



COM/MGA/smt 11/29/2021

**FILED**  
11/29/21  
04:00 PM

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

Application of Liberty Utilities  
(CalPeco Electric) LLC (U933E) for  
Authority to Update Rates Pursuant to  
its Energy Cost Adjustment Clause  
and its California Climate Credit,  
Effective January 1, 2022.

Application 21-08-003

**ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING**

This scoping memo and ruling sets forth the issues, need for hearing, schedule, category, and other matters necessary to scope this proceeding pursuant to Public Utilities (Pub. Util.) Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

**1. Procedural Background**

On August 2, 2021, Liberty Utilities (CalPeco Electric) LLC (Liberty) filed this instant Application with the California Public Utilities Commission (Commission) for authority update its rates pursuant to its Energy Cost Adjustment Clause (ECAC) and its California Climate Credit, Effective January 1, 2022.

Based on this Application, Liberty requests approval of its 2022 ECAC and Greenhouse Gas (GHG) Related Forecast and Reconciliation of Costs and Revenue; and seeks Commission's approval to increase both the Balancing Rate and the Offset Rate under its ECAC effective January 1, 2022. In this Application, Liberty proposes an increase in the ECAC Balancing Rate of approximately \$5.199 million compared to current rates, and an increase in the ECAC Offset

Rate of approximately \$2.159 million compared to current rates, with an overall ECAC Rate increase of 28.7 percent. Additionally, Liberty seeks Commission's approval of its GHG 2022 cost and revenue forecast, as well as its 2020 reconciliation, in order to set its California Climate Credits, effective January 1, 2022. Liberty projects that its residential Customers will receive a semi-annual California Climate Credit of about \$44.02, as provided in the Application.

The Application appeared on the Commission's public Calendar on August 6, 2021. On September 7, 2021, the Commission timely received a protest to the Application from the Commission's Public Advocates Office (PAO), and a response to the Application from A-3 Customer Coalition (A-3 Coalition).<sup>1</sup>

A prehearing conference (PHC) was held on September 30, 2021, to address issues of law and fact in the proceeding, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.<sup>2</sup>

## **2. Issues**

After considering the Application and supporting documents filed with the Application; the PHC Statement; and discussion at the PHC, it is determined that the issues and initial schedule for the proceeding are as set forth in this Scoping Memo below.

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<sup>1</sup> A-3 Coalition represents a coalition of Liberty's commercial customers receiving services under Liberty's Schedule A-3.

<sup>2</sup> On September 24, 2021, Liberty, A-3 Coalition, and PAO jointly submitted a PHC statement as directed by the Administrative Law Judge (ALJ); *See* ALJ's September 15, 2021 ruling.

The issues to be determined or otherwise considered are as follows:

1. Whether Liberty's proposed balancing rate is just and reasonable so that it should be approved by the Commission.
2. Whether Liberty's 2022 forecasted purchased power costs are just and reasonable.
3. Whether Liberty's 2022 forecasted tax equity payments to its tax equity partners for the Luning and Turquoise solar projects are in conformance with the Commission decisions approving such tax equity payments.
4. Whether Liberty's resolution of backbill charges asserted by NV Energy is prudent and reasonable.
5. Whether Liberty's proposal to amortize the ECAC Balancing Account under-collection over a twelve (12) month period is reasonable.
6. Whether the Commission should approve Liberty's 2022 forecasted revenue requirement (including 2022 forecast GHG costs and proposed reconciliation of 2020 GHG costs).
7. Whether the Commission should approve Liberty's 2022 forecast of GHG revenues and expenses, including (a) GHG allowance revenues; (b) the GHG allowance revenue set aside for clean energy/energy efficiency programs; and (c) the GHG administration, customer outreach expenses.
8. Whether the Commission should approve Liberty's 2022 GHG Allowance Return rates, particularly the proposed California Climate Credits for eligible residential and small commercial customers.
9. Whether the Commission should authorize Liberty to file a Tier 1 Advice Letter to implement changes to its California Climate Credit rates.
10. Whether any of the proposals in Liberty's Application will negatively impacts environmental and social justice communities, including the extent to which such impacts,

if any, could be remediated to achieve any of the nine goals of the Commission’s Environmental and Social Justice Action Plan.

**3. Need for Evidentiary Hearing**

The issues identified above are potentially contested material issues of fact. Accordingly, the evidentiary hearings may be necessary and are included in the schedule.

**4. Schedule**

The following schedule is adopted here and may be modified by the ALJ

<b>PROPOSED SCHEDULE BY APPLICANT</b>	
<b>Events</b>	<b>Applicant</b>
<b>Deadline to Update ECAC Application (Liberty)</b>	October 15, 2021
<b>Opening Testimony</b>	November 15, 2021
<b>Rebuttal Testimony</b>	December 1, 2021
<b>Status Conference</b>	<b>December 27, 2021</b> Call-In Number: 877-936-5003 Participant PASSCODE: 5942791
<b>Evid. Hearings</b>	<b>January 6, 2022</b> Call-In Number: 877-936-5003 Participant PASSCODE: 5942791 <sup>3</sup>
<b>Concurrent Opening Briefs</b>	January 25, 2022
<b>Concurrent Reply Briefs</b>	February 3, 2022
<b>Proposed Decision</b>	May 2022
<b>Comments on PD Due</b>	June 2022
<b>Decision</b>	July 1, 2022

as required to promote the efficient and fair resolution of the Application:

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<sup>3</sup> The format of the Evidentiary hearings may be changed to include in-person or remote hearing with the use of audio-video technologies.

The purpose of the December 27, 2021, status conference is to ascertain whether, pursuant to Rule 13.8(c), the parties stipulate to the receipt of prepared testimony into evidence without direct or cross examination or other need to convene an evidentiary hearing or, in the alternative, the parties' resources, readiness and needs for the effective remote conduct of the evidentiary hearing, including estimates of time requested for cross-examination and identification of anticipated exhibits.

The proceeding will stand submitted upon the filing of reply briefs, unless the ALJ requires further evidence or argument. Based on this schedule, the proceeding will be resolved within 18 months as required by Pub. Util. Code Section 1701.5.

#### **5. Instructions Regarding Prepared Testimony and Briefs**

The organization of prepared testimony and briefs must correlate to the identified issues. In addition to the requirements of Rule 1.9, Rule 1.10, and Rule 13.7(f), parties shall serve two hard copies of the prepared testimony and one copy of each brief on the assigned ALJ.

#### **6. Alternative Dispute Resolution (ADR) Program and Settlements**

The Commission's ADR program offers mediation, early neutral evaluation, and facilitation services, and uses ALJs who have been trained as neutrals. At the parties' request, the assigned ALJ can refer this proceeding to the Commission's ADR Coordinator. Additional ADR information is available on the Commission's website.

The ALJ neutral and the parties will plan and schedule the specific ADR processes that are appropriate for this proceeding, which may include mediation, early neutral evaluation, or other ADR processes as agreed to by the parties. All

active parties must participate in an initial session of ADR and each active party must have an official at such meeting with decision-making authority. For additional information on the Commission's ADR program, see Resolution ALJ-185. Parties are directed to submit their request for an ADR neutral to the assigned ALJ as soon as practicable to accommodate competing schedules.

Any settlement between parties, whether regarding all or some of the issues, shall comply with Article 12 of the Rules of Practice and Procedure and shall be served in writing. Such settlements shall include a complete explanation of the settlement and a complete explanation of why it is reasonable in light of the whole record, consistent with the law and in the public interest. The proposing parties bear the burden of proof as to whether the settlement should be adopted by the Commission.

#### **7. Category of Proceeding and Ex Parte Restrictions**

This ruling confirms the Commission's preliminary determination<sup>4</sup> that this is a ratesetting proceeding. Accordingly, ex parte communications are restricted and must be reported pursuant to Article 8 of the Rules.

#### **8. Public Outreach**

Pursuant to Pub. Util. Code Section 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and business that subscribe to it and posted on the Commission's website.

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<sup>4</sup> Resolution ALJ-176-3491, at 1.

## **9. Intervenor Compensation**

Pursuant to Pub. Util. Code section 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by September 30, 2021, 30 days after the prehearing conference.

## **10. Response to Public Comments**

Parties may, but are not required to, respond to written comments received from the public. Parties may do so by posting such response using the “Add Public Comment” button on the “Public Comment” tab of the online docket card for the proceeding.

## **11. Public Advisor**

Any person interested in participating in this proceeding who is unfamiliar with the Commission’s procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission’s Public Advisor at 866-849-8390 or 866-836-7825 (TTY), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

## **12. Filing, Service, and Service List**

The official service list has been created and is on the Commission’s website. Parties should confirm that their information on the service list is correct and serve notice of any errors on the Commission’s Process office, the service list, and the ALJ. Persons may become a party pursuant to Rule 1.4.

When serving any document, each party must ensure that it is using the current official service list on the Commission’s website.

This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on

the date scheduled for service to occur. Rule 1.10 requires service on the ALJ of both an electronic and a paper copy of filed or served documents.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

Persons who are not parties but wish to receive electronic service of documents filed in the proceeding may contact the Process Office at [process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov) to request addition to the “Information Only” category of the official service list pursuant to Rule 1.9(f).

The Commission encourages those who seek information-only status on the service list to consider the Commission’s subscription service as an alternative. The subscription service sends individual notifications to each subscriber of formal e-filings tendered and accepted by the Commission. Notices sent through subscription service are less likely to be flagged by spam or other filters. Notifications can be for a specific proceeding, a range of documents and daily or weekly digests.

### **13. Receiving Electronic Service from the Commission**

Parties and other persons on the service list are advised that it is the responsibility of each person or entity on the service list for Commission proceedings to ensure their ability to receive emails from the Commission. Please add “@cpuc.ca.gov” to your e-mail safe sender list and update your e-mail screening practices, settings and filters to ensure receipt of e-mails from the Commission.



**14. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and Adeniyi A. Ayoade is the assigned Administrative Law Judge and the presiding officer for the proceeding.

**IT IS RULED** that:

1. The scope of this proceeding is described above and is adopted.
2. The schedule of this proceeding is set forth above and is adopted.
3. Evidentiary hearing is needed.
4. The presiding officer is Administrative Law Judge Adeniyi A. Ayoade.
5. The category of the proceeding is Ratesetting.

This order is effective today.

Dated November 29, 2021, at San Francisco, California.

/s/ MARTHA GUZMAN ACEVES  
Martha Guzman Aceves  
Assigned Commissioner