

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-5136

April 15, 2021

R E S O L U T I O N

Resolution E-5136. Southern California Edison Company
Modification of Rule 23 and Schedule CCA-INFO to Implement
Settlement Agreement to Expand Data Sharing with Community
Choice Aggregators.

PROPOSED OUTCOME:

- Approves Advice Letter 4289-E with modifications.
- Directs Southern California Edison Company (SCE) to exclude Direct Access customer service accounts and associated customer data from an All-Customer List that SCE will transmit to Community Choice Aggregators (CCAs) in its service territory.
- Orders SCE to modify Rule 23 and Schedule CCA-INFO accordingly.

SAFETY CONSIDERATIONS:

- There are no safety considerations associated with this Resolution.

ESTIMATED COST:

- There are no costs associated with this Resolution.

By Advice Letter 4289-E, Filed on September 10, 2020.

SUMMARY

This Resolution approves Southern California Edison Company (SCE)'s Advice Letter (AL) 4289-E with modifications. In AL 4289-E, SCE requests to modify Rule 23 *Community Choice Aggregation* and Schedule CCA-INFO *Community Choice Aggregation Information* to allow SCE to transmit an "All-Customer List" to

Community Choice Aggregators (CCAs) in its service territory. SCE defines an All-Customer List as a complete list of all service accounts in each CCA's respective service territory, including customers taking SCE bundled service and Direct Access (DA) service.

This Resolution directs SCE to exclude DA customer service accounts and associated customer data from the All-Customer List because this information does not accomplish the specific primary purpose of the list. The resolution also directs SCE to provide aggregated counts of customer changes to the CCAs. SCE is directed to modify Rule 23 and Schedule CCA-INFO accordingly.

BACKGROUND

Clean Power Alliance (CPA) and California Choice Energy Authority (CalChoice) (collectively, the SoCal CCAs) entered into a settlement agreement with Southern California Edison Company (SCE) in SCE's Phase 1 of the 2021 General Rate Case (GRC Settlement). In the GRC Settlement, among other things, SCE agreed to submit an advice letter (AL) by September 10, 2020 requesting the CPUC to approve tariff changes necessary to allow SCE to provide the Community Choice Aggregators (CCAs) in its service territory with an "All-Customer List" on at least a monthly basis. SCE defines an All-Customer List as a complete list of all service accounts in each CCA's respective service territory, including customers taking SCE bundled service and Direct Access (DA) service.

SCE and the SoCal CCAs were motivated in the GRC Settlement to expand data sharing through an All-Customer List to more effectively manage mass CCA enrollments and improve data validation efforts. The use of an All-Customer List would allow SCE and CCAs in SCE's service territory to more quickly identify situations in which a customer is not timely or accurately notified and/or enrolled in CCA Service.

Pursuant to the GRC Settlement, SCE filed AL 4289-E on September 10, 2020, requesting CPUC approval of tariff changes to allow SCE to provide the SoCal CCAs with an All-Customer List on an "as-is" basis without warranty, and with the CCAs' agreement to hold SCE harmless for any errors or omissions contained in the All-Customer List. The proposed tariff changes include modification of Rule

*23 Community Choice Aggregation and modification of Schedule CCA-INFO
Community Choice Aggregation Information Fees.*

SCE proposes to modify Rule 23 because it currently prohibits SCE from providing the CCAs with information about customers that have either opted-out of CCA Service or were not enrolled in CCA Service for another reason (e.g., CCA excluded customer group from implementation). Specifically, AL 4289-E would modify Rule 23 to clarify the process SCE should implement when a missing or delayed enrollment is identified to ensure that customers receive required notices before being enrolled into CCA Service. AL 4289-E would also modify Schedule CCA-INFO to add the "All-Customer List" as a report provided by SCE to CCAs at no charge.

NOTICE

Notice of AL 4289-E was made by publication in the Commission's Daily Calendar. Southern California Edison Company states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter 4289-E was timely protested by The Direct Access Customer Coalition (DACC). SCE responded to the protest on October 7, 2020.

DACC protests AL 4289-E on the basis that data sharing between SCE and CCAs through an All-Customer list would facilitate CCA marketing to DA customers that take service with an Electric Service Provider (ESP). DACC notes that no similar list is provided to non-CCA ESPs, and asserts that providing such a list to CCAs would be anti-competitive. DACC is particularly concerned that CCAs will market to DA customers because these customers typically have larger loads and lower costs to serve. DACC is also concerned with SCE providing lists of bundled customers to CCAs because DA customers may also have facilities and meters on bundled service.

In its protest, DACC points to a particular section of AL 4289-E, in which SCE states that it understands that CCAs will only use the data for purposes related to

CCA account administration, such as ensuring correct customer enrollment and account management, and not for marketing to customers that have opted-out of CCA service. DACC asserts that SCE provides no information on how this understanding is to be monitored and enforced.

For these reasons, DACC requests that SCE be forbidden to provide CCAs with the names or any other meter or contact information for customers on DA or bundled service. DACC further states that if the CPUC is inclined to approve SCE's data sharing proposal, there is precedent for establishing safeguards against anti-competitive behavior. For example, DACC notes that the CPUC staff could direct SCE to work with the CCAs to develop a meaningful prohibition on using DA or bundled customer information for marketing purposes.

In its response, SCE states that DACC's protest should be rejected and AL 4289-E should be approved for three main reasons. First, SCE asserts that the CPUC-approved CCA Non-Disclosure Agreement (NDA), Form 14-769, already prohibits the CCAs from using confidential customer data contained in the All-Customer List for secondary commercial purposes, including marketing. Specifically, SCE cites two provisions in the CCA NDA, including Section 1(e), which "...prohibits the use of the data for a secondary commercial purpose not related to CCA Service or energy efficiency purposes without the customer's prior consent to that use." SCE also references Section 5 in the CCA NDA, which establishes procedures that govern restriction of access of Confidential Information to certain employees and requires CCAs to set up the requested firewall.

Second, SCE notes that Pacific Gas and Electric Company (PG&E) already provides similar data to CCAs pursuant to CPUC-approved tariffs, and SCE believes the CPUC should apply its policy consistently. Last, SCE rejects DACC's protest on the basis that ESPs and CCAs are not similarly situated, and ESPs that provide DA Service do not require access to bundled customer data. SCE alleges that ESPs do not have a need for bundled or CCA customer information to effectively administer their business like CCAs, since CCA customers must opt-out of service whereas DA customers must opt-in.

DISCUSSION

The CPUC has reviewed the Advice Letter, the protest, and reply and finds that SCE AL 4289-E should be approved with modifications, as set forth in this Resolution.

The CPUC supports the overall objective of an All-Customer List transmittal from SCE to the SoCal CCAs, which will facilitate data validation efforts to ensure that customers that have not opted out of CCA service are notified or enrolled in CCA service in a timely manner. We find this objective to be reasonable. However, we see no reason for SCE to include DA customers in this list. These customers have chosen to opt-in to DA service and including this type of customer information does not further the intended purpose of the All-Customer List.

In previous decisions, the CPUC has deliberated extensively on the importance of data privacy protections. In a 2011 Decision (D. 11-07-056)¹, the CPUC adopted *Rules Regarding Privacy and Security Protections for Energy Usage Data* for electrical corporations. One of the core principles adopted in these rules is "Data Minimization," which is the practice of limiting data collection and disclosure to only what is required to fulfill a specific purpose. In D.11-07-056, the CPUC opines that:

The two principles not specifically linked to statutory requirements in the analysis above – Data Minimization and Data Quality and Integrity – are also reasonable principles and consistent with California law and policy objectives. A principle and practice of 'Data Minimization' will clearly promote the security of data. Limiting the collection of personal data to just what is needed reduces the amount of data that requires protection and reduces the risks that arise from a security breach. Thus,

¹ *Decision Adopting Rules to Protect the Privacy and Security of the Electricity Usage Data of the Customers of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company*, issued July 29, 2011. Decision (D.) 12-08-045) extends related privacy protections to CCAs and addresses the obligations CCAs have to protect the privacy of their customers' usage data.

a principle of data minimization follows directly from the public interest in keeping data secure.²

The Data Minimization section in the final CPUC *Rules Regarding Privacy and Security Protections for Energy Data* declares that "Covered entities^[3] shall collect, store, use, and disclose only as much covered information as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose identified in the notice required under section 2 or for a specific secondary purpose authorized by the customer."⁴

We uphold the principle of Data Minimization here by ordering SCE to remove DA customer information from the All-Customer List. The record does not show how providing CCAs with the names or other meter or contact information for customers on DA service would accomplish a primary purpose as meant by the *Rules Regarding Privacy and Security Protections for Energy Data*. However, SCE needs to provide enough information regarding total number of customers for the SoCal CCAs to identify potential discrepancies.

- We direct SCE to exclude DA customer information from the All-Customer List that SCE transmits to the SoCal CCAs. SCE shall modify SCE's Rule 23 and Schedule CCA-INFO to indicate that the All-Customer List will exclude DA customer service accounts and associated customer data. However, we direct SCE to provide an accounting of changes in number of customer accounts by providing a table for the CCA territory that shows the following customer counts for SCE, the CCA, and an aggregate of the ESPs: The total number of customer accounts in the CCA territory, and
- The number of CCA, IOU, and direct access accounts.

SCE shall modify SCE's Rule 23 and Schedule CCA-INFO to clarify that an aggregated summary of customer account changes will be provided with the customer lists.

² D. 11-07-056, page 21.

³ Covered Entity includes any electrical corporation or any third party that provides services to an electrical corporation under contract; see Attachment D, page 1.

⁴ D. 11-07-056, Attachment D, page 6.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review. Timely comments were received on April 15, 2021, by SCE and the SoCal CCAs. SCE agreed with the Resolution but requested clarification on two minor matters which have been addressed in the Resolution. The SoCal CCAs objected to the complete removal of all DA customer data, suggesting that the data could be limited to customer numbers. The Resolution recognizes that additional information may be needed to identify any discrepancies but finds that additional aggregated information, as opposed to customer account numbers, should allow the CCA to identify discrepancies while maintaining data minimization.

FINDINGS

1. Clean Power Alliance (CPA), and California Choice Energy Authority (CalChoice) (collectively, the SoCal CCAs) entered into a settlement agreement with Southern California Edison Company (SCE) in SCE's Phase 1 of the 2021 General Rate Case (GRC Settlement).
2. In the GRC Settlement, among other things, SCE agreed to submit an advice letter (AL) by September 10, 2020, requesting the CPUC to approve tariff changes necessary to allow SCE to provide the Community Choice Aggregators (CCAs) in its service territory with an "All-Customer List" on at least a monthly basis.
3. The transmittal of an All-Customer List will allow SCE and CCAs in SCE's service territory to more quickly identify situations in which a customer is not timely or accurately notified and/or enrolled in CCA Service.
4. Pursuant to the GRC Settlement, SCE filed AL 4289-E on September 10, 2020, requesting CPUC approval of tariff changes to allow SCE to provide the SoCal CCAs with an All-Customer List on an "as-is" basis without warranty, and for the CCAs' agreement to hold SCE harmless for any errors or omissions contained in the All-Customer List.
5. SCE's AL 4289-E was timely protested by The Direct Access Customer Coalition (DACC) and SCE responded to the protests of DACC on October 7, 2020.
6. The overall objective of an All-Customer List transmittal from SCE to the SoCal CCAs to facilitate data validation efforts to ensure that all customers that have

- not opted out of CCA service are notified or enrolled in CCA service in a timely manner is reasonable.
7. In Decision 11-07-056, the CPUC adopted *Rules Regarding Privacy and Security Protections for Energy Usage Data* for electrical corporations.
 8. The Data Minimization section in the adopted CPUC *Rules Regarding Privacy and Security Protections for Energy Data* states that electrical corporations shall collect, store, use, and disclose only as much covered information as is reasonably necessary or as authorized by the Commission to accomplish a specific primary purpose or for a specific secondary purpose authorized by the customer.
 9. DA customers have chosen to opt-in to DA service.
 10. Including DA customer information in the All-Customer List does not accomplish a primary purpose as meant by the *Rules Regarding Privacy and Security Protections for Energy Data*.
 11. Since changes may occur between the monthly issuance of lists, an aggregate count of customers will help identify the source of any potential changes that could not otherwise be distinguished from errors or other discrepancies.

THEREFORE IT IS ORDERED THAT:

1. The request of the Southern California Edison Company to modify Rule 23 and Schedule CCA-INFO as requested in Advice Letter 4289-E is approved with modifications.
2. Southern California Edison Company (SCE) is directed to exclude Direct Access customer information from the All-Customer List that SCE transmits to the Community Choice Aggregators in its service territory after CCA implementation.
3. Southern California Edison Company (SCE) is directed to include an aggregate accounting of changes from the prior month's list with the All-Customer List.
4. Southern California Edison Company (SCE) shall submit a supplemental advice letter with a Tier 1 designation to modify SCE's Rule 23 and Schedule CCA-INFO to indicate that the All-Customer List will exclude Direct Access customer service accounts and associated customer data.

This Resolution is effective today.

I certify that the foregoing Resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 15, 2021; the following Commissioners voting favorably thereon:

/s/ Rachel Peterson
RACHEL PETERSON
Executive Director

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
Commissioners