Agreement to be reasonable, consistent with the law, and in the public interest.

8. Request to Waive Comment Period - Denied

Settling Parties state that the nature of the relief sought in the Settlement Agreement is time-sensitive. In recognition of the time-sensitive nature of the relief sought in the Settlement Agreement and the fact that the Settlement Agreement is opposed by no party to the proceeding, the Settling Parties requested pursuant to Rule 1.2 that the assigned ALJ waive as unnecessary the normal thirty-day comment period on settlement agreements found in Rule 12.2 and proceed instead to the drafting of a Proposed Decision. This request is

denied because not all parties to the proceeding were signatories of the Settlement Agreement. The public interest is otherwise served by issuing this decision for comment.

9. Comments on Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules. Comments were filed on _____, and reply comments were filed on _____ by _____.

10. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Regina M. DeAngelis is the assigned ALJ in this proceeding.

Findings of Fact

1. The Settlement Agreement supports a reasonable compromise of the Settling Parties' positions.
2. The Settlement Agreement supports SCE's long-term EDR program and the interim EDR program approved by the Commission in Resolution E-4675 in that it does not differ from the interim program except in three limited respects.
3. The Settlement Agreement includes important safeguards against free-ridership.
4. Settlement Agreement complies with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof.
5. The Settlement Agreement is a reasonable compromise of the Settling Parties' respective positions.
6. The Settlement Agreement avoids the cost of further litigation, and frees up Commission resources for other proceedings, including other rate design

proceedings, especially in light of resources already recently committed to reviewing PG&E's EDR program.

Conclusions of Law

1. The request by the Settling Parties for the admission of the Direct Testimony SCE served on March 24, 2014 and the Errata to the Direct Testimony served on May 14, 2014 is granted.
2. The Settlement Agreement, *Settlement Agreement Resolving Southern California Edison Company's Application for Approval of 2014-2018 Economic Development Rates*, appended to the October 8, 2014 Motion (Attachment A hereto) is granted and adopted in full.
3. The Settlement Agreement appended to the October 8, 2014 Motion (Attachment A) is reasonable in light of the record, consistent with law, and in the public interest.
4. The request by the Settling Parties to waive the comment period is denied.

ORDER**IT IS ORDERED** that:

1. Within seven days of the effective date of this decision, Southern California Edison shall implement changes via a Tier 1 Advice Letter Filing in accordance with the terms of the Settlement Agreement appended to the October 8, 2014 Motion (Attachment A hereto).
2. The October 8, 2014 Motion, *Joint Motion of Southern California Edison Company (U 338-E) and The Office of Ratepayer Advocates for Approval of Settlement Agreement*, is granted.

3. The Settlement Agreement, *Settlement Agreement Resolving Southern California Edison Company's Application for Approval of 2014-2018 Economic Development Rates*, appended to the October 8, 2014 Motion, is adopted.

4. SCE's Testimony and Errata are admitted into evidence and marked as SCE Exhibit 1 and SCE Exhibit 2.

5. Application 14-03-013 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

Joint Motion of Southern California Edison Company (U 338-E) and The Office of Ratepayer Advocates for Approval of Settlement Agreement (Motion) and, appended thereto, the Settlement Agreement Resolving Southern California Edison Company's Application for Approval of 2014-2018 Economic Development Rates

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

Application Of Southern California Edison)
Company (U338-E) For Approval Of 2014-2018)
Economic Development Rates)

Application A.14-03-013
(Filed March 24, 2014)

**JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND
THE OFFICE OF RATEPAYER ADVOCATES FOR APPROVAL OF SETTLEMENT
AGREEMENT**

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Dated: **October 8, 2014**

**JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY AND THE OFFICE OF
RATEPAYER ADVOCATES FOR APPROVAL OF SETTLEMENT AGREEMENT**

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

Application Of Southern California Edison)
Company (U338-E) For Approval Of 2014-2018)
Economic Development Rates)

Application A.14-03-013
(Filed March 24, 2014)

**JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND
THE OFFICE OF RATEPAYER ADVOCATES FOR APPROVAL OF SETTLEMENT
AGREEMENT**

I.

INTRODUCTION

Pursuant to Rule 12.1 *et seq.* of the California Public Utilities Commission’s (Commission’s) Rules of Practice and Procedure (Rules), two parties—Southern California Edison Company (SCE) and the Office of Ratepayer Advocates (ORA) (referred to hereinafter collectively as Settling Parties or individually as Party)—jointly request that the Commission find reasonable and adopt the “Settlement Agreement Resolving Southern California Edison Company’s Application for Approval of 2014-2018 Economic Development Rates” (Settlement Agreement), which is appended to this motion as Attachment A. The only other parties to the proceeding— The Greenlining Institute (Greenlining) and the Small Municipal Utilities Coalition (SMU)—did not protest SCE’s Application and have authorized the Settling Parties to represent to the Commission that while they are not signatories to the Settlement Agreement, they do not oppose it.

The Settlement Agreement seeks to resolve all issues related to SCE’s Application for Approval of 2014-2018 Economic Development Rates (EDRs), including the intersection

between SCE's Commission-approved interim EDR program¹ and the longer-term program addressed in detail by the Settlement Agreement.

Section II of this motion provides the procedural and regulatory background related to this proceeding and to the Advice Letter proceeding in which the Commission approved SCE's interim EDR program. Section III describes in general the positions advocated by the parties in this proceeding and summarizes the terms of the Settlement Agreement. Section IV demonstrates that the Settlement Agreement is reasonable in light of the whole record, consistent with law, and in the public interest pursuant to Rule 12.1(d), and that it should be adopted without modification. Section V discusses the procedural requests of the Settling Parties related to expeditious resolution of this motion to minimize the potential impact of SCE's interim program conflicting with its longer-term program, and to provide time-sensitive relief for customers in need.

II.

PROCEDURAL AND REGULATORY BACKGROUND

Paragraph 3 ("Recitals") of the Settlement Agreement provides the relevant procedural and regulatory background of this matter and SCE's Advice Letter requesting approval of an interim EDR program, and that background is provided again here for convenience.

The Commission first authorized EDR tariffs for SCE in Decision (D.) 96-08-025 as a way of offering incentives to SCE customers who would otherwise not retain, expand, or locate their load in California. Then, in D.05-09-018, as modified by D.07-09-016 and D.07-11-052, the Commission approved a second vintage of EDRs for SCE (and for Pacific Gas and Electric Company, or PG&E) with a sunset date of December 2009.

¹ See Resolution E-4675.

In D.10-06-015, as modified by D.11-05-029, the Commission approved a settlement agreement between SCE, PG&E and several other parties² for a new 200 MW EDR Program (for each of SCE and PG&E) that closed to new customers on December 31, 2012.

In March 2012, PG&E filed an application (A.12-03-001) for approval of new EDRs. SCE was an active party to that proceeding, which culminated in the issuance of D.13-10-019. In D.13-10-019, the Commission approved a 200 MW program for PG&E for a Standard (12%) and Enhanced (30%) EDR discount. On March 24, 2014, SCE filed this Application and supporting testimony seeking relief substantially similar to the outcome PG&E obtained in its litigated proceeding. SCE served errata testimony on May 14, 2014.

Only one party, ORA, protested SCE's Application, arguing that SCE failed to demonstrate that a new EDR program modeled on PG&E's is justified. ORA also argued that the marginal generation capacity cost (MGCC) used to determine "contribution to margin" under SCE's proposed EDRs should be set to at least 50%, not zero, given the impact of SCE's loss of the San Onofre Nuclear Generation Station (SONGS), and given the MGCC value adopted by the Commission in the context of an unrelated proceeding that SCE settled with ORA and the City of Long Beach.³

Two parties filed Responses to the Application. First, Greenlining noted that SCE's Application included proposed reporting requirements that incorporated suggestions that Greenlining had made in litigating PG&E's EDR application. Greenlining indicated that it would "continue to monitor SCE's EDR application to ensure the job reporting is instituted."⁴ Second, SMU sought to make "clear in this proceeding that SCE's program should apply only to

² Those additional parties were the Division of Ratepayer Advocates (now known as the Office of Ratepayer Advocates), The Utility Reform Network, and the Energy Users Forum.

³ D.14-03-007. *See* ORA Protest, filed April 28, 2014.

⁴ Greenlining Response, pp. 2-3.

businesses new to the State, expanding within SCE's service area, or considering closure."⁵ SCE filed a Reply to the Protest and Responses on May 8, 2014.

On June 26, 2014, SCE filed a Tier 3 Advice Letter (AL), 3064-E, in which it sought expedited Commission approval of interim rates consistent with those proposed in this Application, subject to prospective adjustment to conform to any EDR tariff requirements set forth in a final decision in this Application proceeding. However, SCE proposed that should a customer sign 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, they may remain on the interim rate until the conclusion of their contract period.

ORA filed a protest to AL 3064-E but subsequently withdrew it. SMU filed comments about AL 3064-E in which it sought the same clarifications that it had included in its Response to this Application. On August 19, 2014, the Commission issued Resolution E-4675 approving the unopposed Tier 3 Advice Letter and ordering SCE to adopt interim EDRs subject to a 200 MW program, with interim EDR customer loads applying to the program cap adopted in connection with this Application. The Commission also directed SCE to include in its interim EDR tariffs language clarifying that EDRs are intended to retain, expand, or attract load in California relative to out-of-state options, and are not intended to attract either in-state or out-of-state customers from one service area to another within California. On the same day the Resolution was issued, SCE filed a Tier 1 AL (3064-E) with interim tariff schedules and agreements consistent with those approved in Resolution E-4675, and the Director of the Energy Division signed a letter approving that Advice Letter on August 20, noting that the interim tariffs and agreements were effective on the date on which they were filed (August 14, 2014).

The Administrative Law Judge (ALJ) assigned to SCE's Application held a prehearing conference (PHC) on July 9, 2014 during the pendency of AL 3064-E. At the PHC, the

⁵ SMU Response, p. 3.

Assigned ALJ directed SCE to file (a) confidential and public versions of the final two EDR annual reports prepared by SCE in compliance with D.05-09-018 and D.10-06-015; (b) a chart comparing attributes from the EDRs that were adopted in D.10-06-015 and those proposed in this Application; and (c) a list of ten scenarios illustrating the rate impacts of the proposed EDRs compared to the customers' non-EDR tariffs. SCE filed confidential and public versions of its response on July 16, 2014.

An Assigned Commissioner's Ruling and Scoping Memo was issued on July 24, 2014 setting the procedural schedule and defining the scope of the proceeding.

SCE began informal settlement negotiations with ORA on July 9, 2014, and thereafter properly noticed an all-party settlement conference pursuant to Article 12 for Monday, August 4, 2014 to discuss resolution of its Application. At that telephonic settlement conference, a representative from Greenlining confirmed that it would not support or oppose SCE's settlement with ORA. SMU did not attend the settlement conference, but later confirmed that it, too, neither supported nor opposed SCE's settlement with ORA.

III.

SUMMARY OF POSITIONS AND SETTLEMENT

As described in Section II, above, the terms and conditions of PG&E's EDR program were fully litigated in A.12-03-001 in a record that the Commission has referred to as "robust,"⁶ and SCE's proposal in this Application did not differ substantially from the outcome PG&E obtained.⁷ ORA protested the Application principally on the grounds that SCE's proposed EDRs

⁶ Resolution E-4675, p. 2.

⁷ As indicated on pp. 14-15 of SCE's prepared testimony in support of its Application, in D.13-10-019, the Commission required PG&E to present cost-effective demand-side management (DSM) options to Enhanced EDR customers (*i.e.*, customers receiving the 30% EDR), and to achieve a 5% energy usage reduction over the life of the Enhanced EDR tariff across all participating customers. PG&E was also encouraged to pursue DSM at facilities on the Standard EDR tariff (12% discount) and to try to achieve a 5% energy usage reduction across all of the participating Standard EDR customers over the life of the Standard EDR tariff, in part because the Commission was concerned that all 200 MW could be consumed by Enhanced EDR customers, a contingency that is not possible under SCE's

Continued on the next page

would not provide a positive contribution to margin if the 200 MW cap were comprised principally of customers taking service on the Enhanced (30%) discount.⁸ In ORA's view, that level of discount in areas of SCE's service territory where ORA believed marginal generation capacity costs are high (constrained areas) risked creating a situation in which the discounted rates were insufficient to collect the marginal costs of serving SCE's customers plus nonbypassable charges.

To address ORA's concern, while at the same time leveraging PG&E's "flat" discount structure that is unburdened by a price floor computation, the Parties settled on instituting three types of "caps" to SCE's EDR Program, while leaving most other features of PG&E's Commission-approved program intact. First, the overall program will be capped at 200 MW regardless of the type of discount (Standard or Enhanced). Second, of the 200 MW total, there will be a 40 MW cap on customers taking service on the Enhanced EDR. Third, of the 40 MW cap on the Enhanced EDR, no more than 10 MW will be reserved for customers whose businesses are located (or are planned to be located) in constrained areas.

IV.

REQUEST FOR ADOPTION OF THE SETTLEMENT AGREEMENT

The Settlement Agreement is submitted pursuant to Rule 12.1 *et seq.* of the Commission's Rules of Practice and Procedure. The Settlement Agreement is also consistent with Commission decisions on settlements, which express the strong public policy favoring settlement of disputes if they are fair and reasonable in light of the whole record.² This policy supports many worthwhile goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce

Continued from the previous page

Settlement Agreement with ORA. Thus, the Parties have agreed here to have SCE commit to exploring DSM options with its Standard and Enhanced EDR customers, and to set aspirational goals to the extent they are reasonable on a customer-by-customer basis.

⁸ ORA did not specifically protest the 12% "Standard" EDR proposal.

² See, e.g., D.88-12-083 (30 CPUC 2d 189, 221-223) and D.91-05-029 (40 CPUC 2d, 301, 326).

unacceptable results.¹⁰ As long as a settlement taken as a whole is reasonable in light of the record, consistent with the law, and in the public interest, it should be adopted without change.

The Settlement Agreement complies with Commission guidelines and relevant precedent for settlements. The general criteria for Commission approval of settlements are stated in Rule 12.1(d) as follows:

The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.¹¹

The Settlement Agreement meets the criteria for a settlement pursuant to Rule 12.1(d), as discussed below.

A. The Settlement Agreement Is Reasonable In Light Of The Record

The record of this proceeding includes SCE's Application and the Protests and two Responses thereto, and this motion (together with the attached Settlement Agreement). The Settling Parties request the admission of direct testimony SCE served on March 24, 2014, and the errata to the direct testimony served on May 14, 2014. Together, the above documents provide the information necessary for the Commission to find the Settlement Agreement reasonable.

The Settlement Agreement represents a reasonable compromise of the Settling Parties' positions. Specifically, with respect to the two "sub-caps" within the overall 200 MW program cap, the result is reasonable because the 40 MW sub-cap is roughly consistent with the proportion of eligible EDR customers whose businesses are or could be located in cities or counties with unemployment rates that are at least 125% of last year's statewide average. The 10

¹⁰ D.92-12-019, 46 CPUC 2d 538, 553.

¹¹ See also, *Re San Diego Gas & Electric Company*, (D.90-08-068), 37 CPUC 2d 360: "[S]ettlements brought to this Commission for review are not simply the resolution of private disputes, such as those that may be taken to a civil court. The public interest and the interest of ratepayers must also be taken into account and the Commission's duty is to protect those interests."

MW sub-cap is roughly consistent with the proportion of customers eligible for the Enhanced EDR who reside in an area designated as “constrained” by SCE in the context of the Local Capacity Resource Request for Offers that was launched in September 2013. These reasonable limits on the Enhanced EDR discount are designed to achieve a positive contribution to margin on a program-wide basis. The program otherwise mirrors PG&E’s Commission-adopted EDRs, which are streamlined relative to SCE’s and PG&E’s last EDR program cycle in which discount computations had relied on a marginal cost “price floor” that unintentionally left too little headroom for the discounts to be meaningful for eligible customers.

The Settlement Agreement also reasonably addresses the relationship between SCE’s long-term EDR program, and the interim EDR program approved by that Commission in Resolution E-4675, in that it does not differ from the interim program except in three limited respects. First, the interim program does not contain a sub-cap for the Enhanced EDR or constrained areas. Any incongruity between the interim EDRs’ 200 MW program cap and the sub-caps proposed in the attached Settlement Agreement will be eliminated or mitigated by timely issuance of a Commission decision approving the Settlement Agreement (which will have the effect of supplanting the interim EDR program entirely).¹² Second, the Commission ordered SCE to refrain from proactively marketing the interim EDR program in order to reduce any ratepayer risks associated with the interim EDRs. This requirement will no longer apply upon Commission approval of the Settlement Agreement. Third, the Commission required all applicants for SCE’s interim EDR program to sign affidavits stating that “but-for” the EDR discount, either alone or in combination with other incentives, the customer would not have retained or located its load in California. Consistent with PG&E’s program, this Settlement Agreement applies the but-for requirement to only retention customers (not to expansion or attraction customers).

¹² The interim EDR Agreements each contain a provision stating explicitly that they would be automatically superseded by the EDR Agreements (Appendix B to the Settlement Agreement) approved in connection with this proceeding.

The balance of the rate discount features is consistent across the interim EDR program and the one proposed to be adopted without modification in the attached Settlement Agreement. These include important safeguards against free-ridership, such as a continued requirement for applicants to obtain a recommendation from a third-party government agency, the Office of California Business Investment Services, before being deemed eligible to take service on the EDR; liquidated damages provisions to make nonparticipating ratepayers whole in cases of fraud or early termination; the but-for affidavit requirement for retention customers; and detailed annual reporting requirements listing a number of program attributes proposed by stakeholders in PG&E's proceeding.

B. The Settlement Agreement Is 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. In agreeing to the terms of the Settlement Agreement, the Settling Parties 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.

C. The Settlement Agreement Is In The Public Interest

The two-party Settlement Agreement is “supported by parties that fairly represent the affected interests” at stake in this proceeding.¹³ As the Commission has found, “[w]hile it is true that we employ a ‘heightened’ focus on the individual elements of a settlement when all interest groups are not accommodated, the focus itself is on whether the settling parties brought to the table representatives of all groups affected by the settlement. This is not necessarily the same as accommodating the litigation positions of all parties.”¹⁴ SCE believes the Settlement Agreement is in the public interest because it provides relief to businesses struggling in the current economic

¹³ See D.07-11-018, *Order Denying Rehearing of Decision 07-03-044*.

¹⁴ *Id.* (citing *Re Southern California Edison Company*, 1996, 64 Cal.P.U.C.2d 241, 267).

climate, and ORA supports the Settlement Agreement and believes it is in the public interest because it places limits on the Enhanced EDR contracts and, in so doing, limits the discounts paid by non-participating ratepayers.

The Settlement Agreement is a reasonable compromise of the Settling Parties' respective positions, as summarized in Section III. The Settlement Agreement is in the public interest and in the interest of SCE's customers. The Settlement Agreement, if adopted by the Commission, avoids the cost of further litigation, and frees up Commission resources for other proceedings, including other rate design proceedings, especially in light of resources already recently committed to reviewing PG&E's EDR program. Given that the Commission's workload is extensive, the impact on Commission resources is doubly important.

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 which are contained in the Settlement Agreement. As such, the Settling Parties request that the Settlement Agreement be adopted as a whole by the Commission, as it is reasonable in light of the whole record, consistent with law, and in the public interest.

V.

PROPOSED SCHEDULE FOR COMMENTS AND SETTLEMENT HEARING

The nature of the relief sought in the Settlement Agreement is time-sensitive for two main reasons. First, as explained in Section IV.A., above, SCE is prohibited from proactively marketing its interim EDR program, meaning that eligible customers who may be making time-sensitive decisions about whether to retain or locate load in California are not on active notice from SCE about the availability of the interim rates. A Commission-approved long-term EDR program without such "marketing" restrictions will enable SCE to target eligible customers to educate them about rates that could make the difference between surviving or closing/moving out of California. The sooner the Commission approves the Settlement Agreement, the sooner

eligible and interested customers could avail themselves of these easy-to-understand and attractive rates. Second, because the interim EDR program has only a 200 MW program cap, and did not contemplate the two sub-caps contained in the Settlement Agreement, timely adoption of the Settlement Agreement will prevent a situation in which one or both of the sub-caps will be exceeded by applicants in the interim EDR program.

In recognition of the time-sensitive nature of the relief sought in the Settlement Agreement, and the fact that the Settlement Agreement is opposed by no party to the proceeding, the Settling Parties respectfully request pursuant to Rule 1.2¹⁵ that the Assigned Administrative Law Judge waive as unnecessary the normal thirty-day comment period on settlement agreements found in Rule 12.2 and proceed instead to the drafting of a Proposed Decision.

VI.

CONCLUSION

WHEREFORE, the Settling Parties respectfully request that the Assigned Commissioner, Assigned ALJ, and the Commission:

1. Approve the attached Settlement Agreement as reasonable in light of the record, consistent with law, and in the public interest; and

¹⁵ Rule 1.2 provides that the Commission's "rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented" and that in "special cases and for good cause shown, and within the extent permitted by statute, the Commission may permit deviations from the rules."

2. Issue a decision no later than December 31, 2014 authorizing SCE to implement changes via a Tier 1 Advice Filing in accordance with the terms of the Settlement Agreement.

Respectfully submitted,

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October 8, 2014

Attachment A

Settlement Agreement

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

Application Of Southern California Edison
Company (U338-E) For Approval Of 2014-2018
Economic Development Rates

Application A.14-03-013
(Filed March 24, 2014)

**SETTLEMENT AGREEMENT RESOLVING SOUTHERN CALIFORNIA EDISON
COMPANY'S APPLICATION FOR APPROVAL OF 2014-2018 ECONOMIC
DEVELOPMENT RATES**

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Dated: **October 8, 2014**

**SETTLEMENT AGREEMENT RESOLVING SOUTHERN CALIFORNIA EDISON
COMPANY’S APPLICATION FOR APPROVAL OF 2014-2018 ECONOMIC DEVELOPMENT
RATES**

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

Application Of Southern California Edison
Company (U338-E) For Approval Of 2014-2018
Economic Development Rates

Application A.14-03-013
(Filed March 24, 2014)

**SETTLEMENT AGREEMENT RESOLVING SOUTHERN CALIFORNIA EDISON
COMPANY'S APPLICATION FOR APPROVAL OF 2014-2018 ECONOMIC
DEVELOPMENT RATES**

This Settlement Agreement resolving Southern California Edison Company's (SCE's) Application For Approval Of 2014-2018 Economic Development Rates (Settlement Agreement) is entered into by the undersigned Parties hereto, with reference to the following.

1. Parties

The Parties to this Settlement Agreement are SCE and the Office of Ratepayer Advocates (ORA) (referred to hereinafter collectively as Settling Parties, or individually as Party).

- a. SCE is an investor-owned public utility and is subject to the jurisdiction of the California Public Utilities Commission (Commission or CPUC) with respect to providing electric service to its CPUC-jurisdictional retail customers.
- b. ORA is a division of the Commission that represents the interests of public utility customers. Its goal is to obtain the lowest possible rate for service consistent with reliable and safe service levels. Pursuant to California Public Utilities Code Section 309.5(a), in revenue allocation and rate design matters, ORA is directed to primarily consider the interests of residential and small commercial customers.

2. Definitions

When used in initial capitalization in this Settlement Agreement, whether in singular or plural, the following terms shall have the following meanings:

- a. “Application” or “EDR Application” means SCE’s Application (A.) For Approval of 2014-2018 Economic Development Rates Application (A.14-03-013) that this Settlement Agreement seeks to resolve.
- b. “But-For Affidavit” means a sworn affidavit signed by an EDR-Retention applicant stating that but-for the EDR-R discount, alone or in combination with other incentives, the customer would not retain its load in California.
- c. “Commission” means California Public Utilities Commission.
- d. “Constrained Area” means the green shaded area on the Western LA Basin map found in Appendix C, which depicts a “high value” geographic area for potential siting of new resources for SCE’s Local Capacity Resource Request For Offers, which was launched on September 12, 2013.
- e. “EDR” means Economic Development Rate.
- f. “EDR Agreement” means the EDR-Retention, EDR-Expansion, or EDR-Attraction Agreement.
- g. “EDR Program Cap” means a total of 200 megawatts (MW) of customer load that is subject to discount pursuant to Standard and Enhanced EDR Agreements signed after this Settlement Agreement is first implemented.
- h. “EDR Program Sub-Cap #1” means a total of 40 MW of the total 200 MW EDR Program Cap consisting of customers whose load is subject to the “Enhanced EDR Discount” only.

- i. “EDR Program Sub-Cap #2” means 10 MW of the 40 MW EDR Program Sub-Cap #1, which consists of EDR customers located in, or planning to locate in, the green-shaded Constrained Area depicted in Appendix C to this Settlement Agreement.
- j. “Enhanced EDR Discount” means a discount of 30% off the EDR customer’s total non-EDR bill.
- k. “GRC Phase 2” means the regulatory proceeding in which the Commission adopts marginal costs, revenue allocation, and rate designs that will ultimately be applied to SCE’s authorized revenue requirements. The proceeding relates to, but is separate from, Phase 1 of the general rate case (GRC) proceeding, which is SCE’s triennial request to increase its Commission-authorized revenues.
- l. “Initial Implementation” means the date on which this Settlement Agreement is first implemented after a Commission decision approving this Settlement Agreement.
- m. “Interim EDRs” or “Interim EDR Program” refer to interim EDRs adopted by the Commission in Resolution E-4675, subject to the EDR Program Cap adopted herein.
- n. “kW” means kilowatts.
- o. “MW” means megawatts.
- p. “Settlement Agreement” shall have the meaning given to such term in the introductory paragraph hereof.
- q. “Settling Parties” means SCE and ORA.
- r. “Standard EDR Discount” means a discount of 12% off the EDR customer’s total non-EDR bill.

3. Recitals

- a. The Commission first authorized EDR tariffs for SCE in Decision (D.) 96-08-025 as a way of offering incentives to SCE customers who would otherwise not retain, expand,

or locate their load in California. Then, in D.05-09-018, as modified by D.07-09-016 and D.07-11-052, the Commission approved a second vintage of EDRs for SCE (and for Pacific Gas and Electric Company, or PG&E) with a sunset date of December 2009.

- b. In D.10-06-015, as modified by D.11-05-029, the Commission approved a settlement agreement between SCE, PG&E and several other parties¹ for a new 200 MW EDR Program (for each of SCE and PG&E) that closed to new customers on December 31, 2012.
- c. In March 2012, PG&E filed an application (A.12-03-001) for approval of new EDRs. SCE was an active party to that proceeding, which culminated in the issuance of D.13-10-019. In D.13-10-019, the Commission approved a 200 MW program for PG&E for a Standard (12%) and Enhanced (30%) EDR discount.
- d. On March 24, 2014, SCE filed this Application and supporting testimony seeking relief substantially similar to the outcome PG&E obtained in its litigated proceeding. SCE served errata testimony on May 14, 2014.
- e. Only one party, ORA, protested SCE's Application, arguing that SCE did not adequately demonstrate that a new EDR program modeled on PG&E's is justified. ORA also argued that the marginal generation capacity cost (MGCC) used to determine "contribution to margin" under SCE's proposed EDRs should be set to at least 50%, not zero, given the impact of SCE's loss of the San Onofre Nuclear Generation Station, and given the MGCC value adopted by the Commission in the

¹ Those additional parties were the Division of Ratepayer Advocates (now known as the Office of Ratepayer Advocates), The Utility Reform Network, and the Energy Users Forum.

context of another proceeding that SCE settled with ORA and the City of Long Beach.²

- f. Two parties filed Responses to the Application. First, the Greenlining Institute (Greenlining) noted that SCE's Application included proposed reporting requirements that incorporated suggestions that Greenlining had made in litigating PG&E's EDR application. Greenlining indicated that it would "continue to monitor SCE's EDR application to ensure the job reporting is instituted."³ Second, the Small Municipal Utility Coalition (SMU) sought to make "clear in this proceeding that SCE's program should apply only to businesses new to the State, expanding within SCE's service area, or considering closure."⁴
- g. SCE filed a Reply to the Protest and Responses on May 8, 2014.
- h. On June 26, 2014, SCE filed a Tier 3 Advice Letter (AL), 3064-E, in which it sought expedited Commission approval of interim rates consistent with those proposed in this Application, subject to prospective adjustment to conform to any EDR tariff requirements set forth in a final decision in this Application proceeding. However, SCE proposed that should a customer sign 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, they may remain on the interim rate until the conclusion of their contract period.
- i. ORA filed a protest to AL 3064-E but subsequently withdrew it. SMU filed comments about AL 3064-E in which it sought the same clarifications that it had included in its Response to SCE's Application.

² D.14-03-007. *See* ORA Protest, filed April 28, 2014.

³ Greenlining Response, pp. 2-3.

⁴ SMU Response, p. 3.

- j. On August 19, 2014, the Commission issued Resolution E-4675 approving the unopposed Tier 3 Advice Letter and ordering SCE to adopt interim EDRs subject to a 200 MW program, with interim EDR customer loads applying to the program cap adopted in connection with this Application. In response SMU's letter regarding AL 3064-E, Resolution E-4675 also directed SCE to include in its interim EDR tariffs language clarifying that EDRs are intended to retain, expand, or attract load in California relative to out-of-state options, and are not intended to attract either in-state or out-of-state customers from one service area to another within California. On the same day the Resolution was issued, SCE filed a Tier 1 AL (3064-E) with interim tariff schedules and agreements consistent with those approved in Resolution E-4675, and the Director of the Energy Division signed a letter approving that Advice Letter on August 20, noting that the interim tariffs and agreements were effective on the date on which they were filed (August 14, 2014).
- k. The Administrative Law Judge (ALJ) assigned to SCE's Application held a prehearing conference (PHC) on July 9, 2014 during the pendency of AL 3064-E. At the PHC, the Assigned ALJ directed SCE to file (a) confidential and public versions of the final two EDR annual reports prepared by SCE in compliance with D.05-09-018 and D.10-06-015; (b) a chart comparing attributes from the EDRs that were adopted in D.10-06-015 and those proposed in this Application; and (c) a list of ten scenarios illustrating the rate impacts of the proposed EDRs compared to the customers' non-EDR tariffs. SCE filed confidential and public versions of its response on July 16, 2014.
- l. An Assigned Commissioner's Ruling and Scoping Memo was issued on July 24, 2014 setting the procedural schedule and defining the scope of the proceeding.
- m. SCE began informal settlement negotiations with ORA on July 9, 2014, and thereafter properly noticed an all-party settlement conference pursuant to Article 12 for

Monday, August 4, 2014 to discuss resolution of its Application. At that telephonic settlement conference, a representative from Greenlining confirmed that it would not support or oppose SCE's settlement with ORA. SMU did not attend the settlement conference, but later confirmed that it, too, neither supported nor opposed SCE's settlement with ORA.

- n. The Settling Parties have evaluated the various issues in SCE's EDR proceeding, desire to resolve all disputed issues, and have reached an agreement that resolves all disputes as indicated in Paragraph 4 of this Settlement Agreement.

4. Agreement

In consideration of the mutual obligations, covenants and conditions contained herein, the Settling Parties agree to the terms of this Settlement Agreement. Nothing in this Settlement Agreement shall be deemed to constitute an admission by any Party that its position on any issue lacks merit or that its position has greater or lesser merit than the position taken by any other Party. This Settlement Agreement is subject to the express limitation on precedent described in Section 10.

- a. **Program Description:** SCE shall offer flat discounts of 12% (Standard EDR) and 30% (Enhanced EDR) subject to the EDR Program Cap, including the two sub-caps defined in Section 2, above. Neither the 12% Standard EDR nor the 30% Enhanced EDR shall be modified by a price floor for purposes of calculating the EDR customer's bill. EDR percentage discounts shall exclude generation service cost components of customer bills unless that service is provided by SCE.
- b. **Program Cycle:** Subject to the EDR Program Cap—including the two sub-caps defined in Section 2, above—unless modified by the Commission, the last date a customer may execute an EDR Agreement shall be the day before SCE's 2018 GRC Phase 2 rates are implemented.

- c. **Program Cap:** The EDR Program Cap of 200 MW—and EDR Program Sub-Cap #1 and Sub-Cap #2—shall be inclusive of customer load from interim EDRs approved in Resolution E-4675 and shall be subject to revision by the Commission upon a Petition for Modification of the decision approving this Settlement Agreement, which may be filed unilaterally by SCE in good faith upon a reasonable showing of need, including that the program design with an increased cap would result in positive contribution to margin. Should an eligible applicant’s load exceed Sub-Cap #1 or Sub-Cap #2 by less than .5 MW, subscription on the Enhanced EDR is permissible provided there is sufficient room in the EDR Program Cap of 200 MW, and provided that no additional customers could exceed the cap thereafter.
- d. **Eligibility for Standard EDR:** To be eligible for the Standard EDR, an EDR applicant must be a non-residential, non-governmental Bundled Service customer⁵ with a load of 200 kW or greater. Only EDR-Retention applicants must sign the But-For Affidavit. All EDR applicants must obtain a recommendation from the Office of California Business Investment Services (CalBIS), or its successor entity, under the supervision of GO-Biz, the Governor’s Office of the Business and Economic Development, before that they take service on an EDR.
- e. **Eligibility for Enhanced EDRs:** To be eligible for the Enhanced EDR, the applicant must satisfy the eligibility criteria for a Standard EDR. In addition, the applicant must be located in, or site its prospective business location in, a city or county with an unemployment rate of 125% of the prior year’s statewide average, as reflected in the “Report 400C, Monthly Labor Force Data for Counties, Annual Average,” issued by that State of California Employment Development Department or equivalent source and filed by SCE in a Tier 1 Advice Filing consistent with Section 4.f.

⁵ Direct Access, Community Choice Aggregator, or Community Aggregator customers are also eligible.

- f. **List Of Cities/Counties For Enhanced EDR Customers:** On an annual basis, during the second quarter after the end of each program year except the final year, SCE shall file a Tier 1 Advice Letter updating the list of cities and counties where applicants may apply for the Enhanced EDR based on the most current information from the last-issued Report 400C. Customers in counties and cities that qualify for the Enhanced EDR based on the then-current list will continue to qualify until the following year's Tier 1 Advice Letter is approved. Once a business within a qualifying county or city has submitted an EDR application, the business will qualify for the Enhanced EDR for the length of the customer's signed contract, regardless of whether the county or city in which the customer originally qualified experiences subsequent changes to its unemployment rate relative to the statewide average.
- g. **Scope of EDRs:** EDRs are intended to retain/attract/expand load in California relative to out-of-state options, and are not intended to attract customers from one service area to another within the state, or to attract out-of-state customers to one in-state electric service area over another.
- h. **Program Funding:** The EDR discounts shall be funded by SCE's ratepayers. The Settling Parties recognize that the Commission retains ongoing authority to review SCE's administration of its EDR tariffs.
- i. **Reporting Requirements:** For the life of the program cycle described in Section 4.b., above, SCE will file with the Director of the Energy Division two versions of an annual report every March 1 covering the prior calendar year's EDR activity, including interim EDRs (and any prorated months depending on when the Commission first approves this Application).
 - a. **Confidential Version:** One version of the report will be confidential and will contain the following information, arrayed in table format, relative to each EDR participant based on information gathered from the EDR participants:

- Name and location of the EDR participant;
 - The Standard Industry Code applicable to the participant's business;
 - The total EDR discount given to the named EDR participant during the reporting period, and the percent discount given;
 - A listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and
 - The amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program, as reported to SCE by the participants.
 - The annual maximum kW, the annual kWh, and the rate schedule of each EDR participant.
- b. **Public version:** The public version of the report shall contain an aggregated analysis of the information contained in the confidential report, as follows:
- The total amount of the annual EDR refunds given during the reporting period;
 - The total number of jobs created or retained during the reporting period that are attributable to all participants in the EDR program;
 - The average salary and benefits attributable during the reporting period to all jobs retained or created by participation in the EDR program; and
 - For customers enrolled in the Enhanced EDR, the amount of Energy Efficiency and Demand Response achieved and in process.

- j. **Demand-Side Management (DSM):** SCE shall explore DSM options with its Standard and Enhanced EDR customers, and shall set aspirational goals to the extent they are reasonable on a customer-by-customer basis.
- k. **Ratemaking Treatment of Revenues:** Revenues received from bundled service customers taking service on the proposed EDRs will first be used to pay in full all non-bypassable charges (NBCs).⁶ The remaining revenues will be recorded to the Energy Resource Recovery Account (ERRA) and Base Revenue Requirement Balancing Account (BRRBA) in proportion to what the EDR customers' contribution to these accounts would have been if they were not billed as EDR customers.
- Revenues received from Direct Access (DA) or Community Choice Aggregator (CCA) customers taking service on EDRs will also first be used to fully pay for all NBCs and DA or CCA Cost Responsibility Charges. To maintain bundled service customers' indifference to the EDR discount, which includes DA or CCA Cost Responsibility Charges, the remaining EDR revenue shall be allocated to the distribution charges only.

5. Implementation of Settlement Agreement

The Settling Parties intend and request that the Commission adopt this Settlement Agreement on an expedited basis and institute a schedule that waives the comment period prescribed in Rule 12.2 of the Commission's Rules of Practice and Procedure because the Settlement Agreement is unopposed. It is the intent of the Settling Parties that SCE should be authorized to file a Tier 1 Advice Letter implementing tariffs and agreements (consistent with those attached as Appendices A and B hereto) containing the rate changes resulting from this Settlement

⁶ These NBCs include the Transmission Charge, Public Purpose Program Charge, Nuclear Decommissioning Charge, Competition Transition Charge, New System Generation Charge, Department Of Water Resources Bond Charge, and the Power Cost Indifference Amount Applicable to only Direct Access and potential Community Choice Aggregator customers.

Agreement as soon as practicable following the issuance of a final Commission decision approving this Settlement Agreement.

6. Record Evidence

The Settling Parties recommend that SCE's direct testimony and errata referenced in Section 3 above be admitted as part of the evidentiary record of this proceeding.

7. Signature Date

This Settlement Agreement shall become binding as of the last signature date of the Settling Parties.

8. Regulatory Approval

The Settling Parties, by signing this Settlement Agreement, acknowledge that they pledge support for Commission approval and subsequent implementation of all the provisions of this Settlement Agreement. The Settling Parties shall use their best efforts to obtain Commission approval of this Settlement Agreement no later than December 31, 2014. The Settling Parties shall jointly request that the Commission approve the Settlement Agreement without change, and find this Settlement Agreement to be reasonable, consistent with law and in the public interest.

Should any Proposed Decision (PD) or Alternate Proposed Decision (APD) seek a modification to this Settlement Agreement, and should any Settling Party be unwilling to accept such modification, that Settling Party shall so notify the other Settling Party within five business days of issuance of the PD or APD. The Settling Parties shall thereafter promptly discuss the modification and negotiate in good faith to achieve a resolution acceptable to the Settling Parties, and shall promptly seek Commission approval of the resolution so achieved. Failure to resolve such modification to the satisfaction of Settling Parties, or to obtain Commission approval of such resolution promptly thereafter, shall entitle any Settling Party to terminate this Agreement through prompt notice to the other Settling Party.

9. Compromise Of Disputed Claims

This Settlement Agreement represents a compromise of disputed claims between the Settling Parties. The Settling Parties have reached this Settlement Agreement after taking into account the possibility that each Party may or may not prevail on any given issue. The Settling Parties assert that this Settlement Agreement is reasonable, consistent with law and in the public interest.

10. Non-Precedent

Consistent with Rule 12.5 of the Commission's Rules of Practice and Procedure, this Settlement Agreement is not precedential in any other pending or future proceeding before this Commission, except as expressly provided in this Settlement Agreement or unless the Commission expressly provides otherwise.

The Settling Parties expressly recognize that each Party may advocate a position that is inconsistent with this Agreement in Phase 2 of SCE's 2018 GRC. Barring Commission-ordered modifications to this Settlement Agreement, or modifications permitted by and resulting from the conditions specified in Section 4.c. of this Agreement, the Settling Parties will support the continued applicability of Section 4 until the date on which SCE's tariffs implementing its 2018 GRC Phase 2 become effective.

11. Previous Communications

The Settlement Agreement contains the entire agreement and understanding between the Settling Parties as to the resolution of SCE's EDR Application. In the event there is any conflict between the terms and scope of this Settlement Agreement and the terms and scope of the accompanying joint motion in support of the Settlement Agreement, this Settlement Agreement shall govern.

12. Incorporation Of Complete Settlement Agreement

This Settlement Agreement is to be treated as a complete package and not as a collection of separate agreements on discrete issues. To accommodate the interests related to diverse issues, the Settling Parties acknowledge that changes, concessions, or compromises by a Party or Parties in one section of this Settlement Agreement resulted in changes, concessions, or compromises by the Parties in other sections. Consequently, the Parties agree to affirmatively oppose any modification of this Settlement Agreement, whether proposed by any Party or non-Settling Party, unless both Settling Parties jointly agree to support such modification.

13. Non-Waiver

None of the provisions of this Settlement Agreement shall be considered waived by any Party unless such waiver is given in writing. The failure of a Party to insist in any one or more instances upon strict performance of any of the provisions of this Settlement Agreement or to take advantage of any of their rights hereunder shall not be construed as a waiver of any such provisions or the relinquishment of any such rights for the future, but the same shall continue and remain in full force and effect.

14. Effect Of Subject Headings

Subject headings in this Settlement Agreement are inserted for convenience only, and shall not be construed as interpretations of the text.

15. Governing Law

This Settlement Agreement shall be interpreted, governed and construed under the laws of the State of California, including Commission decisions, orders and rulings, as if executed and to be performed wholly within the State of California.

16. Number Of Originals

This Settlement Agreement is executed in counterparts, each of which shall be deemed an original. The undersigned represent that they are authorized to sign on behalf of the Party represented.

SOUTHERN CALIFORNIA EDISON COMPANY

/s/ Lisa Cagnalotti

By: Lisa Cagnalotti

7 October 2014

Title: Vice President, Business Customer Division

THE OFFICE OF RATEPAYER ADVOCATES

/s/ Joseph P. Como

By: Joseph P. Como

7 October 2014

Title: Acting Director

Appendix A

EDR Retention, Attraction and Expansion Tariff Schedules

Schedule EDR-R
ECONOMIC DEVELOPMENT RATE-RETENTION

Sheet 1

APPLICABILITY

Applicable to existing customers with demands of at least 200 kW. The customer must demonstrate to the satisfaction of SCE that relocation of its entire operations or a qualified portion of their operations which consists of load of at least 200 kW, to a site outside of California is a viable alternative or that closure of the customer's existing facilities is otherwise imminent. This Schedule is intended to retain load in California relative to out-of-state options, and is not intended to attract customers from one service area to another within the state, or to attract out-of-state customers to one in-state electric service area over another. The customer must sign an affidavit attesting to the fact that "but for" this discount, either on its own or in combination with a package of incentives made available to the customer from other sources, the customer would not have retained load within the State of California. This Schedule is not applicable to state and local government customers or residential customers.

Customers eligible for the "Enhanced" Economic Development Rate (EDR) discount under the RATES section must have service accounts located in cities or counties with an unemployment rate of 125 percent or more of the previous year's statewide unemployment rate as reported in "Report 400C, Monthly Labor Force Data For Counties, Annual Average issued by the State of California Employment Development Department (EDD)." SCE will use other data available on EDD's website to determine eligible cities.

Interim and regular Standard and Enhanced EDR discounts are subject to a combined program cap of 200 MW. Enhanced EDRs (whether interim or regular) shall comprise no more than 40 MW of the 200 MW. No more than 10 MW of the 40MW total for Enhanced EDRs may be located in the Constrained Area depicted in Appendix C of Attachment A of Decision 14-xx-xxx. The total contract demand on interim or regular Schedules EDR-R, EDR-E, and EDR-A, at any point in time for active agreements, shall not exceed 200 MW.

TERRITORY

Within the entire territory served.

RATES

Unless provided herein, or in the Economic Development Rate-Retention Agreement, all charges and provisions of the customer's Otherwise Applicable Tariff (OAT) shall apply, except that the customer's total bill shall be subject to discount as follows:

1. STANDARD: 12 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
2. ENHANCED: 30 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.

(Continued)

Schedule EDR-R
ECONOMIC DEVELOPMENT RATE-RETENTION

Sheet 2

(Continued)

SPECIAL CONDITIONS

1. Otherwise Applicable Tariff: The customer's regularly filed rate schedule under which service is rendered, including riders.
2. Agreement: The customer must sign the Economic Development Rate - Retention Agreement (Form xx-xxx) in order to take service under this Schedule.
3. Start Date: The start date of the discount period shall commence within 12 months from the date of execution of the Agreement and shall be designated by the customer within the Agreement.
4. Metering: Separate electric metering for a qualified portion of load may be required if, in SCE's sole opinion, it is necessary to provide service under this schedule. The customer will be responsible for any costs associated with providing separate electric metering.
5. Conservation: In order to be eligible for this Schedule, a customer must allow SCE to conduct a energy audit for the purpose of making cost-effective energy efficiency and demand side management options available to the customers.

(Continued)

Schedule EDR-R
ECONOMIC DEVELOPMENT RATE-RETENTION

Sheet 3

(Continued)

SPECIAL CONDITIONS (Continued)

6. SCE will consult with the Office of California Business investment Services (CalBIS), or its successor entity, under the supervision of the California Governor's Office Of Business and Economic Development, in order to determine qualified customers. Approval by CalBIS is necessary, but not sufficient, for determining eligibility. SCE reserves the right for final review and eligibility determination, and service under this Schedule shall be offered at the discretion of SCE.
7. All customers must agree to maintain a minimum level of load for five years from the date service is first rendered under this provision as set forth in the Economic Development Rate - Retention Agreement.
8. SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. To remain eligible for service under this Schedule, customer must provide SCE with the above-referenced information. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

Schedule EDR-A
ECONOMIC DEVELOPMENT RATE-ATTRACTION

Sheet 1

APPLICABILITY

Applicable to new customers who locate their facilities at a site within SCE's service territory that results in SCE served load of at least 200 kW. Such load must be new to California. This Schedule is intended to attract load to California relative to out-of-state options, and is not intended to attract customers from one service area to another within the state, or to attract out-of-state customers to one in-state electric service area over another. Customers will be eligible for service under this Schedule only if the discounts offered under this Schedule were necessary in the customer's decision to locate its new load in California. Additionally, the customer must demonstrate to the satisfaction of SCE that the load subject to this Schedule is new to California. This Schedule is not applicable to state and local government customers or residential customers.

Customers eligible for the "Enhanced" Economic Development Rate (EDR) discount under the RATES section must have service accounts located in cities or counties with an unemployment rate of 125 percent or more of the previous year's statewide unemployment rate as reported in "Report 400C, Monthly Labor Force Data For Counties, Annual Average issued by the State of California Employment Development Department (EDD)." SCE will use other data available on EDD's website to determine eligible cities.

Interim and regular Standard and Enhanced EDR discounts are subject to a combined program cap of 200 MW. Enhanced EDRs (whether interim or regular) shall comprise no more than 40 MW of the 200 MW. No more than 10 MW of the 40MW total for Enhanced EDRs may be located in the Constrained Area depicted in Appendix C of Attachment A of Decision 14-xx-xxx.. The total accumulated contract demand on interim or regular Schedules EDR-A, EDR-E, and EDR-R, at any point in time for active agreements, shall not exceed 200 MW (megawatts).

TERRITORY

Within the entire territory served.

(Continued)

Schedule EDR-A
ECONOMIC DEVELOPMENT RATE-ATTRACTION

Sheet 2

(Continued)

RATES

Unless provided herein, or in the Economic Development Rate-Attraction Agreement, all charges and provisions of the customer's Otherwise Applicable Tariff (OAT) shall apply, except that the customer's total bill shall be subject to discount as follows:

1. STANDARD: 12 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
2. ENHANCED: 30 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.

SPECIAL CONDITIONS

1. Otherwise Applicable Tariff: The customer's regularly filed rate schedule under which service is rendered, including riders.
2. Agreement: The customer must sign the Economic Development Rate-Attraction Agreement (Form 14-xxx-x) in order to take service under this Schedule.
3. Start Date: The start date of the discount period shall commence within 24 months from the date of execution of the Agreement and Affidavit and shall be designated by the customer within the Agreement.
4. Conservation: In order to be eligible for this Schedule, a customer must allow SCE to conduct a energy audit for the purpose of making cost-effective energy efficiency and demand side management options available to the customer.

(Continued)

Schedule EDR-A
ECONOMIC DEVELOPMENT RATE-ATTRACTION

Sheet 3

(Continued)

SPECIAL CONDITIONS (Continued)

5. SCE will consult with the Office of California Business Investment Services (CalBIS), or its successor entity, under the supervision of the California Governor's Office Of Business and Economic Development in order to determine qualified customers. Approval by CalBIS is necessary, but not sufficient, for determining eligibility. SCE reserves the right for final review and eligibility determination, and service under this Schedule shall be offered at the discretion of SCE.
6. All customers must agree to maintain a minimum level of load for five years from the date service is first rendered as set forth in the Economic Development Rate-Attraction Agreement.
7. SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. To remain eligible for service under this Schedule, customer must provide SCE with the above-referenced information. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

Schedule EDR-E
ECONOMIC DEVELOPMENT RATE-EXPANSION

Sheet 1

APPLICABILITY

Applicable to existing customers who increase load by at least 200 kW over their current Maximum Demand, as established in their Base Period Usage. Such increase must represent load that is new to California. This Schedule is intended to expand load in California relative to out-of-state options, and is not intended to attract customers from one service area to another within the state, or to attract out-of-state customers to one in-state electric service area over another. Customers who are planning to expand their load at their current site or who are planning to relocate and expand their load at a new site must demonstrate to the satisfaction of SCE that the expanded load subject to this Schedule is new to California. This Schedule is not applicable to state and local government customers or residential customers.

Customers eligible for the “Enhanced” Economic Development Rate (EDR) discount under the RATES section must have service accounts located in cities or counties with an unemployment rate of 125 percent or more of the previous year’s statewide unemployment rate as reported in “Report 400C, Monthly Labor Force Data For Counties, Annual Average issued by the State of California Employment Development Department (EDD).” SCE will use other data available on EDD’s website to determine eligible cities.

Interim and regular Standard and Enhanced discounts are subject to a combined program cap of 200 MW. Enhanced EDRs (whether interim or regular) shall comprise no more than 40 MW of the 200 MW. No more than 10 MW of the 40MW total for Enhanced EDRs may be located in the Constrained Area depicted in Appendix C of Attachment A of Decision 14-xx-xxx. The total accumulated contract demand on interim or regular Schedules EDR-E, EDR-A, and EDR-R, at any point in time for active agreements, shall not exceed 200 MW (megawatts).

The customer must establish an average monthly Base Period Usage determined from historical energy and demand. Load eligible for discount under this Schedule is the difference between the monthly metered energy and demand, from the Base Period Usage energy and demand. An existing customer who otherwise qualifies for this option may move all load to a new site in SCE’s territory and still take service under this option for the load that is new to California. To do so, the customer must demonstrate that the operations at the new site are substantially similar to those at the old site, and establish a Base Period Usage at the new site using the load and usage information from the old site.

TERRITORY

Within the entire territory served.

(Continued)

Schedule EDR-E
ECONOMIC DEVELOPMENT RATE-EXPANSION

Sheet 2

(Continued)

RATES

Unless provided herein, or in the Economic Development Rate-Expansion Agreement, all charges and provisions of the customer's Otherwise Applicable Tariff (OAT) shall apply, except that the customer's total bill shall be subject to discount as follows:

1. STANDARD: 12 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
2. ENHANCED: 30 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement

SPECIAL CONDITIONS

1. Otherwise Applicable Tariff: The customer's regularly filed rate schedule under which service is rendered, including riders.
2. Agreement: The customer must sign the Economic Development Rate-Expansion Agreement (Form 14-xxx) in order to take service under this Schedule.
3. Start Date: The start date of the discount period shall commence within 24 months from the date of execution of the Agreement and shall be designated by the customer within the Agreement.

(Continued)

Schedule EDR-E
ECONOMIC DEVELOPMENT RATE-EXPANSION

Sheet 3

(Continued)

SPECIAL CONDITIONS (Continued)

4. Metering: Separate electric metering for the customer's Qualifying Incremental Load, as defined in Form 14-901-I may be required if, in SCE's sole opinion, it is necessary to provide service under this schedule. The customer will be responsible for any costs associated with providing separate electric metering.
5. Conservation: In order to be eligible for this Schedule, a customer must allow SCE to conduct a energy audit for the purpose of making cost-effective energy efficiency and demand side management options available to the customers.
6. SCE will consult with the Office of California Business investment Services (CalBIS), or its successor entity, under the supervision of the Governor's Office Of Business and Economic Development, in order to determine qualified customers. Approval by CalBIS is necessary, but not sufficient, for determining eligibility. SCE reserves the right for final review and eligibility determination, and service under this Schedule shall be offered at the discretion of SCE.
7. All customers must agree to maintain a Minimum Expanded Load as defined in Form 14-901-I for five years from the date service is first rendered as set forth in the Economic Development Rate-Expansion Agreement.
8. Base Period Usage: Base Period Usage shall be established and agreed to in the Economic Development Rate-Expansion Agreement. If time of use data is not available, the customer's Base Period Usage shall be established using available data, subject to subsequent adjustment based on customer's recorded demand and energy.
9. SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. To remain eligible for service under this Schedule, customer must provide SCE with the above-referenced information. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

Appendix B

EDR Retention, Attraction and Expansion Agreements

**ECONOMIC DEVELOPMENT RATE-RETENTION AGREEMENT
(PostDecision XXX)**

This Agreement is entered into between _____
("Customer"), _____ (Service
Account), located at _____

_____, and Southern
California Edison Company ("SCE"), located at 2244 Walnut Grove Avenue, Rosemead, California
91770. This Agreement shall become effective as of the date set forth beneath SCE's signature on
the signature page of this Agreement. This Economic Development Rate-Retention ("Agreement")
provides Customer with a discount for electric energy purchased over the five-year term of the
Agreement.

This Agreement is a filed form tariff agreement authorized by the California Public Utilities
Commission ("Commission") for use by SCE. No officer, inspector, solicitor, agent, or employee of
SCE has any authority to waive, alter, or amend any part of this Agreement except as provided
herein or as authorized by the Commission. This Agreement is to be used in conjunction with
Schedule EDR-R of SCE's Commission-approved tariffs, and supplements the terms and conditions
of Customer's electric service under Customer's Otherwise Applicable Tariff, which is Schedule
_____, and all related agreements.

The Parties agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

- 1.1 Added Facilities: Equipment or facilities that are in addition to, or in substitution for,
standard facilities that SCE would normally install in order to provide electric service
to Customer.
- 1.2 Agreement: This document and appendices, as amended from time to time.
- 1.3 Base Period Usage: As defined in Section 3 of this Agreement.
- 1.4 Customer: Customer as defined in SCE's Rule 1.
- 1.5 Forecast Maximum Demand: Customer's forecast of its Total Load maximum
demand during the five years of this Agreement.
- 1.6 Incremental Added Facilities: Added Facilities that are required by SCE or requested
by Customer to be installed in order to accommodate Customer's load, including any
expansion under Schedule EDR-R.

- 1.7 Interest Rate: The 90-day commercial paper rate.
- 1.8 Liquidated Damages: Damages owed by Customer to SCE as provided in Section 10 of this Agreement.
- 1.9 Minimum Load: The minimum load Customer has agreed to purchase annually as established for Customer in Section 4.
- 1.10 Otherwise Applicable Tariff (OAT): The rate schedule, including any riders, under which Customer is taking electric service from SCE at the time of signing this Agreement or after, and any applicable successor schedule.
- 1.11 Party, Parties: The parties to this Agreement are SCE and Customer, as defined above.
- 1.12 Economic Development Rate-Retention (EDR-R): The rates and charges set forth in Schedule EDR-R, subject to the terms and conditions of this Agreement.
- 1.13 North American Industry Classification System (“NAICS”) Code: An industry coding system developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about economic activity across North America.
- 1.14 Standard Industrial Classification (“SIC”) Code: The published codes in the 1987 Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as may be updated in SCE’s discretion.
- 1.15 Total Load: Customer’s recorded (metered) load (energy and demand).
- 1.16 Uncontrollable Force(s): An Uncontrollable Force is an event or occurrence due to influences outside the reasonable control of either or both Parties that could not have been prevented by the exercise of due diligence.

2. ECONOMIC DEVELOPMENT RATE-RETENTION

- 2.1 Customer represents that their NAICS 4-digit Code is _____, or their SIC 3 to 4-digit Code is _____.
- 2.2 Customer further represents that it meets the applicability requirements of Schedule EDR-R.
- 2.3 Subject to the terms and conditions of this Agreement, SCE will provide (SCE to **check one only** depending on Customer’s eligibility):
- ☐ STANDARD: 12 percent off the Customer’s bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
 - ☐ ENHANCED: 30 percent off the Customer’s bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.

- 2.4 Customer must maintain Total Load maximum demand of at least 200 kW during each of the five years of service under this Agreement.
- 2.5 If Customer plans to move or consolidate operations already located in SCE's service territory in connection with Customer's decision to remain in California, Schedule EDR-R shall apply to the Customer's operations as moved or consolidated, so long as all of the operations subject to Schedule EDR-R and this Agreement meet the applicability requirements of Schedule EDR-R.
- 2.6 If Section 2.5 is applicable, Customer must describe the locations that will be moved or consolidated, indicating the kW of each, as included in Forecast Maximum Demand. Customer must also describe any plans for expansion over the term of this Agreement.

3. BASE PERIOD USAGE

- 3.1 Base Period Usage must be established for each Customer to determine its Minimum Load.
- 3.2 Base Period Usage is an average of Customer's historical monthly energy usage (kWh) and demand (kW) by season and time-of-use where applicable, and is computed by SCE from Customer's 12 most representative continuous months of usage out of the past 24 months. Base Period Usage for energy consumption (kWh) shall be computed on an average hourly basis, and for billing shall be expanded by the applicable number of hours in the billing period. Ordinarily, Customer's Base Period Usage is based on the energy and demand recorded by SCE on a calendar-month basis. In the absence of calendar month data, 12 billing periods of Customer's billing history will be used, which may not add up to 365 days.

3.3 If Customer is subject to billing on a time-of-use basis but does not have the requisite historical data to determine its actual Base Period Usage, SCE shall estimate Customer's load characteristics, including estimated demand and energy usage on a time-of-use basis, using available data. That calculation shall be used as Customer's Base Period Usage until recorded load data becomes available to more definitively establish Customer's load characteristics. When SCE can more accurately estimate Customer's actual load characteristics, Customer's Base Period Usage shall be established based upon the new recorded data.

3.4 Base Period Usage is established as follows:

	Average Monthly Base Period Usage (kW)	Average Hourly Base Period Usage, (kWh)
Facilities Related Demand		N/A
Summer		
On-Peak		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____
Winter		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____

Base Period Usage Facilities Related Demand is computed as follows:

1. Determine a Facilities Related Demand for each month in the period used to establish Base Period Usage that is the greater of:
 - a. The maximum billing demand for the month, or
 - b. 50% of the highest of all the billing demands in the period used to establish Base Period Usage.

2. Compute the average of the monthly Facilities Related Demands thus determined. This is Base Period Usage Facilities Related Demand.

An “XXX” entered above indicates that the entry is not applicable to Customer’s Base Period Usage.

4. MINIMUM LOAD

- 4.1 Customer must maintain a Minimum Load for each year from the date service is first rendered under Schedule EDR-R for the five-year term of this Agreement.
- 4.2 The Minimum Load must be the greater of 200 kW or 75% of Base Period Usage.
- 4.3 If during any year of service the Customer’s Total Load maximum demand falls below the Minimum Load in any three months, the Customer’s discounts under Section 2.3 above shall be suspended for the balance of the year and such suspension shall begin with the month of the third occurrence. Customer’s discounts applicable to Total Load shall resume at the beginning of the following year, subject to the terms of this provision. For purposes of this section, a year of service commences with the start of each level of discount set forth above in Section 2.3.
- 4.4 Any load reductions shown to be directly attributable to energy efficiency measures implemented after establishing Base Period Usage in this Agreement shall not adversely impact the calculation of Customer’s Minimum Load. The imputed load reductions attributable to any energy efficiency measure implemented subsequent to the establishment of Base Period Usage shall be added back into the load calculation in the event that Customer’s usage falls below the Minimum Load. Provided that Customer maintains usage of at least the Minimum Load, net of any energy efficiency impacts, all Customer discounts shall apply.

5. COMMENCEMENT OF SERVICE

- 5.1 SCE will begin providing service under Schedule EDR-R at the start of the next regular billing period following the date the Customer notifies SCE that service should begin under Schedule EDR-R, which date shall not be more than 12 months from the effective date of this Agreement.

- 5.2 If Customer notifies SCE that it plans to move or consolidate operations with qualifying load that will be billed under Schedule EDR-R, then SCE will begin providing service under Schedule EDR-R with the next regular billing period following the date Customer notifies SCE that service should begin under Schedule EDR-R, which date shall not be more than 12 months from the effective date of this Agreement.
- 5.3 Customer estimates that service under Schedule EDR-R shall commence at the start of the next regular billing period beginning after _____ and shall provide SCE at least five business days' notice of any change in such date.

6. ADDED FACILITIES

An Added Facilities Contract, SCE's filed Form Nos. 16-308 or 16-309, shall be required if additional equipment or facilities are required for Added Facilities or Incremental Added Facilities.

7. ACKNOWLEDGMENT

- 7.1 Except as otherwise amended herein, Customer acknowledges that it is fully subject to all terms and conditions contained in Customer's OAT, or its successor rate schedule, all of SCE's rules, and all terms and conditions of service contained in SCE's Commission-approved tariffs. Any provision pertaining to either a peak period rate limiter or an average rate limiter does not apply.
- 7.2 Customer also acknowledges that SCE may request documentation to support Customer's signed affidavit and may verify any supporting documentation and statements Customer has made in support of its signed Affidavit.
- 7.3 Customer also acknowledges that SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. Customer acknowledges that it is to timely provide to SCE any of the information above upon request in order to remain eligible to take service pursuant to this Agreement. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

8. TERM

- 8.1 This Agreement shall be effective for five years following the commencement of service under Schedule EDR-R pursuant to Section 5 of this Agreement.
- 8.2 At the end of the fifth year, Customer will no longer take service under Schedule EDR-R and will be billed only under its OAT effective with the start of the next regular billing period following the end of the fifth year of service under this Agreement.

8.3 This Agreement is not renewable at the expiration of its term.

9. TERMINATION

This Agreement may be terminated (subject to payment of Liquidated Damages as provided in Section 10) by either party upon written notice as follows.

- 9.1 Termination for Misrepresentation or Fraud: SCE may terminate this Agreement upon five business days' notice if any representation made by Customer in this Agreement is untrue in any material respect, or if any statement in Customer's Affidavit was untrue, or if SCE determines that Customer was not eligible for Schedule EDR-R when this Agreement was signed, in which case Liquidated Damages as set forth in Section 10.3 shall be paid.
- 9.2 Termination at Customer's Request: Customer may request termination of this Agreement at any time by providing at least 60 days' written notice to SCE.
- 9.3 Termination For Nonpayment: SCE may terminate this Agreement if Customer fails to pay any amount due, under Schedule EDR-R within 30 days after receipt of notice of nonpayment from SCE. Customer shall be liable for all unpaid amounts and any accrued interest on the unpaid amounts.
- 9.4 Termination For Noncompliance: SCE may terminate this Agreement upon five business days' notice if Customer fails to comply with any term or condition of Schedule EDR-R or this Agreement, or if Customer ceases the operations to which this Agreement applies or moves such operations out of SCE's service territory.
- 9.5 Termination For Ineligibility: SCE may terminate this Agreement upon five business days' notice if it determines that Customer has become ineligible for Schedule EDR-R.
- 9.6 Termination For Failure To Maintain Minimum Load: SCE may terminate this Agreement if Customer fails to maintain its Minimum Load during any consecutive 12 month period or shuts down its operations. If Customer fails to maintain its Minimum Load, SCE must provide Customer at least 90 days' notice of termination and Customer shall have the opportunity to increase its load to the Minimum Load and demonstrate to SCE's satisfaction that it will continue to use its Minimum Load for the remaining term of this Agreement.
- 9.7 Termination For Failure To Commence Service: SCE may terminate this Agreement if Customer does not begin service within 12 months after the date this Agreement was executed.

10. LIQUIDATED DAMAGES

- 10.1 Upon termination of this Agreement, prior to its five-year term pursuant to Sections 9.1, 9.2, 9.3, 9.4, 9.5, or 9.6, Customer shall be required to pay SCE Liquidated Damages. The Liquidated Damages are required to ensure that neither SCE nor its ratepayers are financially or otherwise damaged if this Agreement is prematurely terminated before the end of its term.
- 10.2 It would be extremely difficult for the Parties to identify the amounts of increased or additional costs attributable to termination of this Agreement. Parties agree the Liquidated Damages specified herein are a reasonable approximation of damages which SCE and its ratepayers may incur as a result of such termination, and that the damage amount does not represent a penalty.
- 10.3 For termination under Section 9.1 above, Liquidated Damages under this Agreement shall be an amount equal to 200% of the cumulative difference between (i) the amount the Customer would have paid for its energy and demand if billed at their OAT, from the date service was first rendered under Schedule EDR-R, to the date of termination, and (ii) the amount billed to Customer under this Agreement and Schedule EDR-R during the same period.
- 10.4 For termination under Sections 9.2, 9.3, 9.5, or 9.6 above (excepting business closure or reduction in load without relocation) Liquidated Damages under this Agreement shall be an amount equal to 100% of the cumulative difference between (i) the amount billed to Customer under Schedule EDR-R from the date service was first rendered under Schedule EDR-R to the date of termination, and (ii) a "proxy" bill calculation based on a declining discount starting at 20% of the customer's OAT bill in year one with that annual discount reduced by 4% each year thereafter during the same period, i.e., a discount of 16% in year 2, 12% in year 3, 8% in year 4, and 4% in year 5, plus interest on that difference (at the Interest Rate) to the date of payment. Should a customer's usage increase such that cumulative liquidated damages become negative upon contract termination, under no circumstances will SCE be liable for paying liquidated damages to a customer.
- 10.5 After termination of this Agreement for any cause, Customer shall be billed at its OAT.
- 10.6 The limitations of Rule 17 of SCE's Commission-approved Tariffs shall not apply to amounts payable under this Agreement.
- 10.7 SCE may in its discretion require Customer to establish a letter of credit or other security as a condition to providing service under Schedule EDR-R to secure payment of any Liquidated Damages.

11. UNCONTROLLABLE FORCE

- 11.1 Neither Party shall be considered to be in default in the performance of any obligation under this Agreement, except for obligations to pay money, when and to the extent that failure of performance shall be caused by an Uncontrollable Force.

- 11.2 If either Party, because of an Uncontrollable Force, is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent the following conditions are met.
- 11.2.1 The suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force.
- 11.2.2 The nonperforming Party uses its best efforts to cure its inability to perform. This subsection shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Party having the difficulty.
- 11.2.3 When the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect immediately.
- 11.3 Nonperformance due to Uncontrollable Force shall be excused, provided Party can demonstrate that the Uncontrollable Force was owing to causes outside its reasonable control and the occurrence of the Uncontrollable Force could not have been prevented by the exercise of due diligence.
- 11.3.1 Accordingly, nonperformance shall be excused from the date of the occurrence of the Uncontrollable Force, provided the nonperforming Party has given the other Party written notice describing the particulars of the occurrence within two weeks of the event.
- 11.3.2 Accordingly, nonperformance shall be excused from the date on which the nonperforming Party gives the other Party written notice describing the particulars of the occurrence of the Uncontrollable Force, if such written notice is given more than two weeks after the Uncontrollable Force occurred.
- 11.4 If Customer experiences an Uncontrollable Force that prevents Customer from complying with Schedule EDR-R and this Agreement, Customer may request that SCE suspend the terms of Schedule EDR-R and this Agreement for the duration of the Uncontrollable Force. Customer will be billed at their OAT for the duration of the suspension of this Agreement. Resumption of the terms of Schedule EDR-R and this Agreement shall commence with the next regularly scheduled billing period. In addition, the term of this Agreement will be extended for up to 12 months beyond the term originally established in this Agreement by the length of time this Agreement was suspended.

11.5 The occurrence of an Uncontrollable Force shall not (i) prevent SCE from terminating this Agreement in accordance with Sections 9.4 and 9.5 or (ii) extend the period any level of discount is available as provided in Section 2.3.

11.6 If the Uncontrollable Force causing the nonperformance is caused by the actions or inactions of legislative, judicial or regulatory agencies, or other proper authority, this Agreement may be amended to comply with the legal or regulatory change causing the nonperformance. Any such amendment must be first authorized by the Commission prior to implementation.

12. DAMAGE LIMITATION

SCE shall not be liable for any consequential, incidental, indirect, or special damages, whether in contract, tort, or strict liability including, but not limited to, lost profits and loss of power resulting from power outages or other electric service interruptions or from SCE's performance or nonperformance of its obligations under this Agreement or in the event of termination of this Agreement.

13. INDEMNITY

Customer shall, at its own cost and expense, defend, indemnify, and hold harmless SCE, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, cause of action, costs, including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damage to any property caused by Customer, its employees, officers and agents, or any of them, and arising out of the performance or non-performance of its obligations under this Agreement. Termination of this Agreement shall not exempt Customer from the terms and conditions of this Section.

14. ASSIGNMENT OF AGREEMENT

Customer shall not assign this Agreement or any part or interest thereof, to a third party without the prior, written consent of an authorized representative of SCE. Any assignment made without such consent shall be void and of no effect. Further, any assignment made under this Agreement shall be subject to any applicable Commission authorization or regulation except as waived by the Commission.

15. AMENDMENT

Any changes or amendments to this Agreement must be in writing and must be executed by the Customer and SCE and, if required, be approved by the Commission.

16. NOTICE

Any notice either Customer or SCE may wish to provide the other regarding this Agreement must be in writing and may be transmitted by hand, fax, email or postal mail. Notices delivered by hand shall be deemed effective when delivered. Notices delivered by fax, email and mail shall be deemed effective when received.

Customer:

(name)

(title)

(party)

(address)

(city, state, & zip code)

SCE:

Manager, Economic Development Services
Southern California Edison Company
6040-B No. Irwindale Avenue
Irwindale, CA 91702

17. NON-WAIVER

The failure of either Party to enforce any of the terms and conditions or to exercise any right or privilege in this Agreement shall not be construed as a waiver of any such terms and conditions or rights or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce or exercise had occurred.

18. SEVERABILITY

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by the Commission, or any court of competent jurisdiction, the validity and enforceability of the remaining provisions or any portion thereof shall not be affected. However, should either party determine, in good faith, that such unenforceability renders the remaining provisions of this Agreement economically infeasible or disadvantageous, said party may terminate this Agreement upon 15 days' notice, except that the provisions of Section 10, Liquidated Damages, shall apply to any such termination.

19. APPLICABLE LAWS, RULES, AND REGULATIONS

This Agreement shall be subject to, and interpreted under, the laws, rules, and regulations of the State of California and the Commission, and under SCE's Commission-approved Tariff Schedules and Rules. To the extent there are any inconsistencies between this Agreement and SCE's other tariffs, this Agreement shall control.

20. CALIFORNIA PUBLIC UTILITIES COMMISSION

- 20.1 This Agreement shall at all times be subject to such changes or modifications by the Commission as said Commission may, from time to time, direct in the exercise of its jurisdiction.
- 20.2 Notwithstanding any other provisions of this Agreement, SCE has the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for a change in rates, charges, classification, service, or rule, or any agreement relating thereto.
- 20.3 This Agreement shall be subject to review in any proceeding the Commission may conduct regarding SCE's EDR program implementation.

21. ENTIRE AGREEMENT

This Agreement, including SCE's tariffs as filed with the Public Utilities Commission, constitutes the sole, only, and entire agreement and understanding between the Parties as to the subject matter of this Agreement with respect to Schedule EDR-R. Prior agreements, commitments or representations, whether expressed or implied, and discussions between Parties, shall not be construed to be a part of this Agreement.

22. AUTHORIZATION SIGNATURES

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized agents to be effective on the date of SCE's signature below.

By: SOUTHERN CALIFORNIA
EDISON COMPANY

By: CUSTOMER

(Signature)

(Signature)

(Name)

(Name)

(Title)
Southern California Edison Company

(Title)

(Customer)

(Date)

(Date)

AFFIDAVIT FOR ECONOMIC DEVELOPMENT RETENTION RATES

By signing this affidavit, an Applicant who retains load in the service territory of Southern California Edison (SCE) hereby certifies and declares under penalty of perjury under the laws of the State of California that the statements in the following paragraphs are true and correct:

1. But for the receipt of the applicable discounted economic development rate and the terms of the corresponding EDR-R Agreement, either on its own or in combination with an economic development incentive package, the Applicant's load would not be retained within California.
2. Applicant has discussed with SCE the cost-effective conservation and load management measures the Applicant may take to reduce their electric bills and the load they place on the SCE's system.
3. Customer confirms that its NAICS Code(s) and SIC Code(s) are as stated in the applicable EDR-R Agreement and that it is eligible for the applicable EDR-R schedule.
4. Customer certifies that all load subject to the applicable EDR-R represents load that is eligible for the applicable EDR-R schedule and is existing load which is being retained within California.

Executed this _____ day of _____, _____.

By: APPLICANT _____

Signature: _____

Name: _____

Title: _____

ECONOMIC DEVELOPMENT RATE-ATTRACTION AGREEMENT

(Post Decision xxx)

This Agreement is entered into between _____
("Customer"), _____ (Service Account), located at _____

_____, and Southern California Edison Company ("SCE"), located at 2244 Walnut Grove Avenue, Rosemead, California 91770. This Agreement shall become effective as of the date set forth beneath SCE's signature on the signature page of this Agreement. This Economic Development Rate-Attraction Agreement ("Agreement") provides Customer with a discount for electric energy purchased over the five-year term of the Agreement.

This Agreement is a filed form tariff agreement authorized by the California Public Utilities Commission ("Commission") for use by SCE. No officer, inspector, solicitor, agent, or employee of SCE has any authority to waive, alter, or amend any part of this Agreement except as provided herein or as authorized by the Commission. This Agreement is to be used in conjunction with Schedule EDR-A of SCE's Commission-approved tariffs, and supplements the terms and conditions of Customer's electric service under Customer's Otherwise Applicable Tariff, which is Schedule _____, and all related agreements.

The Parties agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

- 1.1. Added Facilities: Equipment or facilities that are in addition to, or in substitution for, standard facilities that SCE would normally install in order to provide electric service to Customer.
- 1.2. Agreement: This document and appendices, as amended from time to time.
- 1.3. Economic Development Rate-Attraction ("EDR-A"): The rates and charges set forth in Schedule EDR-A, subject to the terms and conditions of this Agreement.
- 1.4. Base Period Usage: As defined in Section 3 of this Agreement.
- 1.5. Customer: Customer as defined in SCE's Rule 1.
- 1.6. Forecast Maximum Demand: Customer's forecast of its Total Load maximum demand, including any expansion of load planned over the five years of this Agreement.
- 1.7. Incremental Added Facilities: Added Facilities that are required by SCE or requested by Customer to be installed in order to accommodate Customer's Load, including any expansion, under Schedule EDR-A.

- 1.8. Interest Rate: The 90-day commercial paper rate.
- 1.9. Liquidated Damages: Damages owed by Customer to SCE as provided in Section 10 of this Agreement.
- 1.10. Minimum Load: The minimum load Customer has agreed to purchase annually as established for Customer in Section 4.
- 1.11. Otherwise Applicable Tariff (OAT): The rate schedule under which Customer is taking electric service from SCE, including any riders, at the time of signing this Agreement or after, and any applicable successor schedule.
- 1.12. Party, Parties: The parties to this Agreement are SCE and Customer, as defined above.
- 1.13. North American Industry Classification System (“NAICS”) Code: An industry coding system developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about economic activity across North America.
- 1.14. Standard Industrial Classification (“SIC”) Code: The published codes in the 1987 Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as may be updated in SCE’s discretion.
- 1.15. Total Load: Customer’s recorded (metered) load (energy and demand).
- 1.16. Uncontrollable Force(s): An Uncontrollable Force is an event or occurrence due to influences outside the reasonable control of either or both Parties that could not have been prevented by the exercise of due diligence.

2. ECONOMIC DEVELOPMENT RATE – ATTRACTION

- 2.1. Customer represents that their NAICS 4-digit Code is _____, or their SIC 3 to 4-digit Code is _____.
- 2.2. Customer further represents that it meets the applicability requirements of Schedule EDR-A.
- 2.3. Subject to the terms and conditions of this Agreement, SCE will provide (SCE to **check one** only depending on Customer’s eligibility):
 - ☐ STANDARD: 12 percent off the Customer’s bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
 - ☐ ENHANCED: 30 percent off the Customer’s bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.

- 2.4. Customer must maintain Total Load maximum demands of at least 200 kW during each of the five years of service under this Agreement.

3. BASE PERIOD USAGE

- 3.1. Base Period Usage must be established for each Customer.
- 3.2. SCE shall determine Customer's Base Period Usage by estimating Customer's load characteristics, including estimated demand and energy usage on a time-of-use basis using available data, including Customer's previous electricity bills, if any. That calculation shall be used to determine Customer's Base Period Usage until recorded load data becomes available to more definitively establish Customer load characteristics. When SCE can more accurately estimate Customer's actual load characteristics, Customer's Base Period Usage shall be established based upon the new recorded data.
- 3.3. If Customer is subject to billing on a time-of-use basis but does not have the requisite historical data to determine its actual base period usage, SCE shall estimate Customer's load characteristics, including estimated demand and energy usage on a time-of-use basis using available data. That calculation shall be used as Customer's Base Period Usage until recorded load data becomes available to more definitively establish Customer's load characteristics. When SCE can more accurately estimate Customer's actual load characteristics, Customer's Base Period Usage shall be established based upon the new recorded data.

3.4. Base Period Usage is established as follows:

<u>Facilities Related Demand</u>	<u>Average Monthly Base Period Usage (kW)</u>	<u>Average Hourly Base Period Usage, (kWh)</u>
		N/A
<u>Summer</u>		
On-Peak		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____
<u>Winter</u>		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____

Base Period Usage Facilities Related Demand is computed as follows:

1. Determine a Facilities Related Demand for each month in the period used to establish Base Period Usage that is the greater of:
 - a. The maximum billing demand for the month, or
 - b. 50% of the highest of all the billing demands in the period used to establish Base Period Usage.
2. Compute the average of the monthly Facilities Related Demands thus determined. This is Base Period Usage Facilities Related Demand.

An "XXX" entered above indicates that the entry is not applicable to Customer's Base Period Usage.

4. MINIMUM LOAD

- 4.1. Customer must maintain a Minimum Load for each year from the date service is first rendered under Schedule EDR-A for the five-year term of this Agreement.
- 4.2. The Minimum Load must be at least 200 kW.
- 4.3. If during any year of service the Customer's Total Load maximum demand falls below 200 kW in any three months, the Customer's discounts under Section 2.3 above shall be suspended for the balance of the year and such suspension shall begin with the month of the third occurrence. Customer's discounts applicable to Total Load, shall resume at the beginning of the following year, subject to the terms of this provision. For purposes of this section, a year of service commences with the start of each level of discount set forth above in Section 2.3.

- 4.4. Any load reductions shown to be directly attributable to energy efficiency measures implemented after establishing Base Period Usage in this Agreement shall not adversely impact the calculation of Customer's Minimum Load. The imputed load reductions attributable to any energy efficiency measure implemented subsequent to the establishment of Base Period Usage shall be added back into the load calculation in the event that Customer's Minimum Load falls below 200 kW. Provided that Customer maintains usage of at least 200 kW, net of any energy efficiency impacts, all Customer discounts shall apply.

5. COMMENCEMENT OF SERVICE

- 5.1. SCE will begin providing the Customer service under Schedule EDR-A at the start of the next regular billing period following the date the Customer notifies SCE that service should begin under Schedule EDR-A, which date shall not be more than 24 months from the effective date of this Agreement.
- 5.2. Customer estimates that service under Schedule EDR-A shall commence at the start of the next regular billing period beginning after _____ and shall provide SCE at least five business days' notice of any change in such date.

6. ADDED FACILITIES

An Added Facilities Contract, SCE's filed Form Nos. 16-308 or 16-309, shall be required if additional equipment or facilities are required for Added Facilities or Incremental Added Facilities.

7. ACKNOWLEDGMENT

- 7.1. Except as otherwise amended herein, Customer acknowledges that it is fully subject to all terms and conditions contained in Customer's OAT, or its successor rate schedule, all of SCE's rules, and all terms and conditions of service contained in SCE's Commission-approved tariffs. Any provision pertaining to either a peak period rate limiter or an average rate limiter does not apply.
- 7.3. Customer also acknowledges that SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. Customer acknowledges that it is to timely provide to SCE any of the information above upon request in order to remain eligible to take service pursuant to this Agreement. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

8. TERM

- 8.1. This Agreement shall be effective for five years following the commencement of service under Schedule EDR-A pursuant to Section 5 of this Agreement.

- 8.2. At the end of the fifth year, Customer will no longer take service under Schedule EDR-A and will be billed only under its OAT, effective with the start of the next regular billing period following the end of the fifth year of service under this Agreement.
- 8.3. This Agreement is not renewable at the expiration of its term.

9. TERMINATION

This Agreement may be terminated (subject to payment of Liquidated Damages as provided for in Section 10) by either party upon written notice as follows.

- 9.1. Termination for Misrepresentation or Fraud: SCE may terminate this Agreement upon five business days' notice if any representation made by Customer in this Agreement is untrue in any material respect, or if any statement in Customer's Affidavit was untrue, or if SCE determines that Customer was not eligible for Schedule EDR-A when this Agreement was signed, in which case Liquidated Damages as set forth in Section 10.3 shall be paid.
- 9.2. Termination at Customer's Request: Customer may request termination of this Agreement at any time by providing at least 60 days' written notice to SCE.
- 9.3. Termination For Nonpayment: SCE may terminate this Agreement if Customer fails to pay any amount due, under Schedule EDR-A within 30 days after receipt of notice of nonpayment from SCE. Customer shall be liable for all unpaid amounts and any accrued interest on the unpaid amounts.
- 9.4. Termination For Noncompliance: SCE may terminate this Agreement upon five business days' notice if Customer fails to comply with any term or condition of Schedule EDR-A or this Agreement, or if Customer ceases the operations to which this Agreement applies or moves such operations out of SCE's service territory.
- 9.5. Termination For Ineligibility: SCE may terminate this Agreement upon five business days' notice if it determines that Customer has become ineligible for Schedule EDR-A.
- 9.6. Termination For Failure To Maintain Minimum Load: SCE may terminate this Agreement if Customer fails to maintain its Minimum Load during any consecutive 12 month period or shuts down its operations. If Customer fails to maintain its Minimum Load, SCE must provide Customer at least 90 days' notice of termination and Customer shall have the opportunity to increase its load to the Minimum Load and demonstrate to SCE's satisfaction that it will continue to use its Minimum Load for the remaining term of this Agreement.
- 9.7. Termination For Failure To Commence Service: SCE may terminate this Agreement if Customer does not begin service within 24 months after the date this Agreement was executed.

10. LIQUIDATED DAMAGES

- 10.1 Upon termination of this Agreement, prior to its five-year term pursuant to Sections 9.1, 9.2, 9.3, 9.4, 9.5, or 9.6, Customer shall be required to pay SCE Liquidated Damages. The Liquidated Damages are required to ensure that neither SCE nor its ratepayers are financially or otherwise damaged if this Agreement is prematurely terminated before the end of its term.
- 10.2. It would be extremely difficult for the Parties to identify the amounts of increased or additional costs attributable to termination of this Agreement. Parties agree the Liquidated Damages specified herein are a reasonable approximation of damages which SCE and its ratepayers may incur as a result of such termination, and that the damage amount does not represent a penalty.
- 10.3. For termination under Section 9.1 above, Liquidated Damages under this Agreement shall be an amount equal to 200% of the cumulative difference between (i) the amount the Customer would have paid for its energy and demand if billed at their OAT from the date service was first rendered under Schedule EDR-A to the date of termination, and (ii) the amount billed to Customer under this Agreement and Schedule EDR-A during the same period.
- 10.4. For termination under Sections 9.2, 9.3, 9.5, or 9.6 above (excepting business closure or reduction in load without relocation) Liquidated Damages under this Agreement shall be an amount equal to 100% of the cumulative difference between (i) the amount billed to Customer under Schedule EDR-R from the date service was first rendered under Schedule EDR-R to the date of termination, and (ii) a "proxy" bill calculation based on a declining discount starting at 20% of the customer's OAT bill in year one with that annual discount reduced by 4% each year thereafter during the same period, i.e., a discount of 16% in year 2, 12% in year 3, 8% in year 4, and 4% in year 5, plus interest on that difference (at the Interest Rate) to the date of payment. Should a customer's usage increase such that cumulative liquidated damages become negative upon contract termination, under no circumstances will SCE be liable for paying liquidated damages to a customer.
- 10.5. After termination of this Agreement for any cause, Customer shall be billed at its OAT.
- 10.6. The limitations of Rule 17 of SCE's Commission-approved Tariffs shall not apply to amounts payable under this Agreement.
- 10.7. SCE may in its discretion require Customer to establish a letter of credit or other security as a condition to providing service under Schedule EDR-A to secure payment of any Liquidated Damages.

11. UNCONTROLLABLE FORCE

- 11.1. Neither Party shall be considered to be in default in the performance of any obligation under this Agreement, except for obligations to pay money, when and to the extent that failure of performance shall be caused by an Uncontrollable Force.
- 11.2. If either Party, because of an Uncontrollable Force, is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent

the following conditions are met.

- 11.2.1 The suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force.
 - 11.2.2. The nonperforming Party uses its best efforts to cure its inability to perform. This subsection shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Party having the difficulty.
 - 11.2.3. When the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect immediately.
- 11.3. Nonperformance due to Uncontrollable Force shall be excused, provided Party can demonstrate that the Uncontrollable Force was owing to causes outside its reasonable control and the occurrence of the Uncontrollable Force could not have been prevented by the exercise of due diligence.
 - 11.3.1. Accordingly, nonperformance shall be excused from the date of the occurrence of the Uncontrollable Force, provided the nonperforming Party has given the other Party written notice describing the particulars of the occurrence within two weeks of the event.
 - 11.3.2. Accordingly, nonperformance shall be excused from the date on which the nonperforming Party gives the other Party written notice describing the particulars of the occurrence of the Uncontrollable Force, if such written notice is given more than two weeks after the Uncontrollable Force occurred.
- 11.4. If Customer experiences an Uncontrollable Force that prevents Customer from complying with Schedule EDR-A and this Agreement, Customer may request that SCE suspend the terms of Schedule EDR-A and this Agreement for the duration of the Uncontrollable Force. Customer will be billed at the Otherwise Applicable Tariff for the duration of the suspension of this Agreement. Resumption of the terms of Schedule EDR-A and this Agreement shall commence with the next regularly scheduled billing period. In addition, the term of this Agreement will be extended for up to 12 months beyond the term originally established in this Agreement by the length of time this Agreement was suspended.
- 11.5. The occurrence of an Uncontrollable Force shall not (i) prevent SCE from terminating this Agreement in accordance with Sections 9.4 and 9.5, or (ii) extend the period any level of discount is available as provided in Section 2.3.
- 11.6. If the Uncontrollable Force causing the nonperformance is caused by the actions or inactions of legislative, judicial or regulatory agencies, or other proper authority, this Agreement may be amended to comply with the legal or regulatory change causing the nonperformance. Any such amendment must be first authorized by the Commission prior to implementation.

12. DAMAGE LIMITATION

SCE shall not be liable for any consequential, incidental, indirect, or special damages, whether in contract, tort, or strict liability including, but not limited to, lost profits and loss of power resulting from power outages or other electric service interruptions or from SCE's performance or nonperformance of its obligations under this Agreement or in the event of termination of this Agreement.

13. INDEMNITY

Customer shall, at its own cost and expense, defend, indemnify, and hold harmless SCE, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, cause of action, costs, including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damage to any property caused by Customer, its employees, officers and agents, or any of them, and arising out of the performance or non-performance of its obligations under this Agreement. Termination of this Agreement shall not exempt Customer from the terms and conditions of this Section.

14. ASSIGNMENT OF AGREEMENT

Customer shall not assign this Agreement or any part or interest thereof, to a third party without the prior, written consent of an authorized representative of SCE. Any assignment made without such consent shall be void and of no effect. Further, any assignment made under this Agreement shall be subject to any applicable Commission authorization or regulation except as waived by the Commission.

15. AMENDMENT

Any changes or amendments to this Agreement must be in writing and must be executed by the Customer and SCE and, if required, be approved by the Commission.

16. NOTICE

Any notice either Customer or SCE may wish to provide the other regarding this Agreement must be in writing and may be transmitted by hand, fax, email or postal mail. Notices delivered by hand shall be deemed effective when delivered. Notices delivered by fax, email and mail shall be deemed effective when received.

Customer:

(name)

(title)

(party)

(address)

(city, state, & zip code)

SCE:

Manager, Economic Development Services
Southern California Edison Company
6040-B No. Irwindale Avenue
Irwindale, CA 91702

17. NONWAIVER

The failure of either Party to enforce any of the terms and conditions or to exercise any right or privilege in this Agreement shall not be construed as a waiver of any such terms and conditions or rights or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce or exercise had occurred.

18. SEVERABILITY

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by the Commission, or any court of competent jurisdiction, the validity and enforceability of the remaining provisions or any portion thereof shall not be affected. However, should either party determine, in good faith, that such unenforceability renders the remaining provisions of this Agreement economically infeasible or disadvantageous, said party may terminate this Agreement upon 15 days' notice, except that the provisions of Section 10, Liquidated Damages, shall apply to any such termination.

19. APPLICABLE LAWS, RULES, AND REGULATIONS

This Agreement shall be subject to, and interpreted under, the laws, rules, and regulations of the State of California and the Commission, and under SCE's Commission-approved Tariff Schedules and Rules. To the extent there are any inconsistencies between this Agreement and SCE's other tariffs, this Agreement shall control.

20. CALIFORNIA PUBLIC UTILITIES COMMISSION

- 20.1. This Agreement shall at all times be subject to such changes or modifications by the Commission as said Commission may, from time to time, direct in the exercise of its jurisdiction.
- 20.2. Notwithstanding any other provisions of this Agreement, SCE has the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for a change in rates, charges, classification, service, or rule, or any agreement relating thereto.
- 20.3. This Agreement shall be subject to review in any proceeding the Commission may conduct regarding SCE's EDR program implementation.

21. ENTIRE AGREEMENT

This Agreement, including SCE's tariffs as filed with the Public Utilities Commission, constitutes the sole, only, and entire agreement and understanding between the Parties as to the subject matter of this Agreement with respect to Schedule EDR-A. Prior agreements, commitments or representations, whether expressed or implied, and discussions between Parties, shall not be construed to be a part of this Agreement.

22. AUTHORIZATION SIGNATURES

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized agents to be effective on the date of SCE's signature below.

By: SOUTHERN CALIFORNIA
EDISON COMPANY

(Signature)

(Name)

(Title)

Southern California Edison Company

(Date)

By: CUSTOMER

(Signature)

(Name)

(Title)

(Customer)

(Date)

ECONOMIC DEVELOPMENT RATE-EXPANSION AGREEMENT
(Post Decision xxx)

This Agreement is entered into between _____
("Customer"), _____ (Service Account), located at _____

_____, and Southern California Edison Company ("SCE"), located at 2244 Walnut Grove Avenue, Rosemead, California 91770. This Agreement shall become effective as of the date set forth beneath SCE's signature on the signature page of this Agreement. This Economic Development Rate-Expansion Agreement ("Agreement") provides Customer with a discount for incremental electric energy purchased over the five-year term of the Agreement.

This Agreement is a filed form tariff agreement authorized by the California Public Utilities Commission ("Commission") for use by SCE. No officer, inspector, solicitor, agent, or employee of SCE has any authority to waive, alter, or amend any part of this Agreement except as provided herein or as authorized by the Commission. This Agreement is to be used in conjunction with Schedule EDR-E of SCE's Commission-approved tariffs, and supplements the terms and conditions of Customer's electric service under Customer's Otherwise Applicable Tariff, which is Schedule _____, and all related agreements.

The Parties agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

- 1.1. Added Facilities: Equipment or facilities that are in addition to, or in substitution for, standard facilities that SCE would normally install in order to provide electric service to Customer.
- 1.2. Agreement: This document and appendices, as amended from time to time.
- 1.3. Base Period Usage: As defined in Section 3 of this Agreement.
- 1.4. Customer: Customer as defined in SCE's Rule 1.
- 1.5. Economic Development Rate-Expansion (EDR-E): The rates and charges set forth in Schedule EDR-E, subject to the terms and conditions of this Agreement.
- 1.6. Forecast Maximum Incremental Demand: Customer's forecast of the maximum demand of its Incremental Load planned during the five years of this Agreement.
- 1.7. Incremental Added Facilities: Added Facilities that are required by SCE or requested by Customer to be installed in order to accommodate Customer's Incremental Load under Schedule EDR-E.
- 1.8. Incremental Load: Recorded (metered) load (energy and demand) in excess of Base Period Usage.
- 1.9. Interest Rate: The 90-day commercial paper rate.
- 1.10. Liquidated Damages: Damages owed by Customer to SCE as provided in Section

10 of this Agreement.

- 1.11. Minimum Expanded Load: The minimum incremental load Customer has agreed to purchase annually as established for Customer in Section 4.
- 1.12. Otherwise Applicable Tariff (OAT): The rate schedule under which Customer is taking electric service from SCE, including any riders, at the time of signing this Agreement or after, and any applicable successor schedule.
- 1.13. Party, Parties: The parties to this Agreement are SCE and Customer, as defined above.
- 1.14. Qualifying Incremental Load: Incremental Load maximum demand of at least 200 kW.
- 1.15. North American Industry Classification System ("NAICS") Code: An industry coding system developed jointly by the U.S., Canada, and Mexico to provide new comparability in statistics about activity across North America.
- 1.16. Standard Industrial Classification ("SIC") Code: The published codes in the 1987 Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as may be updated in SCE's discretion.
- 1.17. Total Load: Customer's Recorded (metered) load (energy and demand).
- 1.18. Uncontrollable Force(s): An Uncontrollable Force is an event or occurrence due to influences outside the reasonable control of either or both Parties that could not have been prevented by the exercise of due diligence.

2. ECONOMIC DEVELOPMENT RATE-EXPANSION

- 2.1. Customer represents that their NAICS 4-digit Code is _____, or their SIC 3 to 4-digit Code is _____.
- 2.2. Customer further represents that it meets the applicability requirements of Schedule EDR-E.

- 2.3. Subject to the terms and conditions of this Agreement, SCE will provide (SCE to **check one only** depending on Customer's eligibility):
- ☐ STANDARD: 12 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
 - ☐ ENHANCED: 30 percent off the Customer's bill calculated based on the rate components comprising its OAT (excluding the generation service cost component unless that service is provided by SCE) for purchases of electricity (demand and energy) over the five-year term of this Agreement.
- 2.4. All purchases of electricity equal to Base Period Usage shall be billed at Customer's OAT.
- 2.5. Customer's Qualifying Incremental Load is used to determine Customer's minimum required expansion of load under Schedule EDR-E.
- 2.6. Customer must maintain its Qualifying Incremental Load during each of the five years of service under this Agreement.

3. BASE PERIOD USAGE

- 3.1. Base Period Usage must be established for each Customer to determine its Incremental Load.
- 3.2. Base Period Usage is an average of Customer's historical monthly energy usage (kWh) and demand (kW) by season and time-of-use where applicable, and is computed by SCE from Customer's 12 most representative continuous months of usage out of the past 24 months. Base Period Usage for energy consumption (kWh) shall be computed on an average hourly basis, and for billing shall be expanded by the applicable number of hours in the billing period. Ordinarily, Customer's Base Period Usage is based on the energy and demand recorded by SCE on a calendar-month basis. In the absence of calendar month data, 12 billing periods of Customer's billing history will be used, which may not add up to 365 days.

- 3.3. If Customer is subject to billing on a time-of-use basis but does not have the requisite historical data to determine its actual Base Period Usage, SCE shall estimate Customer's load characteristics, including estimated demand and energy usage on a time-of-use basis, using available data. That calculation shall be used as Customer's Base Period Usage until recorded load data becomes available to more definitively establish Customer's load characteristics. When SCE can more accurately estimate Customer's actual load characteristics, Customer's Base Period Usage shall be established based upon the new recorded data.
- 3.4. Base Period Usage is established as follows:

	Average Monthly Base Period Usage (kW)	Average Hourly Base Period Usage, (kWh)
<u>Facilities Related Demand</u>		N/A
<u>Summer</u>		
On-Peak		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____
<u>Winter</u>		
Mid-Peak		
Off-Peak		
OVERALL	_____	_____

Base Period Usage Facilities Related Demand is computed as follows:

1. Determine a Facilities Related Demand for each month in the period used to establish Base Period Usage that is the greater of:
 - a. The maximum billing demand for the month, or
 - b. 50% of the highest of all the billing demands in the period used to establish Base Period Usage.
2. Compute the average of the monthly Facilities Related Demands thus determined. This is Base Period Usage Facilities Related Demand. An "XXX" entered above indicates that the entry is not applicable to Customer's Base Period Usage

4. MINIMUM EXPANDED LOAD

- 4.1. Customer must maintain a Minimum Expanded Load for each year from the date service is first rendered under Schedule EDR-E for the five-year term of this Agreement.
- 4.2. The Minimum Expanded Load cannot be lower than 200 kW.
- 4.3. If during any year of service the Customer's Minimum Expanded Load falls below 200 kW in any three months, the Customer's discounts under section 2.3 above shall be suspended for the balance of the year and such suspension shall begin with the month of the third occurrence. Customer's discounts applicable to Minimum Expanded Load shall resume at the beginning of the following year, subject to the terms of this provision. For purposes of this section, a year of service commences with the start of each level of discount set forth above in Section 2.3.
- 4.4. Any load reductions shown to be directly attributable to energy efficiency measures implemented after establishing Base Period Usage in this Agreement shall not adversely impact the calculation of Customer's Minimum Expanded Load. The imputed load reductions attributable to any energy efficiency measures implemented subsequent to the establishment of Base Period Usage shall be added back into the load calculation in the event that Customer's Minimum Expanded Load falls below 200 kW. Provided that Customer maintains their Minimum Expanded Load, net of any energy efficiency impacts, all Customer discounts shall apply.

5. COMMENCEMENT OF SERVICE

- 5.1. SCE will begin providing service under Schedule EDR-E at the start of the next regular billing period following the date Customer notifies SCE that service should begin under Schedule EDR-E, which date shall not be more than twenty-four months from the effective date of this Agreement.
- 5.2. Customer estimates that service under Schedule EDR-E shall commence at the start of the next regular billing period beginning after _____ and shall provide SCE at least 5 business days' notice of any change in such date.

6. ADDED FACILITIES

An Added Facilities Contract, SCE's filed Form Nos. 16-308 or 16-309, shall be required if additional equipment or facilities are required for Added Facilities or Incremental Added Facilities.

7. ACKNOWLEDGMENT

- 7.1. Except as otherwise amended herein, Customer acknowledges that it is fully subject to all terms and conditions contained in Customer's OAT, or its successor rate schedule, all of SCE's rules, and all terms and conditions of service contained in SCE's Commission-approved tariffs. Any provision pertaining to either a peak period rate limiter or an average rate limiter does not apply.

7.3 Customer also acknowledges that SCE is under a compliance mandate from the California Public Utilities Commission to provide to the Commission, under seal, (a) a list of the names and locations of its EDR participants, (b) their SIC Codes, (c) the total EDR discount provided to the Customer, (d) a listing of jobs retained or created during the reporting period that are attributable to the named EDR participant's involvement in the EDR program; and (e) the amount of the wage and benefits attributable during the reporting period to each category of job retained or created by the named EDR participant's involvement in the EDR program. Customer acknowledges that it is to timely provide to SCE any of the information above upon request in order to remain eligible to take service pursuant to this Agreement. SCE shall use reasonable means to protect this data from public disclosure by redacting or aggregating it in any public filings.

8. TERM

- 8.1. This Agreement shall be effective for five years following the commencement of service under Schedule EDR-E pursuant to Section 5 of this Agreement.
- 8.2. At the end of the fifth year, Customer will no longer take service under Schedule EDR-E and will be billed only under its OAT, effective with the start of the next regular billing period following the end of the fifth year of service under this Agreement.
- 8.3. This Agreement is not renewable at the expiration of its term.

9. TERMINATION

This Agreement may be terminated (subject to payment of Liquidated Damages as provided in Section 10) by either party upon written notice as follows:

- 9.1. Termination for Misrepresentation or Fraud: SCE may terminate this Agreement upon five business days' notice if any representation made by Customer in this Agreement is untrue in any material respect, or if any statement in Customer's Affidavit was untrue, or if SCE determines that Customer was not eligible for Schedule EDR-E when this Agreement was signed, in which case Liquidated Damages as set forth in Section 10.3 shall be paid.
- 9.2. Termination at Customer's Request: Customer may request termination of this Agreement at any time by providing at least 60 days' written notice to SCE.
- 9.3. Termination For Nonpayment: SCE may terminate this Agreement if Customer fails to pay any amount due, under Schedule EDR-E within 30 days after receipt of notice of nonpayment from SCE. Customer shall be liable for all unpaid amounts and accrued interest on the unpaid amounts.

- 9.4. Termination For Noncompliance: SCE may terminate this Agreement upon five business days' notice if Customer fails to comply with any term or condition of Schedule EDR-E or this Agreement, or if Customer ceases the operations to which this Agreement applies or moves such operations out of SCE's service territory.
- 9.5. Termination For Ineligibility: SCE may terminate this Agreement upon five business days' notice if it determines that Customer has become ineligible for Schedule EDR-E.
- 9.6. Termination For Failure To Maintain Minimum Expanded Load: SCE may terminate this Agreement if Customer fails to maintain its Minimum Expanded Load during any consecutive 12 month period or shuts down its operations. If Customer fails to maintain its Minimum Expanded Load, SCE must provide Customer at least 90 days' notice of termination for failure to meet its Minimum Expanded Load and Customer shall have the opportunity to increase its load to meet its Minimum Expanded Load and demonstrate to SCE's satisfaction that it will continue to use its Minimum Expanded Load for the remaining term of this Agreement.
- 9.7. Termination For Failure To Commence Service: SCE may terminate this Agreement if Customer does not begin service within 24 months after the date this Agreement was executed.

10. LIQUIDATED DAMAGES

- 10.1. Upon termination of this Agreement, prior to its five-year term pursuant to Sections 9.1, 9.2, 9.3, 9.4, 9.5, or 9.6, Customer shall be required to pay SCE Liquidated Damages. The Liquidated Damages are required to ensure that neither SCE nor its ratepayers are financially or otherwise damaged if this Agreement is prematurely terminated before the end of its term.
- 10.2. It would be extremely difficult for the Parties to identify the amounts of increased or additional costs attributable to termination of this Agreement. Parties agree the Liquidated Damages specified herein are a reasonable approximation of damages which SCE and its ratepayers may incur as a result of such termination, and that the damage amount does not represent a penalty.
- 10.3. For termination under Section 9.1 above, Liquidated Damages under this Agreement shall be an amount equal to 200% of the cumulative difference between (i) the amount the Customer would have paid for its energy and demand if billed at their OAT, from the date service was first rendered under Schedule EDR-E, to the date of termination, and (ii) the amount billed to Customer under this Agreement and Schedule EDR-E during the same period.

- 10.4. For termination under Sections 9.2, 9.3, 9.5, or 9.6 above (excepting business closure or reduction in load without relocation) Liquidated Damages under this Agreement shall be an amount equal to 100% of the cumulative difference between (i) the amount billed to Customer under Schedule EDR-E from the date service was first rendered under Schedule EDR-E to the date of termination, and (ii) a "proxy" bill calculation based on a declining discount starting at 20% of the customer's OAT bill in year one with that annual discount reduced by 4% each year thereafter during the same period, i.e., a discount of 16% in year 2, 12% in year 3, 8% in year 4, and 4% in year 5, plus interest on that difference (at the Interest Rate) to the date of payment. Should a customer's usage increase such that cumulative liquidated damages become negative upon contract termination, under no circumstances will SCE be liable for paying liquidated damages to a customer.
- 10.5. After termination of this Agreement for any cause, Customer shall be billed at its OAT.
- 10.6. The limitations of Rule 17 of SCE's Commission-approved Tariffs shall not apply to amounts payable under this Agreement.
- 10.7. SCE may in its discretion require Customer to establish a letter of credit or other security as a condition to providing service under Schedule EDR-E to secure payment of any Liquidated Damages.

11. UNCONTROLLABLE FORCE

- 11.1. Neither Party shall be considered to be in default in the performance of any obligation under this Agreement, except for obligations to pay money, when and to the extent that failure of performance shall be caused by an Uncontrollable Force.
- 11.2. If either Party, because of an Uncontrollable Force, is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent the following conditions are met.
 - 11.2.1. The suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force.
 - 11.2.2. The nonperforming Party uses its best efforts to cure its inability to perform. This subsection shall not require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be at the sole discretion of the Party having the difficulty.

- 11.2.3. When the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect immediately.
- 11.3. Nonperformance due to Uncontrollable Force shall be excused, provided Party can demonstrate that the Uncontrollable Force was owing to causes outside its reasonable control and the occurrence of the Uncontrollable Force could not have been prevented by the exercise of due diligence.
- 11.3.1. Accordingly, nonperformance shall be excused from the date of the occurrence of the Uncontrollable Force, provided the nonperforming Party has given the other Party written notice describing the particulars of the occurrence within two weeks of the event.
- 11.3.2. Accordingly, nonperformance shall be excused from the date on which the nonperforming Party gives the other Party written notice describing the particulars of the occurrence of the Uncontrollable Force, if such written notice is given more than two weeks after the Uncontrollable Force occurred.
- 11.4. If Customer experiences an Uncontrollable Force that prevents Customer from complying with Schedule EDR-E and this Agreement, Customer may request that SCE suspend the terms of Schedule EDR-E and this Agreement for the duration of the Uncontrollable Force. Customer will be billed at their OAT for the duration of the suspension of this Agreement. Resumption of the terms of Schedule EDR-E and this Agreement shall commence with the next regularly scheduled billing period. In addition, the term of this Agreement will be extended beyond the term originally established in this Agreement by the length of time this Agreement was suspended.
- 11.5. The occurrence of an Uncontrollable Force shall not (i) prevent SCE from terminating this Agreement in accordance with Sections 9.4 and 9.5 or (ii) extend the period any level of discount is available as provided in Section 2.3.
- 11.6. If the Uncontrollable Force causing the nonperformance is caused by the actions or inactions of legislative, judicial or regulatory agencies, or other proper authority, this Agreement may be amended to comply with the legal or regulatory change causing the nonperformance. Any such amendment must be first authorized by the Commission prior to implementation.

12. DAMAGE LIMITATION

SCE shall not be liable for any consequential, incidental, indirect, or special damages, whether in contract, tort, or strict liability including, but not limited to, lost profits and loss of power resulting from power outages or other electric service interruptions or from SCE's performance or nonperformance of its obligations under this Agreement or in the event of termination of this Agreement.

13. INDEMNITY

Customer shall, at its own cost and expense, defend, indemnify, and hold harmless SCE, its officers, agents, employees, assigns, and successors in interest, from and against any and all liability, damages, losses, claims, demands, actions, cause of action, costs, including attorney's fees and expenses, or any of them, resulting from the death or injury to any person or damage to any property caused by Customer, its employees, officers and agents, or any of them, and arising out of the performance or non-performance of its obligations under this Agreement. Termination of this Agreement shall not exempt Customer from the terms and conditions of this Section.

14. ASSIGNMENT OF AGREEMENT

Customer shall not assign this Agreement or any part or interest thereof, to a third party without the prior, written consent of an authorized representative of SCE. Any assignment made without such consent shall be void and of no effect. Further, any assignment made under this Agreement shall be subject to any applicable Commission authorization or regulation except as waived by the Commission.

15. AMENDMENT

Any changes or amendments to this Agreement must be in writing and must be executed by the Customer and SCE and, if required, be approved by the Commission.

16. NOTICE

Any notice either Customer or SCE may wish to provide the other regarding this Agreement must be in writing and may be transmitted by hand, fax, email or postal mail. Notices delivered by hand shall be deemed effective when delivered. Notices delivered by fax, email and mail shall be deemed effective when received.

Customer:

SCE:

Manager, Economic Development Services

Southern California Edison Company

6040-B No. Irwindale Avenue

Irwindale, CA 91702

17. NONWAIVER

The failure of either Party to enforce any of the terms and conditions or to exercise any right or privilege in this Agreement shall not be construed as a waiver of any such terms and conditions or rights or privileges, and the same shall continue and remain in force and effect as if no such failure to enforce or exercise had occurred.

18. SEVERABILITY

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by the Commission, or any court of competent jurisdiction, the validity and enforceability of the remaining provisions or any portion thereof shall not be affected. However, should either party determine, in good faith, that such unenforceability renders the remaining provisions of this Agreement economically infeasible or disadvantageous, said party may terminate this Agreement upon 15 days' notice, except that the provisions of Section 10, Liquidated Damages, shall apply to any such termination.

19. APPLICABLE LAWS, RULES, AND REGULATIONS

This Agreement shall be subject to, and interpreted under, the laws, rules, and regulations of the State of California and the Commission, and under SCE's Commission-approved Tariff Schedules and Rules. To the extent there are any inconsistencies between this Agreement and SCE's other tariffs, this Agreement shall control.

20. CALIFORNIA PUBLIC UTILITIES COMMISSION

- 20.1. This Agreement shall at all times be subject to such changes or modifications by the Commission as said Commission may, from time to time, direct in the exercise of its jurisdiction.
- 20.2. Notwithstanding any other provisions of this Agreement, SCE has the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for a change in rates, charges, classification, service, or rule, or any agreement relating thereto.
- 20.3 This Agreement shall be subject to review in any proceeding the Commission may conduct regarding SCE's EDR program implementation.

21. ENTIRE AGREEMENT

This Agreement, including SCE's tariffs as filed with the Public Utilities Commission, constitutes the sole, only, and entire agreement and understanding between the Parties as to the subject matter of this Agreement with respect to Schedule EDR-E. Prior agreements, commitments or representations, whether expressed or implied, and discussions between Parties, shall not be construed to be a part of this Agreement.

22. AUTHORIZATION SIGNATURES

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized agents to be effective on the date of SCE's signature below.

By: SOUTHERN CALIFORNIA
EDISON COMPANY

(Signature)

(Name)

(Title)

Southern California Edison Company

(Date)

By: CUSTOMER

(Signature)

(Name)

(Title)

(Customer)

(Date)

Appendix C
Map Of Constrained Area

