

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3835

July 10, 2003

R E S O L U T I O N

Resolution E-3835. Southern California Edison (SCE) requests Commission approval of revisions to tariff schedules necessary to extend the TOU pricing requirement mandated by AB1X 29 and D.01-05-064 to all customers with demand exceeding 200 kW.

By Advice Letter (AL) 1649-E filed on September 6, 2002.

SUMMARY

This Resolution denies SCE's request to revise its tariffs to the full extent as requested in AL 1649-E. This resolution agrees with SCE that customers in receipt of ratepayer-funded interval meters should be required to be on a Time-of-Use (TOU) rate schedule. This resolution also determines that customers in receipt of either ratepayer-funded interval meters, or AB1X 29-funded interval meters, may also have the option to participate in demand response programs or tariffs as developed in R.02-06-001. This resolution agrees with EMS' protest that customers who self-fund their interval meters are not required to be on a TOU rate schedule.

The protest by Grueneich is denied and the protest by EMS is granted.

BACKGROUND

On September 6, 2002, SCE filed AL 1649-E for the purpose of requiring that all customers with peak demands exceeding 200 kW should have a real-time or interval meter installed and be required to take service on a TOU rate schedule.

In April 2001, Governor Gray Davis signed into law AB1X 29 (Statutes of 2001) one of three urgency bills enacted by the Governor to respond the state's energy crisis. AB1X 29 allocated \$35 million from the state General Fund for the California Energy Commission (CEC) to provide either time-of-use (TOU) or real-time interval meters to customers with demands greater than 200 kW.

As part of the Commission's effort to address real-time pricing issues, D.01-08-021 found that the receipt of TOU or RTP meters for customers with electric loads over 200 kW of peak demand is mandatory under AB1X 29. It further found that the CEC has chosen to use the \$35 million allocated by the Legislature under AB1X 29 to install RTP metering systems for customers. D.01-09-062 found that customers receiving RTP meters under AB1X 29 who are not on a TOU schedule should be placed on a TOU schedule.

In AL 1649-E, SCE states that its tariffs currently require only those customers who have received an AB1X 29-funded meter to take service on a TOU rate schedule. The tariffs do not require customers who receive a ratepayer-funded interval meter to take service on a TOU rate schedule. SCE further states that to ensure equity among SCE's customers and consistency with the intent of AB1X 29 and D.01-08-021, SCE proposes to revise its tariffs by removing references to state-funded meters and clarify that all customers with peak demands exceeding 200 kW should have a real-time or other type of interval meter installed and be required to take service on a TOU rate schedule.

NOTICE

Notice of AL 1649-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the AL was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

Grueneich Resource Advocates (Grueneich) and Energy Management Systems (EMS) timely protested AL 1649-E on September 26, 2002. Grueneich protested on behalf of the University of California, California State University and the Irvine Company.

SCE responded to both protests on October 3, 2002.

The following is a more detailed summary of the major issues raised in the protests.

DISCUSSION

Grueneich's Protest

Grueneich argues that SCE's proposal in AL 1649-E goes beyond the scope of AB1X 29 and the pertinent Commission decisions. Grueneich interprets SCE's proposal as an expansion of the interval meter and TOU rate schedule requirement to all customers with peak demands over 200 kW, even if the customer did not receive its meter through AB1X 29. Grueneich claims that the Legislature, the Commission or the CEC has never formally considered such an expansion. Grueneich further argues that if the Commission wishes to adopt new rates and rules for all customers with peak demand over 200 kW, it cannot do so through an advice letter filing, but must open a formal proceeding where it can consider all of the issues and hear from all affected parties.

In response to Grueneich's protest, SCE cites AL 1577-E (approved by Energy Division on October 22, 2001) which was filed to comply with AB1X 29 and D.01-09-062. AL 1577-E modified SCE's tariffs by specifying that customers receiving State-funded meters shall be served under a TOU rate schedule. SCE notes that had funding provided by AB1X 29 been sufficient to cover the cost of interval meters for all eligible customers, modifications to its tariff as provided in AL 1577-E would not have been necessary as all eligible customers would have been required by law to have an interval meter and be on a TOU rate schedule.

SCE interprets Grueneich's protest to assert that customers somehow understood that only a subset of eligible customers would ultimately be required to have TOU metering, presumably before the AB1X 29 funding ran out. SCE asserts its impossible for anyone to know which customers would ultimately receive a AB1X 29 funded meter, and thus all customers over 200 kW in demand would have to consider the implications of being on a TOU rate schedule.

The dispute here is whether the customer should or should not be required to participate in a TOU rate schedule depending on the funding source of the installed interval meter. Grueneich argues that customers with meters not funded by AB1X 29 were not intended by Legislature or the Commission to be placed on TOU rate schedules. There are three potential sources of funding for an interval meter: AB1X 29, SCE's Real-Time Energy Metering (RTEM) Memorandum Account, or the customer's own funds. We address the third source as part of EMS' protest below.

There is no dispute that for customers in receipt of meters funded through AB1X 29, participation in a TOU rate schedule is mandatory as currently specified in SCE's tariffs. SCE notes in AL 1649-E, that customers who receive meters that are funded through its RTEM Memorandum Account are currently not required by SCE's tariffs to participate on a TOU rate schedule.

As a matter of background, through AL 1549-E-A (approved by the Commission through Resolution E-3746), SCE established the RTEM Memorandum Account for the purpose of recovering costs that are in excess of funds provided by the CEC through AB1X 29. Specifically, SCE anticipated receiving up to \$19 million from the CEC (through AB1X 29 and SBX1 5 appropriations) to install interval meters and related infrastructure for 12,000 customers with demand of 200 kW or greater. However SCE also estimated that an additional \$20 million would be needed to install and operate the metering and communication infrastructure necessary to make the metering system operational. SCE would seek recovery of the incremental costs at a later date, presumably through its next General Rate Case.

In D.01-09-062 we reasoned that in order for California to realize the benefits of State-funded meters, all customers who receive such meters should be placed on a TOU schedule. The same line of reasoning applies to meters funded through the RTEM Memorandum Account, since recovery of funds from this account will be sought from ratepayers. However, we now add an additional caveat. At the time of D.01-09-062, there were no demand response programs or tariffs other than the interruptible or emergency-based programs adopted in R.00-10-002. Mandatory participation in TOU rate schedules was, at the time, the best possible use of the meters.

Today we have new demand response programs and tariffs for customers with demand exceeding 200 kW recently adopted via D.03-06-032. These tariffs and programs are specifically meant for customers who have the interval meters. The interval meters funded by AB1X 29 (and SCE's memorandum account) are actually better suited for demand response programs and tariffs (as opposed to TOU), and to limit participation to just TOU rate schedules would be limiting the full potential of the installed meters, as well as the State's (or ratepayer's) investment. Because these programs and tariffs are currently voluntary, we find that customers who have received interval meters funded either through AB1X 29 or SCE's RTEM Memorandum Account should be required to participate TOU rate schedule, but may also have the option to sign up for the new demand

response tariffs or programs adopted in R.02-06-001, assuming those customers are otherwise eligible. We reject Greuneich's protest to the extent that it is addressing customers whose meters are funded through the RTEM Memorandum Account.

EMS' Protest

EMS argues that SCE's proposal requires all customers with demand above 200 kW to switch to a TOU rate option, regardless of the funding source of their interval meter. EMS points out that the Commission made TOU service mandatory for those customers receiving AB1X 29-funded meters to maximize the return of the State's investment. EMS argues that the same reasoning cannot be applied to customers who have purchased interval meters on their own, and thus such customers should not be required to be on a TOU rate option. EMS also cites the Commission's rulemaking on demand response (R.02-01-006) as in the process of developing new demand response options for customers. In light of the rulemaking, EMS argues that customers, who are required to switch to a TOU option, should also have the alternative of participating in the emerging demand response programs and tariffs.

In response to EMS' protest, SCE argues that the return on investment sought by the State is not financial, but rather the system benefits resulting from a large group of customers reacting to TOU prices. Regarding EMS' argument that customers should have the option of participating in emerging demand response programs or tariffs, SCE recommends that such programs and tariffs be put into place before that option is considered.

We agree with the arguments contained in EMS' protest. Customers who purchase interval meters on their own should have the option to select whatever rate schedule is most appropriate for them, assuming of course that they meet all of the qualifications for that particular schedule. SCE is correct that the State's return on its investment of interval meters is the system benefit of lowered demand, which is the point being made by EMS. The State has committed \$35 million of taxpayer funds for technology that enables customers to reduce their demand. It makes sense for the State to expect customers who receive such technology to be placed on a rate schedule that utilizes that technology so that State's investment in the technology is not wasted. Similarly, customers with ratepayer-funded meters should also be placed on a rate schedule that utilizes those meters so that ratepayer funds are not wasted. We agree with EMS that this line of reasoning cannot be applied to customers who purchase similar

technology with their own funds. There would be no waste of taxpayer or ratepayer funds if such customers chose not to participate in a TOU schedule even though they owned a self-funded interval meter.

As noted earlier, in D.03-06-032 we adopted a set of new demand response programs and tariffs for customers with demand of 200 kW or greater. We agree with EMS' suggestion that those customers who have received an AB1X 29 meter or a meter funded through SCE's RTEM Memorandum Account should have the option of participating in the newly adopted demand response programs and tariffs, assuming those customers are otherwise eligible. R.02-06-001 (Phase 2) may be developing additional tariffs and programs at a future date that may also be applicable for the interval meters, and thus these programs should also be additional options for customers to consider.

SCE's Proposed Tariff Modifications

The proposed tariff modifications in SCE's AL 1649-E should be amended and re-filed as a supplement to the original advice letter. The specific changes should be made as detailed below:

For Schedules GS-2, PA-1, and PA-2, SCE proposes to eliminate the 'state-funded meter' reference. Rather than eliminate that reference, SCE should insert 'ratepayer-funded meter' where 'state-funded meter' references exist. Also for Schedule GS-2, language should also be included that provide the customer the option to sign up for demand response programs or tariffs adopted through R.02-06-001 as an alternative to TOU rate schedules. We decline to adopt similar language for Schedules PA-1 and PA-2, as D.03-06-036 has directed SCE to identify agricultural schedules that are eligible to participate in the newly adopted demand response programs and tariffs.

For the Demand Bidding Program, SCE proposes to eliminate reference to the CEC's real-time meter program. Rather than eliminate that reference, SCE should insert language referencing its RTEM memorandum account.

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 and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day

period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived or reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

Comments were filed by _____ on _____.

FINDINGS

1. AB1X 29 allocated \$35 million from the state General Fund for the California Energy Commission (CEC) to provide either time-of-use (TOU) or real-time interval meters to customers with demands greater than 200 kW.
2. D.01-08-021 found that the receipt of TOU or RTP meters for customers with electric loads over 200 kW of peak demand is mandatory under AB1X 29.
3. D.01-08-021 also found that the CEC has chosen to use the \$35 million allocated by the Legislature under AB1X 29 to install RTP metering systems for customers.
4. D.01-09-062 found that customers receiving RTP meters under AB1X 29 who are not on a TOU schedule should be placed on a TOU schedule.
5. SCE filed AL 1649-E for the purpose of requiring that all customers with peak demands exceeding 200 kW should have a real-time or interval meter installed and be required to take service on a TOU rate schedule.
6. SCE states that its tariffs currently require only those customers who have received an AB1X 29-funded meter to take service on a TOU rate schedule. The tariffs do not require customers who receive a ratepayer-funded interval meter to take service on a TOU rate schedule
7. Grueneich Resource Advocates (Grueneich) and Energy Management Systems (EMS) timely protested AL 1649-E on September 26, 2002.

Grueneich protested on behalf of the University of California, California State University and the Irvine Company.

8. In AL 1549-E-A (approved by the Commission through Resolution E-3746), SCE established a RTEM Memorandum Account for the purpose of recovering costs that are in excess of funds provided by the CEC through AB1X 29.
9. In order for California to realize the benefits of State-funded meters, all customers who receive such meters should be placed on a TOU schedule.
10. D.03-06-032 adopts a set of new demand response programs and tariffs for customers with demand of 200 kW or greater.
11. The interval meters funded by AB1X 29 (and SCE's memorandum account) are actually better suited for demand response programs and tariffs (as opposed to TOU), and to limit participation to just TOU rate schedules would be limiting the full potential of the installed meters, as well as the State's (or ratepayer's) investment.
12. Customers who have received interval meters funded either through AB1X 29 or SCE's RTEM Memorandum Account should be required to participate TOU rate schedule, but may also have the option to sign up for the new demand response tariffs or programs adopted in R.02-06-001.
13. Greuneich's protest, to the extent that it is addressing customers whose meters are funded through the RTEM Memorandum Account, should be rejected.
14. Customers who purchase interval meters on their own should have the option to select whatever rate schedule is most appropriate for them, assuming that they meet all of the qualifications for that particular schedule.
15. There would be no waste of taxpayer funds if customers, who have a self-funded meter, chose not to participate in a TOU schedule.
16. EMS' protest should be granted.

THEREFORE IT IS ORDERED THAT:

1. The request by SCE to modify its tariffs as requested in AL 1649-E is denied to the extent described in this Resolution.
2. SCE shall file a supplemental advice letter that incorporates the modifications described in this Resolution.
3. The protest filed by EMS is granted.
4. The protest filed by Greuneich is denied.

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 July 10, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



June 10, 2003
RESOLUTION E-3835

ID#2371

JULY 10, 2003

TO: PARTIES TO SOUTHERN CALIFORNIA EDISON (SCE) ADVICE
LETTER 1649-E

Enclosed is draft Resolution Number E-3835 of the Energy Division. It is in response to Advice Letter 1649-E filed by SCE and will appear on the agenda at the next Commission meeting held at least 30 days after the date of this letter. The Commission may vote on this Resolution at that time or it may postpone a vote until a later meeting. 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 Resolution. Only when the Commission acts does the Resolution become binding on the parties.

All comments on the draft Resolution are due by June 27, 2003. Comments shall be served on parties, as outlined below.

1) An original and two copies, along with a certificate of service to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

2) Parties to AL 1649-E

3) All Commissioners

Comments shall be limited to five 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 ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on July 3, 2003, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Please contact Bruce Kaneshiro of the Energy Division at 415-703-1187 if you have questions or need assistance.

Sincerely,

Paul Clanon
Director
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-3835 on all parties on the Advice Letter 1649-E service list or their attorneys as shown on the attached list.

Dated June 10, 2003 at San Francisco, California.

Jerry Royer

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 insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

Parties to Advice Letter 1649-E

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