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**FILED**

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**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, 2023.

Application 22-11-018

**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 Code Section 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure (Rules).

**1. Procedural Background**

On November 18, 2022, Liberty Utilities (CalPeco Electric) LLC (Liberty) filed this Application with the California Public Utilities Commission (Commission) for authority to update its rates pursuant to its Energy Cost Adjustment Clause (ECAC) and its California Climate Credit, effective January 1, 2023.

Based on this Application, Liberty requests approval of its 2023 ECAC and Greenhouse Gas (GHG) Related Forecast and Reconciliation of Costs and Revenue; and seeks the Commission's approval to increase both the Balancing Rate and the Offset Rate under its ECAC effective January 1, 2023. In this Application, Liberty proposes an increase in the ECAC Balancing Rate of

approximately \$5.96 million compared to current rates, and an increase in the ECAC Offset Rate of approximately \$10.868 million compared to current rates, with an overall ECAC rate increase of 54.2 percent. Additionally, Liberty seeks the Commission's approval of its GHG 2023 cost and revenue forecast, as well as its 2021 reconciliation, to set its California Climate Credits, effective January 1, 2023. Liberty projects that its residential customers will receive a semi-annual California Climate Credit of about \$81.64, as provided in the Application.

The Application appeared on the Commission's public Calendar on December 13, 2022. On January 12, 2023, the Commission timely received a protest to the Application from the Public Advocates Office of the California Public Utilities Commission (Cal Advocates), and a response to the Application from A-3 Customer Coalition (A-3 Coalition).<sup>1</sup>

A prehearing conference (PHC) was held on February 14, 2023, 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 February 8, 2023, Liberty, A-3 Coalition, and PAO jointly submitted a PHC statement as directed by the Administrative Law Judge (ALJ); *See* ALJ's January 17, 2023 ruling.

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

1. Whether Liberty's 2023 requested revenue requirement and rates related to ECAC, including the fuel and purchased power costs, balancing rate, and other energy related costs, are just and reasonable so that they should be approved by the Commission.
2. Whether Liberty's 2023 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.
3. Whether Liberty's requests related to GHG revenues and expenses, including the following, are just and reasonable so that they should be approved by the Commission:
  - A) GHG allowance revenues;
  - B) GHG allowance revenue set aside for clean energy/energy efficiency programs;
  - C) GHG administration and customer outreach expenses;
  - D) California Climate Credit for eligible residential and small commercial customers; and
  - E) Reconciliation of 2021 GHG costs.
4. Whether the rate and bill impact of Liberty's requests in this proceeding are just and reasonable so that they should be approved by the Commission.
5. Whether Liberty's proposal to amortize the ECAC Balancing Account under-collection over a twenty-four (24) month period is reasonable.
6. Whether Liberty's request to amend its ECAC filing requirements to enable more timely recovery of its costs through ECAC rates is just and reasonable so that it should be approved by the Commission.
7. Whether the costs for which Liberty seeks approval in this proceeding are incremental to and not duplicative of costs addressed in Liberty's GRC proceeding (Application 21-05-017).
8. Whether the Commission should authorize Liberty to file a Tier 1 Advice Letter to implement changes to its California

Climate Credit rates.

9. Whether any of the proposals in Liberty’s Application will negatively impact 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, 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 Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the application/complaint/rulemaking/investigation:

EVENT	DATE
Prehearing Conference	February 14, 2023
Scoping Memo Issued	March 2023
Opening Testimony	April 27, 2023
Rebuttal Testimony	May 11, 2023
Motion for Evidentiary Hearing (if any) Motion for Settlement (if any) Motion for Admission of Evidence (if no motion for evidentiary hearing)	May 18, 2023
Response to any Motion for Evidentiary Hearing, Settlement or Admission of Evidence	May 25, 2023
Evidentiary Hearings (if needed)	June 8-9, 2023
Opening Briefs	June 23, 2023
Reply Briefs	July 7, 2023
Proposed Decision	Within 90 days after Reply Briefs

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. Parties are to comply with Rule 1.9, Rule 1.10, and Rule 13.7(f). Rule 1.10 typically requires service on the ALJ of both an electronic and a paper copy of filed or served documents. However, due to remote working conditions, parties shall not serve a paper copy of filed or served documents on the ALJ. Rather, parties shall ensure that the ALJ is provided with electronic access to all documents filed and served, including testimony.

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

The Commission's Alternative Dispute Resolution (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.<sup>3</sup>

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

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<sup>3</sup> See D.07-05-062, Appendix A, § IV.O.

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 Public Utilities (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.

**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 March 16, 2023, 30 days after the PHC.

**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

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<sup>4</sup> Resolution ALJ-176-3521, at 3.

electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 1-866-849-8390 or 1-866-836-7825 (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<sup>5</sup>.

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 typically requires service on the ALJ of both an electronic and a paper copy of filed or served documents. However, due to remote working conditions, parties shall not serve a paper copy of filed or served documents on the ALJ. Rather, parties shall ensure that the ALJ is provided with electronic access to all documents filed and served, including testimony.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide

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<sup>5</sup> The form to request additions and changes to the Service list may be found at <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/additiontoservicelisttranscriptordercompliant.pdf>

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 e-mails 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**

John Reynolds is the assigned Commissioner and Syche Cai is the assigned ALJ and presiding officer for the proceeding.

**O R D E R**

**IT IS RULED** that:

1. The scope of this proceeding is described above and is adopted.



