



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

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Sheet 1

**EMERGENCY LOAD REDUCTION PROGRAM – VIRTUAL POWER PLANT  
 AGGREGATOR AGREEMENT**

**Form 14-988**

(To be inserted by utility)

Advice 4555-E  
 Decision 21-03-056 and 21-06-027

Issued by

Michael Backstrom  
Vice President

(To be inserted by Cal. PUC)

Date Submitted Aug 3, 2021  
 Effective Aug 3, 2021

Resolution \_\_\_\_\_

**EMERGENCY LOAD REDUCTION PROGRAM – VIRTUAL POWER PLANT  
AGGREGATOR AGREEMENT**

This Agreement (Agreement) for Virtual Power Plant (VPP) Aggregators participating in the Emergency Load Reduction Program is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the “Effective Date”), by and between Southern California Edison Company (SCE), a corporation organized and existing under the laws of the State of California, and \_\_\_\_\_ (Aggregator), a \_\_\_\_\_ organized and existing under the laws of the State of \_\_\_\_\_. SCE and Aggregator may be referred to herein as a “Party” and collectively as the “Parties.”

WHEREAS, the California Public Utilities Commission (CPUC) has authorized the Emergency Load Reduction Program (ELRP), as set forth in SCE’s ELRP-VPP tariff, (Schedule ELRP-VPP), which is attached hereto as Attachment A and incorporated herein by this reference, whereby SCE pays eligible Aggregators for participating in Schedule ELRP-VPP; and

WHEREAS, the CPUC has authorized the participation of Aggregators in Schedule ELRP-VPP, and Aggregator desires to participate in SCE’s ELRP subject to the applicable SCE tariff rules and Schedule ELRP-VPP.

NOW, THEREFORE, in consideration of the mutual undertakings set forth below, the Parties agree as follows:

**I. AGGREGATOR’S OBLIGATIONS**

A. Subject to Schedule ELRP-VPP. Aggregator’s status in SCE’s ELRP shall be as an “VPP Aggregator” under Schedule ELRP-VPP. Aggregator shall be subject to all applicable tariff rules and regulations (which rules and regulations are hereby incorporated herein as an integral part of this Agreement), including, but not limited to, the rates, terms and conditions set forth in Schedule ELRP-VPP, as such rules and regulations may be amended from time to time. If the CPUC approves any modification to Schedule ELRP-VPP, any such modification shall be incorporated herein, and this Agreement will continue in full force and effect as to Schedule ELRP-VPP as so modified, unless and until the Parties execute a new agreement, or unless and until SCE or Aggregator terminates this Agreement.

B. Aggregated Group. Aggregator shall group one or more customer service accounts, located within SCE’s service territory, for purposes of receiving service under Schedule ELRP-VPP as an Aggregator. Such Aggregator shall receive payments, whereby it is the Aggregator who is served under Schedule ELRP-VPP, not the individual customers of an Aggregator. Aggregator shall be solely responsible for having the appropriate contractual or other arrangements with each customer within an Aggregator’s aggregated group. SCE shall not be responsible for monitoring, auditing, reviewing or enforcing such arrangements. Aggregator acknowledges and agrees that it is the VPP Aggregator, not the customer, who is subject to the terms and conditions of Schedule ELRP-VPP and this Agreement.

C. Aggregator Service Establishment. Aggregator must submit an executed copy of this Agreement before providing Aggregator services in connection with Schedule ELRP-VPP.

D. Required Notices to Add Customer Service Accounts. Once Aggregator has entered into the appropriate contractual or other arrangements with a customer who participates in an Aggregator’s group, Aggregator shall deliver to SCE a “Customer Authorization for Participation in Aggregated Demand Response Programs Form,” attached hereto as Attachment B, adding such customer’s service

account(s) to one of Aggregator's groups. An Aggregator's customers shall notify SCE that they wish to be removed from an Aggregators' groups by delivering to SCE an "Aggregator Remove Form" attached hereto as Attachment C, removing such customer service account(s) from one of the Aggregator's groups. Aggregator and customer, as applicable, shall deliver such Notices to SCE by email, the APX system, or pursuant to guidelines SCE may establish.

E. Secure Customer Participation in Measurement and Evaluation Activities. Aggregator shall agree, and shall cause each customer service account of an Aggregator's group to agree to allow SCE, the California Energy Commission and/or the CPUC and their authorized representatives reasonable access to customer's facilities to conduct measurement and evaluation activities related to ELRP; and (ii) participate in and complete all evaluation surveys related to ELRP. An Aggregator's failure to secure these agreements may result in the termination of this Agreement and/or a determination by SCE that Aggregator is ineligible for service under Schedule ELRP-VPP.

F. Timeliness and Due Diligence. Aggregator shall exercise due diligence in meeting its obligations and deadlines under Schedule ELRP-VPP and this Agreement so as to facilitate the Aggregator's customers participation in ELRP.

G. Back-Up Generation Resources. Aggregators shall provide SCE with information about their customers' back-up generators, including but not limited to, location of the generator(s), type(s) of fuel used, the capacity of the generator(s), and the notice or ramp time for the generator(s) that may be used during ELRP events.

## **II. GENERAL TERMS**

A. Definitions. Except where explicitly defined herein, the capitalized terms used in this Agreement shall have the meanings set forth in Schedule ELRP-VPP.

B. SCE Not Liable for Aggregator Service. SCE has no obligations to a customer with one or more service accounts participating in an Aggregator's group in ELRP. Such customer must look to their Aggregator to carry out the responsibilities associated with Aggregator's service.

C. Customer-Specific Usage or Meter Data. SCE will provide customer-specific usage or meter data to an Aggregator, provided SCE has received written authorization from the customer to release such information to an Aggregator, in the form attached hereto as Attachment B (Authorization for Participation in Aggregated Demand Response Programs Form). Aggregators receiving such customer information will not further release the information to others without the customer's explicit consent.

D. Customer Inquiries. Customer inquiries concerning an Aggregator's services should be directed to the Aggregator.

E. Back-Up Generator. Electric back-up generators can operate as a stand-alone power source and some require interconnection to SCE's electric grid. This equipment includes, but is not limited to, solar plus storage, batteries, natural gas, gasoline, propane or diesel fueled generators.

## **III. LIMITATION OF LIABILITIES**

SCE shall not be liable to the customer or Aggregator for any damages caused by SCE's conduct in compliance with, or as permitted by Schedule ELRP-VPP, other tariffs, this Agreement, and/or associated legal and regulatory requirements related to ELRP.

SCE's liability to an Aggregator for any loss, cost, claim, injury, liability or expense, including reasonable attorneys' fees, relating to or arising from any act or omission in SCE's performance of this Agreement

shall be limited to the amount of direct damage actually incurred. In no event shall SCE be liable to an Aggregator for any indirect, special, consequential or punitive damages of any kind whatsoever, whether in contract, tort or strict liability.

SCE shall not be liable to any customer for any damages caused to the customer by any failure by the Aggregator to comply with SCE's tariffs, this Agreement, and/or associated legal and regulatory requirements related to Community Choice Aggregation or Direct Access service.

The CPUC has initial jurisdiction to interpret, add, delete or modify any provision of Schedule ELRP-VPP or this Agreement, and to resolve disputes regarding SCE's performance of SCE's obligations under Schedule ELRP-VPP or other tariffs, or this Agreement.

SCE shall not be liable to the customer for any damages caused by Aggregator's failure to perform any commitment to the customer.

Aggregator is not SCE's agent for any purpose. SCE shall not be liable to the customer for any damages resulting from any acts, omissions, or representations made by Aggregator in connection with soliciting customers for Aggregator's services or performing any of its functions in ELRP.

#### **IV. PAYMENT**

A. Payment Terms. During the term of this Agreement, SCE shall make any payments due to Aggregator pursuant to the terms and conditions of Schedule ELRP-VPP by issuing a check payable to Aggregator and mailed to the following address:

Name: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Address 1: \_\_\_\_\_  
Address 2: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

B. Disputed Bills or Charges. Aggregator agrees to resolve any disputed settlements in accordance with the "Resolution of Disputes" provision of Section XII.D below.

#### **V. REPRESENTATIONS AND WARRANTIES**

Each Party represents and warrants that it is and shall remain in compliance with all applicable laws.

Each Party represents and warrants that (a) it has the full power and authority to execute and deliver this Agreement and to perform its terms and conditions; (b) the execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate or other action by such Party; and this Agreement constitutes such Party's legal, valid and binding obligation, enforceable against such Party in accordance with its terms.

Each Party shall exercise all reasonable care, diligence and good faith in the performance of its duties pursuant to this Agreement, and carry out its duties in accordance with applicable recognized professional standards in accordance with the requirements of this Agreement.

With each submission of a "Authorization for Participation in Aggregated Demand Response Programs Form," adding a customer service account, and until such time as Aggregator or Customer submits "Aggregator Remove Form" for the removal of such customer from Aggregator's representation, Aggregator represents and warrants that:

- (a) Each customer participating in an Aggregator's group has voluntarily elected to such participation;
- (b) Aggregator has entered into the appropriate contractual or other arrangements with such customer whereby such customer has authorized Aggregator to receive payments from SCE under the terms and conditions of Schedule ELRP-VPP.

## **VI. USE OF SCE NAME AND MARKS IN THIRD-PARTY MARKETING MATERIALS**

Any and all marketing materials designed or developed by Aggregator that references any SCE program will be subject to written approval from SCE Program Administration prior to any distribution, circulation or publication. Aggregator is responsible for all marketing activities to customers; however, SCE, in its sole discretion, may assist Aggregator with advertising or marketing to SCE's customers. Aggregator shall not, nor shall Aggregator permit any of its subcontractors or independent contractors to use SCE's corporate name, trademark, trade name, logo, identity or any affiliation for any reason, without SCE's prior written consent, which may be withheld by SCE in its sole discretion.

## **VII. TERM**

The term of this Agreement shall commence as of the Effective Date and shall continue in full force and effect until terminated pursuant to Section VIII below.

## **VIII. TERMINATION**

- A. Termination at CPUC Direction. SCE may terminate this Agreement upon fifteen (15) days written notice to Aggregator if the CPUC orders the termination of this Agreement or Schedule ELRP-VPP or on December 31, 2025, whichever is first.
- B. Termination for Default: Either Party may terminate this Agreement upon written notice to the other Party if the other Party breaches any material obligation under this Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach. Upon termination of this Agreement, SCE will remove all customer service accounts in the Aggregator's portfolio from the demand response (DR) program.

## **IX. INDEMNIFICATION**

- A. Indemnification of SCE. To the fullest extent permitted by law, Aggregator shall indemnify, defend and hold harmless SCE, and its parent company, subsidiaries, affiliates and their respective shareholders, officers, directors, employees, agents, representatives, successors and assigns (collectively, the "Indemnified Parties"), from and against any and all claims, actions, suits, proceedings, losses, liabilities, penalties, fines, damages, costs or expenses, including without limitation reasonable attorneys' fees (a "Claim"), resulting from (a) any breach of the representations, warranties, covenants and obligations of Aggregator under this Agreement, (b) any act or omission of Aggregator, whether based upon Aggregator's negligence, strict liability or otherwise, in connection with the performance of this Agreement, or any third party claims of any kind, whether based upon negligence, strict liability or otherwise, arising out of or connected in any way to Aggregator's performance or nonperformance under this Agreement. This indemnification obligation shall not apply to the extent that such injury, loss or damage is caused by the willful misconduct of SCE or SCE's sole negligence.
- B. Defense of Claim. If any Claim is brought against the Indemnified Parties, Aggregator shall assume the defense of such Claim, with counsel reasonably acceptable to the Indemnified Parties, unless in the opinion of counsel for the Indemnified Parties a conflict of interest between the Indemnified Parties and Aggregator may exist with respect to such Claim. If a conflict precludes Aggregator from assuming the defense, then Aggregator shall reimburse the Indemnified Parties on a monthly basis for the Indemnified

Parties' defense costs through separate counsel of the Indemnified Parties' choice. If Aggregator assumes the defense of the Indemnified Parties with acceptable counsel, the Indemnified Parties, at their sole option and expense, may participate in the defense with counsel of their own choice without relieving Aggregator of any of its obligations hereunder.

C. Survival. Aggregator's obligation to indemnify the Indemnified Parties shall survive the expiration or termination of this Agreement.

**X. NOTICES**

A. Mailing Address. Except for payments, which shall be made pursuant to Section IV above, any formal notice, request, or demand required or permitted under this Agreement shall be given in writing by SCE and Aggregator, and shall be (a) mailed by first-class mail, (b) mailed by registered, certified or other overnight mail, (c) delivered in hand, or (d) delivered by email, or (e) faxed with confirmation as set forth below, to the other Party as indicated below, or to such other address as the parties may designate by written notice.

To Aggregator:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

To SCE:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

B. Notices. Notices delivered by hand or by email shall be deemed received when delivered. Notices delivered by first class mail shall be deemed received forty-eight (48) hours (not including weekends and holidays) after deposit, postage prepaid, in the U.S. mail, or if certified, registered or overnight mailing is used, as acknowledged by the signed receipt of mailing.

## **XI. CONFIDENTIALITY**

A. **Confidentiality.** Aggregator shall not disclose any Confidential Information obtained pursuant to this Agreement to any third party, including any affiliates of Aggregator, without the express prior written consent of SCE. As used herein, the term “Confidential Information” means proprietary business, financial and commercial information pertaining to SCE, customer names and other information related to customers, including energy usage data (Customer Information), any trade secrets and any other information of a similar nature, whether or not reduced to writing or other tangible form. Confidential Information shall not include: (a) information known to Aggregator prior to obtaining the same from SCE; (b) information in the public domain at the time of disclosure by Aggregator; information obtained by Aggregator from a third party who did not receive the same, directly or indirectly, from SCE; or information approved for release by express prior written consent of an authorized representative of SCE.

B. **Use of Confidential Information.** Aggregator hereby agrees that it shall use the Confidential Information solely for the purpose of performing under this Agreement. Aggregator agrees to use a reasonable standard of care to prevent unauthorized use or disclosure of the Confidential Information which is at least the same degree of care Aggregator uses with respect to its own proprietary or confidential information.

C. **Authorized Disclosure.** Notwithstanding any other provisions of this Section, Aggregator may disclose any of the Confidential Information in the event, but only to the extent, that, based upon advice of counsel, Aggregator is required to do so by the disclosure requirements of any law, rule, regulation or any order, decree, subpoena or ruling or other similar process of any court, governmental agency or regulatory authority. Prior to making or permitting any such disclosure, Aggregator shall provide SCE with prompt written notice of any such requirement so that SCE (with Aggregator’s assistance if requested by SCE) may seek a protective order or other appropriate remedy.

D. **Term.** The confidentiality provisions set forth in this Section shall remain in full force and effect with respect to any Confidential Information until the date that is five (5) years after the date of SCE’s disclosure of such Confidential Information to Aggregator pursuant to this Agreement; provided that such confidentiality provisions shall remain in full force and effect with respect to any Customer Information in perpetuity.

E. **Remedies.** The Parties acknowledge that the Confidential Information is valuable and unique, and that damages would be an inadequate remedy for breach of this Section. The obligations of Aggregator are specifically enforceable. Accordingly, the Parties agree that in the event of a breach or threatened breach of this Section by Aggregator, SCE shall be entitled to seek an injunction preventing such breach, without the necessity of proving damages or posting any bond. Any such relief shall be in addition to, and not in lieu of, monetary damages or any other legal or equitable remedy available to SCE.

## XII. MISCELLANEOUS

A. Assignment. This Agreement, and the rights and obligations granted and/or obtained by Aggregator hereunder, shall not be further transferred or assigned by Aggregator without the prior written consent of SCE. Any assignment in violation of this section shall be void.

B. Independent Contractor. Aggregator shall perform its obligations under this Agreement as an independent contractor, and no principal-agent or employer-employee relationship or joint venture or partnership shall be created with SCE.

C. Choice of Law. This Agreement shall be carried out and interpreted under the laws of the State of California, without regard to any conflict of law principles thereof. Except for matters and disputes with respect to which the CPUC is the proper venue for dispute resolution pursuant to applicable law or this Agreement, the federal and state courts located in Los Angeles, California shall constitute the sole proper venue for resolution of any matter or dispute hereunder. The Parties submit to the exclusive jurisdiction of such courts with respect to such matters and disputes.

D. Resolution of Disputes. Any dispute arising between the Parties relating to the interpretation of this Agreement or to the performance of a Party's obligations hereunder shall be reduced to writing and referred to the Parties' designated representative for resolution. The Parties shall be required to meet and confer in an effort to resolve any such dispute. Any dispute or need for interpretation arising out of this Agreement which cannot be resolved after discussion between the Parties shall be submitted to the CPUC for resolution.

E. Waiver. Any failure or delay by either Party to exercise any right, in whole or part, hereunder shall not be construed as a waiver of the right to exercise the same, or any other right, at any time thereafter.

F. Governmental Actions. This Agreement shall be subject to the continuing jurisdiction of the CPUC and all orders, rules, regulations, decisions, or actions of any governmental entity (including a court) having jurisdiction over SCE or this Agreement. The Agreement is subject to such changes or modifications by the CPUC as it may direct from time to time in the exercise of its jurisdiction.

G. Entire Agreement; Amendments. This Agreement, including the Attachments listed below, sets forth the entire understanding of the Parties as to the subject matter hereof, and supersedes any prior discussions, offerings, representations or understanding (whether written or oral), and shall only be superseded by an instrument in writing executed by both Parties. This Agreement shall not be modified by course of performance, course of conduct or usage of trade.

Attachment A: Schedule ELRP-VPP

Attachment B: Authorization for Participation in Aggregated Demand Response  
Programs Form

Attachment C: Aggregator Remove Form

H. Survival. Notwithstanding the expiration or termination of this Agreement, the Parties shall continue to be bound by all provisions of this Agreement which, by their nature, survive completion or termination.



I. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

J. Headings. The headings contained in this Agreement are solely for the convenience of the Parties and shall not be used or relied upon in any manner in the construction or interpretation of this Agreement.

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

SCE:  
SOUTHERN CALIFORNIA EDISON COMPANY

AGGREGATOR:  
\_\_\_\_\_

By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTACHMENT A  
SCHEDULE ELRP-VPP

ATTACHMENT B

Authorization for Participation in Aggregated Demand Response Programs Form

ATTACHMENT C  
Aggregator Remove Form