

**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)

**CENTER FOR ACCESSIBLE TECHNOLOGY AND THE GREENLINING
INSTITUTE'S COMMENTS RESPONDING TO QUESTIONS PERTAINING TO
COORDINATION OF ELECTRIC PROCEEDINGS AFFECTING RATES**

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November 21, 2012

Introduction

The Center for Accessible Technology (CforAT) and the Greenlining Institute (Greenlining) hereby submit these comments regarding coordination of electric proceedings affecting rates in response to the Administrative Law Judge's Ruling Inviting Comments filed on November 11, 2102. CforAT/Greenlining do not respond fully to every question, but reserve the right to address all issues in reply comments.

1. *Please list the major energy proceedings with which this proceeding should coordinate and explain what kind of coordination is needed (e.g., actively coordinating, relying on findings, incorporating evidentiary record, monitoring).*

CforAT/Greenlining have identified some of the proceedings that should be coordinated in some manner with this Rulemaking; such proceedings are listed below. However, we believe that coordination with the Low Income Needs Assessment, ordered by D.12-08-044¹ in A.11-05-017, *et al.* is required by statute.

Coordination with the Low Income Needs Assessment

CforAT/Greenlining believes that any changes in rate design that would result in significant bill impacts for low-income customers must take into account the findings of a *current* Low Income Needs Assessment. The straw proposal for the schedule provided by the Commission in the Pre-Hearing Conference would not provide for this, as this proceeding would be essentially resolved before the updated Low-Income Needs Assessment ordered in D.12-08-

¹ See D.12-08-044, pp.256-59 & Order # 107.

044 was issued on August 31, 2013.² Thus, CforAT/Greenlining urges the Commission to revisit the proposed schedule.³

Cal. Public Util. Code 382(d) provides that:

Beginning in 2002, an assessment of the needs of low-income electricity and gas ratepayers shall be conducted periodically by the commission ... The assessment shall consider whether existing programs adequately address low-income electricity and gas customers' energy expenditures, hardship, language needs, and economic burdens.

Thus, the statute requires a periodic assessment be conducted. The Commission, in ordering the new assessment, noted that “both the economic conditions facing California and the energy market have changed substantially since 2007 when the last assessment was conducted.”⁴ As the Commission stated, there have been substantial changes since 2007, including the largest economic downturn since the Great Depression. The Commission should not now embark on any significant redesign of residential rates affecting low income customers without the benefit of a Low Income Needs Assessment of current conditions.

California law requires that the Commission rely on the Low-Income Needs Assessment in designing electricity rates for low income customers. Cal. Public Util. Code § 382(b) requires that “the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures,” and further provides that this task may be accomplished by “*the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs.*” (emphasis added) Thus, the legislature contemplated that rate design was a primary means of ensuring that low income customers were

² See D.12-08-044, p.259 & Order # 107.

³ As noted at the Prehearing Conference held in the proceeding on October 24, 2012, CforAT and Greenlining would also be receptive to efforts to move up the release date of the updated Low Income Needs Assessment. See Tr. at p. 15:10-25.

⁴ D.12-08-044, p. 256 & Finding of Fact 152.

not overburdened. The Commission is intending to fundamentally examine residential rate design in this proceeding.

As demonstrated by Cal. Public Util. Code § 382(d), quoted above, the Commission is to rely on the Low Income Needs Assessment to ensure that rate design affecting low income customers results in affordable rates. The Low Income Needs Assessment “shall consider whether existing programs” adequately meet low income customers’ needs. “Existing programs” include the California Alternate Rates for Energy (CARE) and the Energy Savings Assistance (ESA) programs.⁵ Thus, whether the CARE discount, in conjunction with the applicable residential rates, results in affordable rates for low income customers is a primary purpose of the Low Income Needs Assessment.

Further authority for requiring updated data on low income customers before addressing fundamental changes in rate design is provided by Cal. Public Util. Code § 739.1(b)(1), which states: “[t]he Commission shall ensure that the level of [CARE] discount for low-income electric and gas customers correctly reflects the level of need.” Thus, if any changes are made to residential rate design, the Commission must ensure that the subsequent low income rates, after application of the CARE discount, are affordable. As provided by Cal. Public Util. Code § 382(d), this is a decision that the Commission must make in reliance on the Low Income Needs Assessment.

Mandated Commission reliance on the Low Income Needs Assessment is further revealed by Cal. Public Util. Code § 739.1(b)(3)(B) which states that after January 1, 2019 the Commission must set CARE rates subject to:

The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.

⁵ See Cal. Public Util. Code § 382(a).

Commission reliance on the Low Income Needs Assessment in setting CARE rates is also mandated for the period before January 1, 2019, but the legislature contemplated that CARE rates would be fairly limited by other statutes that sunset on that date.

An examination of rates applicable to low income customers is a significant part of this proceeding. The Order Instituting Rulemaking (OIR) in this proceeding began with preliminary questions, including: “Do existing CARE methodologies provide for an optimal rate protection or are there more efficient and equitable means to protect low income customers?”⁶

Furthermore, in reference to low income customers the OIR states:

Additionally, as affirmed in the Public Utilities Code (Pub. Util. Code § 382(b)), this Commission is fully committed to ensuring that low-income customers are not jeopardized or overburdened by monthly energy expenditures. The examination as a result of this rulemaking will not change course from Pub. Util. Code § 382(b) ...⁷

If the Commission in this proceeding is truly committed to ensuring that customers are not overburdened by electricity needs, then it must utilize the primary research tool that examines this issue. The OIR states that it will not change course from Pub. Util. Code § 382(b). Another section of that same statute mandates the Low Income Needs Assessment as the mechanism to ensure that the low income customers are not overburdened.

Moreover, Pub. Util. Code § 382(d) also requires that the Low Income Needs Assessment analyze whether the ESA program is meeting low income customers’ needs. Any significant changes to residential rates may also greatly change how the ESA program addresses the energy efficiency needs of low income customers. This provides another reason that the Commission should rely on the Low Income Needs Assessment in its review of residential rates.

⁶ See OIR 12-06-013, issued June 28, 2012, p. 20.

⁷ See OIR 12-06-013, pp. 8-9.

In order to remain compliant with multiple statutes regarding energy rates and low-income customers, the Commission must ensure that any changes affecting low income customers are informed by the results of the upcoming updated Low Income Needs Assessment. The Commission must revisit its proposed schedule to ensure that parties in this proceeding have the opportunity to utilize the assessments results, available on August 31, 2013, in providing input to the Commission.

Proceedings Already in Process

There are a number of currently pending proceedings involving residential rate design that would affect all customers in a service territory. CforAT/Greenlining do not recommend changing the schedule of any of these proceedings to coordinate with this rulemaking but we do recommend that no major changes to rate design be ordered in these proceedings pending the outcome of this proceeding. These proceedings include the SCE General Rate Case Phase 2 (A.11-06-007), the SDG&E General Rate Case Phase 2 (A.11-10-002), and the PG&E 2012 Rate Design Window (A.12-02-020). CforAT and Greenlining are parties in each of these proceedings, and in each have argued that changes in rate design must take affordability and cumulative impacts into consideration. CforAT and Greenlining have also noted in each of these rate design proceedings that substantial changes to residential rate design should be deferred until guidance is issued in this Rulemaking.

New or Upcoming Proceedings

CforAT/Greenlining likewise recommends that any new or upcoming proceedings not adopt any results that would have substantial impacts on residential rates. This includes any major increases to the revenue requirement from General Rates Cases, Phase 1, as this increase in the revenue requirement will affect residential rates.

2. *How should customer outreach and education efforts in different proceedings be coordinated to maximize effectiveness and efficiency?*

As acknowledged in the OIR, if there are any significant changes in residential rate design, there will need to be significant outreach and education efforts to residential ratepayers. There are also multiple outreach and education efforts currently underway and funded or planned in other proceedings, addressing energy efficiency, dynamic pricing, low-income assistance and other issues. CforAT/Greenlining believes it would be synergetic to coordinate all of these efforts, gathering information from each utility regarding the resources they devote, what activities they perform and any best practices. Of particular interest is each utility's existing or planned strategies for addressing hard to reach communities, including low income, minority, and disabled communities, whether based on prior orders from the Commission or the utility's own initiative. By gathering and sharing this information, parties to this proceeding will have a common set of data to serve as a starting point for any further recommendations regarding education and outreach.

Conclusion

The Commission is statutorily required to utilize the results from a current Low Income Needs Assessment in designing rates for low income customers. A Low Income Needs Assessment is scheduled to be available at the end of August next year, but the proposed schedule for this proceeding would not allow parties to utilize the results of the assessment. This proceeding is to be a fundamental review of residential rates. Even if it were not ordered by statute, it should take advantage of the most significant review of low income customers' needs in regards to energy service. It does not make sense to rush the schedule for this proceeding,

when only a few months difference would allow the Commission to comply with statute.

CforAT/Greenlining urges the Commission to design the schedule for the proceeding to allow the proper coordination with the Low Income Needs Assessment, especially as it regards any changes to rates for low income customers.

Respectfully submitted,

November 21, 2012

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