

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
ENERGY DIVISION
I.D. # 10305
RESOLUTION E-4391
May 26, 2011

R E S O L U T I O N

Resolution E -4391. Southern California Edison Company (SCE)
Implementation of Residential Rate Changes Pursuant to Decision
(D.)09-12-048.

PROPOSED OUTCOME: Authorizes a 3% increase in Tier 2 rates for non-California Alternate Rates for Energy (CARE) residential customers, except for low-income customers billed on California Alternative Rates for Energy (CARE) rates, with a commensurate decrease in non-CARE Tiers 3 through 5 rates, pursuant to SB 695 and as authorized by Ordering Paragraph (O.P.) 3 in D.09-12-048. No change in Tier 1 residential rates is authorized.

ESTIMATED COST: This is a proposed reallocation of tiered rates within the residential rate class, resulting in a revenue-neutral offset of rates with no net revenue requirement increase for SCE.

By Advice Letter (AL) 2526-E filed on November 16, 2010.

SUMMARY

This resolution approves AL 2526-E in part. SCE is authorized to increase its non-CARE residential Tier 2 rate by 3%, while decreasing non-CARE Tiers 3, 4, and 5 rates commensurately as authorized by Senate Bill (SB) 695 (2009) and D.09-12-048. The increase will result in revenue-neutral rates as there will be a commensurate decrease in non-CARE Tier 3 through Tier 5 rates. SCE will continue to maintain a 3.5 cents/kilowatt hour (kWh) differential between each of non-CARE Tiers 3 through 5. SCE's request to increase Tier 1 rate by 2% is denied because SB 695 allows the increase to be a minimum of 3% and a maximum of 5%.

- SCE did not propose any increases to CARE rates in its advice letter and no increases in CARE rates are approved in this resolution.

- SCE is not authorized to increase its non-CARE Tier 1 rate by 2% percent over its current Tier 1 rate as requested. SB 695 and D.09-12-048 allow for a minimum 3 percent and maximum 5 percent increase. SCE did not propose a 3% increase in Tier 1 because that would have increased Tier 1 rate above 90% of the system average rate (SAR) which is not allowed by SB 695. The rate resulting from the minimum 3 percent increase must equal no more than 90 percent of the SAR.¹
- SCE is authorized to increase its non-CARE Tier 2 rate by 3 percent over its current non-CARE Tier 2 rate, effective June 1, 2011.
- Residential Tiers 3 through 5 rates shall decrease commensurately with the Tier 2 increase, and shall maintain a 3.5 cents/kWh differential between each of non-CARE Tiers 3 through 5, in compliance with O.P. 3 in D.09-12-048, and in accordance with the settlement approved in D.09-08-028.
- After making the rate changes authorized by this resolution, SCE shall not make any further changes to non-CARE Tier 2 rates in 2011, unless further changes are specifically authorized by a separate Commission order or by statute.
- Requests for future non-CARE Tiers 1 and 2 rate changes as authorized by D.09-12-048 shall continue to be administered annually through a Tier 2 advice letter, based on SCE's updated SAR. Such advice letters will be accompanied by detailed and complete work papers showing the utility's residential revenue allocation, the revenue neutral offset between

¹ Public Utilities Code (P.U.Code) § 739.9, provides, in pertinent part:

(a) The Commission may, subject to the limitation in subdivision (b), increase the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities, as defined in Section 739, by the annual percentage change in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year. . . .

(b) The rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, shall not exceed 90 percent of the system average rate prior to January 1, 2019, and may not exceed 92.5 percent after that date.

residential tiers, an updated SAR calculation, and rate design calculations underlying the rates for each rate schedule.

BACKGROUND

Assembly Bill (AB) 1X from the First Extraordinary Session (Ch.4, First Extraordinary Session 2001) (AB1X) was signed into law on February 1, 2001, in response to the energy crisis of 2000-2001.

AB 1X implemented a number of measures to help stabilize California's electricity markets during the energy crisis. These measures included requiring the California Department of Water Resources (DWR) to procure electricity on behalf of SCE, Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E), (investor owned utilities or "IOUs"), and providing some rate stability to residential customers by "capping" rates for use up to 130 percent of baseline quantities,² at levels in effect on February 1, 2001.³ The rate cap was to continue until the DWR recovered its costs to procure power on behalf of the state's electric consumers.

Soon after AB1X implementation, D.01-05-064 and D.01-05-059 adopted a five-tier incremental block rate design for non-CARE residential customers.

With AB1X mandating that all residential electricity use up to 130 percent of baseline be capped at levels in effect on February 1, 2001, the Commission developed a rate design methodology so that the IOUs could fully recover their respective residential revenue requirement allocations. In D.01-05-064

² P.U. Code § 739(1) defines "baseline quantity" as a "quantity of electricity or gas allocated by the Commission for residential customer based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season."

P.U. Code. § 739(6)(d)(1) "The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity."

³ Statutes of 2001-2002, 1st Extraordinary Session, Chapter 4. The rate cap language was codified in the former language of Water Code § 80110.

(addressing PG&E and SCE) and D.01-09-059 (addressing SDG&E), the Commission adopted a five-tier rate design model for non-CARE residential customers based on an increasing rate per kWh within each successive tier, or “block” of use. Given the restrictions required by AB 1X, all future residential rate increases were allocated to rates in upper tiers.

Each of the five non-CARE tier ranges were set as a percent of the baseline quantity allowance.

In D.01-05-064 and D.01-09-059, the Commission adopted the same residential tier structure for PG&E, SCE, and SDG&E:

- Tier 1: For kWh use up to 100% of baseline
- Tier 2: For kWh use from 100% to 130% of baseline
- Tier 3: For kWh use from 130% to 200% of baseline
- Tier 4: For kWh use from 200% to 300% of baseline
- Tier 5: For kWh use in excess of 300% of baseline⁴

From the 2001 implementation of the five-tier non-CARE residential rate methodology until the Commission issued D.09-12-048, all revenue requirement increases for the residential rate class, with the exception of CSI program costs, were allocated to use within non-CARE Tiers 3, 4, and 5.⁵ Because non-CARE Tier 1 and Tier 2 residential rates remained capped and all residential class revenue requirement increases were therefore allocated to non-CARE Tiers 3, 4 and 5 rates, the disparity between the lower non-CARE Tiers 1 and 2 rates, and the higher non-CARE Tiers 3 through 5 rates increased significantly over time.⁶ Historically, residential use within non-CARE Tiers 3 through 5 accounts for approximately 30 percent of all residential kWh use (D.09-12-048, p.3).

⁴ At this time, SDG&E’s and PG&E’s residential rate structure does not include a Tier 5 rate to measure customers’ use, and the Tier 4 rate is the highest which applies to all kWh use over 200% of baseline. See D.08-02-034 and D.10-05-051, respectively.

⁵ SB 1 (2007) established the California Solar Initiative (CSI) program, and allowed CSI program costs to be allocated on a per kWh basis to non-CARE Residential customers’ Tier 1 and Tier 2 use, beginning January 1, 2008. See P.U. Code § 2851(d)(2).

⁶ D.09-12-048, Findings of Fact 4 and 5.

SB 695 (2009) amended Public Utilities Code (P.U. Code) § 739.1, which addressed CARE-eligible rates, and added § 739.9, which addressed non-CARE rates, and deleted the rate cap provisions of AB 1X. D.09-12-048 interpreted these provisions.

P.U. Code §§ 739.1 and 739.9 allow the Commission to increase residential rates for Tiers 1 and 2 subject to certain constraints. The Commission adopted D.09-12-048 which interpreted these code sections. The decision authorized annual Tier 1 and Tier 2 rate increases for PG&E, SCE, and SDG&E for both CARE and non-CARE Tier 1 and Tier 2 rates, subject to compliance with the various provisions of the statute. D.09-12-048 allowed increases to non-CARE rates for Tiers 1 and 2 effective January 1, 2010. If a utility wishes to propose annual changes in subsequent years, Ordering Paragraph (O.P.) 5 of D.09-12-048 requires each IOU to file a Tier 2 advice letter as set forth in General Order 96-B no later than forty-five (45) days before the proposed effective date.

P.U. Code § 739.1 (b)(2) gives the Commission authority to increase residential CARE rates for Tiers 1 and 2 by the annual increase in benefits provided under the California Work Opportunity and Responsibility to Kids Act (CalWORKs).

P.U. Code § 739.1 (b)(2) gives the Commission authority to increase residential CARE rates for Tiers 1 and 2 by the annual increase in benefits provided under the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program for the fiscal year in which the rate increase would take effect, but not to exceed three (3) percent per year. However, the cost of living adjustment (COLA) for benefit amounts provided under the CalWORKs program was suspended. D.09-12-048 therefore authorized no increases to CARE rates for Tiers 1 and 2 in 2010.⁷

Pursuant to P.U. Code § 739.9(a), the Commission has the authority to grant increases in rates charged to non-CARE residential customers for non-CARE Tiers 1 and 2 use based on the annual percentage change in the Consumer Price Index (CPI).

⁷ In 2009, Senate Bill (SB) X3 6 (Chapter 13, Statutes of 2009-2010 Third Extraordinary Session) suspended the COLA for benefit amounts provided under the CalWORKs program.

Pursuant to P.U. Code § 739.9(a), the Commission has the authority to grant increases in rates charged to non-CARE residential customers for non-CARE Tiers 1 and 2 use by the annual percentage change in the CPI from the prior year⁸ plus 1 percent, but not less than three (3) percent or more than five (5) percent per year, until January 1, 2019. Increases to non-CARE Tier 1 rates are further restricted by P.U. Code § 739.9(b) in that non-CARE Tier 1 rates, including any customer charge revenues, may not exceed ninety (90) percent of the utility's SAR.

SCE increased non-CARE residential rates for Tiers 1 and 2 effective January 1, 2010 pursuant to D.09-12-048.

D.09-12-048 determined that a 3 percent increase in residential non-CARE rates for non-CARE Tiers 1 and 2 was justified in 2010 for SCE, PG&E, and SDG&E based on the parameters set forth in P.U. Code § 739.9. On December 29, 2009, SCE submitted AL 2420-E in compliance with O.P. 3 of D.09-12-048 authorizing it to increase these rates by 3 percent while commensurately decreasing non-CARE Tiers 3, 4, and 5 rates. O.P. 3 of D.09-12-048 required that SCE maintain a 3.5 cent/kWh differential between the rates applicable to non-CARE Tiers 3, 4, and 5 in keeping with the settlement adopted in D.09-08-028 in phase 2 of SCE's 2009 general rate case. SCE's AL 2420-E was made effective January 1, 2010 by Energy Division staff disposition.

SCE submitted AL 2526-E proposing to increase residential non-CARE Tier 1 rates by 2 percent and Tier 2 rates by 3 percent effective January 1, 2011.

In accordance with D.09-12-048 SCE filed AL 2526-E on November 16, 2010, proposing to increase non-CARE residential rates for non-CARE Tiers 1 and 2 effective January 1, 2011. SCE explains in its advice letter that it used the Social

⁸ P.U. Code sec. 739.9(a) provides: "the annual percentage change in the Consumer Price Index shall be calculated using the same formula that was used to determine the annual Social Security Cost of Living Adjustment on January 1, 2008." That formula is based on the CPI for Urban Wage Earners and Clerical Workers (CPI-W). This formula reflects the change in the average CPI-W comparing the immediately preceding third quarter and the third quarter for the year before that. The CPI-W is published monthly by the U.S. Department of Labor, Bureau of Labor Statistics: <http://www.bls.gov/cpi/>

Security COLA effective on January 1, 2011 which represents the change in the CPI-W from the third quarter of 2009 to the third quarter of 2010. Since the 2011 COLA is 1.5 percent, P.U. Code § 739.9(a), standing alone, would allow an increase in non-CARE Tier 1 and 2 rates by the minimum of 3 percent. However SCE states that increasing the non-CARE Tier 1 rate by 3 percent would result in a rate—including customer charge revenues—in excess of the 90 percent of SAR limit established by P.U. Code § 739.9(b).⁹ SCE therefore requests a 2 percent rather than 3 percent increase in the non-CARE Tier 1 rate effective January 1, 2011, since that rate would then equal 90 percent of SCE's SAR, when including customer charge revenues. SCE proposes commensurate decreases in non-CARE residential rates for non-CARE Tiers 3 through 5 for revenue neutrality, and to maintain the 3.5 cent/kWh differential between rates in the upper non-CARE tiers as required by D.09-08-028.

SCE also proposes to increase the non-CARE Tier 1 rate by as much as one additional percentage point to a maximum of \$0.12722 per kWh later in 2011, reflecting a possible cumulative total 3% increase allowed under P.U. Code § 739.9(a), if its SAR increases during 2011, and the 90 percent of SAR restriction required under § 739.9(b) can be met. SCE proposes no changes to CARE rates since the CALWORKS cost of living adjustment is still suspended.

SCE's AL 2526-E has been suspended.

In light of the issues discussed below, SCE's AL 2526-E was suspended on December 8, 2010. The Commission's Energy Division suspended this advice letter upon determining that a Resolution was required to address the advice letter. The first suspension period, of up to 120 days after the initial review period, will expire April 15, 2011, during the draft Resolution's 30-day comment period. Where the Commission's deliberation on a draft resolution prepared by

⁹ In AL 2526-E SCE refers to "customer and minimum charge revenues" while P.U. Code § 739.9(b) refers only to customer charge revenues. SCE's residential rate schedules include basic and minimum charges, in addition to charges for kWh usage. SCE's basic and minimum charges are assessed on a \$ per meter per day basis, and represent "customer charge revenues" as defined in § 739.9(b). References to "customer charge revenues" in this resolution include what SCE calls "customer charge and minimum charge revenues" in AL 2526-E.

an Industry Division continues beyond the expiration of the first suspension period, the suspension is automatically continued for a further 180 days.¹⁰ Accordingly, SCE's AL 2526-E is suspended for up to another 180 days during the Commission's deliberation on the Resolution. Because the tariffs attached to the advice letter involve a rate increase, they cannot go into effect without Commission approval.¹¹

NOTICE

Notice of AL 4391-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was served in accordance with Section 4 of General Order 96-B and served on parties to R.09-06-018, A.09-10-013, A.09-10-014, and A.09-10-015.

PROTESTS

No parties submitted protests to SCE's AL 2526-E.

DISCUSSION

SCE's AL 2526-E provides CPI data based on guidelines set forth in D.09-12-048.

SCE timely submitted AL 2526-E, no later than 45 days before its requested January 1, 2011 effective date as required by D.09-12-048. D.09-12-048 established that, to be consistent with the statute, the CPI percentage change component of the rate change formula should be based on the Social Security COLA from third quarter of the previous year to third quarter of the year immediately prior to the January 1 effective date. In AL 2526-E, SCE used the Social Security COLA representing the change in the CPI -W from third quarter of 2009 to third quarter 2010, in compliance with P.U. Code § 739.9(a) and D.09-12-048.¹² SCE states that the annual percentage change in the CPI for this period

¹⁰ See General Order 96-B, General Rule 7.5.2.

¹¹ See P.U. Code § 454.

¹² D.09-12-048, Finding of Fact 13, O.P. 6.

(i.e., the 2011 COLA) is 1.5 percent. Energy Division staff's review of the U.S. Department of Labor, Bureau of Labor Statistics CPI-W data confirmed the accuracy of the 1.5 percent figure.

P.U. Code § 739.9 and D.09-12-048 establish 3% as the *minimum* rate increase.

P.U. Code § 739.9(a) and D.09-12-048 require that non-CARE Tier 1 and 2 rate increases are limited to "the annual percentage change in the Consumer Price Index from the prior year plus 1 percent, but not less than 3 percent and not more than 5 percent per year". This means that if the COLA is less than 2 percent, then the non-CARE Tier 1 and 2 increases automatically default to a 3 percent increase. The 2011 COLA is measured at 1.5 percent. Therefore and in this case, adding 1 percent to the 2011 COLA equals 2.5 percent, which by statute and D.09-12-048, requires a 3 percent increase.

Increasing SCE's non-CARE Tier 1 rate by 3 percent would result in a rate that exceeds 90 percent of its system average rate, which is prohibited by statute.

P.U. Code § 739.9(b)¹³ describes the formula used to establish a utility's SAR, and prohibits a utility's rates for baseline quantities from being in excess of 90% of its SAR. Tier 1 includes all and only baseline quantities. However, increasing SCE's non-CARE Tier 1 rate by 3 percent would result in this case in a rate that exceeds 90 percent of SCE's 14.287 cents/kWh SAR, which would violate P.U. Code § 739.9(b).

SCE therefore requests to implement a 2 percent increase to its non-CARE Tier 1 rate, resulting in a rate equal to 90 percent of its current SAR.

Due to the P.U. Code § 739.9(b) 90% of SAR Tier 1 restriction, and in order to calculate a non-CARE Tier 1 rate that would meet the 90% of SAR maximum, SCE first calculated its customer charge revenues at .260 cents/kWh, as

¹³ The relevant portion of § 739.9(b) provides "The rates charged residential customers for electricity usage up to the baseline quantities, including any customer charge revenues, shall not exceed 90 percent of the system average rate prior to January 1, 2019, and may not exceed 92.5 percent after that date."

prescribed by § 739.9(b).¹⁴ In AL 2526-E, SCE demonstrates that 90 percent of its current 14.287 cents/kWh SAR equals 12.858 cents/kWh. A three percent increase to SCE's non-CARE Tier 1 rate would equal an increase from 12.351 cents/kWh to 12.722 cents/kWh, and when added to customer charge revenues of .260 cents/kWh, totals 12.982 cents/kWh. This total rate exceeds the maximum of 90 percent of the SAR.

To arrive at its 2 percent non-CARE Tier 1 increase request, SCE subtracted the customer charge component of .260 cents/kWh from the 90 percent of SAR maximum, 12.858 cents/kWh, to arrive at its proposed non-CARE Tier 1 rate of 12.598 cents/kWh. This results in a 2 percent increase in the non-CARE Tier 1 rate from 12.351 cents/kWh to 12.598 cents/kWh. Adding the customer charge component, 0.260 cents/kWh, to the new non-CARE Tier 1 rate equals 90 percent of SCE's SAR.

Neither P.U. Code § 739.9 or D. 09-12-048 authorize increasing the non-CARE Tier 1 rate by less than the minimum 3 percent as requested in this advice letter. Therefore, SCE cannot increase its non-CARE Tier 1 rate at this time. Additionally, P.U. Code § 739.9(c) gives the Commission authority to *not* increase a residential rate.

The issue of allowing a non-CARE Tier 1 rate increase of less than 3%, which is raised by SCE's AL 2526-E, did not arise in the proposals addressed by D.09-12-048 which were filed by SCE, PG&E, and SDG&E in A.09-10-013, et al. However, it is clear from the statute and D.09-12-048 that only increases of "not less than 3 percent and not more than 5 percent per year" are allowable. Accordingly we must reject SCE's request for a 2% non-CARE Tier 1 increase.

¹⁴ In compliance with P.U. Code § 739.9(b), the residential customer charge cost per kWh is derived by dividing forecasted Non-CARE customer charge revenues by forecasted Non-CARE kWh sales, and then added to the Tier 1 rate to calculate the *total* Tier 1 rate and determine whether that exceeds 90% of SAR. The relevant portion of § 739.9(b) provides: "For purposes of this subdivision, the system average rate shall be determined by dividing the electrical corporation's total revenue requirements for bundled service customers by the adopted forecast of total bundled service sales."

As, noted above, SCE's non-CARE Tier 1 rates also cannot be increased by 3%. Accordingly, no increase in SCE's non-CARE Tier 1 rates can be authorized at this time. Additionally, section 739.9(c) makes it clear that the Commission may determine to *not* increase a residential rate, even if that were allowed by the first two subdivisions of the code section.¹⁵

However, a 3 percent increase in the non-CARE Tier 2 rates can still be authorized, even if the non-CARE Tier 1 rate cannot be increased.

As explained above, the limitation in subsection (b) prevents this Commission from authorizing any increase in non-CARE Tier 1 rates. Non-CARE Tier 2 rates, however, are not subject to the SAR restriction; therefore, SCE's proposed 3 percent increase in the non-CARE Tier 2 rate, from 14.342 cents/kWh to 14.772 cents/kWh, is justified. As explained above, when the COLA is less than 2%, the statute authorizes a minimum increase of 3%. Here the 2011 COLA is 1.5 percent, thus supporting a 3 percent increase in non-CARE Tier 2 rates.

We next consider whether the Commission, under the statutory language, can authorize a 3% increase in non-CARE Tier 2 rates without increasing non-CARE Tier 1 rates. We conclude that we can. The relevant requirement in the statute is that if "the rates charged residential customers for electricity usage up to 130 percent of the baseline quantities" are increased they must be increased by "not less than 3 percent and not more than 5 percent". We start our analysis by noting that the statutory language refers to the "rates charged residential customers for electricity usage up to 130 percent of the baseline quantities. The statute does not require that "each and every rate" for electricity usage up to 130 percent of the baseline quantities be increased by an amount in the 3 to 5 percent range. Nor does it require that the "aggregate of all rates" for electricity usage up to 130 percent of baseline be increased, if at all, by an amount in that range. If the legislature had used such language, we might be prevented from increasing non-CARE Tier 2 rates while leaving non-CARE Tier 1 rates unchanged. However, the legislature did not use such language. It instead allowed "the rates" to be

¹⁵ P.U. Code § 739.9(c) "This section does not require the commission to increase any residential rate or place any restriction upon, or otherwise limit, the authority of the commission to reduce any residential rate."

increased by an amount in that range.¹⁶ This language is less clear as to whether both non-CARE Tier 1 rates and non-CARE Tier 2 rates must be increased by an amount in the authorized range or whether one can be increased without the other. Here, the limitation contained in subdivision (b) is the reason why we cannot increase non-CARE Tier 1 rates. The evident purpose of subdivision (b) is to protect usage in non-CARE Tier 1, not to protect the usage in non-CARE Tier 2. Accordingly, we conclude that where an increase in non-CARE Tier 1 rates is prohibited by subdivision (b), there is no reason to view the use of the word “rates” in subdivision (a) as intended to also prohibit any increase in non-CARE Tier 2 rates. Accordingly, SCE is authorized to increase non-CARE Tier 2 rates by 3 percent as requested.

If SCE implements the non-CARE Tier 2 rate increase and commensurate decreases in non-CARE Tier 3 through 5 rates as authorized, these rates shall become effective on June 1, 2011.

SCE shall maintain the 3.5 cent/kWh differential between rates for non-CARE Tiers 3 through 5 as required by D.09-08-028. If SCE implements the non-CARE Tier 2 rate increase and commensurate non-CARE Tier 3 through 5 rate decreases on June 1, 2011 as authorized, then SCE shall file a supplement to AL 2526-E which shows the rate changes for each residential tier (other than non-CARE Tier 1, which will not change), and work papers described in the next paragraph. Work papers will be subject to review, and the resulting rates will be subject to adjustment or correction by Commission Staff, or the full Commission if necessary.

Requests for future rate changes to non-CARE Tiers 1 and 2 to comply with D.09-12-048 shall continue to be administered annually through Tier 2 advice letter, and are subject to Commission review.

Such advice letters will be accompanied by detailed and complete work papers showing the utility’s forecasted residential revenue allocation, the revenue neutral offset between non-CARE tiers, an updated SAR calculation, and rate design calculations underlying the rates for each rate schedule. Work papers will

¹⁶ The rates referred to in the statute are those that are designated by this Commission as Tier 1 and Tier 2 rates.

be subject to review, and the resulting rates will be subject to adjustment or correction by Commission Staff, or the full Commission if necessary,

O.P. 5 in D.09-12-048 states “Future annual filings to implement proposed changes in residential rates as authorized by Senate Bill 695 (Ch.337, Stats 2009) shall be by Tier 2 advice letter as set forth in General Order 96-B, filed no later than 45 days before the proposed effective date.” We therefore conclude that rate changes to either non-CARE Tier 1 or Tier 2 should be allowed no more than annually.

After making the rate changes authorized by this resolution, SCE shall not make any further changes to residential rates for Tiers 1 or 2 in 2011, unless a separate Commission order or a statute specifically authorizes further changes.

COMMENTS

Per statutory requirement, a draft resolution was made available for comment.

Public Utilities Code section 311(g)(1) generally requires resolutions to be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, the draft resolution was issued for public review and comment at least 30 days prior to a vote of the Commission.

FINDINGS AND CONCLUSIONS

1. AB 1X implemented a number of measures during the California energy crisis of 2000-2001, including some rate stabilization for residential customers by “capping” rates for residential use up to 130 percent of baseline quantities at levels in effect on February 1, 2001.
2. After AB1X capped rates for residential electricity use up to 130 percent of baseline quantities, the Commission adopted a five-tier non-CARE incremental block rate design, in D.01-05-064 for SCE.
3. D.01-05-064 determined the following parameters for utilities to measure non-CARE tiered use: For Tier 1, use up to 100% of baseline; for Tier 2, use from 100% to 130% of baseline; Tier 3, use from 130% to 200% of baseline; Tier 4, use from 200% to 300% of baseline, and Tier 5, use in excess of 300% of baseline. Accordingly, revenue requirement increases for the residential class were allocated to non-CARE Tiers 3, 4, and 5 rates.

4. D.09-12-048 found that between 2001 and 2009, the Tiers 1 and 2 rate restrictions required by AB1X have caused increasing disparity between non-CARE Tiers 1 and 2 rates, and rates paid by higher use customers in the upper non-CARE tiers.
5. SB 695 (2009) added P.U. Code § 739.9, authorizing annual incremental increases to non-CARE residential rates for non-CARE Tiers 1 and 2.
6. D.09-12-048 authorized PG&E, SCE, and SDG&E to request annual residential rate changes authorized by SB 695 by Tier 2 advice letter.
7. D.09-12-048 determined that pursuant to P.U. Code § 739.9 the Commission has authority to grant increases in non-CARE residential rates for Tiers 1 and 2 by the annual percentage change in the CPI from the prior year plus 1 percent, but not less than 3 percent or more than 5 percent.
8. P.U. Code § 739.9(b) limits increases in non-CARE residential Tier 1 rates such that the Tier 1 rate, including customer charge revenues, may not be higher than 90 percent of the utility's System Average Rate (SAR).
9. SCE filed AL 2526-E on November 16, 2010 pursuant to D.09-12-048, proposing to increase non-CARE residential rates for Tiers 1 and 2, by 2% and 3%, respectively, and commensurately decrease rates for non-CARE Tiers 3, 4, and 5, while maintaining a 3.5 cent/kWh differential between the non-CARE upper tier rates as required by D.09-08-028.
10. AL 2526-E was suspended on December 8, 2010; that first extension will expire April 15, 2011. The publication of a draft resolution for comment and deliberation by the Commission automatically continues the extension for a further period of 180 days. Because the tariff sheets appended to AL 2526-E contain a rate increase, they cannot go into effect by operation of law.
11. The annual percentage change in the CPI from the third quarter of 2009 to the third quarter of 2010 plus 1 percent equals 2.5 percent. This would result in a minimum increase of 3 percent in 2011 for non-CARE residential Tier 1 and Tier 2 pursuant to P.U. Code § 739.9(a).
12. Increasing SCE's non-CARE Tier 1 rate by 3 percent would result in a rate, including customer charge revenues that would exceed 90 percent of its SAR, which is prohibited by P.U. Code § 739.9(b).
13. P.U. Code § 739.9 and D.09-12-048 establish 3 percent as the minimum annual rate increase for non-CARE Tiers 1 and 2.
14. Neither P.U. Code § 739.9 nor D.09-12-048 authorize a non-CARE Tier 1 increase, with customer charges included, of less than 3 percent when a 3 percent increase is in excess of 90 percent of a utility's SAR.
15. The limitation in subsection 739.9(b) prevents the Commission from authorizing an increase to SCE's non-CARE Tier 1 rates at this time.

16. Pursuant to P.U. Code § 739.9(c) the Commission is under no requirement to increase any residential rate.
17. Non-CARE Tier 2 rates are not subject to the non-CARE Tier 1, 90 percent of SAR restriction contained in § 739.9(b).
18. SCE's proposal to increase non-CARE residential Tier 2 rates by 3 percent should be granted.
19. SCE should decrease non-CARE residential rates for Tiers 3 through 5 commensurately with the increase to non-CARE Tier 2 rates authorized by this resolution to maintain revenue neutrality within the residential class.
20. Pursuant to D.09-08-028, a 3.5 cent/kWh differential between rates for non-CARE Tiers 3, 4, and 5 should be maintained in implementing the rate changes authorized by this resolution.
21. The revised non-CARE Tier 2 rate together with commensurate decreases in the non-CARE Tiers 3 through 5 non-CARE rates should become effective on June 1, 2011.
22. D.09-12-048 requires annual advice letter filings to implement proposed changes in residential rates as authorized by SB 695.
23. O.P. 5 in D.09-12-048 provided for future annual filings implementing non-CARE Tier 1 and 2 rate increases with commensurate decreases to non-CARE Tiers 3 through 5 residential rates by Tier 2 advice letter, to be filed no later than 45 days before the proposed effective date. The decision is clear in its intent to limiting such changes to one yearly request.
24. After making the rate changes authorized by this resolution, SCE should not make any further changes to residential rates for non-CARE Tiers 1 or 2 in 2011, unless a separate Commission order or a statute specifically authorizes further changes.
25. Tier 2 advice letter filings to implement proposed changes in residential rates as authorized by SB 695 should be accompanied by detailed and complete work papers showing the utility's forecasted residential revenue allocation, the revenue neutral offset between tiers, an updated SAR calculation, and rate design calculations underlying the rates for each rate schedule. Work papers and resulting rates will be subject to review by Commission Staff, or the full Commission if necessary.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Company (SCE) is authorized to increase its non-California Alternative Rates for Energy (CARE) residential Tier 2 rate by 3 percent over its current Tier 2 rate, effective June 1, 2011.

2. Commensurate with the rate changes authorized in O.P. 1, SCE shall decrease non-CARE residential rates for non-CARE Tiers 3 through 5 at the same time to maintain revenue neutrality, and to maintain a 3.5 cents/kWh differential between each of non-CARE Tiers 3 through 5, as required by D.09-08-028.
3. If SCE implements the non-CARE Tier 2 rate increases and commensurate non-CARE Tiers 3 through 5 decreases as authorized, SCE shall supplement Advice Letter (AL) 2526-E. The supplement to AL 2526-E shall replace AL 2526-E in its entirety and shall show the rate changes for each residential tier, accompanied by detailed and complete work papers showing the utility's residential revenue allocation, the revenue neutral offset between non-CARE tiers, and rate design calculations underlying the rates for each rate schedule. If filed on or before June 1, 2011, the rate changes shall go into effect on June 1, 2011. However, the work papers will remain subject to review and the rates will be subject to adjustment or correction by Commission Staff, or the full Commission if necessary.
4. After making the rate changes authorized in O.P.s 1, and 2, SCE shall not make any further changes in 2011 to residential rates for Tiers 1 or 2, unless specifically authorized to do so by a separate Commission order or by statute.

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 May 26, 2011; the following Commissioners voting favorably thereon:

Paul Clanon
Executive Director

STATE OF CALIFORNIA

EDMUND G. BROWN JR., *Governor*

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



April 12, 2011

**I.D.# 10305
Draft Resolution E-4391
Commission Meeting Date: May 26, 2011**

TO: PARTIES TO DRAFT RESOLUTION E-4391

Enclosed is draft Resolution E-4391 prepared by the Energy Division. It will be on the agenda at the May 26, 2011 Commission meeting. The Commission may then vote on this draft Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different draft Resolution. Only when the Commission acts does a Resolution become binding on the parties.

Parties may submit comments on the draft Resolution no later than May 2, 2011.

Comments should be submitted to:

Honesto Gatchalian and Maria Salinas
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
gnj@cpuc.ca.gov; mas@cpuc.ca.gov

A copy of the comments should also be submitted to:

Felix Robles
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200
Email: fvr@cpuc.ca.gov

Comments may be served by email. Any comments on the draft Resolution must be received by the Energy Division by May 2, 2011. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the Director of the Energy Division, the Chief Administrative Law Judge, and the General Counsel, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to fifteen pages in length, plus a subject index listing the recommended changes to the draft Resolution, a table of authorities, and an appendix setting forth the proposed findings and conclusions.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Late submitted comments will not be considered.

/s/ Gurbux Kahlon

Gurbux Kahlon
Program Manager
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of Draft Resolution E-4391 on all parties in these filings or their attorneys as shown on the attached list.

Dated April 12, 2011 at San Francisco, California.

/s/ Honesto Gatchalian

Honesto Gatchalian

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002 San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Service List
Draft Resolution E-4391

Akbar Jazayeri, Vice President of Regulatory Operations
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770
AdviceTariffManager@sce.com