

RULE NO. 28

CUSTOMER CHOICE PROGRAM

A. General

In order to provide the City of Anaheim's (City) electric customers the same opportunities for competition available to customers of California investor-owned utilities, Anaheim Public Utilities (Utility) has initiated a Customer Choice Program. The Customer Choice Program offers eligible customers an alternative to receiving Full Service from Anaheim.

Under Utility Full Service, customers receive Distribution and Energy Supply Services (ESS) from Anaheim. The Customer Choice Service option provides Distribution Services from the Utility, but not ESS. Under the Customer Choice Service option, Energy Service Providers (ESP) other than the Utility provide ESS. ESPs are not affiliated with the Utility.

This Rule sets forth the terms and conditions under which the Utility will provide Distribution Services to customers who elect to be served under the Customer Choice Service option.

B. PHASE-IN OF THE CUSTOMER CHOICE PROGRAM

Beginning March 31, 2000, eligible Utility electric customers may purchase ESS from sources other than the Utility. In order to assure that all customer classes have an equal opportunity to select Customer Choice Service during the phase-in period, the load increment available to Customer Choice Service will be allocated among customer classes based on their proportion to the Utility's total electric load. Within these groups, the customers who first request Customer Choice Service from an ESP approved by the Utility, will be the first allowed to participate. Customer Choice Service Requests (CCSRs) will be honored in the order received.

Phase-in will occur in three steps. Effective March 31, 2000, up to 30 MW of load is allotted for Customer Choice Service as follows: 1,500 residential customers; 700 small/medium business customers (less than 200 kW); and 15 MW of large business customers (over 200 kW). Effective March 31, 2001, up to 100 MW of load is allotted for Customer Choice Service as follows: 5,000 residential customers; 2,350 small/medium business customers (less than 200 kW); and 50 MW of large business customers (over 200 kW). Effective March 31, 2002, all customers may elect Customer Choice Service. The Anaheim Public Utilities General Manager may reallocate the allotment within each phase-in period among customer classes, as appropriate, to meet customer demands and facilitate implementation of the Customer Choice Program.

C. CUSTOMER CERTIFICATION PROCESS

Only an ESP with a valid ESP Agreement with the Utility may submit CCSRs to the Utility for customers who want to receive ESS from ESPs. Customers may not submit a CCSR. The ESP will act as the central point of contact with the Utility for Customer Choice Service participants. New customers who want to participate in the Customer Choice Program must establish distribution service with the Utility before the selected ESP may submit a CCSR. Customers with delinquent accounts may not participate in the Customer Choice Program until their accounts are paid in full.

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CCSRs are available on the Utility's web site at www.anaheimadvantage.com or may be requested by telephone at (714) 765-3300. Applications may also be obtained at:

Anaheim Public Utilities
City Hall West, 1st Floor
201 South Anaheim Boulevard
Anaheim, CA 92805.

CCSRs will be accepted beginning the earlier of March 1, 2000, or the first business day after the effective date of this Rule. Requests will be filled on a first-come first-served basis until the phase-in allocation for each customer class has been filled for each allocation date.

D. CUSTOMER CHOICE SERVICE REQUEST

Only an ESP with a valid ESP Agreement with the Utility may submit a CCSR. A CCSR must include:

1. Customer's account number, customer name, and service address exactly as shown on the customer's Anaheim bill;
2. ESP name, ESP's City business license and/or Franchise Agreement number;
3. Metering service options and equipment needs, if applicable; and
4. Customer's signature and telephone number;

The Utility will verify with customers their desire to change from Full Service to Customer Choice Service. The Utility will perform an initial check of each CCSR for completeness. The CCSR will be rejected at this stage if any deficiency is found. If a CCSR is incomplete or rejected, the Utility will notify the ESP of the reasons for rejecting the CCSR. The ESP is responsible for remedying any deficiencies and resubmitting the CCSR to the Utility. The resubmitted and approved CCSR will establish the official time and date stamping to determine the order in which CCSRs are honored.

If special Customer Choice Meter and Communications equipment is not required, the Utility will notify the ESP and the customer in writing, by facsimile or e-mail of the customer's estimated switch date. When special Customer Choice Meter and Communications equipment is required, the ESP will notify the Utility in writing, by facsimile or e-mail when installation of the equipment is complete.

All accepted CCSRs will be switched over to ESP service on the following schedule:

1. When special Customer Choice Meter and Communications equipment is not required, the customer will be switched to ESP service on the Utility's next regularly scheduled meter read date.
2. When special Customer Choice Meter and Communications equipment is required and installation of that equipment is completed, the customer will be switched to ESP service on the Utility's next regularly scheduled meter read date.

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The Utility will notify the ESP and customer in writing, by facsimile or email of the switch date.

Customers returning to the Utility's Full Service option shall follow the same process and timing as customers requesting service under the Customer Choice Service option.

An ESP acquiring a customer from another ESP must notify the Utility and follow the procedures outlined above. The Utility will verify with the customers their desire to change ESPs.

E. ENERGY SERVICE PROVIDERS (ESP)

ESP Registration

Any entity desiring to provide ESS to customers of the Utility shall register with the City as an ESP. The entity shall provide the following information with its application for registration to the City at the address indicated in Section C of this Rule:

1. A certified copy of its California Public Utilities Commission (CPUC) ESP Form #0462-800 and all attachments, as filed with the CPUC.
2. The name of each California utility distribution company, including municipal utilities, for which the entity has a signed service agreement or other permission to provide energy services in their service area(s). Copies of any agreements that were not included as attachments to the CPUC registration are to be provided, as well.
3. Proof of current registration with the California Franchise Tax Board.
4. Copy of current City business license.
5. If the ESP is not authorized by the California Independent System Operator (Cal-ISO) to act as a scheduling coordinator, the ESP must warrant that it has obtained the services of a certified Scheduling Coordinator to provide contracted power to Utility customers. At the request of the Utility, the ESP may be required to present evidence of these contractual relationships.
6. The ESP must warrant that it has a contractual relationship to supply full power requirements to all Utility customers with whom it has Customer Choice agreements.
7. A fully executed, valid Utility-ESP Agreement.
8. Submit and receive approval for a Standard Offer Contract(s), which will be utilized by the ESP when soliciting residential and small commercial customers.
9. Establish electronic communications with the Utility (subject to the Utility's specifications).
10. Provide names, titles, addresses, telephone numbers, facsimile numbers, and e-mail addresses for authorized representatives who will coordinate marketing to the Utility's customers.

The registration shall be approved and a registration number issued no later than forty five (45) days after all the required information has been submitted, unless there is evidence to support a finding that the entity has committed an act constituting grounds for denial of registration. Material changes to any information required by the Utility for registration shall be updated within five (5) business days. ESPs shall confirm the accuracy of their information annually.

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Denial of ESP Registration

Grounds for denial of registration include but are not limited to:

1. Knowingly making a false statement of fact in the application for registration.
2. Failure to comply at any time with items (a) to (j) above.

Upon a finding by the Utility that there is evidence to support a denial of registration, the Utility shall notify the ESP in writing of the denial.

Revocation of ESP Registration

An ESP may have its registration suspended or revoked, immediately or prospectively, in whole or part, for any of the following acts:

1. When the ESP is found to be no longer in compliance with the registration requirements.
2. Dishonesty, fraud, or deceit by its employees, agents, or representatives.
3. Making material misrepresentations in the course of soliciting customers.
4. Where the Utility finds that there is evidence that the ESP is not legally, financially or operationally capable of providing the offered energy service.
5. In the event of service default when the ESP fails to supply energy to the ISO sufficient to serve its contracted loads.
6. When the City determines that the ESP has engaged in the practice of 'redlining' or any other type of discrimination prohibited by state or federal law.
7. Non-payment of fees owed to the Utility or another City department.

The City may suspend registration for a specified period or revoke the registration or, in lieu of suspension or revocation, impose a moratorium on adding or soliciting additional customers.

As of the effective date of any suspension or revocation of an ESP's registration, the ESP shall cease serving Utility customers and the affected customers shall be provided ESS by the Utility until such time as they may select service from another service provider. Customers shall not be liable for the payment of any early termination fees or other penalties to any ESP under the service agreement in the event the serving ESP's registration is suspended or revoked.

Appeal of Registration Denial, Revocation or Suspension

Any denial, revocation or suspension of ESP registration may be appealed in writing to the Public Utilities General Manager. The Public Utilities General Manager or his/her designee shall issue a written decision on the registration, detailing the reasons for the action, within ten (10) working days from receipt of the appeal. The decision of the Public Utilities General Manager may be appealed to the Hearing Board of the Public Utilities Board by filing a written request with the Public Utilities General Manager within twenty (20) days of the date of issuance of the Public Utilities General Manager's decision.

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F. CUSTOMER DISCLOSURE NOTICE

Each ESP shall provide to each residential and small commercial customer, prior to entering into an agreement to provide ESS, written notice of the service describing the price, terms and conditions of service. The notice shall contain the following:

1. A clear and complete description of the price, terms and conditions of service, including:
 - a. The price of energy expressed in a format that makes it possible for the customer to compare and select among similar products and services on a standard basis. For residential and small commercial customers, the total price of energy must be disclosed on a cents-per-kilowatt-hour basis.
 - b. Estimates of the total monthly bill for costs of all electric services at varying consumption levels.
 - c. Separate disclosure of all recurring and non-recurring charges associated with the sale of energy.
 - d. An explanation of the customer's financial obligations, as well as the procedures regarding past due payments, discontinuance of service, billing disputes and service complaints.
2. A description of the potential customer's right to rescind the contract without fee or penalty within three (3) days as described in Section XV of these Rates, Rules and Regulations.
3. The ESP's City business license number or ESP registration number.
4. The right to change ESPs upon written notice, including disclosure of any fees or penalties assessed by the ESP for early termination of a contract.
5. A description of the availability of low-income assistance programs for qualified customers and how customers can apply for these programs.
6. If the ESP is offering a green energy product, it must disclose the power content of the offered product.

At the time of registration, and at least once a quarter thereafter, Energy Service Providers shall provide the Utility with a copy of their Standard Offer notice including service plans made available to residential and small commercial customers.

G. DENIAL OF SERVICE

Any ESP offering ESS who declines to provide those services to a customer shall, within thirty (30) days of receipt of a request of the customer, disclose to that customer the reason for the denial. At the time service is denied, the ESP shall disclose to the customer his or her right to make such a request. Customers shall have at least thirty (30) days from the date service is denied to make such a request. Upon request, the ESP shall make available to the Utility copies of customer requests and the ESP's responses.

ISSUED BY:
Marcie L. Edwards
General Manager

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Dated: 12-12-00
Dated: 03-07-00

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H. INITIATION OF CUSTOMER CHOICE SERVICE

Upon acceptance of a CCSR, the Utility will notify the ESP if Customer Choice Metering equipment is required, or if the customer is eligible for Load Profiling. Customers eligible for Load Profiling may elect to utilize and pay for Customer Choice Metering instead. The Utility must be notified of the election within two (2) working days of acceptance of the CCSR.

Customer Choice Customers, who are eligible for statistical Load Profiling, shall be switched to ESP service on the Utility's next regularly scheduled meter reading date from the date of acceptance of the CCSR. The ESP shall be notified electronically and the customer in writing, by facsimile or email of the expected transfer date.

Customer Choice Customers who are required, or who elect, to utilize Customer Choice Metering and Communications, shall have their energy service transferred on the Utility's next regularly scheduled meter reading date, after the Utility verifies that all required communications and metering equipment has been installed and is ready for service. The ESP shall be notified electronically and the customer in writing, by facsimile or email of the expected switch date.

I. CUSTOMER CHOICE METERING

"Customer Choice Metering" shall mean the purchase, installation and maintenance of interval metering equipment capable of recording the minimum required electric consumption data. Minimum data requirements include a) hourly data required for the Customer Choice settlement process and b) data required to bill Utility distribution tariffs.

For Industrial and Large Commercial Customers (those 50kW and over), the Utility shall provide and install Customer Choice Metering for any customer who lacks appropriate metering equipment. The ESP shall reimburse the Utility for all expenses related to the installation of Customer Choice Metering. All metering equipment installed on its distribution system shall remain the property of the Utility. All interval meters will be maintained by the Utility according to applicable Utility and CPUC standards.

Customers utilizing Customer Choice Metering shall provide the communications links that meet applicable Utility and ISO specifications. All costs associated with the installation and maintenance of the required communications links shall be the customer's responsibility.

All required communications links must be installed and fully operational before installation of Customer Choice Metering. The Utility will not install Customer Choice Metering equipment until notified by the ESP that the communications equipment is installed and fully operational.

Residential and Small Commercial Customers (those under 50kW) may request to have Customer Choice Metering installed, maintained and operated on the same terms as are applicable to Industrial and Large Commercial Customers.

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J. LOAD PROFILING

For Residential and Small Commercial Customers (those under 50kW), the ESP and the Utility shall use statistical load profiles, provided by the Utility, in lieu of the installation of Customer Choice Metering. These customers may request to have a Customer Choice Meter installed in accordance with the provisions of Section I.

K. METER TESTING AND ADJUSTMENT OF BILLS FOR METER ERROR

Testing of Customer Choice Metering equipment and adjustment of bills for meter error shall be conducted as specified in Rule No. 17 of the Utility's Electric Rates, Rules and Regulations.

L. METER READING

The Utility or its DAA shall provide the Customer Choice Customer's electric demand and usage data at 15-minute intervals (for customers with electric loads over 50 kW), or other reading intervals specified by the Utility.

M. BILLING/BILLING DATA

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Customer Choice Customer's will continue to be billed at the Department's standard rates including all surcharges and their bills will reflect a credit for the energy portion. This credit will be based on the lower of the hourly price in the day ahead market on the California Power Exchange (PX) or comparable market if the PX does not reflect the market price of energy or the average monthly generation cost for the City of Anaheim. The credit will be applied to the customer's hourly usage.

Billing data shall be made available by the Utility to the ESP or its agent in conformance with electronic data transfer, verification and communication methodologies and protocols adopted by the Utility.

N. DATA RELEASE

When electing to purchase energy supply from an ESP, the customer shall consent to the release of metering information as required for billing, settlements and other functions required for the ESP to meet its legal and regulatory requirements. Upon acceptance of a CCSR, the Utility will provide to the ESP twelve (12) months of the customer's historical monthly billing usage data, as available.

All other customer information, unless the customer consents in writing to its disclosure, or unless its release is mandated by provisions of the California Public Records Act, or any other applicable statute or court, shall be treated as confidential by the Utility. This requirement shall encompass confidentiality of specific billing, credit, or usage information. This requirement shall not extend to disclosure of generic information regarding the usage, load shape, or other general characteristics or a group or rate classification, unless the release of that information would reveal customer-specific information because of the size of the group, rate classification, or nature of the information. This Rule shall not be construed as prohibiting an ESP from providing necessary load data to a Scheduling Coordinator or the Cal-ISO or any other regulatory or reliability agency which requests or requires the data.

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O. CANCELLATION OF AN ESP AGREEMENT

In addition to any other right to revoke an offer, customers may cancel a contract with an ESP for the purposes of energy supply until midnight of the third business day after the day on which the customer signs an agreement or offer to purchase ESS.

Cancellation shall occur when the customer gives written notice of cancellation to the seller at the address specified in the agreement or offer. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid. Notice of cancellation given by the customer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the customer not to be bound by the contract.

P. SPLIT LOADS

Customers requesting Customer Choice Service may not partition the electric loads of a service account among electric service options or providers. The entire load of a service account must be assigned to only one ESP. A customer may not split the energy served by a meter on a single billing rate.

Q. MASTER METERED CUSTOMERS

Individual master metered customers who provide sub-metered tenant billings, may participate in Customer Choice only as a single account. A master metered customer may not partition the electric loads of a single master meter among several electric service options or providers. The entire load of a single master meter must receive service under one electric service option and provider.

R. LOAD AGGREGATION

Load aggregation may not be used to compute Utility charges or for tariff applicability. Individually metered electric loads may be aggregated for the procurement of energy supply only through a Customer Choice Agreement.

S. POWER THEFT

The ESP shall cooperate in any investigation of energy theft. If the Utility discontinues service as a result of energy theft, and service is not reconnected within two (2) days, the Utility will notify the ESP in writing, by facsimile or e-mail.

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T. TRANSFER OF ENERGY SERVICE PROVIDER

Any Customer Choice Customer may transfer service between ESPs only once per billing cycle. Minimum fifteen (15) days notice is required for transfer of service between ESPs. A CCSR must be submitted by the new ESP. Transfers will become effective on the Utility's next regularly scheduled meter reading date after the Utility has verified with the customer their intent to change ESPs. The Utility will notify the ESP electronically and the customer in writing, by facsimile or email of the effective date of transfer. The ESP may charge for such transfer, provided that any fee or penalty charged by the ESP for early termination of service was previously disclosed in the contract or agreement.

U. RETURN TO FULL SERVICE OPTION

A Customer Choice Customer or their ESP may request the return of the customer to Utility Full Service. All requests for return must be in writing. A minimum of fifteen (15) days notice to the Utility is required for termination of Customer Choice Service. The Utility will notify the ESP electronically and the customer in writing, by facsimile or email of the effective date of the service transfer.

Customers who have had their ESP service terminated due to the suspension or revocation of the ESP's City registration shall be served by the Utility until such time as the customer shall select service from another ESP. Customers shall not be required to pay any early termination fees or other penalties to any ESP under the service agreement in the event the ESP's registration is suspended or revoked.

A Customer Choice Customer's vacating of their premises shall be considered a voluntary termination of Customer Choice for the existing account and service address. Participation in Customer Choice for the customer's new premises is subject to the Utility's then-current eligibility and selection criteria. Customer Choice eligibility at the existing account and service address may not be assigned to the new occupant of the service address.

V. ESP WRITTEN NOTICES

Notices the ESP submits to Customer Choice Customers describing the terms and conditions of service, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices shall be easily understandable, and shall be provided in the language in which the ESP offered the services.

W. CUSTOMER DEPOSITS

ESPs may require customer deposits before commencing service, but in no event shall the deposit be more than the customer's estimated bill for a two-month period, based on service with the Utility.

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X. CUSTOMER RESPONSIBILITIES

The Customer Choice Customer, or their designated ESP, shall be solely responsible for procuring ESS and for the transmission of such purchases to the point of receipt designated by the Utility. The ESP shall release and indemnify the Utility from any claims, causes of action, demands or costs directly or indirectly resulting from ESP's obtaining energy supplies.

Y. UTILITY RESPONSIBILITIES

The Utility shall provide Distribution and Metering Services for the Customer Choice Customer's procured energy from the Utility's Lewis Substation to the Customer Choice Customer's point of receipt.

The Utility shall respond to inquiries related to physical service, emergency system conditions, outages and safety.

Z. ESP RESPONSIBILITIES

The ESP will provide energy at the Utility's Lewis Substation in the amount equal to the sum of the customers' hourly usage plus distribution losses. Distribution Losses will be determined after completion of the Utility's annual audit, in accordance with the following formula:

Distribution Losses =

$$\frac{(\text{Total kWh Delivered at Lewis Substation}) - (\text{Total Retail kWh Sold})}{\text{Total kWh Delivered to Lewis Substation}}$$

Total kWh Delivered to Lewis Substation

If the ESP is not deemed creditworthy, the ESP will be required to establish credit by providing security to the Utility. Initial security will be based on the estimate of the ESP's highest monthly bill and will be re-evaluated on a daily basis through new CCSRs that are received as well as any increased consumption by an ESP's end-use customer base. ESPs should ensure that their security is always sufficient to cover new Customer Choice Customers. The security will be equal to two (2) times the highest two (2) month estimated monthly bills.

Credit can be established by posting security in one of the following forms:

Cash Deposit - will be refunded pursuant to the fulfillment of the Utility's terms and conditions.

Certificate of Deposit – thirty (30) day automatically renewable Certificate of Deposit, made payable to the City of Anaheim.

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Marcie L. Edwards
General Manager

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AA. LIABILITY IN CONNECTION WITH ESP SERVICES

The ESP shall release, indemnify and hold the Utility and its customers harmless for any damages directly or indirectly resulting from the Utility's compliance with, or as permitted by, the Utility's Electric Rates, Rules and Regulations and associated legal and regulatory requirements related to Customer Choice Service. Damages in this section shall include, but not be limited to, losses, harm, costs, opportunities lost and detriment, both direct and consequential, suffered by the customer.

The Utility shall not be liable to the customer for any damages caused to the customer by any failure by an ESP to comply with the Utility's Electric Rates, Rules and Regulations and associated legal and regulatory requirements related to Customer Choice Service.

The Utility shall not be liable to the customer for any damages caused by an ESP's failure to perform any commitment to the customer, including, but not limited to the obligation to provide Energy Services to the customer. The ESP shall not be liable to the customer for any damages caused by the Utility's failure to perform any commitment to the customer.

An ESP is an independent contractor and not Anaheim Public Utilities' agent for any purpose. The Utility shall not be liable to the customer for any damages resulting from any acts, omissions, or representations made by an ESP in connection with soliciting customers for Customer Choice Service or performing any of its functions in rendering Customer Choice Service.

The Utility is not the ESP's agent for any purpose. The ESP shall not be liable to the customer for any damages resulting from any acts, omissions, or representations made by the Utility in connection with performances of any of its functions in rendering services.

BB. INTERRUPTIONS AND CURTAILMENTS

It may be necessary for the Utility to shed or curtail energy supply loads in order for the Utility to respond to anticipated or actual facilities repairs or improvements, supply shortages, outages or other conditions that impact the delivery of electric power. The Utility shall attempt to provide reasonable notification to Customer Choice Customers and ESPs of such conditions, pursuant to the Utility's Electric Rates, Rules and Regulations and standard procedures, but shall not be liable if such notification is not provided. The Utility shall attempt to reestablish Distribution Services with the shortest possible delay.

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CC) CUSTOMER CHOICE PROGRAM FEES

Energy Service Provider Security Deposit \$ As Calculated

Will equal two (2) times the highest customer monthly bill for two (2) months.

(per MW served, rounded up to the nearest 1/10th MW)

Customer Choice Meter Installation Fees (per account)

Residential –Customer Choice Metering Option

Watt Meter	\$ 26.00
Interval Data/Modem	\$ 324.00
Meter Installation	\$ 45.00

General Service – < 50kW –Customer Choice Metering Option

Watt Meter	\$ 150.00
Interval Data/Modem	\$ 445.00
Meter Installation	\$ 70.00

Utility/DAA Set-up Fee Per Account Time and Materials

General Service – 50kW – 200kW –Customer Choice Metering

Watt Meter	\$ 185.00
Interval Data/Modem	\$ 445.00
Meter Installation	\$ 125.00

Utility/DAA Set-up Fee Per Account Time and Materials

Customer Choice Service Fees (Monthly)

General Service - > 200kW –Customer Choice Metering

Watt/Var Meter	\$ 650.00
Interval Data/Modem	\$ 700.00
Meter Installation	\$ 170.00

Utility/DAA Set-up Fee Per Account Time and Materials

Residential –Customer Choice Metering Option

Utility/Data Acquisition Fee Per Meter Per Month Time and Materials

Meter Maintenance and Testing \$ 18.00

General Service – < 50kW –Customer Choice Metering Option

Utility/Data Acquisition Fee Per Meter Per Month Time and Materials

Meter Maintenance and Testing per Year \$ 18.00

General Service – 50kW – 200kW –Customer Choice Metering

Utility/Data Acquisition Fee Per Meter Per Month Time and Materials

Meter Maintenance and Testing per Year \$ 33.00

General Service - > 200kW –Customer Choice Metering

Utility/Data Acquisition Fee Per Meter Per Month Time and Materials

Meter Maintenance and Testing per Year \$ 170.00