

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED

03/24/23

12:37 PM

A2105017

March 24, 2023

**Agenda ID #21479
Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 21-05-017:

This is the proposed decision of Administrative Law Judge Lirag. 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 27, 2023 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.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:mph

Attachment

Decision PROPOSED DECISION OF ALJ LIRAG (Mailed 3/24/2023)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Liberty Utilities
(CalPeco Electric) LLC (U933E) for
Authority to Among Other Things,
Increase Its Authorized Revenues for
Electric Service, Update Its Energy
Cost Adjustment Clause Billing
Factors, Establish Marginal Costs,
Allocate Revenues, And Design Rates,
as of January 1, 2022.

Application 21-05-017

**DECISION ADDRESSING THE TEST YEAR 2022 GENERAL RATE CASE
OF LIBERTY UTILITIES (CALPECO ELECTRIC) LLC AND
APPROVING SETTLEMENT AGREEMENTS**

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**DECISION ADDRESSING THE TEST YEAR 2022 GENERAL RATE CASE
OF LIBERTY UTILITIES (CALPECO ELECTRIC) LLC AND
APPROVING SETTLEMENT AGREEMENTS**

Summary

Today's decision addresses the Test Year (TY) 2022 General Rate Case (GRC) application of Liberty Utilities (CalPeco Electric) LLC (Liberty) for authority to increase its authorized revenues for electric service, update its energy cost adjustment clause billing factors, establish marginal costs, allocate revenues, and design rates.

The decision adopts the all-party settlement agreement between Liberty, A-3 Customer Coalition (A-3), The Public Advocates Office of the California Public Utilities Commission (Cal Advocates), Small Business Utility Advocates (SBUA), and Tahoe Energy Ratepayers Group (Tahoe), concerning revenue requirement matters (RR Settlement). The RR Settlement addresses all revenue requirement issues except for return on equity (ROE).

The decision also adopts a second all-party settlement agreement between Liberty, A-3, Cal Advocates, SBUA, and Tahoe, that addresses marginal cost, revenue allocation, and rate design issues (MC/RA/RD Settlement). The MC/RA/RD Settlement resolves all issues concerning marginal costs, revenue allocation, and rate design.

In the RR Settlement, parties agree to a TY 2022 revenue requirement of \$138.087 million and capital expenditures of \$35.20 million for 2021, and \$53.443 million for 2022. The TY 2022 revenue requirement in the settlement is \$12.994 million, or 8.6 percent, less than Liberty's initial request of \$151.081 million.

For post-test years (PTY) 2023 and 2024, the RR Settlement provides that Liberty can use its existing PTY adjustment mechanism to recover a total of \$64.000 million in combined 2023 and 2024 capital expenditures, pursuant to specified maximum amounts for specified capital project categories that are provided in the RR Settlement.

From our review, we find both settlement agreements reasonable in light of the record as a whole, consistent with law, and in the public interest. The terms and agreements contained in the settlement agreements are also supported by the evidence presented by parties.

Regarding the issue on ROE, Liberty requested an ROE of 10.5 percent. However, the decision finds no sufficient cause to modify Liberty's current ROE of 10 percent. Because the TY 2022 revenue requirement and other revenue levels in the RR Settlement were calculated using Liberty's requested ROE, these should be adjusted pursuant to an ROE of 10.0 percent. This adjustment was contemplated by the parties in Section 1.7 of the RR Settlement which provides that the final revenue levels will be adjusted to reflect the ROE that the Commission will adopt. A 10.0 percent ROE results in a TY 2022 revenue requirement of \$136.791 million which this decision is authorizing.

Similarly, adjustments should also be made to the changes in rates agreed-upon in the MC/RA/RD Settlement pursuant to the adopted ROE and the adjusted TY 2022 revenue requirement being authorized.

The impact of the adopted TY 2022 revenue requirement on an average residential customer's monthly bill is an increase of approximately \$28.10 or 22.6 percent compared to their current monthly bill.¹

¹ Permanent Non-CARE Residential Customer using 669 kWh with bill impacts calculated using rates effective January 1, 2023.

In addition, the balance recorded in Liberty's GRC Revenue Requirement Memorandum Account from January 1, 2022 until the date the new tariffs authorized in this decision are implemented, shall be amortized in rates from the date the new tariffs are implemented through December 31, 2024.

Attachment A of this decision contains the RR Settlement while Attachment B contains the MC/RA/RD Settlement. Attachment C contains the Summary of Results of Operations for 2022 and Attachment D contains the 2022 Summary of Authorized Rates.

1. Procedural Background

On May 28, 2021, Liberty Utilities (CalPeco Electric) LLC (Liberty) filed Application (A.) 21-05-017 for authority to increase its authorized revenues for electric service; update its Energy Cost Adjustment Clause (ECAC) billing factors; and establish marginal costs, allocate revenues, and design rates as of January 1, 2022.

Protests were filed by The Public Advocates Office of the California Public Utilities Commission (Cal Advocates) and A-3 Customer Coalition (A-3) on July 12, 2021.

On August 16, 2021, Small Business Utility Advocates (SBUA) filed a motion for party status.

A pre-hearing conference (PHC) was held on August 23, 2021, to gather information about the scope, schedule, and other procedural matters. SBUA's motion for party status was granted by the assigned administrative law judge (ALJ) during the PHC.

On September 7, 2021, Tahoe Energy Ratepayers Group (Tahoe) filed a motion for party status.

On October 1, 2021, Liberty filed a motion to track costs in its General Rate Case Memorandum Account (GRCMA). The Commission issued Decision (D.) 21-12-010 authorizing use of the GRCMA to track the difference in revenue requirement in effect on December 31, 2021, and the final revenue requirement authorized in this decision.

On November 1, 2021, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) setting forth the scope and procedural schedule for the proceeding. SBUA's motion for party status was also granted in the Scoping Memo.

On December 20, 2021, the assigned ALJ issued a ruling revising the schedule of the proceeding pursuant to an email request made by Liberty on December 14, 2021.

On February 15, 2022, the assigned ALJ issued a ruling further revising the schedule for serving testimony. The dates for evidentiary hearings were also revised by separate rulings on April 4, 2022, April 18, 2022, and May 10, 2022. The hearings were later cancelled after the filing of motions for adoption of settlement agreements.

Status conferences were held on March 25, 2022, April 1, 2022, April 12, 2022, and April 26, 2022.

On May 9, 2022, Tahoe filed a motion to file surrebuttal testimony. Responses were filed on May 16, 2022 by SBUA and Liberty. The motion was denied on May 25, 2022.

On July 20, 2022, a joint motion for admission of prepared testimony and exhibits was filed by SBUA, Liberty, Tahoe, A-3, and Cal Advocates. A ruling identifying exhibits and admitting them into the record was issued on August 1, 2022.

On July 28, 2022, a joint motion for adoption of the all-party settlement agreement on revenue requirement issues (RR Settlement) was filed by A-3, Liberty, Cal Advocates, SBUA, and Tahoe.

On July 29, 2022, a ruling revising the schedule for filing briefs was issued.

On August 4, 2022, Liberty filed a motion requesting confidential treatment of specified exhibits. Also on August 4, 2022, Tahoe and Liberty filed a motion for admission of prepared testimony into the record. The two motions were granted on August 9, 2022.

Opening Briefs on Return on Equity issues were filed by Liberty and Cal Advocates on August 12, 2022. A Reply Brief was filed by Liberty on August 26, 2022.

On August 22, 2022, a joint motion for adoption of the all-party settlement agreement on marginal cost, revenue allocation, and rate design issues (MC/RA/RD Settlement) was filed by SBUA, Cal Advocates, Tahoe, A-3, and Liberty. No comments were filed and the case was submitted for decision.

We note that 160 members of the public sent comments to the Commission largely opposing Liberty's proposed increases; these comments are available on the public comment tab on the docket of this proceeding.

2. Request

Liberty requests that the Commission authorize an increase to Liberty's electric rates and charges, effective January 1, 2022, to collect the revenue requirement that Liberty needs to continue to provide its customers with safe and reliable electric service, including the necessary expansion of Liberty's wildfire mitigation efforts.

In its application, Liberty requests a base revenue requirement of \$151.081 million for Test Year (TY) 2022. This amount represents an increase of

\$35.681 million or 30.9 percent from currently authorized rates. If approved, this would result in an increase of approximately \$42.79 per month or 41.4 percent, for an average-use residential customer.²

The application also proposes, among other things, new separate residential permanent and residential seasonal tariffs, approval of 2023 Advanced Metering Infrastructure (AMI) and Customer First projects, an AMI opt-out tariff, and continuation of Liberty's post-test year adjustment mechanism (PTAM) in 2023 and 2024 and to include authorized capital projects and revenue requirement escalation in rates in 2023 and 2024.

3. Terms of the Settlement Agreements

Parties filed two all-party settlement motions that together, resolve all issues in the proceeding except for issues relating to return on equity (ROE).

3.1. Revenue Requirement Settlement

The RR Settlement filed on July 28, 2022, purports to resolve all revenue requirement issues among all the active parties in the proceeding except for ROE.

In the RR Settlement, parties agree to a TY 2022 revenue requirement of \$138.087 million and capital expenditures of \$35.20 million for 2021 and \$53.443 million for 2022. For post-test years (PTY) 2023 and 2024, the settling parties agree that Liberty can use PTAM to recover a total of \$64.000 million in combined 2023 and 2024 capital expenditures, pursuant to specified maximum amounts for specified capital project categories.

The table below provides a comparison of the TY 2022 revenue requirement, capital expenditures, and PTY capital expenditures in the RR Settlement, Liberty's application, and Cal Advocates' recommendation and

² According to Liberty, this bill impact is subject to revised rate design proposals that Liberty intends to submit during the course of the proceeding.

compares the settlement amounts with Liberty's currently effective revenue requirement.

Table 1
Revenue Requirement and Capital Expenditures
(in millions)

	Application	Cal Advocates	RR Settlement	Settlement difference from current	Settlement difference from application
TY 2022 Revenue Requirement	\$151.081	\$128.948	\$138.087	+\$27.441 (19.66%)	-\$12.994 (-8.6%)
2021 Capital Expenditures	\$71.574 ³	\$35.998	\$35.200	n/a	-\$36.374
2022 Capital Expenditures	\$52.132 ⁴	\$24.756	\$53.443	n/a	+\$1,211
PTY Capital Expenditures	\$99.205	\$48.422	\$64.000	n/a	-\$35.205

Other major terms of the RR Settlement include: (a) maintaining Liberty's currently authorized long-term debt to common equity structure of 47.5 percent to 52.5 percent and; (b) a 2023 advanced metering infrastructure (AMI) capital expenditure of \$19.751 million; (c) 2023 Customer First capital expenditure of \$23.351 million; (d) agreement that Liberty can recover the costs associated with Customer First and AMI via a Tier 2 advice letter once the projects are considered used and useful; and (e) withdrawal of Liberty's request for a \$75 AMI opt-out fee.

³ Liberty revised its request in rebuttal testimony to \$53.609 million.

⁴ Liberty revised its request in rebuttal testimony to \$62.182 million.

As stated in Section 1.7 of the RR Settlement Agreement, the above revenue amounts are based on an ROE of 10.5 percent and parties agree that the above totals shall be adjusted to reflect the ROE that the Commission will adopt.⁵ In other words, the final adopted revenue levels will be adjusted if the Commission adopts an ROE different from Liberty's requested 10.5 percent ROE.

3.2. MC/RA/RD Settlement

The MC/RA/RD Settlement resolves all issues regarding marginal costs, rate allocation, and rate design among all the active parties in the proceeding. As stated in Section 4.3 of the MC/RA/RD Settlement, the resulting class average rates provided in Appendix B to the settlement is based on the Commission's adoption of the revenue requirement in the RR Settlement Agreement and Liberty's proposed ROE of 10.5 percent.⁶ Parties agree that Liberty will make the necessary adjustments to reflect the TY 2022 revenue requirement that will be authorized by the Commission.

3.2.1. Marginal Costs

The following are the major terms concerning marginal costs:

- a. Liberty's Marginal Energy Generation Costs (MGEC) would be calculated for five time of use (TOU) periods using Liberty's 2021-2025 forecasted costs in its most recent Integrated Resource Plan;
- b. Marginal Generation Capacity Cost (MGCC) shall be \$84.16 per kilowatt (kW);

⁵ RR Settlement Agreement Section 1.7: The revenue figures in this RR Settlement are based upon and reflect Liberty's proposed ROE. The RR Settling Parties agree that the final adopted revenue levels will be adjusted to reflect the Commission's adopted ROE.

⁶ MC/RA/RD Settlement Agreement Section 4.3: "...Liberty will adjust the class average rate summaries to reflect Liberty's authorized TY 2022 revenue requirement in accordance with the provisions of this MC/RA/RD Settlement when rates are first implemented."

- c. Marginal Distribution Demand Substation Costs shall be \$83.30 per kW;
- d. Marginal Distribution Demand Non-Revenue Costs shall be calculated based on 50 percent TOU and 50 percent non-TOU; and
- e. Marginal Distribution Customer Costs shall be calculated based on the following:
 - o Residential new customer hook-ups shall be calculated based on regression slope for 2012-2024 number of customers with residential customer growth allocated 50 percent to permanent and 50 percent to non-permanent residential customers;
 - o Underground investment percentages shall be calculated based on the total number of underground transformers and estimated number of customers each respective transformer serves;
 - o The number of A-1 and A-2 customers served from underground and overhead transformers shall be as specified in the settlement; and
 - o Customer-related distribution O&M costs would be updated using inflation-adjusted 2016-2020 costs from data in Liberty's 2016-2020 Federal Energy Regulatory Commission (FERC) Form 1 filings and weighted based on the customer-related unit investments per customer resulting from the preceding updates.

3.2.2. Revenue Allocation

The settling parties agreed on a total system revenue allocation of \$98.697 million which is approximately \$27.536 million higher than current revenues. The table below provides a summary of the agreed-upon revenue allocation rates as shown in Appendix D of the MC/RA/RD Settlement.⁷

⁷ MC/RA/RD Settlement, Appendix D.

Table 2
Base Rate Revenue Allocation Summary⁸

Rate Schedule	Proposed Revenues	Current Revenues	Increase
Residential Permanent Non-CARE	\$19,029,297	\$13,569,218	\$5,460,079
Residential Permanent CARE	\$3,073,872	\$1,995,235	\$1,078,637
Residential Non-Permanent	\$27,220,893	\$17,925,019	\$9,295,874
Small Commercial	\$16,713,900	\$12,515,344	\$4,198,557
Medium Commercial	\$11,524,811	\$8,849,575	\$2,675,235
Large Commercial	\$19,127,144	\$14,550,924	\$4,576,220
Irrigation	\$66,087	\$48,137	\$17,951
OLS	\$328,595	\$173,851	\$154,744
Street Lighting	\$169,900	\$90,506	\$79,394
Other Operating Revenues	\$1,443,215	\$1,443,215	\$0
Total System	\$98,697,714	\$71,161,023	\$27,536,691

The settling parties also agreed to employ collar restrictions as described in Section 4.5.3 of the MC/RA/RD Settlement in order to mitigate rate increases and promote rate stability. The minimum revenue increase for all customer classes is 19.44 percent (calculated as 14.5 percent of the overall increase) and the maximum revenue increase for all customer classes is set at 39.80 percent (calculated as 75 percent of the overall increase). Both are exclusive of wildfire costs. The settlement also provides that revenues that would have been collected from a particular rate class (not including the collar restrictions) shall be allocated to the other classes still within the collar restrictions.

⁸ The table does not include approximately \$39.5 million in revenues associated with the amortization of regulatory account balances.

Finally, the settling parties agree that after collar restrictions have been applied, wildfire costs shall be allocated to the rate groups based on allocation factors agreed-upon in the MC/RA/RD Settlement Agreement and shall be recoverable through rate elements and not through separate fixed charges.

3.2.3 Time of Use Periods

The MC/RA/RD Settlement provides that Liberty will continue to use its current TOU periods.

3.2.4. Rate Design

Section V-D of the MC/RA/RD Settlement provides a summary of the agreed-upon terms concerning rate design and include the following:

a. Residential Rate Design

Tier 3 rates for Permanent and Non-Permanent⁹ customer classes are eliminated. Tier 2 rates for the Non-Permanent customer class are to be set to recover the class target revenues and Non-Permanent residential customers do not get a baseline allocation.

New residential customer hook-up costs will be allocated evenly between the Permanent and Non-Permanent residential customer classes.

Liberty will adopt Tahoe's definition for classifying Permanent residential customers. Based on this definition, Permanent residential customers are account holders who attest that they will live in the home for a cumulative 183 days per year and do not have any electric service from another California electric utility where they might receive any baseline allocation. Liberty will revise its tariff to incorporate the above definition of Permanent residential customers and will update scripts to be used by customer service representatives that will be

⁹ Tahoe reserves its right to seek the elimination of the Non-Permanent customer class in future proceedings (rate case or otherwise).

uniformly used to determine whether a residential customer is properly classified as Permanent or Non-Permanent.

Liberty commits to provide annual outreach to residential customers and provide them information regarding: (a) CARE and other low-income programs; (b) how to verify and switch to the correct residential classification; and (c) an explanation of any rate difference between Permanent and Non-Permanent residential classes.

As Liberty's Customer First data systems become operational over time, Liberty will develop means to assess various customers' classifications for determining whether they are classified appropriately and collect data for future GRCs regarding related marginal costs of service.

The Permanent Residential monthly customer charge will be \$12.00 consistent with the resulting average Permanent Residential base rate of \$0.1575/kWh (calculated as total base revenues/kWh sales).

The Permanent Residential CARE monthly customer charge will be \$9.60. The CARE discount will maintain the current twenty percent discount and allocation of CARE discount costs.

The Non-Permanent Residential monthly customer charge will be \$12.00 with the resulting average Non-Permanent Residential base rate of \$0.1714/kWh (calculated as total base revenues/kWh sales).

For all residential customers (Permanent and Non-Permanent), the generation charge will recover generation-related costs calculated in the marginal cost study and distribution charges will recover distribution-related

costs calculated in the marginal cost study, adjusted to reflect the collar mechanism.¹⁰

b. A-1 Rate Design

The Monthly Customer charge will be \$23.63. The generation charge will recover generation-related costs calculated in the marginal cost study and distribution charges will recover distribution-related costs, reflecting any other costs or adjustments, and adjusted to reflect the collar mechanism.

c. A-2 Rate Design

The Monthly Customer charge will be \$87.56, which is set at two times the current customer charge. Any remaining customer costs above \$87.56 will be recovered in the summer and winter distribution energy charges.

The generation charge will recover the generation-related costs calculated in the marginal cost study and generation demand charges will recover demand-related costs, with the shift from summer to winter demand charge.

The distribution charge will recover the distribution-related costs plus the remaining customer-related costs, reflecting any other costs or adjustments and adjusted to reflect the collar mechanism. Distribution demand charges will recover grid-related costs, which will be recovered through both winter and summer demand charges and distribution TOU-related costs will be recovered in energy charges.

d. A-3 Rate Design

The Monthly Customer charge will be \$722.91. The generation charge will recover generation-related costs calculated in the marginal cost study and distribution charges will recover distribution-related costs calculated in

¹⁰ Described in Section 4.5.3 of the MC/RA/RD Settlement.

the marginal cost study, adjusted to reflect the collar mechanism.

e. Irrigation (PA) Rate Design

The Monthly Customer charge will be \$23.86. Generation and distribution charges will recover generation and distribution-related costs calculated in the marginal cost study, adjusted to reflect the collar mechanism.

f. Outdoor Lighting (OL) & Street Lighting (SL) Rate Design

Generation and distribution charges will recover generation and distribution-related costs calculated in the marginal cost study, adjusted to reflect the collar mechanism.

g. Direct Current Fast Charging (DCFC) rates will be developed to recover marginal costs.

4. Issues Before the Commission

The issues to be determined are as follows:

1. Whether Liberty's request to increase its authorized revenues for electric service, which includes the forecasts of Operation and Maintenance (O&M) expenses, Administrative and General (A&G) expenses, capital expenditures, and rate base, effective January 1, 2022, is just and reasonable;
2. Whether Liberty's proposals to allocate revenues and design rates, including the resulting rates, are reasonable;
3. Whether the methodology employed for Liberty's marginal cost study and the results of its marginal cost study are reasonable;
4. Whether Liberty's proposed rate of return on rate base of 7.42 percent, ROE of 10.5 percent, and a capital structure of 46 percent debt and 54 percent equity are reasonable;
5. Whether Liberty adequately implemented its risk-based decision-making process and framework;

6. Whether Liberty's requests for its AMI and Customer First projects are reasonable and should the project costs be included in Liberty's revenue requirement via Tier 2 advice letters once the AMI and Customer First projects are considered used and useful;
7. Whether Liberty's request to continue the use of PTAM in 2023 and 2024 to include authorized capital project and revenue requirement escalation in rates in 2023 and 2024 is reasonable; and
8. Whether any of the proposals in Liberty's Application will negatively impact environmental and social justice communities (ESJ), including the extent to which such impacts, if any, could be remediated to achieve any of the nine goals of the Commission's ESJ Action Plan.¹¹

5. Standard of Review

With respect to any settlement agreement, the Commission will only approve settlements that are reasonable in light of the record as a whole, consistent with the law, and in the public interest. In order to consider any possible proposed settlement in this proceeding as being in the public interest, we must be convinced that the parties have a sound and thorough understanding of the application and all of the underlying assumptions and data included in the record. This level of understanding of the application and development of an adequate record is necessary to meet our requirements for considering any settlement.

6. Discussion

6.1. Revenue Requirement Discussion

As stated in Section 3.1 of this decision, the RR Settlement adopts a TY 2022 revenue requirement of \$138.087 million and capital expenditures of

¹¹ Scoping Memo at 4 to 5.

\$35.20 million for 2021 and \$53.443 million for 2022. The agreed-upon revenue requirement is \$12.994 million less than what Liberty had forecast in its application and represents an increase of approximately \$27.441 million or 19.66 percent over currently effective rates.

For post-test years (PTY) 2023 and 2024, the settling parties agree that Liberty can use its currently existing PTAM to recover a total of \$64.000 million in combined 2023 and 2024 capital expenditures, pursuant to specified maximum amounts for specified capital project categories.

Cal Advocates had a comprehensive list of its own recommendations in its direct testimony prior to the settlement. A-3 also had several recommendations in its direct testimony while SBUA made several counterproposals in its rebuttal testimony.

The RR Settlement Agreement resolves all revenue requirement issues among the active parties in the proceeding except for ROE which is addressed in a later section of this decision. For calculation purposes, the revenue requirement numbers in the Settlement Agreement assume a 10.5 percent ROE and will be adjusted if a different ROE is authorized.¹²

Section 4 of the RR Settlement Agreement contains all the stipulated forecasts for Liberty's TY 2022 revenue requirement. This includes the forecasts for Operating Revenues, Operating Expenses, Depreciation and Amortization Expense, various Taxes, Capital Expenditures for 2021 and 2022, Rate Base, and Capital Structure. Section 4 also contains the agreement that Liberty may use its existing PTAM for 2023 and 2024.

¹² RR Settlement Section 1.7.

6.1.1. Operating Revenues

A review of its testimony shows that Cal Advocates agrees with most of Liberty's Operating Revenue forecasts. There were small differences in Energy Efficiency forecasts, but the large disparity is with the Sales Revenue forecast. Liberty's forecast was \$134.923 million while Cal Advocates was \$113.004 million, a difference of approximately \$12 million. In Section 4.3.1 of the RR Settlement Agreement, Sales Revenue is stipulated at \$122.144 million. This amount is around \$9 million more than Cal Advocates' forecast and around \$12 million less than Liberty's.

From our review, we find that both parties provided testimony that supported their positions. And, without making a determination on which party's forecast is more correct, we find that the settlement amount represents a reasonable compromise to the two parties' initial positions. Overall, we find that the Operating Revenue forecasts are reasonable and are supported by the evidence presented.

6.1.2. Operating Expenses

The RR Settlement Agreement adopts Liberty's forecast for Fuel and Purchased Power of \$24.986 million which we find reasonable. For O&M and A&G Expenses, the RR Settlement adopts \$45.055 million which is in-between Liberty's initial forecast of \$52.510 million, and Cal Advocates' forecast of \$40.786 million.

Cal Advocates had many forecasts under O&M and A&G that differed from the forecasts made in Liberty's application. From our review, we find that most of the differences in forecast amounts are relatively small such as forecasts

for accounts falling under Other Power Generation, Distribution Expense, Customer Accounts Expense, and A&G.¹³

The RR Settlement resolves the differing forecasts for the above accounts by either adopting Liberty's forecast, Cal Advocates' forecast, or a forecast that is around the midpoint of Cal Advocates' and Liberty's initial forecasts. For example, under A&G, the settlement adopts Cal Advocates' forecast for Outside Services Employed but adopts Liberty's forecast for Pensions and Benefits. For Office Supplies and Expenses, the settlement adopts an amount that is close to the midpoint of Liberty's and Cal Advocates' forecasts.

While this decision does not make individual findings about each forecast adopted by the RR Settlement, we find that the agreements made are supported by the evidence and were made through arms-length negotiations and mutual compromise and concessions. Thus, we find these agreed-upon forecasts reasonable.

The relatively large difference in Operating Expenses forecasts are the forecasts under Wildfire Mitigation and Vegetation Management. Cal Advocates' total Wildfire Mitigation and Vegetation Management forecast is \$16.687 million, which is around \$10 million less than Liberty's forecast of \$26.691 million.

Cal Advocates' initial forecasts for Wildfire Mitigation Expenses, Wildfire Insurance, and Vegetation Management were significantly lower than Liberty's forecasts. From our review, we find that Cal Advocates forecasts are based on base year and historical costs while Liberty includes new or enhanced programs such as grid hardening, vegetation management, etc. to address what it claims to be increased wildfire risk. Liberty adds that the majority of its assets are located

¹³ The differences range from several thousand dollars to several hundred thousand dollars.

in high fire threat areas which elevates the risk it faces. Liberty also cites the growing cost of obtaining wildfire insurance in California.

Based on our review of the RR Settlement Agreement, the evidence presented, and arguments raised by parties, we find the forecast adopted in the RR Settlement Agreement for Wildfire Mitigation Expense a reasonable compromise between the settling parties. We find that the adopted amount of \$45.055 million will allow Liberty to address wildfire risk and concerns raised in its testimony but at the same time balance this with Cal Advocates' arguments and the concern about maintaining affordability of rates for Liberty's customers.

For Depreciation and Amortization Expense, Section 4.5 of the RR Settlement adopts a forecast of \$15.068 million which we find reasonable. This amount is less than the initial forecasts of both Liberty and Cal Advocates.¹⁴

Sections 4.6 to 4.10 sets forth the adopted forecasts for income and non-income taxes, deferred income taxes, federal income taxes, California Corporate Franchise Tax (CCFT), and Excess Accumulated Deferred Income Taxes (EADIT).¹⁵ We reviewed the settlement forecasts for these various taxes and find them reasonable, within the bounds of parties' initial forecasts, and supported by the evidence. The agreed-upon forecast for Deferred Income Taxes is lower than what both Cal Advocates and Liberty had initially forecast by \$0.459 million. Information relied upon for tax-related forecasts are subject to updates and so parties' initial forecasts are sometimes subject to change. In addition, the other

¹⁴ Liberty's forecast for Depreciation and Amortization Expense was \$17.054 million and \$15.653 million for Cal Advocates.

¹⁵ The reduction of corporate tax under the Tax Cut and Jobs Act created excess accumulated deferred income taxes that should be returned to ratepayers. ADIT was formerly calculated based on a payment of deferred income taxes at the former rate of 35% but the reduction of corporate tax also reduced the amount of ADIT needed to pay the deferred tax.

amounts adopted in the RR Settlement Agreement are relatively close to the initial forecasts made by both Liberty and Cal Advocates.

6.1.3. Capital

The settling parties agreed on \$35.200 million in capital expenditures for 2021 and \$53.443 million for 2022, for a total of \$88.643 million for the two years.

Liberty's application requested \$71.574 million for 2021 and \$52.132 million for 2022 or a total of \$123.705 million. Liberty later revised its request in rebuttal testimony to \$53.609 million for 2021 and \$62.182 million for 2022 or a total of \$115.791 million.

Cal Advocates provided testimony containing a comprehensive list of recommended amounts for the capital projects that Liberty had proposed. As was the case with O&M costs, many of Cal Advocates' recommendations differed from the amounts Liberty had forecast. Cal Advocates' recommendation totaled \$35.998 million for 2021 and \$24.756 for 2022, or a total of \$58.354 million for the two years.

Liberty's capital projects are divided into four major categories namely: (a) Distribution; (b) Substation; (c) WMP Covered Conductor; (d) WMP Other; (e) Customer-Driven; and (f) Other Capital Projects.¹⁶

For capital projects under Distribution and Substation, Cal Advocates' recommendations were not significantly different from Liberty's except for the Portola Substation project where Cal Advocates recommended zero dollars compared to \$6.0 million for Liberty.

¹⁶ Other Capital Projects include IT projects, Mobile Home Park Conversions, Fleet Replacements, Transportation Electrification, Geographic Information System, and Building Remodels.

The major differences in forecasts can be found in capital projects falling under WMP and Other Capital Projects. From our review, we find that many of Cal Advocates' forecasts under these topics rely on historical costs of recurring or multi-year projects while Liberty's forecasts contain enhancements and incremental additions to many of these capital projects.

From our review of the RR Settlement Agreement, we find that in many instances where there is a relatively large disparity between Liberty's and Cal Advocates' forecast over a particular capital project, the settlement adopts an amount that falls somewhere in-between what the two parties had initially forecast. This indicates that the settling parties engaged in various concessions and compromises as part of the settlement process.

This decision does not make specific findings regarding what the appropriate amount is for each individual capital project. However, we reviewed the capital projects included in testimony and find that the agreed-upon amounts in the RR Settlement Agreement are reasonable. We also place great weight on the agreements made and the settlement process that was carried out through arms-length negotiations among parties that are knowledgeable about the various topics involved in the settlement.

We find the settlement amounts for capital projects in 2021 and 2022 reasonable and within the bounds of what parties had contemplated and proposed prior to the settlement. We therefore find that the agreed-upon \$35.200 million capital expenditures for 2021 and \$53.443 million for 2022 should be adopted.

The total amount of \$88.643 million for capital expenditures for 2021 and 2022 represents a reduction of \$27.148 million or 23.44 percent from Liberty's revised request totaling \$115.791 million. As stated above, we find that the

settlement amounts for capital expenditures represent a reasonable compromise amongst the settling parties and provide Liberty with sufficient resources to undertake projects that will provide safe and reliable electric service to its customers but balances this need with affordability of rates. The capital forecasts for 2021 and 2022 should therefore be adopted.

Section 4.12.4 of the RR Settlement Agreement allows Liberty to request recovery of capital costs for the National to Beach project via a Tier 2 advice letter once the project is completed. The National to Beach project is classified as a Rule 20A project. The settlement does not designate any specific funds for this capital project. While we agree that Liberty may file a Tier 2 advice letter to recover the cost of this project, we are capping the total project cost at Liberty's request of \$14.5 million.

Section 4.12.2 provides that Liberty can recover costs for its Customer First and Advanced Metering Infrastructure capital projects via a Tier 2 advice letter once the projects are completed. We also do not object to this provision in the settlement and are capping the total project costs at \$23.35 million for the Customer First project and \$19.75 million for AMI.

The settlement adopts a rate base forecast of \$365.238 million. This amount is derived from stipulated amounts for 2021 to 2022 capital expenditures. We find that the this adopted amount is around the midpoint of the proposed amounts by Liberty and Cal Advocates prior to the settlement and we find the rate base forecast a reasonable compromise among the settling parties.

Regarding Liberty's debt/equity structure, the RR Settlement Agreement adopts Cal Advocates' recommendation of a 47.5 percent debt and 52.5 percent equity structure which we do not object to.

6.1.4. Other RR Issues

The RR Settlement agrees that this GRC cycle will be a three-year cycle. Cal Advocates originally proposed a four-year cycle, but we find that there was more evidence supporting a three-year cycle. We therefore find the settlement provision in Section 4.12.1 for a three-year cycle reasonable and should be adopted.

Section 4.11.3 of the RR Settlement allows Liberty to use its existing PTAM to adjust its authorized revenue requirement for 2023 and 2024 capital expenditures of up to \$64.0 million and Section 4.12.3 provides further guidelines regarding this adjustment. Liberty originally requested capital expenditures for 2023 and 2024 totaling up to \$99.205 million while Cal Advocates recommended a total of \$48.422 million.

Based on our review, we find the proposed PTAM treatment of all 2023 and 2024 capital expenditures as well as the \$64.0 million combined total amount, a reasonable compromise between the settling parties. The settlement amount for capital projects subject to PTAM represents a \$35.205 million reduction of Liberty's request in its application.

The capital projects subject to this PTAM adjustment are limited to capital projects listed in Appendix B, which also provides specified maximum amounts for said capital projects. The capital projects listed in Appendix B of the settlement relate to safety and reliability, wildfire mitigation, customer-driven, and other projects that provide benefits to Liberty's customers.

Cal Advocates and Liberty had significant differences in their initial proposals concerning Covered Conductor projects but the settlement adopted a

reasonable compromise by adopting an amount that is in-between Liberty's and Cal Advocates' forecast amounts.¹⁷

6.2. MC/RA/RD Discussion

6.2.1. Marginal Costs

Prior to the MC/RA/RD Settlement, Cal Advocates and A-3 did not oppose Liberty's proposals concerning marginal costs. SBUA had many recommendations that differ from Liberty's original proposals while Tahoe had a different proposal concerning allocation of new hook up charges.

Based on our review, we find that the MC/RA/RD Settlement adopts several of SBUA's proposals and in some instances retained Liberty's original proposals. For example, the MC/RA/RD Settlement adopted SBUA's proposal to base MGCC costs on PG&E's recently approved MGCC resulting in the \$84.16 per kW proposed in the settlement. The MC/RA/RD Settlement also adopts SBUA's proposed allocation of TOU distribution demand costs based on the Top 100 load hours as opposed to Liberty's proposal to base distribution on class usage in each TOU period. On the other hand, the settlement adopts Liberty's proposed distribution demand on non-substation costs instead of SBUA's proposal.

In many cases however, the MC/RA/RD Settlement adopts a compromise of differing positions. The MC/RA/RD Settlement adopts a compromise on many issues relating to Marginal Distribution Demand Non-Revenue Costs and Marginal Distribution Customer Costs by using a 50/50 allocation of different customer classes. For marginal generation capacity costs, the settlement bases

¹⁷ Liberty proposed \$24.052 million while Cal Advocates forecast was \$6.454 million. The RR Settlement Agreement adopted \$17.00 million for Covered Conductor projects.

allocation on a method that aligns with winter system peak which is a compromise between the original proposals by Liberty and SBUA.

Overall, we find the Marginal Cost study and provisions in the MC/RA/RD Settlement Agreement reasonable based on the record of the proceeding. The MC/RA/RD Settlement Agreement represents a reasonable compromise between differing positions initially proposed by opposing parties.

6.2.2. Revenue Allocation

The revenue requirement that was utilized to determine revenue allocation is the revenue requirement agreed-upon in the RR Settlement Agreement. As stated above, the settling parties agreed on a total system revenue allocation of \$98.697 million.¹⁸

Parties had different recommendations concerning the determination of class revenue targets prior to the settlement. Liberty had initially proposed an equal percentage based revenue allocation which A-3 did not object to. Tahoe rejected Liberty's proposal and stated that rates should be based on time of use and usage amount as opposed to customer class. Cal Advocates had proposed a uniform increase to all classes based on the overall increase while SBUA proposed that rates be based on percentage marginal costs for generation and distribution.

Parties ended up agreeing that the revenue allocation shown in Table 2 above is reasonable although they remain in disagreement over the various proposals that were initially made. In addition, the MC/RA/RD Settlement includes a collar mechanism that provides a minimum and maximum increase.

¹⁸ This amount was calculated with an ROE of 10.5%.

Based on our review, we find no objections to the agreed-upon revenue allocation shown in Table 2. We also find that the collar restriction helps in stabilizing rate increases for each class, especially the maximum increase which is set at 75 percent of the overall increase resulting in a calculation of a 39.80 percent maximum. At the same time, the minimum increase helps in the distribution of the rate increase to other classes. We also find that the resulting agreement was reached after parties were able to find a compromise from their differing initial proposals.

For wildfire costs, Liberty initially proposed an allocation of costs based on demand-related distribution marginal costs which Cal Advocates objected to. SBUA and A-3 agreed to a separate allocation of wildfire costs but recommended different methods to calculate the allocation.

As was the case with the cost allocation of non-wildfire costs, parties had different initial proposals but were able to agree on the allocation of wildfire costs based on agreed-upon allocation factors. We reviewed the allocation factors provided in the MC/RA/RD Settlement and, based on the testimony submitted, do not object to the agreed-upon allocation factors presented in the MC/RA/RD Settlement.

Regarding wildfire cost recovery, intervenors disagreed with Liberty's proposal to recover wildfire costs through fixed charges which the settlement supports by providing that wildfire costs be recovered through rate elements. We find it more reasonable to recover such costs through rate elements as opposed to a separate wildfire recovery fixed charge.

6.2.3. Time of Use

As provided in Section 4.6 of the MC/RA/RD Settlement Agreement, Liberty will continue to use its current TOU periods. We find this reasonable and have no objections to this provision in the settlement.

6.2.4. Rate Design

In its application, Liberty had generally proposed a uniform rate increase in all rate elements for its different customer classes. For residential customers, Liberty also proposed Tier III charges for residential permanent customers and a separate rate for non-permanent residential customers. SBUA and Tahoe had various proposals while A-3 had a different recommendation for wildfire recovery. Cal Advocates and Tahoe opposed the creation of Tier III charges.

From our review, we find that the MC/RA/RD Settlement Agreement adopts recommendations from various parties. For example, the MC/RA/RD Settlement provides that the rate design elements for residential, A-1, A-2, and A-3 customers align with marginal cost of service which was SBUA's recommendation. The MC/RA/RD Settlement adopts separate rates for residential permanent and non-permanent customers pursuant to Liberty's request. However, there will be no Tier III charges following objections made by Cal Advocates and Tahoe. The settlement also bases determination of new customer hook-ups 50 percent to non-permanent customers and 50 percent to permanent customers as proposed by Tahoe.

We reviewed the settlement provisions and the testimony presented and although we make no specific finding as to which differing party recommendation are most appropriate, we find that agreed-upon rate design provisions reasonable and do not object to the rate design terms in the MC/RA/RD Settlement Agreement.

We find the agreed-upon rate design provisions fair and reasonable and also find that they were arrived at after arms-length negotiations from different parties that are knowledgeable about the topics being litigated. The parties involved in the settlement negotiations sufficiently represent Liberty's different customer classes. We therefore find that the rate design provisions in the MC/RA/RD Settlement should be adopted.

The MC/RA/RD Settlement also adopts a \$12 fixed charge which is consistent with the amount of fixed charge increase prescribed in Pub. Util. Code Section 739.9(f).¹⁹ The settlement also requires Liberty to provide outreach to residential customers that provides guidance on what classification is most appropriate to them and how to switch classifications.²⁰ Liberty will also update the scripts used by customer service representatives in order to more properly determine whether a customer should be classified as permanent or non-permanent resident. We find these terms beneficial to Liberty's customers and conclude that these terms should be adopted.

For PA, OL, and SL rates, the MC/RA/RD Settlement provides a uniform percentage increase in rate elements which is what Liberty proposed in its application. Parties did not object to these proposals. The MC/RA/RD Settlement also provides that DCFC rates will be developed to recover marginal

¹⁹ Section 739.9(f). For the purposes of this section and Section 739.1 , the commission may, beginning January 1, 2015, authorize fixed charges that do not exceed ten dollars (\$10) per residential customer account per month for customers not enrolled in the CARE program and five dollars (\$5) per residential customer account per month for customers enrolled in the CARE program. Beginning January 1, 2016, the maximum allowable fixed charge may be adjusted by no more than the annual percentage increase in the Consumer Price Index for the prior calendar year. This subdivision applies to any default rate schedule, at least one optional tiered rate schedule, and at least one optional time variant rate schedule.

²⁰ Permanent vs. Non-Permanent residential.

costs as proposed by Liberty. Cal Advocates originally objected to this proposal, but we find these agreed-upon terms reasonable and should be adopted.

7. Conclusion Regarding Settlements

We carefully reviewed the RR Settlement Agreement and MC/RA/RD Settlement Agreement and considered the various terms and agreements included therein. Based on our review and analysis, we find the two settlement agreements to be fair and reasonable in light of the record as a whole.

We find the TY 2022 revenue requirement of \$138.087 million adopted in the RR Settlement Agreement was arrived at after extensive settlement negotiations among all the active parties in the proceeding. The settlement amount is also supported by the testimony presented by various parties and was achieved through arms-length negotiations between parties that are knowledgeable about the many complex topics being litigated in this proceeding. The various agreements concerning O&M and capital forecasts show that parties made significant concessions in order to achieve an agreement that can be considered reasonable. The agreed-upon forecasts are also within the recommendations contemplated by parties. The forecasts also balance affordability of rates with the need for Liberty to have sufficient funding to provide safe and reliable electric service to its customers. The RR Settlement Agreement also contains funding to address safety concerns identified in Liberty's testimony as part of its risk-based decision-making framework.

Meanwhile, we also find the MC/RA/RD Settlement Agreement reasonable in light of the record as a whole because it was achieved after in-depth negotiations resulting in various compromises from parties in order to achieve an acceptable and reasonable result. The terms adopted were either originally proposed by a specific party, or resulted in original recommendations

being combined and modified in order to achieve agreements over disputed issues. The terms adopted consider the impact to Liberty's customers who were well represented by the different intervenors that were active in the proceeding and in settlement negotiations.

We find both RR and MC/RA/RD Settlement Agreements consistent with law and do not contravene any Commission provisions.

We also find that both settlement agreements are in the public interest. Both the RR and MC/RA/RD Settlement Agreements involve all the active parties in the proceeding and other than ROE, resolve all issues and concerns raised by intervenors. The settling parties are well informed and state in each settlement agreement, that the settlements represent a reasonable compromise from initial positions because the agreements were arrived-at after a robust negotiation and discovery process. The agreed-upon terms are also supported by the various testimonies submitted by different parties.

The rates and terms adopted in both settlement agreements will allow Liberty to perform its obligations to its customers and provides certainty for Liberty's customers regarding their rates and responsibility and Liberty's costs to provide electric service to its customers. The settlements will avoid additional time and resources associated with continued litigation of the various complex issues in the proceeding. Ratepayers are also well represented by the intervenors that were active during the proceeding and during settlement negotiations. There were also no objections to either of the two settlement agreements.

Based on the foregoing, we find that the RR Settlement Agreement and MC/RA/RD Settlement Agreement both meet the Commission's standards for settlements in that both settlements are reasonable in light of the record as a whole, consistent with law, and in the public interest. Therefore, the two

all-party motions to adopt the RR Settlement Agreement and MC/RA/RD Settlement Agreement filed on July 28, 2022 and August 22, 2022 respectively, are granted.

7.1. Compliance with the ESJ Action Plan

In February 2019, the Commission adopted the Environmental and Social Justice (ESJ) Action Plan²¹ to serve as a roadmap for implementing the Commission's vision to advance equity in its programs and policies for ESJ or disadvantaged communities. The ESJ Action Plan includes goals related to health and safety, consumer protection, program benefits, and enforcement in sectors regulated by the Commission.

Liberty's service territory is located in and around the Tahoe-Truckee region and nearby mountain communities. These areas generally do not include disadvantaged communities although there are low-income households in the area on an individual basis. According to Liberty, it is working on energy solutions for housing projects available to low-income households and implements several programs designed to assist low-income households such as the CARE program, medical baseline program, etc. These programs support several goals of the ESJ Action Plan.

8. Disputed Issue: Return on Equity

The only disputed issue in the proceeding is ROE. Liberty proposes an increase from 10.0 percent to an ROE of 10.5 percent based on a proxy group evaluation plus an adjustment to account for Liberty's specific circumstances. Liberty adds that increases in interest rate and inflation further justify its requested amount.

²¹ The ESJ Action plan was revised in April 2022. See ESJ Action Plan Version 2.0.

On the other hand, Cal Advocates, the only party to address ROE, recommends an ROE of 9.3 percent which represents the mid-point range for Liberty's proxy group evaluation without any further adjustments.

8.1. Discussion on ROE

From the evidence and arguments presented, Liberty evaluated a comparable proxy group of public utilities.²² The proxy group is composed of 22 mid-cap and large-cap electric utilities from across the country. According to Liberty, it utilized accepted financial models to determine the average costs of equity of the proxy group which resulted in a range of 8.8 percent to 9.9 percent. Liberty then utilized the mid-point of the range, which is 9.3 percent, to serve as its unadjusted ROE rate.

We reviewed the above method and find it reasonable. In addition, Cal Advocates does not object to the above methodology and the resulting 9.3 percent mid-point rate as the unadjusted baseline ROE rate.

After determining a baseline rate, Liberty proposes an adjustment of 120 basis points or an additional 1.2 percent to the 9.3 percent baseline resulting in a 10.5 percent ROE. Liberty utilized the midpoint of the additional basis points range based on the additional risks it analyzed and explains the adjustment is to account for Liberty's "higher than average business risk compared to the proxy group."²³ While we do not agree with all the reasons that Liberty set forth to justify this adjustment, overall, we find that there is some additional risk meriting an ROE above the 9.3 percent mid-point of the proxy group.

²² A list of the utilities making up the proxy group is included in Exhibit Liberty-09 Table 2 at 4 to 5.

²³ Exhibit Liberty-09 at 4.

We agree with Liberty's analysis that utilities operating in the western part of the country face greater wildfire risk. Cal Advocates cites to Liberty's previous GRC decision, D.20-08-030, stating that business risk must pertain to new uncertainties resulting from competition and the economy.²⁴ However, we note that D.20-08-030 also approved an ROE of 10.0 percent, significantly above the proxy group of 9.3 percent. Liberty further argues that smaller companies may require additional risk premium as compared to larger companies, but as in Liberty's previous GRC, we remain unconvinced.²⁵

Liberty also cites to the higher ROEs requested in the most recent cost of capital proceedings for Pacific Gas and Electric Company (PG&E),²⁶ San Diego Gas & Electric Company (SDG&E),²⁷ and Southern California Edison Company (SCE).²⁸ Liberty states that its "ROE request of 10.5 percent is reasonable when compared to the ROEs requested by SCE, PG&E, and SDG&E in their recent Cost of Capital applications."²⁹ It argues that its 10.5 percent requested ROE is "still 'slightly below' what other California utilities are requesting."³⁰ However, we note that despite the ROE increases requested by PG&E, SCE, and SDG&E and cited by Liberty, D.22-12-031 resolved those applications with uniform 25 basis point ROE decreases for each utility.

²⁴ Cal Advocates' Opening Brief at 4.

²⁵ See D.20-08-030 at 42-43.

²⁶ A.22-04-008.

²⁷ A.22-04-012.

²⁸ A.22-04-009.

²⁹ Liberty's Opening Brief at 7.

³⁰ Liberty's Opening Brief at 7.

Liberty also cites to the current economic conditions and the higher inflation and interest rates as compared to the time when its ROE data was prepared, but we dismiss these concerns for purposes of determining Liberty's ROE because we find that other similarly situated utilities must also deal with these macroeconomic factors. In addition, these factors can be largely mitigated by existing cost recovery mechanisms such as the PTAM and the revenue requirement related to cost of debt recovery.

In its limited showing, Cal Advocates simply asserts that Liberty's proxy group midpoint of 9.3 percent ROE should be the adopted TY 2022 ROE because Liberty provided no support for its proposed risk premium. Cal Advocates did not provide any quantitative analysis or proxy group of its own, but adds that rejecting Liberty's risk premium is consistent with Liberty's TY 2019 GRC.³¹

We are not persuaded by Cal Advocates that Liberty's ROE should be set at the mid-point baseline 9.3 percent because we find there is some merit to increased risks for Liberty compared to other utilities in other areas, and we also note that the TY 2019 GRC decision resulted in an ROE well above 9.3 percent.

However, we are also not persuaded by Liberty's request for a 10.5 percent ROE based on a 1.2 percent adjustment above the 9.3 percent mid-point of the proxy group because we do not agree with all the additional risks Liberty argues for consideration. Liberty compares its request to that of the large California electric IOUs recent applications – all of which resulted in ROE decreases.³² Liberty's current ROE is 10.0 percent, and based on the above reasons, we find no cause to modify the current ROE for TY 2022.

³¹ Cal Advocates' Opening Brief at 4.

³² See D.22-12-031.

We observe that Liberty's current ROE of 10.0 percent is already significantly higher than the 9.3 percent mid-point range of the proxy group, and is now even slightly higher than ROEs granted to some of the large electric utilities in the recent proceedings cited for comparison by Liberty. As a result, we find that the arguments raised, and current circumstances support an ROE for Liberty of 10.0 percent.

8.2. Adjustments due to Adopted ROE

As stated in Section 3.1 of this decision, the revenue requirement in the RR Settlement Agreement is calculated based on a 10.5 percent ROE. Thus, pursuant to Section 1.7 of the RR Settlement, Liberty's TY 2022 revenue requirement and other affected forecasts should be adjusted pursuant to the 10.0 percent ROE being adopted in this decision.

Similarly, the MC/RA/RD Settlement Agreement, which is based on the RR Settlement revenue requirement, must also be adjusted accordingly to reflect the resulting revenue requirement that will be authorized pursuant to the 10.0 percent ROE that is being authorized in this decision.

9. Comments on Proposed Decision

The proposed decision of the assigned 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 of Practice and Procedure. Comments were filed by _____ on _____, and reply comments were filed by _____ on _____.

10. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and Rafael Lirag is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Cal Advocates had a comprehensive list of revenue requirement forecast recommendations prior to the settlement agreement.

2. A-3 had several revenue requirement recommendations in its direct testimony while SBUA made several counterproposals in its rebuttal testimony.

3. The RR Settlement Agreement resolves all revenue requirement issues among the active parties in the proceeding except for ROE.

4. Cal Advocates agrees with most of Liberty's Operating Revenue forecasts.

5. There were small differences in Cal Advocates' and Liberty's Energy Efficiency forecasts but the large disparity is with the Sales Revenue forecast.

6. Liberty and Cal Advocates provided testimony that support their Operating Revenues forecasts and the settlement represents a reasonable compromise to the two parties' initial positions.

7. Liberty's forecast for Fuel and Purchased Power of \$24.986 million is reasonable.

8. Cal Advocates had many different forecasts under O&M and A&G from the forecasts made by Liberty although most of the differences are relatively small except for wildfire mitigation expenses.

9. The RR Settlement resolves differing forecasts for accounts that fall under Other Power Generation, Distribution Expense, Customer Accounts Expense, and A&G by either adopting Liberty's forecast, Cal Advocates' forecast, or a forecast that is around the midpoint of Cal Advocates' and Liberty's initial forecasts.

10. The agreements made concerning Other Power Generation, Distribution Expense, Customer Accounts Expense, and A&G were made through arms-length negotiations and mutual compromise and concessions.

11. Cal Advocates forecasts for Wildfire Mitigation and Vegetation Management are based on base year and historical costs while Liberty cites the need for new or enhanced programs such as grid hardening, vegetation management, etc.

12. The forecast adopted in the RR Settlement for Wildfire Mitigation Expense is a reasonable compromise between the settling parties.

13. The adopted amount of \$45.055 million for Wildfire Mitigation Expense will allow Liberty to address wildfire risk but at the same time balance this need with affordability of rates for its customers.

14. The Depreciation and Amortization Expense forecast of \$15.068 million is reasonable.

15. The RR Settlement forecasts for various taxes are reasonable and within the bounds of parties' initial forecasts.

16. Cal Advocates provided testimony containing a comprehensive list of recommended amounts for the capital projects that Liberty had proposed.

17. Many of Cal Advocates' capital forecasts differed from the amounts Liberty had forecast.

18. Liberty's capital projects are divided into six major categories namely: (a) Distribution; (b) Substation; (c) WMP Covered Conductor; (d) WMP Other; (e) Customer-Driven; and (f) Other Capital Projects.

19. For capital projects under Distribution and Substation, Cal Advocates' recommendations were not significantly different from Liberty's except for the Portola Substation project.

20. The major differences in forecasts between Liberty and Cal Advocates can be found in capital projects falling under WMP and Other Capital Projects.

21. Many of Cal Advocates' recommendations rely on the historical costs of recurring projects while Liberty's forecasts contain enhancements and incremental additions to many of these capital projects.

22. In many cases where there is a relatively large disparity between Liberty's and Cal Advocates' forecast over a particular capital project, the settlement adopts an amount that falls somewhere in-between what the two parties had recommended which indicates that the settling parties engaged in various concessions and compromises as part of the settlement process.

23. We find the settlement amounts for capital projects in 2021 and 2022 reasonable and within the bounds of what parties had contemplated and proposed prior to the settlement.

24. The RR Settlement amount for rate base is reasonable.

25. The RR Settlement agreement concerning Liberty's debt/equity ratio is reasonable.

26. There was more evidence supporting a three-year GRC cycle and a three-year cycle is reasonable.

27. The proposed PTAM treatment of all 2023 and 2024 capital expenditures as well as the \$64.0 million total amount is a reasonable compromise between the settling parties.

28. Capital projects subject to the PTAM adjustment relate to safety and reliability, wildfire mitigation, customer-driven, and other projects that provide benefits to Liberty's customers and have specified maximum amounts.

29. Prior to the settlement, Cal Advocates and A-3 did not oppose Liberty's proposals concerning marginal costs.

30. SBUA had many marginal cost recommendations that differ from Liberty's original proposals while Tahoe had a different proposal concerning allocation of new hook up charges.

31. The MC/RA/RD Settlement adopts several of SBUA's proposals and in some instances, retained Liberty's original proposals.

32. In many cases the MC/RA/RD Settlement adopts a compromise of differing positions relating to Marginal Distribution Demand Non-Revenue Costs and Marginal Distribution Customer Costs by using a 50/50 allocation of different customer classes.

33. For marginal generation capacity costs, the MC/RA/RD Settlement bases allocation on a method that aligns with winter system peak which is a compromise between the original proposals by Liberty and SBUA.

34. Parties had different recommendations concerning the determination of class revenue targets prior to the settlement.

35. The collar restriction adopted in the MC/RA/RD Settlement helps in stabilizing rate increases for each class and was arrived at after parties were able to find a compromise from their differing initial proposals.

36. Parties had different initial proposals but were able to agree on the allocation of wildfire costs based on agreed-upon allocation factors.

37. The allocation factors for non-wildfire costs are reasonable.

38. In this proceeding, recovering wildfire costs through rate elements is more reasonable than a separate wildfire recovery fixed charge.

39. Continued use of Liberty's current TOU periods is reasonable.

40. Liberty generally proposes a uniform rate increase in all rate elements for its different customer classes while SBUA, Tahoe, and A-3 had various proposals that were different from Liberty's rate design proposals.

41. The MC/RA/RD Settlement adopts rate design recommendations from various parties after arms-length negotiations from different parties that are knowledgeable about the topics being litigated.

42. The MC/RA/RD Settlement adopts a \$12 fixed charge which is consistent with the amount of fixed charge prescribed in Pub. Util. Code Section 739.9(f).

43. For PA, OL, and SL rates, the MC/RA/RD Settlement adopts a uniform percentage increase in rate elements which intervenors did not object to.

44. DCFC rates will be developed to recover marginal costs as proposed by Liberty.

45. The TY 2022 revenue requirement of \$151.081 million adopted in the RR Settlement Agreement is supported by the testimony presented by various parties and was arrived at through arms-length negotiations between parties that are knowledgeable about the many complex topics being litigated.

46. The various agreements concerning O&M and capital forecasts show that parties made significant concessions in order to achieve a compromise that we consider as reasonable.

47. The agreed-upon forecasts in the RR Settlement are within the recommendations contemplated by parties and balance affordability of rates with the need for Liberty to have sufficient funding to provide safe and reliable electric service to its customers.

48. The MC/RA/RD Settlement Agreement was achieved after in-depth negotiations resulting in various compromises from parties.

49. The terms adopted in the MC/RA/RD Settlement were either originally proposed by a specific party or resulted in original recommendations being combined and modified in order to achieve reasonable compromise over disputed issues.

50. The terms adopted in the MC/RA/RD Settlement consider the impact to Liberty's customers who were well represented by the different intervenors in the proceeding.

51. Both settlement agreements are consistent with law and do not contravene any Commission provisions.

52. Both the RR Settlement Agreement and MC/RA/RD Settlement Agreements involve all the active parties in the proceeding and other than ROE, resolves all issues and concerns raised by intervenors.

53. The rates and terms adopted in both Settlement Agreements will allow Liberty to perform its obligations to its customers and provides certainty for Liberty's customers regarding their rates.

54. The settlements will avoid additional time and resources associated with continued litigation of the various complex issues in the proceeding.

55. Ratepayers are well represented by the intervenors that were active during the proceeding and there were no objections to either of the two settlement agreements.

56. Liberty is working on energy solutions for housing projects available to low-income households and implements several programs designed to assist low-income households such as the CARE program, medical baseline program, etc. These programs support several goals of the ESJ Action Plan.

57. Liberty utilized a proxy group of energy utilities and used accepted financial models to determine the average costs of equity which served as the basis for its unadjusted ROE rate.

58. Liberty's analysis that utilities operating in the western part of the country face greater wildfire risk is supported by the evidence.

59. Business risk must pertain to new uncertainties resulting from competition and the economy.

60. Liberty's analysis that smaller companies may require additional risk premium as compared to larger companies is not persuasive.

61. Liberty's cited current economic conditions and the higher inflation and interest rates are macroeconomic factors dealt with by all similarly situated utilities.

62. The TY 2022 revenue requirement in the RR Settlement is based on Liberty's requested ROE of 10.5 percent.

63. The MC/RA/RD Settlement Agreement is based on the TY 2022 revenue requirement in the RR Settlement.

64. 160 members of the public sent comments to the Commission regarding Liberty's proposed rate increase.

Conclusions of Law

1. The RR Settlement forecast for Operating Revenues is reasonable and should be adopted.

2. The RR Settlement forecasts for Operating Expenses are reasonable and should be adopted.

3. The agreed-upon \$35.200 million capital expenditures for 2021 and \$53.443 million for 2022 should be adopted.

4. The RR Settlement amount for capital projects represents a reasonable compromise amongst the settling parties and provides Liberty with sufficient resources to provide safe and reliable electric service to its customers but balances this need with affordability of rates.

5. The proposed PTAM treatment of all 2023 and 2024 capital expenditures as well as the \$64.0 million total amount should be adopted.

6. Overall, the Marginal Cost provisions in the MC/RA/RD Settlement Agreement reasonable based on the record of the proceeding.

7. The Revenue Allocation provisions in the MC/RA/RD Settlement are reasonable and should be adopted.

8. The rate design provisions in the MC/RA/RD Settlement Agreement are reasonable and should be adopted.

9. The RR and MC/RA/RD Settlement Agreements both meet the Commission's standards for settlements in that both settlements are reasonable in light of the record as a whole, consistent with law, and in the public interest.

10. The Settlement Agreements do not contravene any of the nine goals in the Commission's ESJ Action Plan.

11. Liberty's current ROE is 10.0 percent, and we find that the current circumstances support Liberty's ROE remaining at 10.0 percent.

12. Adjustments to the RR and MC/RA/RD Settlement Agreements should be made pursuant to the 10.0 percent ROE being authorized in this decision.

O R D E R

IT IS ORDERED that:

1. The July 28, 2022 Joint Motion for Approval of Settlement Agreement on Revenue Requirement issues filed by Liberty Utilities (CalPeco Electric) LLC, Small Business Utility Advocates, The Public Advocates Office of the California Public Utilities Commission, Tahoe Energy Ratepayers Group, and A-3 Customer Coalition is granted.

2. The Settlement Agreement on Revenue Requirement issues between Liberty Utilities (CalPeco Electric) LLC, Liberty Utilities (CalPeco Electric) LLC, Small Business Utility Advocates, The Public Advocates Office of the California

Public Utilities Commission, Tahoe Energy Ratepayers Group, and A-3 Customer Coalition is adopted.

3. The August 22, 2022 Joint Motion for Approval of Settlement Agreement on Marginal Cost, Revenue Allocation, and Rate Design issues filed by Liberty Utilities (CalPeco Electric) LLC, Small Business Utility Advocates, The Public Advocates Office of the California Public Utilities Commission, Tahoe Energy Ratepayers Group, and A-3 Customer Coalition is granted.

4. The Settlement Agreement on Marginal Cost, Revenue Allocation, and Rate Design issues between Liberty Utilities (CalPeco Electric) LLC, Small Business Utility Advocates, The Public Advocates Office of the California Public Utilities Commission, Tahoe Energy Ratepayers Group, and A-3 Customer Coalition is adopted.

5. Liberty Utilities (CalPeco Electric) LLC is authorized to collect, through rates and through authorized ratemaking accounting mechanisms, a test-year 2022 base revenue requirement of \$136.791 million, effective January 1, 2022, which is the \$138.087 million set forth in the Revenue Requirement Settlement Agreement, adjusted pursuant to the return on equity of 10.0 percent authorized in Ordering Paragraph 12.

6. Liberty Utilities (CalPeco Electric) LLC is authorized to implement the changes in rates specified in the Marginal Cost/Revenue Allocation/Rate Design Settlement Agreement, effective January 1, 2022, adjusted pursuant to the return on equity of 10.0 percent authorized in Ordering Paragraph 12.

7. Within 30 days from the effective date of this Order, Liberty Utilities (CalPeco Electric) LLC (Liberty) shall file a Tier 1 advice letter with revised tariff sheets to implement the revenue requirement and changes in rates authorized in Ordering Paragraphs 5 and 6.

- a. In accordance with Decision 21-12-010, the revised tariff sheets shall become effective on January 1, 2022 subject to a finding of compliance by the Commission's Energy Division, and compliance with General Order 96-B.
- b. The balance recorded in Liberty's General Rate Case Revenue Requirement Memorandum Account from January 1, 2022 until the date the new tariffs are implemented, pursuant to this Ordering Paragraph, shall be amortized in rates from the date the new tariffs are implemented through December 31, 2024.

8. Liberty shall use its existing Post-Test Year Adjustment Mechanism to adjust its authorized revenue requirement for 2023 to 2024, for capital expenditures described in the Revenue Requirement Settlement Agreement, collectively totaling up to \$64.00 million. The request to adjust shall be made via the filing of a Tier 2 advice letter.

9. Liberty Utilities (CalPeco Electric) LLC shall recover costs associated with the Customer First and Advanced Metering Infrastructure via a Tier 2 advice letter once the projects are considered used and useful and subject to the capital expense totals specified in the Revenue Requirement Settlement Agreement.

10. Liberty Utilities (CalPeco Electric) LLC may recover the capital costs for the National to Beach Project by filing a Tier 2 advice letter once the project is completed at a total cost up to \$14.5 million.

11. Liberty Utilities (CalPeco Electric) LLC is authorized to have a capital structure ratio of 47.5 percent long-term debt and 52.5 percent common equity.

12. Liberty Utilities (CalPeco Electric) LLC is authorized to have a return on equity of 10.0 percent.

13. The current time-of-use periods of Liberty Utilities (CalPeco Electric) LLC are retained.

14. Application 21-05-017 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A, B, C & D