



Southern California Edison
Rosemead, California (U 338-E)

Revised	Cal. PUC Sheet No.	57117-E
Cancelling Revised	Cal. PUC Sheet No.	51040-E

Sheet 1

COMMUNITY CHOICE AGGREGATOR
NON-DISCLOSURE AGREEMENT

Form 14-769

(To be inserted by utility)

Advice 3243-E

Decision _____

Issued by

R.O. Nichols

Senior Vice President

(To be inserted by Cal. PUC)

Date Filed Jul 8, 2015

Effective Oct 1, 2015

Resolution _____



COMMUNITY CHOICE AGGREGATOR

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is entered into by and between Southern California Edison Company (SCE) ("Utility") and the County of Santa Barbara, a political subdivision of the State of California [describe political entity] Community Choice Aggregator ("CCA") as of August 23, 2016. ("Effective Date"). This Agreement is executed pursuant to California Public Utilities Commission ("CPUC") Order Instituted Rulemaking ("OIR") 03-10-003, California Public Utilities Code ("PU Code") Section 366.2 et seq., and applicable Utility tariffs (as modified hereafter from time to time). As used herein the Utility and CCA may each be referred to individually as a "Party" and collectively as "Parties." (T)

The CPUC has determined that CCA may obtain specified confidential customer information from Utility pursuant to Tariff Schedules Community Choice Aggregation – Information Fees ("CCA-INFO") and Community Choice Aggregation – Service Fees ("CCA-SF") (as modified hereafter from time to time) as a CCA, as defined by PU Code Section 331.1, solely in order to investigate, pursue or implement Community Choice Aggregation Services pursuant to PU Code Section 366.2, et seq. or solely to administer energy efficiency programs in the CCA's geographic territory upon CPUC authorization pursuant to PU Code section 381.1 ("CCA Service"). The provisions of this Agreement and Schedules CCA-INFO and CCA-SF govern the disclosure of Utility's confidential customer information to CCA ("Disclosure Provisions"). (T)

The Parties hereby mutually agree that:

1. Subject to the terms and conditions of this Agreement, current proprietary and confidential information of Utility regarding customers of Utility ("Utility Customers") may be disclosed to CCA from time to time in connection herewith as provided by the Disclosure Provisions and solely for the purpose of CCA Service. Such disclosure is subject to the following legal continuing representations and warranties by CCA: (D)
 - (a) CCA represents and warrants that, pursuant to PU Code Section 331.1, (1) it is either (i) a city, county, or other entity as defined in PU Code Section 331.1 whose governing board has elected to combine the loads of its residents, businesses, and municipal facilities in a community wide electricity buyers, or (ii) a city, county, or other entity as defined in PU Code Section 331.1 that intends to actively investigate or pursue delivery of electric service to customers located within the geographic territory of the CCA; and (2) that to investigate, pursue or implement CCA Service, it requires certain Confidential Information, as defined in Section 2, below; (N)

- (b) CCA represents and warrants that it has all necessary authority to enter into this Agreement, and that it is a binding enforceable Agreement according to its terms;
 - (c) CCA represents and warrants that the authorized representative(s) executing this Agreement is authorized to execute this Agreement on behalf of the CCA; and
 - (d) CCA confirms its understanding that the information of Utility Customers is of a highly sensitive confidential and proprietary nature, and that such information will be used as contemplated under the Disclosure Provisions solely for the purposes of investigating, pursuing or implementing CCA Service, and that any other use of the information may permit Utility to suspend providing further information hereunder. (T)
 - (e) CCA represents and warrants that it will implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure, and 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. (N)
2. The confidential and proprietary information disclosed to CCA in connection herewith may upon request include, without limitation, the following billing information about Utility Customers: Customer-specific information from the current billing periods as well as prior 12 months consisting of: service account number, name on service account, service address with zip code, mailing address with zip code, email address, telephone number, meter number, monthly kWh usage, monthly maximum demand where available, electrical or gas consumption data as defined in PU Code Section 8380, other data detailing electricity or needs and patterns of usage, Baseline Zone, CARE participation, End Use Code (Heat Source) Service Voltage, Medical Baseline, Meter Cycle, Bill Cycle, Level Pay Plan and/or other plans, Horse Power Load and Number of Units and monthly rate schedule for all accounts within the CCA's geographic territory (collectively, "Confidential Information"). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by CCA or its representatives that are derived from or based on Confidential Information disclosed by Utility, regardless of the form of media in which it is prepared, recorded or retained. (N)
 3. Except for electric usage information provided to CCA pursuant to this Agreement, Confidential Information does not include information that CCA proves (a) was properly in the possession of CCA at the time of disclosure; (b) is or becomes publicly known through no fault of CCA, its employees or representatives; or (c) was independently developed by CCA, its employees or representatives without access to any Confidential Information.
 4. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by CCA, or used for any purpose other thanfor CCA Service as permitted under this Agreement and the Disclosure Provisions. (T)

5. CCA shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. CCA shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the Confidential Information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for a secondary commercial purpose not related to CCA Service. Specifically, CCA shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of CCA who have a "need to know" such Confidential Information in the course of their duties with respect to the CCA Service and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement, provided, however, that, an Energy Service Provider, agent, or any other entity, including entities that provide both direct access (as codified in Assembly Bill No. 1890, Stats. 1996, ch. 854) and CCA Service shall limit their utilization of the information provided to the purposes for which it has been provided and shall not utilize such information, directly or indirectly, in providing other services, including but not limited to Direct Access services, in order to effectuate the obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, CCA shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree in writing to be bound by the terms of this Agreement by signing the "Non-Disclosure Agreement for CCA Employees or Representatives" form attached as Exhibit A hereto. CCA shall provide Utility with copies of the signed Exhibit A forms at Utility request. CCA shall also provide Utility with a list of the names, titles, and addresses for all persons or entities to which Confidential Information is disclosed in connection herewith ("Disclosure List"). This Disclosure List shall be updated by CCA on a regular basis, and will be provided to Utility once each quarter at a minimum.

(N)
|
|
|
|
(N)
(T)
(T)

6. CCA shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by Utility directly against such employees or representatives for improper disclosure and/or use. In no event shall CCA or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. CCA shall immediately notify Utility in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by CCA or any of its employees or representatives. However, nothing in this Agreement shall obligate Utility to monitor or enforce CCA's compliance with the terms of this Agreement.

(T)

(T)
(T)

7. CCA shall comply with the consumer protections and requirements concerning subsequent disclosure and use of Confidential Information pursuant to CPUC Decision No. 12-08-045. (N)
(N)
(N)
8. CCA acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to Utility and/or Utility Customers, the amount of which may be difficult to assess. Accordingly, CCA hereby confirms that Utility shall be entitled to apply to a court of competent jurisdiction or the CPUC for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by CCA or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to Utility, in law or equity. (T)
(T)
(T)
9. In addition to all other remedies, CCA shall indemnify and hold harmless Utility, its affiliates, subsidiaries, parent company, officers, employees, or agents from and against and claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of CCA and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information. (T)
10. If, at any time, CCA ceases its investigation, pursuit or implementation of community choice aggregation pursuant to PU Code Section 366.2 et seq., CCA shall promptly return or destroy (with written notice to Utility itemizing the materials destroyed) all Confidential Information then in its possession at the request of Utility. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement. (T)
11. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties hereto. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning Party, which consent may be withheld due to the confidential nature of the information, data and materials covered. (T)
12. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations, understandings, communications, correspondence and representations, whether oral or written. This Agreement shall not be amended, modified or waived except by an instrument in writing, signed by both Parties, and, specifically, shall not be modified or waived by course of performance, course of dealing or usage of trade. Any waiver of a right under this Agreement shall be in writing, but no such writing shall be deemed a subsequent waiver of that right, or any other right or remedy.

13. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without reference to its principles on conflicts of laws. (T)
14. This Agreement shall, at all times, be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction. (T)

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement as of the Effective Date.

SOUTHERN CALIFORNIA EDISON COMPANY

BY: _____
TITLE: _____

County of Santa Barbara _____ [CCA name]

BY: _____
TITLE: ~~Chief Executive Officer~~ _____

**EXHIBIT A
NON-DISCLOSURE AGREEMENT
FOR CCA EMPLOYEES OR REPRESENTATIVES**

I, _____, declare under penalty of perjury that

(1) I am employed as _____ (title) at _____
_____(employer and address); and

(2) I have personally reviewed the attached **COMMUNITY CHOICE AGGREGATOR NON-DISCLOSURE AGREEMENT** relating to disclosure and use of Confidential Information (as defined therein) and I agree to be bound by its provisions.

Signed: _____

Print Name: _____

Dated: _____