

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the
Commission's Own Motion to Conduct a
Comprehensive Examination of Investor Owned
Electric Utilities' Residential Rate Structures,
the Transition to Time Varying and Dynamic
Rates, and Other Statutory Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

**REPLY COMMENTS OF THE BLACK ECONOMIC COUNCIL, NATIONAL ASIAN
AMERICAN COALITION, AND LATINO BUSINESS CHAMBER OF GREATER LOS
ANGELES (JOINT PARTIES) ON THE SCOPE OF THE PROCEEDING**

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REPLY COMMENTS OF THE BLACK ECONOMIC COUNCIL, NATIONAL ASIAN AMERICAN COALITION, AND LATINO BUSINESS CHAMBER OF GREATER LOS ANGELES (JOINT PARTIES) ON THE SCOPE OF THE PROCEEDING

“The complexity and speed of this proceeding could result in a form of inadvertent redlining against low-income and new immigrant communities unless the Commission carefully considers their needs. We should therefore start from square one and begin to receive specific underserved community input from the inception of this proceeding.” – Faith Bautista, President of the NAAC

On June 28, 2012, the Commission instituted this OIR in order to examine the current residential electric rate design, including the tier structure in effect for residential customers, the state of time variant and dynamic pricing, potential pathways from tiers to time variant and dynamic pricing, and preferable residential rate design to be implemented when statutory restrictions are lifted.

On August 27, 2012, the Commission hosted a workshop that examined a variety of questions. Consumer advocates, such as the Joint Parties, utilities, and independent experts discussed the proposed scope of the proceeding. On September 20, 2012, the Assigned Commissioner and the Administrative Law Judges released their Joint Ruling Inviting Comments and Scheduling PreHearing Conference. This Ruling outlined procedural questions and directed parties to respond on October 5, 2012. The Joint Parties provided Opening Comments on the Joint Ruling. Reply Comments were directed to be submitted by October 19, 2012.¹ Thus, these comments are timely filed.

¹ It should be noted that the leader of the Black Economic Council (BEC), Len County, passed away on September 22, 2012.

I. Logistical Concerns

a. Timeline

The Joint Parties believe that PG&E's recommendation to set a procedural schedule that includes recommendations to the Legislature by early 2013 is unwarranted.² The Joint Parties do not believe this is a realistic schedule for a number of reasons. This includes the fact that workshops and foundational knowledge in this matter must still be established. Additionally, the detailed analysis required by such a monumental shift in the rate structure cannot be rushed into a short period of time. Although PG&E's opening comments delve into the 100 year history of ratemaking in California and the recent trend towards "temporary" and "emergency" decisions by the legislature, there is no acknowledgment of the fact that any decisions that is rushed through the legislature will be yet another temporary and emergency decision.³ The transition to a new residential rate design utilizing the Smart Meters is a monumental shift in rate design, not only for Californians, but for the entire country. It benefits no one to add one more temporary ratemaking decision to the most recent twelve years of stop-gap policy making.

II. Coordination Questions

The Joint Parties agree with PG&E that any changes to electric residential rate structure should be informed by residential rate structures of other public and investor owned utilities (IOUs) in California as well as other major electric utilities around the country.⁴ The Joint Parties favor an open process that examines best practices from throughout the state and the country, where applicable. However, the Joint Parties note that a proceeding that takes into account all these factors should not be artificially rushed. All this data must be carefully examined,

² Comments of PG&E at 3-8.

³ Comments of PG&E at 3-4.

⁴ Comments of PG&E at 2.

scrutinized, and analyzed in order to ascertain its applicability to the current situation. Only then can this data have a truly beneficial effect on this proceeding.

III. Rate Design Goals

On October 15, 2012, the NAAC conducted a survey of over 130 primarily PG&E ratepayers, which investigated the most important aspects of rate design. The Joint Parties believe this survey will be an important component of the proceeding, reflecting direct ratepayer voices directly into the Commission's decision making process.

A. Evaluation

The Joint Parties agree with PG&E's recommended revision to include "the ongoing, continuous solicitation of direct opinion and feedback from a statistically significant sample of California IOU residential electricity customers regarding their preferences and needs for electricity pricing and choices."⁵ The Joint Parties would add, however, that a major portion of this solicitation should include California's 26 million people of color. Without participation from these communities, any revision of rate design will fail to reach the majority of the state's population.

For example, as indicated in the Joint Parties' initial comments, 37.4% of California public school students speak a language other than English in their homes.⁶ Any rate design that ignores these constituencies will exclude a significant portion of California's population.

Given that the Joint Parties have advocated greater outreach to communities of color in a wide array of proceedings before this Commission, the Joint Parties support NRDC's recommendation to include as a question, "What is your plan for customer education and what

⁵ Comments of PG&E at 8.

⁶ CalEdFacts, available at: <http://www.cde.ca.gov/ds/sd/cb/cefelfacts.asp>

kind of mechanism would be used for providing information to customers in the transition and implementation of any new rate structure?”⁷ As explored in their initial comments, the Joint Parties believe outreach and education will be the most important, if not the only, factor in customer acceptance of any new rate design. Additionally, the Joint Parties encourage the Commission to add *minorities* to this question to ensure full outreach to all California communities.

In the survey of over 130 ratepayers taken by the NAAC at their 9th Annual Economic Development Conference on October 15, 2012, 84% of respondents indicated that aside from their bill, utility companies had made no contact with them. The Commission and the IOUs must end this isolation from customers and ensure that comprehensive outreach and education efforts are made to all communities, especially regarding changes to rate design.

As explained in initial comments:

Comprehensive customer education and outreach is crucial if the Commission wishes to avoid another Smart Meter type debacle. This indicates a need for customer outreach and education materials in a variety of languages in order to ensure true customer understanding and acceptance.

The Commission must prioritize outreach and education to those hard to reach customer segments in order to ensure robust adoption of any changes to rate structure. This includes low-income ratepayers and ratepayers of color.

B. Consumer Advocates' Positions

a. Greenlining Institute (Greenlining) and Center for Accessible Technologies (CforAT)

The Joint Parties agree with the changes Greenlining and CforAT proposes for Goals 1, 4, 6, 8, and 9 of rate design. Specifically:

1. ~~Low income and medical baseline~~ All customers should have access to enough

⁷ Comments of NRDC at 3.

electricity to ensure basic needs (such as health and comfort) are met at an affordable cost;

4. Rates should encourage cost-effective conservation and energy efficiency, taking into account that rates alone cannot incent conservation and efficiency where customers have low --income, no opportunities for safe usage reduction, or otherwise face market barriers to conservation and efficiency;

6. Rates should provide stability, understandability, public acceptability, feasibility of application, simplicity and customer choice ; Customer participation in voluntary rates should not be used as an alternative to long -established consumer protections; voluntary rates should be truly voluntary;

8. Rates should encourage economically efficient decision-making, but explicitly recognize that different groups of customers may act differently;

9. ~~Incentives~~ Rate proposals and decisions approving rates should be explicit and transparent with respect to incentives...

The Joint Parties also support Greenlining and CforAT's recommendation that at least one workshop should be devoted to data and definition questions. This includes defining fundamental terms that are used in the Commission regularly, including "rate shock" and "cost effective." The Joint Parties add that the Commission should agree upon a definition of "affordable," particularly as it applies to the current proceeding. As explained in their initial comments, the Joint Parties would include the poor and near poor in any definition of affordability.⁸

In addition, the Joint Parties agree with Greenlining and CforAT's potential metrics for measuring affordability. However, the Joint Parties would also add that affordability should also be measured by the Supplemental Poverty Measure, released by the U.S. Census Bureau. The Census Bureau's new poverty figures take into account housing, food subsidies, geographic differences, transportation costs, and medical costs. The new methodology should be utilized by the Commission in order to more accurately define poverty and ensure rate design does not

⁸ Comments of the Joint Parties at 3-4.

penalize those who cannot afford their utility bills . The Supplemental Poverty Measure also has the benefit of illustrating the significant and disproportionate impact of poverty on people of color. For example:

- Using the Supplemental Poverty Measure, the poverty rate among Asian - Americans increased by almost 40%, from 12.1 % to 16.7%;
- the poverty rate among foreign -born persons increased almost 30% from 20% to 25.5%; and
- the poverty rate among homeowners with a mortgage increased by more than 35% from 6% to 8.3%.⁹

b. TURN

The Joint Parties support many of the additions and changes of TURN and DRA. However, since the Joint Parties addressed many of these issues in their initial comments,¹⁰ the initial comments of the Joint Parties are incorporated herein to avoid redundancy.

The Joint Parties support TURN's additional coordination question of: "Is it more appropriate to address certain rate design issues in other proceedings? If so, explain which proceedings are best equipped to explore and resolve specific issues." The Joint Parties particularly endorse this coordination question , especially in light of their initial position on coordination within the CARE/ES AP proceeding and especially on low-income issues addressed therein.

As explained in the Joint Parties' initial comments:

Many of the grassroots and service based stakeholders who intervened within the low-income proceedings are not likely to become active intervenors in the present case because of the highly technical and complex nature of rate design. Like the

⁹ Carolyn Said, *Modified Yardstick Say More People Poor*, S.F. Chron., Nov. 8, 2011, at A1.

¹⁰ Comments of the Joint Parties at 5-6.

Joint Parties, many stakeholders possess a sophisticated understanding of how utility policy affects their constituents on the ground; however, they lack the funds, staff resources, and technical expertise to intervene in every CPUC proceeding that affects their constituencies. Thus, the Joint Parties urge the Commission to consider active collaboration with these stakeholders through coordination with the low-income proceedings.

The Joint Parties also support TURN's addition of other residential customers into the first rate design goal: "1. Low-income, ~~and~~ medical baseline, and other residential customers should have access to enough electricity to ensure basic needs (such as health and comfort) are met at an affordable cost."¹¹ Specifically, the Joint Parties endorse this view because it encompasses the 51 million people nationwide who qualify as near poor, as explained in the Joint Parties' initial comments and above.¹²

Additionally, the Joint Parties support TURN's recommendation for Goal 10, which should be changed to read "rate shock should be avoided."¹³ The goal previously only minimized potential for rate shock, which cannot be adequately measured or evaluated. Rate shock especially affects limited English proficiency communities, who often have no understanding of the technicalities of their bills. The Joint Parties recommend that the Commission particularly consider possible rate shock in communities with limited English proficiency.

c. DRA

DRA's points have already been addressed both in the Joint Parties' initial comments, as well as above in the comments referring to TURN and the Greenlining Institute. However, the Joint Parties particularly endorse DRA's goal of affordability.¹⁴ This is especially the case not

¹¹ Comments of TURN at 4.

¹² Comments of the Joint Parties at 4.

¹³ Opening Comments of TURN at 9. This goal is also reflected in the Greenlining/CforAT Comments at page 3, but the Joint Parties prefer the language put forth by TURN.

¹⁴ Opening Comments of DRA at 2.

only for the poor, but also the near poor who were examined in the Joint Parties' initial comments.¹⁵

C. Other Issues

a. Safety

The Joint Parties agree with CCUE that a fundamental goal that should be represented in this proceeding is the goal of safe and reliable service.¹⁶ As the Commission and intervenors struggle to adopt a culture of safety, the Joint Parties believe that explicitly stating this goal is a good initial step. The Joint Parties welcome further safety goals and considerations throughout this process, but lack the technical safety expertise to propose specific changes. The Joint Parties suggest that the Commission keep open the possibility of addressing further safety questions, especially pertaining to new technologies, as the proceedings move forward.

b. Energy Conservation

This proceeding is unfortunately too narrow in its focus. Low-income communities would most benefit from a combination of conservation strategies and subsidized energy efficiency instruments. The Commission's framing of this case unfortunately diverts attention and focuses on the granular aspects of the problem while ignoring the far greater impact of effective conservation by ratepayers, and in particular underserved communities. Therefore, far more attention and funding should be focused on reducing overall energy consumption rather than on time of day mechanisms to achieve a small part of this larger goal. This would also provide far greater benefits to society at large.

Strong support for encouraging effective conservation and energy efficiency is demonstrated by survey of over 130 ratepayers attending the NAAC's 9th Annual Asian

¹⁵ Comments of Joint Parties at 3-4.

¹⁶ Comments of CCUE at 2.

American Economic Development Conference on October 15, 2012. Over 80% of the respondents indicated their most important goal for utility rates was to ensure affordability. However, among the seven goals set forth in the question, the second primary goal was to encourage conservation and energy efficiency.

Several environmental intervenors raised possible additions to the goals of rate design that focused specifically on energy efficiency measures.¹⁷ The Joint Parties urge that this Commission focus on the ultimate goal of energy use reduction and ensure that rate design goals are tailored to achieve the ultimate goal. In addition to previous goals on outreach on rate structure, additional goals focused on energy conservation should include:

- How does your rate design encourage and incentivize energy efficiency among all ratepayers without penalizing low-income, near poor, and residential ratepayers living on the margins?
- How does your rate design encourage and incentivize energy efficiency while minimizing potential for ratepayer confusion?

IV. Conclusion

The Joint Parties reiterate their appreciation that the Commission is approaching any new potential rate design with deliberate consideration. The Joint Parties are hopeful that any new rate design can maximize energy conservation and outreach to all ratepayers while minimizing confusion and resistance.

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¹⁷ Sierra Club Opening Comments at 6; Opening Comments of the Environmental Defense Fund at 3.

Respectfully submitted,

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