

~~X.XX XX XXX ^^^/^^^/^^^~~ **PROPOSED DECISION**

STATE OF CALIFORNIA

**PUBLIC UTILITIES COMMISSION**

605 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

~~April 2, 2021~~

-

~~Agenda ID #19368~~  
**Ratesetting**

~~TO PARTIES OF RECORD IN APPLICATION 20-08-001:~~

~~This is the proposed decision of Administrative Law Judge Lakhanpal. 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 May 6, 2021 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)(B).~~

~~/s/ ANNE E. SIMON~~

Anne E. Simon

Chief Administrative Law Judge

AES:mph

~~Attachment~~ALJ/ML2/mph **PROPOSED DECISION** Agenda ID #19368 (Rev. 1)

**Ratesetting**

May 6, 2021 Item #10

Decision **PROPOSED DECISION OF ALJ LAKHANPAL (4/2/2021)**

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

Application of Liberty Utilities (CalPeco Electric) LLC (U933E) for Authority to Update Rates Pursuant to its Energy Cost Adjustment Clause and its California Climate Credit, Effective January 1, 2021.

Application 20-08-001

**DECISION ADOPTING AN ALL-PARTY SETTLEMENT IN THE 2021 ENERGY COST ADJUSTMENT CLAUSE AND CLIMATE CREDIT PAYMENTS APPLICATION OF LIBERTY UTILITIES (CALPECO ELECTRIC), LLC**

**Summary**

This decision adopts an all-party settlement for the 2021 Energy Cost Adjustment Clause (ECAC) and Climate Credit payments Application filed by Liberty Utilities (CalPeco Electric) LLC (Liberty). The Settlement resolves all issues identified in the Application by Liberty or raised by the A-3 Customer Coalition and the Public Advocates Office of the California Public Utilities Commission in their protests to the Application. As shown in detail in Table 1, Appendix A, the Settlement results in a \$0.706 million or 2.8% increase in revenues related to cost recovery through ECAC rates compared to 2020 rates. The decision allows Liberty to modify its ECAC tariff, enabling Liberty to file an ECAC Application each year, thus de-linking the ECAC cost recovery process

from its general rate case cycle. The decision requires Liberty to file a Tier 1 advice letter implementing the updated revenue requirements and the tariff changes.

The decision adopts a semi-annual California Climate Credit of \$29.96 to residential customers on the bills they receive in April and October 2021. Small General Service customers would receive a volume-based credit of \$0.00277/kWh for 2021. Since Liberty has continued to pay climate credits based on the currently authorized tariffs, Liberty is required to file a Tier 1 advice letter to provide a true up to the October 2021 residential Climate Credit to account for the difference between the amounts authorized for 2020 and the amounts proposed for 2021.

As shown in Appendix A, the authorized ECAC revenue requirements for 2021 will lead to monthly bill increases of \$1.13 or 1.2% for a typical permanent residential electric customer and for a CARE customer the bill will increase by \$1.12 or 1.6%.<sup>1</sup>

## **1. Background**

On August 3, 2020, Liberty Utilities (CalPeco Electric) LLC (U933E) (Liberty) filed its Application (A.) 20-08-001 to update rates pursuant to its Energy Cost Adjustment Clause (ECAC) to become effective January 1, 2021, implement its California Climate Credit, effective January 1, 2021, and modify its ECAC Tariff language to allow it to file an ECAC application each year on July 1 irrespective of the General Rate Case (GRC) filing timing, thus "de-linking" it from the GRC process.

Timely protests were filed by California Public Advocates Office (Cal Advocates) and A-3 Customer Coalition (A-3 CC) on September 4, 2020.

<sup>1</sup> Average consumption for a typical permanent residential customer is 646 kilowatt-hours and for a CARE customer it is 598 kilowatt-hours.

On September 18, 2020, a joint case management statement was filed by the parties.

A Telephonic Prehearing Conference (PHC) was held on September 22, 2020, at 10:30 a.m.

On October 2, 2020, the parties served the Administrative Law Judge (ALJ), and the service list, a common outline for the opening briefs. An Assigned Commissioner's Scoping Memo and Ruling was issued on October 12, 2020.

On October 29, 2020, via electronic mail (email), Liberty requested a Commission ruling modifying the procedural schedule to supplement new material and make corrections to the record. The procedural schedule was modified in an email ruling on October 30, 2020.

On November 13, 2020, Liberty filed an amendment to its Application.

A-3 CC served rebuttal testimony on December 3, 2020.

On December 14, 2020, Liberty filed a status report suggesting a settlement of the Application and requested a further extension in its procedural schedule. An email ruling on December 17, 2020 granted the request and required parties file Opening and Reply Briefs on unsettled issues.

Subsequently, Liberty requested additional extensions via emails on January 4, 2021 and January 20, 2021, to complete its settlement negotiations. The requests were duly granted via email rulings on January 6, 2021 and January 22, 2021. On February 4, 2021, via an email to the ALJ and the service list, Liberty informed that the Parties would not submit opening briefs, as they expected a settlement agreement would resolve all issues in this Application. In an email ruling issued on February 8, 2021, the ALJ directed Liberty on how to file the motion for the settlement agreement and instructed Liberty on proceeding with issuing Climate Credit payments due on April 1, 2021, using the

currently authorized tariffs, and required Bill Impact Analysis filed as part of the record in this proceeding.

On February 9, 2021, a Joint Motion was filed by Liberty, A-3 CC and Cal Advocates for approval of a Settlement Agreement (Agreement).

## **2. The Settlement Agreement**

The Settlement Agreement summarizes the Parties' consensus position on ECAC rates, Climate Credits, amortization of tax equity payments under collected in previous years, and ECAC tariffs de-linking the ECAC filings from Liberty's general rate case.

## **3. Standards for Approval of Settlements**

The Settlement Agreement addresses all issues in this proceeding. Rule 12.1(d) requires that to approve a proposed settlement, we must find it to be "reasonable in light of the whole record, consistent with law, and in the public interest." As to the settled issues, the Settlement Agreement meets those requirements.

### **3.1. The Settlement is Reasonable in Light of the Whole Record**

The Settlement Agreement is reasonable in light of the whole record. While only A-3 CC filed rebuttal testimony on amortization of tax equity payments, the Settlement Agreement reflects the compromise among Settling Parties of their respective interests in the issues raised by this Application.

The Agreement is also a reasonable compromise because robust discovery informed it. In support for the reasonableness of the Settlement Agreement, the Joint Motion indicates that Cal Advocates and Liberty worked together to demonstrate that Liberty's accounting practices conform to the ECAC tariff and will help minimize the risk of error in the future.

Finally, the Agreement is reasonable because the parties have agreed to include de-linking the ECAC from Liberty's general rate case. The modified tariff requirements will create a more administratively efficient process and reduce the risk of potential delays in implementing changes to the ECAC balancing rates from year to year. Greater administrative efficiency may help reduce costs in the future and help smooth future ECAC rate implementation.

### **3.2. The Settlement Agreement Does Not Contravene Any Rules or Laws**

There is no statutory provision or prior Commission decision that would be contravened or compromised by the Settlement Agreement. The issues resolved in the Settlement Agreement are within the proceeding scope, and the rates are based on pass-through fuel, purchased power, and certain other energy-related costs. All parties have entered the Settlement voluntarily and with the advice of counsel and technical staff.

### **3.3. The Settlement is in the Public Interest**

The Commission has determined that a settlement that "commands broad support among participants fairly reflective of the affected interests" and "does not contain terms which contravene statutory provisions or prior Commission decisions" meets the "public interest" criterion.<sup>2</sup> The Settlement Agreement represents a reasonable compromise of the parties' respective positions. By ensuring that Liberty's ECAC rates reflect energy procurement costs incurred by Liberty and amortizing a portion of the costs over 24 months, the Agreement enables Liberty to comply with its obligations as a utility and to its ratepayers.

The Settling Parties have agreed to overall rates lower than those proposed by Liberty in its Application, which benefits ratepayers while still allowing Liberty to meet its load-serving obligations.

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<sup>2</sup> D.10-06-015 at 11-12.

Table 5, Appendix A, compares the ECAC rates proposed by Liberty in its Application and the Settlement Agreement rates.

#### **4. Summary of the Settlement Agreement**

The parties settled on the following issues (1) ECAC Balancing Rate, including an Offset Rate and Balancing Rate, (2) Amortization of under collected tax equity payments, (3) Climate Credit Payments and associated cost reconciliations, and (4) ECAC tariff modifications to de-link the ECAC process from the GRC process.

The Settlement Agreement is summarized in the following sections.

##### **4.1. Offset Rate Revenue Requirement**

The Parties settled at \$23.587 Million Offset Rate revenues, a \$1.784 million increase in revenue associated with changes to the Offset Rate compared to its 2020 Offset Rate revenues. Liberty had requested \$23.587 Million in its original Application. We find the settled Offset Rate revenue reasonable because it allows Liberty to recover the cost of power purchased to serve its load and include the 2021 tax equity payments to its Luning and Turquoise solar project tax equity partners, which the Commission approved in D.16-02-021 and D.17-12-008.

##### **4.2. Balancing Rate Revenue Requirement**

The Settlement Agreement requests \$2.054 Million in revenues associated with the Balancing Rate, which is \$1.078 million lower than the 2020 Balancing Rate revenue amount of \$3.132 Million. The Settlement will result in a forecasted overall under-collection of \$4.109 million as of December 31, 2020. The Settling Parties propose to amortize the projected \$4.109 million under-collection over a 24 month period, which results in a 2021 forecast of \$2.054 million. The Settlement Agreement also accounts for the 2018-2020 tax equity payments to the

Luning and Turquoise solar partners in the balancing account amount, which Liberty erroneously omitted in its original Application.

We find the terms of Settlement reasonable as it strikes to balance the under-collection of the Energy Cost Adjustment Account.

#### **4.3. Revenue Allocation and Rate Design**

The parties propose a 2021 ECAC revenue of \$25.642 Million, which is \$0.706 million or 2.8 percent higher than the 2020 ECAC revenue requirement of \$24.936 Million.

The overall rate design and revenue allocation proposed by the Settlement Agreement results in the following ECAC- related rates: (1) the Offset Rate will increase to \$40.13 per megawatt-hour and will generate 8.2 percent more revenue than the current Offset Rate of \$37.20 per megawatt-hour, and (2) the Balancing Rate will be lowered to \$3.50 per megawatt-hour and will generate 34.4% less revenue than the current Balancing Rate of \$5.34 per megawatt-hour. These two rate changes' net effect results in an overall increase in the aggregate ECAC Billing Factor Rate from \$42.54 per megawatt-hour to \$43.63 per megawatt-hour.

The Settlement is reasonable as the overall rate increase is lower than those initially proposed in the Application. Liberty originally proposed an ECAC Billing Factor Rate of \$47.12 per megawatt-hour, an Offset Rate of \$40.13 per megawatt-hour, and a Balancing Account Balance Rate of \$6.99 per megawatt-hour.<sup>3</sup>

#### **4.4. Climate Credits**

The Settlement Agreement proposes to use the following forecasts for purposes of setting rates resulting from its Greenhouse Gas (GHG) reduction

<sup>3</sup> See A.20-08-001 (Updated) Public Version, Table II-1, at 3.



program-related costs that reflect and pass through to customers the costs of the California Cap-and-Trade program, to be effective January 1, 2021:

- 1) Forecast 2021 GHG emissions costs incurred directly or indirectly by Liberty as a result of the GHG Cap-and-Trade program (GHG Costs);
- 2) Forecast 2021 administrative and customer outreach expenditures by Liberty associated with the Cap-and-Trade program (GHG Administrative and Customer Outreach Expenses); and
- 3) Forecast 2021 allowance revenues Liberty will realize by selling the allowances allocated to its customers by the California Air Resources Board (GHG Allowance Revenues), as adjusted by the amortization of the 2019 year-end forecasted overcollection in the GHG Revenue Balancing Account (GHG Account Balance) (as adjusted, GHG Adjusted Allowance Revenues).

There is consensus amongst the settling Parties on Liberty's reconciliation of its 2019 GHG costs as reasonable. The Settlement Agreement seeks approval of the following GHG cost, accounting, and ratemaking matters:

- 1) Total confidential forecast 2021 GHG Costs represented on Line 24 of Template D-2 attached in Appendix C of the supporting testimony of Liberty's Amended Application;
- 2) Total forecast 2021 GHG Administrative and Outreach Expenses: \$38,700;
- 3) Total forecast 2021 GHG Adjusted Allowance Revenues: \$3.3 million;
- 4) Total forecast 2021 Small Business Volumetric Return: \$259,122;
- 5) Total forecast 2021 emissions-intensive and trade-exposed (EITE) Customer Return: \$0.00; and
- 6) Total recorded 2019 GHG Administrative and Outreach Expenses: \$29,939.

The Settlement proposes a residential semi-annual California Climate Credit of \$29.96 and a volume-based credit of \$0.00277 per kilowatt-hour for the year for Small General Service customers.

Settling Parties also consent to a credit of \$18,600 to the total amount eligible for distribution to customers in the 2022 Climate Credit. This settlement term is compliant with Title 17, Section 95892(b) of the California Code of Regulations that prohibits certain uses of Cap-and-Trade allowance proceeds, including use of allowance proceeds to "pay for the costs of complying with Cap-and-Trade reporting requirements, the AB 32 Cost of Implementation Fee Regulation, or the Cap-and-Trade Regulation..."

#### **4.5. Amendment to Liberty's Energy Cost Adjustment Clause tariff**

There is consensus amongst the settling Parties to modify Liberty's ECAC tariff to allow Liberty to de-link its ECAC Application process from its GRC process. Section 6(C) of Liberty's ECAC Tariff currently requires Liberty to file its ECAC concurrently with the GRC in the GRC filing years. The Settlement Agreement states that "de-linking" the GRC and ECAC would allow Liberty to file its ECAC on July 1 each year, irrespective of the GRC filing timeline. The Parties propose that Liberty shall file its amended tariff (including revisions to de-link the Climate Credit calculation) through a Tier 1 advice letter.

We find the modifications to the tariff language as shown in Article 6 – Amendment to ECAC Tariff, of the Settlement Agreement reasonable and agree with the supporting information that "de-linkage" will create an administratively efficient process for Liberty while reducing the risk of potential delays in recovering fuel purchase costs in the GRC cycle years. It will provide consistency and predictability in implementing changes to the ECAC balancing rates and Climate Credits.

## 5. True-Up of the April Climate Credit Differences

In D.14-10-033, the Commission ordered that if a utility's forecast greenhouse gas (GHG) revenue return is not adopted by December 31, the utility shall continue to return GHG allowance revenue using the prior year's forecast until a new revenue return is adopted. Consequently, Liberty was directed via an email ruling on February 8, 2021, to issue an April 2021 Climate Credit based on its current effective tariffs.<sup>4</sup>

With this decision, we are now authorizing the semi-annual 2021 Climate Credits. Therefore, Liberty is directed to provide a true up as part of the October 2021 residential Climate Credit to account for the difference between the climate credit payments made to residential customers in April 2021 based on the 2020 authorized tariffs<sup>5</sup> and the amounts approved for 2021. These amounts shall be trued up in the October 2021 payouts via a Tier 1 Advice Letter filed within 30 days of the decision's effective date.

## 6. Conclusion

Based on the review of the Terms of Settlement Agreement on this Application's issues, we conclude that the Settlement should be approved and that Liberty shall issue new ECAC Billing Factor and Climate Credit payment amounts as of January 1, 2021.

## 7. Comments on Proposed Decision

The proposed decision of ALJ Manisha Lakhanpal 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~~ Liberty filed on \_\_\_\_\_, [comments](#)

<sup>4</sup> See Decision ("D.") 20-05-044.

<sup>5</sup> *Id.*

on April 22, 2021, and no party filed reply comments ~~were filed on~~  
~~\_\_\_\_\_ by \_\_\_\_\_~~. due on April 27, 2021.

No changes were made to the proposed decision.

## **8. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner, and Manisha Lakhanpal is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. The Settlement Agreement is the good-faith product of arms' length negotiation between Parties reflecting all affected interests.
2. Each of the financial terms of the Settlement Agreement is the result of a good-faith compromise.
3. It is reasonable to "de-link" the GRC and ECAC process because it would allow Liberty to file its ECAC on July 1 each year, irrespective of the GRC filing timeline, and timely recover its energy procurement costs and file GHG-related cost information.
4. It is reasonable to true up in October 2021 the difference between the residential Climate Credit payments made to customers in April 2021 based on amounts authorized in D.20-05-044 and the final amounts authorized in this decision.

### **Conclusions of Law**

1. The proposed Settlement is reasonable in light of the whole record, consistent with law, and in the public interest, therefore the Commission should adopt it. There was no need for evidentiary hearing on the unopposed Settlement.
2. The Settlement Agreement should be approved.

3. Liberty should file a Tier 1 advice letter to amend its ECAC tariff (including revisions to de-link the Climate Credit calculation) within 30 days of the effective date of this decision.

4. Within 30 days of this decision's effective date, Liberty should file a Tier 1 advice letter to true up in October 2021 the difference between the residential Climate Credit payments made to customers in April 2021 and the final amounts authorized in this decision.

## O R D E R

**IT IS ORDERED** that:

1. The Settlement Agreement between Liberty Utilities (CalPeco Electric) LLC, A-3 Customer Coalition, and the Public Advocates Office at the California Public Utilities Commission is approved. It is attached as Appendix B to this decision.

2. Liberty Utilities (CalPeco Electric) LLC shall file its Energy Cost Adjustment Clause (ECAC) Application on July 1 each year, irrespective of its General Rate Case filing timeline. The Application shall be filed only if a change to total ECAC revenues of +/- 5 % occurs as a result of the combination of revisions to the:

i. Offset Rate based on the new fuel and purchased power forecast for the Forecast Period; and

ii. Balancing Rate to amortize any projected over- or under-collection balance in the Energy Cost Adjustment Account as of the Revision Date.

3. Liberty Utilities (CalPeco Electric) LLC shall file a tier 1 advice letter within 30 days of the effective date for today's decision to implement the adopted Energy Cost Adjustment Clause revenue requirement and tariff changes adopted in Appendix B.

4. Within 30 days of this decision's effective date, Liberty Utilities (CalPeco Electric) LLC shall file a Tier 1 advice letter to true up the October 2021 Climate Credits to account for the difference between Climate Credit payments received by residential customers in April 2021 and the final amounts authorized in this decision.

5. Application 20-08-001 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## APPENDIX A

## Appendix A

Table 1

**Comparison of Current and Proposed ECAC Revenue Requirement (\$000) and  
Billing Factor (\$/MWh), with Offset and Balancing Component Breakdown**

Description	2021	2020	Variance (\$)	Variance (%)
Total ECAC Revenue Requirement	\$25.642	\$24.936	\$0.706	2.8%
Offset Revenue Requirement	\$23.587	\$21.803	\$1.784	8.2%
Balancing Revenue Requirement	\$2.054	\$3.132	-\$1.078	-34.4%
Total ECAC Billing Factor Rate	\$43.63	\$42.54	\$1.09	2.6%
Offset Rate	\$40.13	\$37.20	\$2.93	7.9%
Balancing Rate	\$3.50	\$5.34	-\$1.84	-34.5%

Table 2

**Residential Comparison of Current ECAC Rates to Proposed ECAC Rates  
(\$ per kilowatt-hour)**

Tier	Current 2020 ECAC Rate	Proposed 2021 ECAC Rate	Variance (\$)	Variance (%)
Tier 1	\$0.03418	\$0.03459	\$0.00041	1.2%
Tier 2	\$0.04911	\$0.05070	\$0.00159	3.2%



## Appendix A

**Table 3**

**Residential Bill Impact - Comparison of Current 2020 to Proposed 2021**

Residential Customer	Current Average Bill	Proposed Average Bill	Variance (\$)	Variance (%)
Permanent	\$95.95	\$97.08	\$1.13	1.2%
Non-Primary	\$85.29	\$86.74	\$1.45	1.7%
CARE	\$69.38	\$70.49	\$1.12	1.6%

\*Includes Climate Credit Impact

**Table 4**

**Small Business Rate and Bill Impact - Comparison of Current 2020 to Proposed 2021**

Tier	Current 2020 ECAC Rate	Proposed 2021 ECAC Rate	Variance (\$)	Variance (%)
Rates \$/kWh	\$0.04173	\$0.04274	\$0.00101	2.4%
1577 kWh	\$277.11	\$278.70	\$1.59	0.6%

**Table 5**

**Comparison of ECAC Rates Proposed by Liberty in its Application and Settlement Agreement Rates**

(\$ per kilowatt-hour)

Customer Class	Settlement Agreement 2021 Rate	Liberty Application 2021 Rate	Variance (\$)	Variance (%)
Residential Tier 1	\$0.03459	\$0.03809	-\$0.00350	-9.18%
Residential	\$0.05070	\$0.05255	-\$0.00350	-6.45%

Tier 2				
Small Business A-1	\$0.04274	\$0.04459	-\$0.00350	-7.56%
Winter A-2	\$0.02912	\$0.03097	-\$0.00350	-10.71%
Summer A-2	\$0.05993	\$0.06178	-\$0.00350	-5.51%
Winter On A-3	\$0.04556	\$0.04741	-\$0.00350	-7.12%
Winter Mid A-3	\$0.04636	\$0.04821	-\$0.00350	-7.01%
Winter Off A-3	\$0.03870	\$0.04055	-\$0.00350	-8.28%
Summer On A-3	\$0.04546	\$0.04731	-\$0.00350	-7.14%
Summer Off A-3	\$0.03639	\$0.03824	-\$0.00350	-8.76%
SL	\$0.04274	\$0.04459	-\$0.00350	-7.56%
OL	\$0.04274	\$0.04459	-\$0.00350	-7.56%
PA	\$0.04274	\$0.04459	-\$0.00350	-7.56%

(END OF APPENDIX A)

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