

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 RATE DESIGN PROPOSAL**

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Summary of CforAT/Greenlining Rate Design Proposal

- The Center for Accessible Technology and the Greenlining Institute (CforAT/Greenlining) represent the interests of the most vulnerable utility customers: low-income, low usage customers including many with disabilities, limited English proficiency, seniors, and others with limited employment opportunities.
- CforAT/Greenlining do not have the resources to set forth a complete rate design proposal. However, it is vital that all consideration of various proposals put forth in this proceeding keep the needs of the most vulnerable consumers as a priority. Thus, CforAT/Greenlining have prepared this set of principles to be used in order to ensure that these needs are appropriately considered.
- While the goals of this proceeding are to balance a variety of rate design principles, including some that are frequently in conflict, the need for affordability for the most vulnerable ratepayers cannot be sacrificed to advance competing goals. Essential supplies of affordable electricity are a basic necessity, and must be provided.
- CforAT/Greenlining expressly request that the Commission take into consideration new data on the needs of low-income utility customers when it becomes available, including the upcoming draft and/or final low-income needs assessment ordered in D.12-08-044.
- Current electricity rates are already unaffordable or on the very edge of affordability for many vulnerable customers. Changes in rate design that would result in structural rate increases for the most vulnerable customers would violate principles of affordability.
- Affordability must be evaluated in light of the cumulative impact of various recent changes to IOU revenue requirement and past changes to rate design; it cannot simply be assumed that current rates are affordable, nor can proposed changes be evaluated individually for impact on affordability without taking recent developments, for example

the increases in revenue requirement and the changes in rate design in the most recent General Rate Case for each of the major IOUs, into consideration.

- Customer charges, which have a disproportionate bill impact on low-usage and low income customers, are incompatible with affordability of basic electricity needs for vulnerable customers. The exception, proposed by CforAT/Greenlining, would be a high-usage surcharge, modeled after the high-usage program adopted by the Commission for CARE customers, to provide a conservation incentive to those customers with extremely high levels of electricity usage.
- Tiered rates promote affordability of basic electricity needs for vulnerable customers while also providing a conservation incentive for those who use more electricity.
- Time of Use (TOU) rates do not result in more efficient use of energy compared to tiered rates. TOU rates, while potentially reducing peak usage, risk particular harm for those vulnerable customers who are homebound and forced to use heating or cooling during peak periods to maintain comfort and safety. These customers must be educated about the potential impacts of TOU rates based on their circumstances and must be given opportunities to avoid such impacts.
- CARE is a vital mechanism in promoting affordability, and the overall size of the CARE fund should not be reduced. FERA is also an important affordability support for larger, moderate-income households. However, the allocation of the CARE subsidy can be restructured to provide the greatest level of assistance toward those with the lowest income or toward greater support for basic energy usage, rather than the current system which provides the highest subsidies to the CARE customers who use the most energy. In conjunction with a restructured CARE program, vulnerable ratepayers should have access to crisis assistance for utility bills.

- With a new rate structure, customers who have been unable to afford their electricity under the existing rate structure should have the opportunity for a fresh start with the adoption of an arrearage management plan that includes forgiveness of existing past-due bills.

I. INTRODUCTION

In opening this proceeding, the Commission stated its intent “to ensure for the foreseeable future that [residential] rates are both equitable and affordable while meeting the Commission’s rate and policy objectives for the residential sector.”¹ It further stressed the importance “of ensuring that low income customers have access to enough electricity to meet their basic needs at an affordable cost.”² From the very start, the Commission has been clear that equity demands affordability, and affordability must be preserved while other rate and policy objectives are addressed. Affordability cannot be sacrificed in an effort to balance competing principles of rate design.

This element of affordability is crucial to customer safety, which is also a key element of this rulemaking. In the Administrative Law Judge’s Ruling Requesting Residential Rate Design Proposals, parties were specifically instructed to add a discussion of safety implications to their proposed rate design structure.³ If vulnerable customers cannot afford basic electric usage, their comfort and particularly their safety are compromised. In particular, any rate design must ensure that all customers have affordable access to adequate heating and cooling, as well as the ability to store food and medication safely and use other necessary appliances.

All residential customers have the right to affordable electricity that meets their basic needs, specifically including comfort and safety. While this right exists for all customers, the element of affordability is most crucial for low-income customers and other vulnerable customers whose ability to obtain necessary energy at affordable rates is already under stress or nonexistent. Nevertheless, many other customers who do not use

¹ 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 (OIR) at p. 1.

² OIR at pp.1-2.

³ Administrative Law Judge’s Ruling Requesting Residential Rate Design Proposals (Ruling Requesting Proposals), issued on March 19, 2013 at p. 3.

extremely high levels of electricity and who are not officially classified as low-income still struggle each month to pay their utility bills. This is most apparent among those customers just over the income-cutoff for the CARE program.⁴ These customers (and all other utility customers) have the right to obtain basic energy supplies at just and reasonable rates.⁵ These vulnerable customers' interests are represented in this proceeding by the Center for Accessible Technology and the Greenlining Institute (CforAT/Greenlining).⁶

In order to consider the appropriate structure and design of residential rates for the future, without sacrificing affordability, the Commission initiated this proceeding with an OIR that set forth a tentative list of themes and preliminary questions for discussion. Subsequently, on August 27, 2012, the Commission held a workshop to discuss the themes and preliminary questions. Parties were invited to submit comments and reply comments on the proposed Rate Design Evaluation Questions and Principles, and a prehearing conference was held. Following this substantial effort to clarify the scope of the issues under consideration, a Scoping Memo and Ruling of Assigned Commissioner (Scoping Memo) was issued on November 26, 2012. The Scoping Memo set forth a list of ten principles of Optimal Residential Rate Design which are summarized as follows:

(1) affordable access to enough electricity to meet basic needs for low income and

⁴ These households are referred to in these comments as "lower-income" households. Households with income of less than 200% of the Federal Poverty Level (FPL) are eligible for CARE. At minimum, households that qualify for FERA (income up to 250% of FPL and at least three members of the household) are included in this group. In high-cost areas of California, even households with fewer than three people who earn up to 250% of FPL or larger households with income levels above 250% of FPL may struggle to afford basic supplies of electricity.

⁵ Cal. Pub. Util. Code Sec. 451 ("All charges demanded or received by any public utility. . . for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable").

⁶ The Center for Accessible Technology (CforAT) represents the interests of customers with disabilities in proceedings before the Commission. Customers with disabilities are disproportionately low-income and also highly dependent on electricity to maintain their ability to live independently.

The Greenlining Institute (Greenlining) works to bring the American Dream within reach of all, regardless of race or income. Regarding home energy services, Greenlining seeks to ensure that low-income ratepayers are protected and that race, language or income are never barriers to these essential services.

medical baseline customers;⁷ (2) rates based on marginal cost; (3) rates based on cost-causation principles; (4) rates that encourage conservation and energy efficiency; (5) rates that encourage reduction of coincident and non-coincident peak demand; (6) rates that are stable, understandable, and provide customer choice; (7) rates that generally avoid cross-subsidies except those that support explicit policy goals; (8) incentives that are explicit and transparent; (9) rates that encourage economically efficient decision-making, and (10) transitions to new rate structures that emphasize customer education and outreach and minimizes bill impacts.⁸ In requesting rate design proposals from parties based on the articulated principles, the Scoping Memo additionally provides a lengthy list of questions that are “intended to elicit a full rate-design policy that the Commission can consider and adopt.”⁹ The nine questions in the Scoping Memo were intended to give “parties an opportunity to discuss a wide variety of policies related to electric rate design,” and include discussion of the previously identified principles plus specific questions including how each party’s proposed rate design would meet the basic electricity needs of low-income and medical baseline customers.¹⁰ As noted above, in the Ruling Requesting Proposals, a tenth question was added specifically addressing safety.¹¹

⁷ In their comments on the Proposed Rate Design Evaluation Questions and Principles, CforAT/Greenlining and other parties proposed that this affordability principle should apply to all customers, not just low-income customers. *See* Center for Accessible Technology and the Greenlining Institute’s Comments on Assigned Commissioner and Administrative Law Judges’ Joint Ruling Inviting Comments and Scheduling Prehearing Conference (CforAT/Greenlining Comments on Joint Ruling), filed on October 5, 2012, at pp. 2-3; CforAT/Greenlining Reply Comments on Joint Ruling, filed on October 19, 2012 at pp. 7-9; DRA Comments on Joint Ruling at pp. 1-2, TURN Comments on Joint Ruling at p. 4, 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 on Joint Ruling at pp. 3-4.

While the final statement of principles adopted in this proceeding did not incorporate this proposed change, affordability of essential supplies of electricity is a basic right that has been affirmed by the U.S. Supreme Court and cannot be sacrificed, even if existing California statutes protecting such right were to be changed. This issue is discussed in greater detail below.

⁸ Scoping Memo), at Attachment A, p.1.

⁹ Scoping Memo at p. 8.

¹⁰ *Id.*

¹¹ Ruling Requesting Proposals at p. 3.

While CforAT and Greenlining have been active participants in this proceeding from the beginning¹² and have a very strong commitment to protecting the interests of low-income and vulnerable customers, these two small intervenors do not have the resources that would be necessary to put together a complete rate design proposal, with the detailed support described in the Scoping Memo and Ruling Requesting Proposals. Instead, CforAT/Greenlining have prepared this set of key rate design components and principles that can be incorporated into any final rate design in order to address the needs of the most vulnerable residential customers. These principles focus on ensuring that, as the Commission seeks to find a balance among competing principles of rate design, the requirement of affordability is not sacrificed. In addition to the focus on various policy considerations and rate design options to address affordability of basic energy needs, this analysis looks at the recent history of changes to revenue requirements among the various IOUs as well as changes to rate design over the last few General Rate Case cycles, as well as the overall economic climate facing California's most vulnerable ratepayers. This context is vital as the Commission addresses a fundamental review of policy on electric rate design.

CforAT/Greenlining have repeatedly argued that the Commission must look at the cumulative impact of its decisions on vulnerable customers in order to assess whether it is meeting its obligation to ensure that they have access to essential supplies of electricity at

¹² CforAT/Greenlining have not only participated in this Rulemaking from its formal initiation, but also, as the OIR was in development, CforAT and Greenlining jointly prepared a filing addressing the importance of affordability in response to a Joint Ruling of the Assigned Commissioner and Presiding Administrative Law Judges in A.10-02-028 *et al.* (PG&E's PTR Application), issued on February 7, 2012, asking parties to address a "future vision for residential electric rates" as well as how such vision can be achieved." Joint Ruling at p. 6. In this filing, which was a reply to opening comments submitted by other parties in that proceeding (each of which treated the filings as a preview for this Rulemaking), CforAT/Greenlining noted that "the needs of the most vulnerable consumers have not been squarely put forward in this preview discussion to date" and thus prepared their response "to ensure that any preliminary review of residential ratemaking policy does not leave out the perspective of those who are most dependent on regulators to maintain access to essential electricity supplies without being overburdened by monthly energy expenditures." See Center for Accessible Technology and the Greenlining Institute's Reply Comments Addressing Policy Issues Related to Time-Variant Pricing and Residential Rate Design in Response to the Joint Ruling Issued on February 7, 2012 (CforAT/Greenlining Reply Comments), filed in A.10-02-028 *et al.* on April 26, 2012, at pp.1-2. Many of the issues raised in that filing were subsequently incorporated into the initial OIR in this proceeding.

affordable rates.¹³ In conjunction with a proposed settlement in SCE's 2012 GRC Phase 2 Application, A.11-06-007, CforAT/Greenlining argued that even changes in rate design that might appear modest on their own needed to be viewed in the context of other changes to revenue requirements and rate design to appropriately evaluate their impact on affordability. CforAT/Greenlining compared this need for a broad review to the requirements in place for evaluating environmental impacts of various development proposals:

In environmental reviews under the California Environmental Quality Act, proposals must be considered for cumulative impact to ensure that potentially damaging plans are not split into multiple, small projects in which the sponsor argues that each step has only a limited environmental impact; rather, the entirety of a project must be reviewed to consider whether it will result substantial harm.¹⁴ Policymakers addressing residential rate design should similarly consider the cumulative impacts of the various components of [an IOU's] rate vision, and avoid adopting incremental changes to the utility's residential rate design that may each seem manageable alone, but which cumulatively will be devastating to vulnerable consumers who already face substantial energy burdens and hardship in obtaining essential energy supplies.¹⁵

¹³ See, e.g., CforAT/Greenlining Reply Comments in A.10-02-028 *et al.* at pp. 4-5, Joint Opening Brief of the Greenlining Institute and the Center for Accessible Technology in A.12-02-020 (PG&E 2012 RDW Application), filed on November 2, 2012, at pp. 17-19; Comments of Disability Rights Advocates on the Proposed Decision and the Alternate Proposed Decision Regarding Residential Rate Design in A.10-03-014 (PG&E 2011 GRC Phase 2), filed on April 25, 2011; Opening Brief of the Greenlining Institute on Residential Rate Design in Phase 2 of the PG&E Test Year 2011 General Rate Case, filed Dec. 20, 2010, in A.10-03-014; Opening Comments of the Greenlining Institute on the Proposed Decision and the Alternate Proposed Decision in A.10-03-014, filed on April 25, 2011.

¹⁴ The State CEQA Guidelines, California Administrative Code, title 14, section 15064 set out the criteria for determining the significance of environmental effects caused by a project. Subdivision (h)(1) directs the preparation of an Environmental Impact Review "if the cumulative impact may be significant and the project's incremental effect, though individually limited, is cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects."

¹⁵ Response of the Center for Accessible Technology and the Greenlining Institute to the Motion of Southern California Edison, the Division of Ratepayer Advocates, The Utility Reform Network, Solar Energy Industries Association and Western Manufactured Housing Communities Association for Adoption of Residential Rate Group Settlement Agreement (CforAT/Greenlining Response to SCE Settlement), filed in A.11-06-007 on August 27, 2012, at p. 2 (quoting CforAT/Greenlining Reply Comments in A.10-02-028 *et al.*, at p. 4).

CforAT/Greenlining have also repeatedly noted the statutory obligation this Commission has to review cumulative impacts of residential rate design proposals to see how they affect affordability, and to recognize further that this is not merely a statutory issue subject to change with legislative whims, but rather an obligation based on rights recognized by the U.S. Supreme Court regarding the necessity of public utility service.¹⁶

Most explicitly, Section 382(b) of the California Public Utilities Code recognizes “that electricity is a basic necessity, and that all residents in the state should be able to afford essential electricity and gas supplies.” The same statute further mandates that “the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.”¹⁷ This mandate is further supported by a ruling of the U.S. Supreme Court, which found that affordable utility access is a “necessity of modern life.”¹⁸

The final decision in A.11-06-007 declined to conduct such a review, but noted that CforAT/Greenlining had referred to this rulemaking as the appropriate forum for such considerations and agreed that it should be taken up here.¹⁹ Now, in this broad policy review of rate design, the time has come for direct evaluation of how cumulative impacts have affected affordability of basic energy supplies for residential customers, particularly those vulnerable customers with the least ability to pay.

Unfortunately, some key information is missing or out-of-date, which limits the ability of the Commission to consider the needs of vulnerable customers. This is information about the low-income population. At this time, work on an updated low-income needs assessment is underway. The scope of this study expressly includes “[i]dentification of needs that exist, needs that are being met, and needs that are not met

¹⁶ CforAT/Greenlining Response to SCE Settlement at p.2 (footnotes within excerpted quotation were noted in the original).

¹⁷ Cal. Pub. Util. Code § 382(b).

¹⁸ *Memphis Light, Gas & Water Division v. Craft* (1978) 436 U.S. 1, 18.

¹⁹ “CforAT and Greenlining also note that the Commission has opened Rulemaking (R.) 12-06-013 to consider residential rate design and that „Because affordability as a key element of rate design has been identified as an important issue in the Rulemaking, CforAT and Greenlining believe that the Rulemaking is a more appropriate forum for a comprehensive discussion of cumulative impact of changes in residential rate design.” We agree. . . .” D.13-03-031 at p. 17.

by the existing CARE and ESA Programs,” as well as “[i]dentification of service gaps not being addressed by the existing CARE and ESA Programs” and “[r]ecommendations on appropriate and effective methods for meeting energy-related needs in light of these potential barriers in the CARE and ESA Programs,” among other items.²⁰

Based on the decision mandating the new study, the information is supposed to be publicly available in a report no later than August 31, 2013.²¹ However, in a workshop discussing the Study Plan for the updated low-income needs assessment, the consultants preparing the study indicated that they anticipate releasing a draft in September (and, when asked for greater specificity, indicated that late September was more likely than early September), with a final report to be issued in October or November of 2013. CforAT/Greenlining are unaware of any requests to the Commission for permission to deviate from the deadline set in D.12-08-044. Be that as it may, this leaves the most recent available broad data set focused on low-income utility customers in California as the KEMA Report,²² which was released in 2007, and is based on data collected even earlier than that. In addition to simply being stale, the KEMA data all predates the extreme economic difficulties that have beset California since the economic collapse in 2008, including catastrophic decreases in housing value, job losses, and freezes or cuts to various low-income assistance programs. Even so, the data published in 2007 showed many vulnerable customers already at risk of facing, or actually facing, unaffordable energy bills based on then-current rates and other economic pressures. Since then, the situation for many has only worsened, and CforAT/Greenlining anticipate that the new data will show increased hardship and lack of energy affordability.

²⁰ D.12-08-044 at p. 256.

²¹ *Id.* at p. 258.

²² “Final Report on Phase 2 Low Income Needs Assessment”, prepared by KEMA, Inc. for the California Public Utilities Commission, September 7, 2007 (“KEMA Report”). The KEMA Report is available at <http://docs.cpuc.ca.gov/published/Graphics/73106.PDF>.

CforAT/Greenlining expressly request that the Commission take into consideration new data on the needs of low-income utility customers when it becomes available, including the upcoming draft and/or final low-income needs assessment. CforAT/Greenlining had previously requested that the schedule of this proceeding be modified in order to allow consideration of the new low-income needs assessment as part of the record,²³ arguing that existing statutes require consideration of the current circumstances of low-income customers before making significant changes to their rates.²⁴ While denying the motion, the ALJ agreed that “its [sic] frustrating to have to use data that is several years old” to consider the circumstances of low-income customers.²⁵ While the proceeding has continued, there is no reason that the Commission should decline to consider the new data when it becomes available, and there should be express recognition of the appropriateness of doing so.

CforAT/Greenlining further request that the new low-income needs assessment be immediately accepted into the record of this proceeding, and that parties have an opportunity to comment on the new data, regardless of the stage that this proceeding is in when the data becomes available. Failure to incorporate this data, particularly assuming that it becomes available before a final decision is issued in this proceeding, would deny vulnerable customers the opportunity to have the best, most current data given consideration as the Commission considers changes to rate design that will impact affordable supplies of electricity.

²³ Center for Accessible Technology and the Greenlining Institute’s Motion to Adjust the Schedule to Allow for Consideration of the Low Income Needs Assessment (CforAT/Greenlining Motion to Adjust Schedule), filed on December 21, 2012.

²⁴ Cal. Public Util. Code § 382(d) (“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”); *see also* Cal. Pub. Util. Code § 739.1(b), referring back to §382(d).

²⁵ Administrative Law Judge’s Ruling on Workshop, issued on January 31, 2013, at p. 10.

Without access to up-to-date data on the circumstances of low-income utility customers in California, CforAT/Greenlining have looked at a variety of older data and other proxies. These include the disconnection reports issued by each of the IOUs based on decisions issued in R.10-02-005, anecdotal information about the impacts of utility bills on low-income customers collected over time, responses to data requests provided by the IOUs, and the outdated but still compelling information in the 2007 KEMA Report. This data, while not substituting for an up-to-date low-income needs assessment, provides useful information showing many vulnerable customers already face unaffordable or nearly unaffordable electricity bills impeding their access to essential supplies of electricity.

II. AFFORDABILITY

A. Utility Customers have a Right to Affordable Electricity for Basic Needs

The Commission must ensure that all customers have access to enough electricity to meet their basic needs at an affordable cost. It is especially imperative to ensure affordability for basic uses for vulnerable populations, such as low-income customers and medical baseline customers. Thus, the first principle of rate design established in this rulemaking reads:

Low-income and medical baseline customers should have access to enough electricity to ensure basic needs (such as health and comfort) are met at an affordable cost.²⁶

However, the Commission should not limit the principle of affordability for basic uses to vulnerable customers; this principle should apply to all customers.

Affordability as a fundamental principle of rate design, particularly with regard to basic use requirements, has always applied to all customers, and has been recognized as a necessity for all ratepayers. The United States Supreme Court stated in *Memphis Light*,

²⁶ Principles for Rate Design, Attachment A to Ruling Requesting Proposals at p. A1.

Gas & Water Division v. Craft, “Utility service is a necessity of modern life; indeed, the discontinuance of water or heating for even short periods of time may threaten health and safety.”²⁷ Consistent with this Supreme Court holding, whenever the California legislature has discussed the principle of affordability of electricity for essential uses, it has recognized the principle as applicable to all customers.²⁸ Thus, despite the language of the OIR focusing on the basic needs of low-income customers, the Commission does not have license to neglect affordability for other customers, including lower-income, near-poor, who may not receive support through CARE or other programs. The necessity of essential electricity uses for health and safety applies to all customers.

Currently, the principle of affordability for basic uses for all customers is codified in multiple places in the California Public Utilities Code. Section 382(b) establishes the CARE program as a mechanism for promoting affordability for low income customers, but only after “...recognizing that electricity is a basic necessity, and that *all residents* of the state should be able to afford essential electricity and gas supplies...” (emphasis added). Further, Section 739(d)(2) of the California Public Utilities Code states:

²⁷ *Memphis Light, Gas & Water Division v. Craft* (1978) 436 U.S. 1, 18.

²⁸ See, e.g., Cal. Pub. Util. Code § 382(b), discussed below. The Commission has also repeatedly recognized the need to ensure affordable basic energy supplies for residential customers, particularly in times of economic crisis. See, e.g. D.12-03-054, issued in R.10-02-005 (addressing the issue of service disconnection, opening with a statement of concern about the impact of the state’s economic crisis on low-income households, and further agreeing “with arguments that rate levels and rate design impact affordability and ultimately are important to addressing the disconnection problem,” while finding that “those matters are beyond the noticed scope of this rulemaking,” and encouraging parties “to advance their concerns about affordability in all appropriate proceedings. (p. 14)), and D.12-08-044, issued in A.11-05-017 *et al.* (setting the IOUs’ consolidated CARE/ESAP budget applications for 2012-2014, as well as associated policy issues and noting “We also recognize that due to the economic recession, the need for the assistance and relief provided through the CARE Program is more critical now than ever” (p.3)); see also D.11-05-047, issued in PG&E’s 2011 GRC Phase 2 proceeding (Commission recognized “the importance of avoiding rate shock and keeping essential energy needs affordable, particularly for low-income households” (p. 15) and further recognized that the “obligation to maintain affordable rates must be addressed in the context of California’s ongoing economic crisis, high unemployment rates, and rising income inequality.” (p. 16). Using this analysis, the Commission sought to balance the affordability needs of low-income households with competing interests “while keeping overall rate levels reasonably affordable.” (p.17)).

In establishing residential electric and gas rates, including baseline rates, the commission shall ensure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, *while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable and while observing the principle that conservation is desirable in order to maintain an affordable bill.* (emphasis added)

CforAT/Greenlining recognize that parties to this Rulemaking were instructed to “assume that there are no legislative restrictions” in developing their optimal rate design.²⁹ However, in citing these statutes and Commission Decisions as well as the ruling of the U.S. Supreme Court, we are not focused on specific rate design mechanisms. Rather, our focus is to illustrate that the principle of affordability of electricity for basic needs for all customers is long-standing for sound reasons of public policy. We do not believe that the Commission or the legislature can or should abandon this principle of affordability for basic uses for all customers, sacrifice it to promote other goals through rate design, or limit it to only low income and medical baseline customers.

B. Affordable Electricity Sufficient for Basic Needs is Necessary for Comfort and Safety

CforAT/Greenlining’s priority of affordable levels of electricity sufficient for basic needs does not conflict with efforts to promote conservation or efficiency. At the same time, policy proposals intended to promote conservation (or other articulated principles) through rate design must be careful to avoid risking the availability of affordable levels of energy sufficient for basic use.

Electricity needed for basic, essential uses is usage that a household cannot eliminate through conservation,³⁰ or can only eliminate with great difficulty or hardship.

²⁹ Questions for Rate Design Proposal, Attachment A to Ruling Requesting Proposals at p. A2.

³⁰ Some basic use requirements could likely be reduced through efficiency, for example increased efficiency air conditioners or improved weatherization. However, such efforts generally require up front investments of resources or participation in programs (such as ESAP) that may be difficult for vulnerable

If the price for a basic amount of energy becomes unaffordable, customers will face the loss of comfort and safety, the disconnection of electricity service and mounting financial problems. As described in detail below, this is already the situation faced by many vulnerable consumers today.

While, as noted above, the parties are awaiting more up-to-date data on the needs of low-income utility customers in California, the 2007 KEMA Report demonstrates that, even prior to the recession and ongoing employment crisis, as well as increases in IOU revenue requirements and changes in rate design impacting low-income and low-usage customers, vulnerable customers were facing tremendous burdens due to unaffordable energy.³¹

Following many studies of household energy costs, the KEMA Report used a measure of household “energy burden” to measure residential energy affordability.³² Energy burden is defined as the portion of total household income that goes toward paying energy utility bills.³³ The KEMA Report defined households with an energy burden above 5% of household income as having a “high energy burden.”³⁴ Some national studies have utilized a household energy burden of 6% of household income as the maximum “affordable” level, finding that figure to be the most a household could

consumers to access. These vulnerable consumers must not face loss of basic comfort or safety if they cannot access such improvements.

³¹ Consistent with CARE eligibility requirements, the KEMA Report defines “low-income” as 200% of the federal poverty guidelines. KEMA Report at p. 4-1.

³² Energy burden is generally used to address costs of both electricity and natural gas; for customers who are not all-electric, this means that the share of household income used to cover the cost of electricity must be lower, to allow for a share of household income to cover the cost of natural gas.

³³ See KEMA Report at p. 5-9.

³⁴ See KEMA Report at p. 5-12.

devote to home energy needs and still afford housing and other expenses.³⁵ Given the high housing costs and the high cost of living in California, 5% is the better figure to be used as a measure of high energy burden and unaffordability.

The KEMA Report provided substantial data regarding energy burdens on low income customers.³⁶ The Report found that low income customers surveyed in service territories for PG&E, SCE, SDG&E and SoCalGas faced an average energy burden of 4.2%.³⁷ A large percentage of all low income customers (43%) had a high energy burden of over 5%.³⁸ This number is even larger for certain particularly vulnerable subsections of the low-income population, including people with disabilities (56% of whom have an energy burden of greater than 5%), seniors (50% of whom have an energy burden of over 5%), and households with total annual income of less than \$15,000 (73% of whom have an energy burden of greater than 5%).³⁹

The KEMA Report also surveyed low-income customers to gauge how they coped with energy prices, and developed the responses into a measure called “Energy Insecurity.”⁴⁰ Among the overall low-income population in California, it found that 66% of households were energy insecure.⁴¹ As with the level of energy burden, the level of

³⁵ See Applied Public Policy Research Institute for Study and Evaluation, Ratepayer-Funded Low-Income Energy Programs: Performance and Possibilities, July 2007, p. 15 available at www.nliec.org/Journal/Articles/RatepayerFundedPrograms.pdf.

³⁶ Analysis of energy burden involved data from 2003, such that the data was already not current when the KEMA Report was published in 2007. The KEMA Report recommended back in 2007 that updated information on energy burden be commissioned. See KEMA Report at p. 5-9, n. 10.

³⁷ See KEMA Report at p. 5-14, Table 5-9.

³⁸ See KEMA Report at p. 5-15, Table 5-10.

³⁹ *Id.*

⁴⁰ See KEMA Report at p. 5-15, Table 5-17.

⁴¹ See KEMA Report at p. 5-22, Table 5-13.

energy insecurity is even greater among particularly vulnerable low-income customer segments. According to the KEMA Report, in 2007, 77% of low-income households including a person with a disability were energy insecure, 74% of low-income large households (with 5+ members) were energy insecure, and 72% of households with an annual income of less than \$15,000 were energy insecure.⁴² Among low-income households with a high energy burden of over 5% of annual income, 82% were energy insecure.⁴³

The KEMA Report summarized results for all low-income households:

Over half of the respondents (57%) have at some time during the year had to cut back on basic household necessities in order to meet their need for energy. Just about half (49%) reported that they have worried about paying their energy bill at least once during the past year, 37% reported that they had skipped paying an energy bill in the past year and 31% have had to borrow money from friends and/or relatives to pay their energy bills.

About one in five respondents reported that they have had to close off part of their homes because they could not afford to keep it cool or warm, and a similar percentage reported that they have had to leave their home for part of the day because it was too cold or hot. Only 15% reported that they have kept their homes at an unsafe or unhealthy temperature (in order to control energy costs).

Finally, 22% of the survey respondents reported that in the past twelve months they have been threatened with disconnection of energy service, and only 5% reported that they had ever been disconnected.⁴⁴

Thus, low-income customers, even under the economic circumstances captured in the 2007 KEMA Report, were already forced to cut back on essential uses (of energy or other necessities), impacting comfort and safety, when faced with unaffordable prices for basic energy use. Over half were required to cut back on basic household necessities in order to pay their energy bills. Based on the KEMA Report, more than a third fell into

⁴² *See Id.*

⁴³ *See Id.*

⁴⁴ KEMA Report at p. 5-17.

arrearages under the conditions then in place (data on arrearages is confirmed by more recent data from PG&E and SCE).⁴⁵

Although the KEMA Report focuses on low-income customers, the difficult circumstances reported by the customers may be similar for other vulnerable customers facing a high energy burden. Customers who are just beyond the income eligibility limits for the CARE program would have similar energy burdens to those found for low-income customers in the KEMA Report.⁴⁶

The impact of electricity prices on consumers' ability to access housing, medical care, nutrition and public safety, even under the rates and economic conditions in effect in 2007 or earlier, are evident in the KEMA Report. The struggles faced by these consumers have also been repeatedly confirmed through anecdotal information gathered by representatives of vulnerable consumers over time and put into the public record in various rate design proceedings.⁴⁷ Further outreach efforts collecting current information on the circumstances of low income consumers, particularly focused on consumers with

⁴⁵ See KEMA Report, p. 5-18, Table 5-11.

⁴⁶ The situation facing these lower-income customers is addressed in greater detail below in CforAT/Greenlining's discussion of the importance of the FERA program.

⁴⁷ See e.g., Testimony of Alicia Reyes, Communications and Outreach Coordinator, Disability Rights Advocates, submitted by Disability Rights Advocates (the predecessor of CforAT in representing people with disabilities before the Commission), submitted in A.10-03-014, PG&E's 2011 GRC Phase 2 proceeding, on October 6, 2010; Prepared Testimony of Nicolie Bolster Addressing the Concerns of the Disability Community Regarding Southern California Edison's Proposals for Residential Rate Design, submitted on behalf of the Center for Accessible Technology in A.11-06-007, SCE's 2012 GRC Phase 2, on February 6, 2012, and Prepared Testimony of Nicolie Bolster Addressing the Concerns of the Disability Community Regarding San Diego Gas & Electric's Proposals for Residential Rate Design, submitted on behalf of the Center for Accessible Technology in A.11-10-002, SDG&E's 2012 GRC Phase 2, on June 12, 2012. For the convenience of the parties in this Rulemaking, these documents are attached to this proposal as Appendices A-C, respectively.

disabilities, have been collected for this proceeding, and the summaries of this outreach effort are attached to this rate design proposal.⁴⁸

In 2010, while PG&E's 2011 GRC Phase 2 was pending, advocates for low-income customers with disabilities conducted outreach to this vulnerable community and provided evidence that:⁴⁹

Many people with disabilities and others on low or fixed incomes are barely able to pay their utility bills now, and many are forced to juggle any combination of vital living expenses such as: rent, energy utility payments, other utility bills, medicine and food." Consumers with disabilities have reported having to choose between paying their PG&E bill or paying for other vital services such as rent, water, or medication; some PG&E customers have resorted to extreme conservation measures that compromise their comfort and safety to minimize their PG&E bills. Representatives of Independent Living Centers and other community-based organizations serving people with disabilities report a spike in the numbers of clients seeking assistance with utility payments and report a theme of concern among their clients that they do not have enough money to afford basic necessities and must select among vital services each month.

The hardships identified through the outreach conducted by DisabRA are consistent with the fears articulated by PG&E consumers through other forums in which their input was solicited. . . . At every opportunity, customers have made clear their fear of being pushed over the brink in an environment in which they are barely getting by today.

At a public participation hearing in San Francisco, a PG&E customer named Sheila Cockshott, who described herself as getting by on a "very, very small fixed pension," asked "What are you going to do if [a rate increase] happens? I don't know what I'm going to do. I don't have a plan B." In Oakland, a representative of the Bay Area Workers Benefit Council described how the Council's "members fall behind on PG&E bills because they lose their job, the jobs are minimum wage or the jobs are only part time The Bay Area's low-income service and domestic workers are faced with the awful decision of eviction or living without a refrigerator, lighting, hot water, stove, warmth in the winter." Numerous

⁴⁸ See generally the 2013 Table of ILC Responses, prepared for CforAT/Greenlining by Nicolie Bolster and attached hereto as Appendix D and the table of Data/Stories Gathered Thru Individual Outreach by Nicolie Bolster for CforAT/Greenlining, attached hereto as Appendix E.

⁴⁹ The following excerpts are from the Opening Brief of Disability Rights Advocates in A.10-03-014. Internal citations to the Reyes Testimony included in the record in that proceeding, which is attached hereto as Appendix A, have been omitted.

witnesses at the PPHs described how funds from REACH and other programs that are intended to help low-income customers pay utility bills are exhausted and unavailable. Sharp rate increases on these customers will push some over the edge.

. . . Low-income and disabled PG&E customers are eating out of food pantries, going without prescription medication because they cannot afford their co-pays, shutting off water service and bathing at friends' homes, and taking other extreme measures. One stated in an email to DisabRA that the proposed new rate design "will make it nearly impossible for people with disabilities to afford [their energy bills] especially those who use electricity all the time for their medical equipment." A deaf woman who lives with her 93 year-old mother says "home care for her is hard for me with my severe back problem, a way to save money. I'm deaf and have lumber [sic] degeneration. My retirement money is not enough [sic] to support me n [sic] Mom." Another describes: "I can NOT afford to take a bath! I operate with one light on after dark, the TV . . . I have no where else to cut!" Finally, one notes how counterproductive it is to try to get more from those with the least: "In short, increasing my energy bills will decrease my ability to find employment and get off my fixed income, and if I can get off the fixed income I will be happy to pay the regular energy rates offered to the general public."

. . . A customer in Bakersfield with multiple sclerosis and other disabilities who lives on a fixed income cannot adjust his thermostat or his health will suffer; he is already facing bankruptcy while struggling to pay for his energy use under the existing rate schedule. A Fresno resident with cerebral palsy and other disabilities spends large amounts of time in bed with a heating pad because it is the only way she can avoid leg spasms when she cannot afford to heat her entire home. She also eats from food pantries or goes without in order to pay her utility bills, even before any increases she would face from PG&E's proposed new rate design. A Clovis resident who is quadriplegic will have to cut back on food and/or forgo transportation to medical appointments to absorb an increase in his PG&E bill, while another Bakersfield resident with multiple sclerosis, diabetes, epilepsy and osteoporosis, who already only cooks one hot meal a day to minimize her energy use, will have to forgo medication. These and other examples of severe hardship come from customers who already take extreme measures to reduce their usage because they simply cannot afford to pay their current energy bills.

Similar stories were gathered in Southern California for the recent GRC Phase 2 proceedings for SCE and SDG&E.⁵⁰ In A.11-06-007, SCE's 2012 GRC Phase 2, CforAT

⁵⁰ See generally Bolster Testimony entered into the record in each of these proceedings and attached hereto as Appendices B and C.

collected information through Independent Living Centers and other CBOs, which broadly reported that their clients were struggling to pay for energy while also paying for other necessities such as rent, food, and medical care; many households reported situations in which they were forced to juggle payments to their utilities to ensure that they could meet other needs, and some people were already forced to make extreme and difficult choices.⁵¹ This was based on the rates in place at that time, before any changes in rates based on either Phase 1 or Phase 2 of SCE's 2012 GRC were implemented.

The hardships reported before any decisions were issued or any changes in rate design were implemented based on the 2012 GRC are real and devastating. For example, an Independent Living Specialist at the Victorville office of Rolling Start, Inc. reported that a senior with diabetes who called with concerns about her utility bill stated that “cat food tastes pretty good.” The ILC representative further indicated that over half of the calls that come into her office concerned utility bills and that her clients reported sacrificing food, transportation and medicine to pay for their utilities. Clients of this ILC included a 71 year old woman who lives on her SSI (no food stamps) and cares for two grandsons. She was provided a list of food banks, but was struggling with the cost of gas to travel for food. Her older grandson was in school, and she could not spare money for gas to allow him to come home on weekends to assist her with his brother, who has autism. Another client in Newberry Springs was forced out of her rented home because she could not afford utility service; fortunately, her church helped her locate a home with lower rent. Yet another client with Lupus, Fibromyalgia, asthma and third-stage kidney disorder was raising her granddaughter. She reported going without food to pay rent and utility bills, and she had lost multiple teeth, but she could not afford to go to a dentist.

⁵¹ All of the details set forth below are included in the Bolster Testimony and accompanying tables submitted in A11-06-007 and attached hereto as Appendix B.

Yet another blind client could not afford to buy a white cane or feed his service dog. He reported eating from food pantries.

A Systems Change Coordinator with Southern California Rehabilitation Services in Downey reported that an elderly couple in Long Beach who both rely heavily on electricity to keep medical equipment (including oxygen tanks) functioning, ate free food donated through churches so that they could pay their electric bill. Because of the low quality of their diet, their health has suffered. The wife of the couple has fallen multiple times and been hospitalized because of her poor nutrition. She reported having to eat soup for days on end, and feeling helpless and out of control because she cannot afford anything else.

Another client of Southern California Rehabilitation Services reported that he has had to choose between paying utility bills and buying medication. When Medi-Cal doesn't cover a medication, he just goes without it. Yet another client is a 57 year old woman who is blind and diabetic, and who has high blood pressure. This woman lives alone on SSI. She has to maintain a constant temperature due to her diabetes, and she uses medical equipment that cannot be shut off. However, she reported being forced to choose to pay for medication or doctor's visits over utility bills and she has been threatened with having her power shut off multiple times. She described how she is frightened of losing power, because she has a friend who used to live in her same building that didn't use her air conditioning during the summer, and subsequently overheated and went into a coma. At the time the testimony was prepared, the friend had been in a coma for three years, and the client was worried that the same thing will happen to her.

A Systems Change Advocate at Rolling Start, Inc. in San Bernardino, described a woman with lupus and asthma who lives in Highland and survives on her SSI fixed income. She uses a nebulizer daily, and she struggles to pay her utility bills; she has gone without medication and especially without transportation to pay her SCE bill. Another client has diabetes and multiple other conditions. She has received assistance paying her utility bills from HEAP, and this has allowed her to improve her diet and bring her diabetes under control. She is worried that increasing energy costs will force her to choose between paying for utilities or for healthier food, and she risks aggravating her diabetes.

Representatives of other ILCs did not provide individual stories, but reported that they receive many requests for help from people who report difficulty paying for utility bills, including callers who have no money for food, and callers who are facing homelessness. In addition, a number of disabled individuals directly reported stories of hardship.⁵² Examples included:

- A wheelchair user in Long Beach who described juggling bills to pay for energy, food and medication and indicated that “this month [he was] paying medicine before gas.”
- A disabled woman in Long Beach who said that she has asked SCE for an extension on the due date for her bill when she was running out of food. She has also delayed necessary dental care for herself and her son because Medi-Cal has increased the patient contribution and she cannot afford to pay it.

⁵² Again, all of the details around these outreach responses are provided in the Bolster Testimony and accompanying tables, attached hereto as Appendix B.

- A blind man from Goleta (near Santa Barbara) living on a fixed income with his developmentally disabled brother who describes turning off their electric water heater every day to limit energy costs, and only turning it on for half an hour to heat water for a shower.
- A quadriplegic man from Monrovia who juggles bills and says that every penny counts, noting that a rate increase for energy could mean not getting an extra can of soup or not being able to travel to a monthly doctor visit.
- A married couple, both disabled, who live in Covina survive on a fixed income. They have had to pay utility bills with credit, and the husband has gone without mental health care to afford their utility bills.

The record in SCE's 2012 GRC Phase 2 proceeding contains additional information included in CforAT's testimony regarding a number of other SCE customers who are disabled, who have a disabled family member, or who care for a person with a disability, who reported at that time that they were suffering hardship in order to pay their utility bills, that they were already forced to make difficult choices. Since the record was closed in A.11-06-007, the Commission has agreed to a substantial increase in SCE's revenue requirement⁵³ as well as rate design changes that will impact the bills of low-income and low-usage customers.⁵⁴

Similar information was obtained from low-income disabled customers of SDG&E and their advocates, collected in conjunction with A.11-10-002 (SDG&E's 2012 GRC Phase 2 Application) based on rates in effect before any revenue increases and

⁵³ See D.12-11-051, granting SCE an increase of 5.04% over then-current rates, backdated to January 1, 2012.

⁵⁴ D.13-03-031, rejecting the affordability concerns raised in CforAT/Greenlining Response to SCE Settlement.

changes to rate design impacting low-income customers were adopted in SDG&E's 2012 GRC Phase 1 or Phase 2.⁵⁵

As with the information collected in the territory of the other IOUs, SDG&E customers with disabilities and their advocates expressed anxiety and despair about rate increases and rate design impacts, telling stories of how changes to rates that disproportionately impact low-income or low use households would cause or aggravate severe hardship. At the time the testimony was prepared in that proceeding, people with disabilities already reported struggles to pay for energy while also paying for other necessities such as rent, food, and medical care, and already were forced to make extreme and difficult choices. The decision issued in Phase 1 of SDG&E's 2012 GRC and the proposals under consideration in SDG&E's GRC Phase 2 will make this worse.⁵⁶

The largest ILC in SDG&E's territory reported that approximately 3% of their monthly calls were from clients seeking assistance with utility bills and describing a lack of ability to pay. A customer who reported paying a minimum of \$140 a month for his medicines stated that he is on a fixed budget and worries about paying for air conditioning as well as costs such as doctors' visits. Another described the harms of living on a small fixed income, noting that money was so tight she couldn't buy a needed pair of new shoes. Another customer reported that she lived on only \$800 a month, and

⁵⁵ These reports were placed in the record of A.11-10-002 through the Testimony of Nicolie Bolster, submitted on behalf of the Center for Accessible Technology. This testimony is attached hereto as Appendix C.

⁵⁶ See D.13-05-010, authorizing an increase in SDG&E's overall revenue requirement of \$123.379 million over then-current rates, representing an average increase of 12.20% in a customer's monthly electricity bill. No decision has yet been issued in SDG&E's pending GRC Phase 2, A.11-10-002, but SDG&E has requested similar changes in rate design as the other IOUs, which would disproportionately impact low income and low usage customers. See Opening Brief of the Greenlining Institute and the Center for Accessible Technology, filed on November 16, 2012, urging the Commission to reject San Diego Gas & Electric Company's (SDG&E) proposals to introduce a Basic Service Fee, to consolidate Tiers 3 and 4 and to remove the rate cap on the CARE Tier 3 rate.

already relied upon emergency assistance to get by. She reported that she has had to choose between paying for food and electricity, with no money at all for items such as clothes or shoes.

Another CBO serving people with disabilities in SDG&E's service territory also reported receiving regular calls from clients who need assistance because of their utility bills. For example, one deaf client in San Clemente, with a pacemaker and other physical disabilities including diabetes, reported that she had mental health issues from the stress of being unable to pay her bills. She also reported that she is unable to eat well due to financial pressures including her utility bills, and this aggravates both her physical conditions and her mental health. Other people with disabilities reported similar stories directly in response to outreach.

In addition to the stories of customer hardship that have been put before the Commission in rate design proceedings dating back to 2010, more such stories are available now. As in past years, individuals with disabilities and their advocates report extreme hardship based on their economic condition and their utility bills. As before, in response to outreach to these communities, CforAT/Greenlining have gathered information about these experiences and submit them in conjunction with this proposal.⁵⁷

Independent Living Centers reported general information about utility issues experienced by their customers, as well specific examples of customers experiencing hardship due to unaffordable utility bills. General information provided by ILCs demonstrates the extreme conditions that many vulnerable customers already face in trying to make ends meet and pay for basic necessities, including electricity. For example:

⁵⁷ See ILC Outreach results and information from individuals, attached hereto in Appendices D and E, respectively.

- The program manager at an ILC based in Santa Barbara reported that 85% of their consumers have a fixed income from Social Security, SSI, state disability, or no income at all. In April, this ILC reported receiving 158 requests so far this year for financial management/benefits assistance.
- An ILC based in Garden Grove reported receiving approximately four calls a day asking for assistance with utility service. Because they cannot provide any funding to assist these customers, the ILC does not collect detailed information, but attempts to refer the callers to emergency food and shelter programs, as well as sources for utility payment assistance.
- An ILC based in Nevada City reported receiving 2-3 calls per week from customers who are having difficulty paying utility bills, have received disconnection notices, and/or are facing reconnection fees.
- An ILC based in Placer County described how clients who cannot afford both rent and utilities, and who have no flexibility at all with regard to rent, decline to use their utilities to the detriment of their health.
- An ILC serving the Central Valley reports that between 30-50% of their consumers have difficulty paying utility bills. The ILC assists them in enrolling in support programs if they are not already enrolled, and refers them to local assistance programs.
- An ILC serving San Mateo County reports that half their customers have problems paying utility bills, even on CARE and receiving assistance from LIHEAP. Some are hundreds of dollars in arrears and struggling to make payments on a payment plan.

- An ILC based in Berkeley noted that they do not separately track customers with utility concerns, but that they often get calls regarding utility costs. The program manager described the typical consumer served by the ILC as having an income of much less than \$20,000 per year (noting that an individual on SSI receives about \$10,440 per year) and said that the rising cost of energy has put many people at risk of not being able to afford the necessities of a stable, safe and healthy standard of living.

The specific stories provided by ILC representatives illustrate these general concerns. For example:⁵⁸

- The ILC in Ventura provided direct contact with a customer who lives on \$875 per month, has Chronic Obstructive Pulmonary Disorder, and uses an oxygen compressor at night and a nebulizer during the day. Even with a medical baseline rate she struggles with bills and debt, and only uses her equipment for a limited number of hours each day, leaving her feeling like she is smothering.
- The same ILC provided direct contact with a CARE customer in Santa Barbara who has multiple disabilities. This customer described how difficult it would be to absorb another \$5-10 in utility costs, noting that she is reducing her car insurance to the minimum (cutting collision and towing) and has already discontinued all but basic telephone service.
- An ILC representative in San Bernardino described a client who believes he will lose his personal care attendant, who shares his rent and utility bills, if he receives a further rate increase, which could then force him out of his independent living situation and into institutional care.

⁵⁸ All of these examples are described in greater detail in Appendix D.

- An ILC representative from Placer County forwarded three handwritten letters from customers describing their difficulty in paying utility bills. Each of them report that they limit use of their air conditioner due to cost, resulting in difficulty breathing.

Many additional ILC representatives had stories of customers who suffered with inadequate heating or cooling because of high utility bills, as well as others who are in arrears, struggling to keep up with payment plans, struggling to pay for food, and seeing their health impacted because of their inability to afford utility service.

Individual utility customers report the same types of risks and harms. Examples include:⁵⁹

- A 72-year-old PG&E customer in Contra Costa County with multiple disabilities who is on CARE and Medical Baseline needs multiple assistive devices including oxygen and a concentrator. She keeps her thermostat set low in the winter and bundles up to avoid utility costs. In the summer, she uses an evaporated cooler and only turns on a portable air conditioner to avoid going to the emergency room. She says that last summer she used it only 11 times, for only 1-2 hours each time, and that sometimes her home temperature was above 100 degrees. Her greatest fear is being forced into a nursing home because she is unable to pay bills to retain her home.⁶⁰
- A Berkeley household consists of a couple, both with severe disabilities, who are PG&E customers on CARE and Medical Baseline. They have two power wheelchairs and the husband uses a respirator; they also depend on an electric bed, heating blanket, and an electric air pumped mattress. They have a limited

⁵⁹ All of these examples are described in greater detail in Appendix E.

⁶⁰ Appendix E, Story 1.

fixed income and pay for attendant care out-of-pocket, and are extremely concerned about electric rate increases.⁶¹

- A customer in Long Beach, who gets his electricity service from SCE says that his utility bills are approximately 8% of his monthly income, with about half of that being electricity. He has had to rely on various assistance programs such as HEAP as well as food pantries to get by, and is concerned that additional increases will result in increased hunger or hospitalizations.⁶²

C. In Reviewing Policy Surrounding Rate Design, Affordability for Basic Use Cannot Be Compromised, and Any Review Must Address Cumulative Impacts

As set forth above, CforAT/Greenlining stress that any review of affordability must take into consideration the cumulative impacts of recent changes to revenue requirement and rate design for each of the IOUs, together with the anticipated impact of any changes under consideration in this Rulemaking. Without such a review, the Commission will fail to evaluate proposed changes in context and essentially presume here, as it seems to have done in prior rate design proceedings, that the existing situation is reasonable, and then assess proposed changes based on how significantly any new proposal diverges from the status quo. This method of treating affordability concerns has been used in recent rate design proceedings, and the result has been failure to effectively consider affordability for vulnerable consumers.

Instead of a piecemeal review, the overall circumstances of vulnerable ratepayers, including the recent history of rates and the economic circumstances of the state as a whole, must be taken into consideration. Without such review, as with environmental evaluations, the Commission risks adopting potentially damaging plans, particularly if they serve as a series of smaller changes (some of which have already been ordered or

⁶¹ Appendix E, Story 2.

⁶² Appendix E, Story 3.

implemented), each of which is characterized as having only a limited impact on affordability. This type of slow-motion attack on affordability is already well underway. In order to avoid perpetuating or even aggravating this result, the entirety of any series of proposals by the IOUs for changes in rate design (together with recent history) must be reviewed to consider whether it will result in substantial harm to vulnerable consumers.

CforAT/Greenlining anticipate that the IOUs' proposals on residential rate design will focus on the fact that Tier 1 and Tier 2 CARE rates have been largely frozen for some time. However, other important factors have impacted the ability of low-income and vulnerable customers to afford essential supplies of electricity in recent years, including other changes in rate design, overall increases in revenue requirements for each of the IOUs, and California's most extensive and long-lasting economic downturn since the Great Depression, which has resulted in long-term unemployment and reduced benefits for many who were already on the bottom rungs of the economic ladder, as well as increased income inequality so that those with the least face the greatest burdens.

The requests by the IOU for changes in revenue and rate design, and the results of these requests in just the most recent general rate case cycle for each utility are set forth in the chart below:

Proceeding	Decision Status	Request	Result
PG&E 2011 GRC Phase 1 (A.09-12-020)	D.11-05-018	Increase revenue requirement	Revenue increase of 8.1% (\$450M) approved, plus additional \$365 in attrition.
PG&E 2011 GRC Phase 2 (A.10-03-014)	D.11-04-047	1. Reduce baseline allowance from 60% of average to 55% of average 2. Adopt of CARE Tier 3 rate and two interim increases to new CARE Tier 3 rate 3. Collapse Tier 3 and	1. Adopted 2. CARE Tier 3 rate adopted and one interim increase permitted. 3. Differential reduced.

		Tier 4. 4. Adopt Customer Charge	4. Rejected
PG&E 2012 RDW (A.12-02-020)	No Decision yet issued	Further reduce baseline allowance from 55% of average to 50% of average	N/A
SCE 2012 GRC Phase 1 (A.10-11-015)	D.12-11-051	Increase revenue requirement	Revenue increase of 5.04%, backdated to 1/1/12.
SCE 2012 GRC Phase 2 (A.11-06-007)	D.13-03-031	1. Increase customer charge 2. Reduce baseline allowance from 55% to 50% of average 3. Eliminate Tier 5 4. Reduce differential between Tier 4 and Tier 3 5. Separate baseline allowances for single and multi-family residences	Approval of residential rate design settlement that included: 1. Eliminated Tier 5 2. Lesser reduction in rate differential between Tier 4 and Tier 3 3. Reduced baseline allowance from 55% to 53% of average.
SDG&E 2012 GRC Phase 1 (A.10-11-015)	D.13-05-010	Increase revenue requirement	Revenue increase of \$123.379M, average increase of 12.2% in customer bills
SDG&E 2012 GRC Phase 2	No Decision yet issued	1. Adopt Basic Service Fee (customer charge) 2. Collapse Tier 3 and Tier 4 3. Remove cap on CARE Tier 3 rate	N/A

PG&E has recently filed its application for its 2014 GRC Phase 1 (A.12-11-009) and Phase 2 (A.13-04-012), in which it again requests substantial increases in revenue and further changes in rate design that would disproportionately impact low-income and low usage customers. Outside of the GRC proceedings, each IOU has requested substantial additional revenue in ERRA applications and other forums.

As the chart demonstrates, each of the IOUs has been aggressively seeking opportunities to reduce rates paid by customers who consumer the most electricity by reducing the number of tiers and the differential between tiers, creating or increasing customer charges, and changing baseline allocations. Each of these changes requires them to make up the lost revenue from customers who use the most energy by collecting more revenue from low-income and low usage customers. This effort must be halted, not accelerated in this Rulemaking. At the same time, due to the ongoing economic difficulties facing California, the financial situation of those already at the bottom of the economic ladder has become more precarious over time.

In other proceedings, IOUs have argued that those who are most financially vulnerable cannot have their problems solved by avoiding increases in the amount they have to pay for essential electricity supplies, effectively asserting that inability-to-pay is a “social” problem and not a “utility” problem.⁶³ While the problems of poverty are indeed societal in nature, the question today is put narrowly: in constructing a rate design for residential customers, how can the Commission ensure that those who are most vulnerable are able to afford at least enough electricity to meet their basic needs? This question must be addressed squarely, and in context, in order for a just result to be obtained.

The widespread effort by utilities to avoid their role in the affordability crisis is common enough to be noted in reports on the needs of low income customers in other states.⁶⁴ In this context of an overall review of residential electricity rates, with clear guidance that affordability is a vital touchstone for state policy, the utilities cannot simply

⁶³ See e.g. Testimony of Ahmad Faruqi in PG&E’s 2011 GRC Phase 2 Proceeding, A.10-03-014 , as cited in the Opening Brief of Disability Rights Advocates, filed on December 20, 2010 (“I am not saying that this [PG&E’s proposed rate design] will solve the problem of people who have either disabilities or low income. I think that’s a social and humanitarian issue, and lowering the price of electricity is not going to solve that problem”).

⁶⁴ See *Home Energy Affordability in Idaho: Low-Income Energy Affordability Needs and Resources* (Idaho Report), prepared by Roger Colton, Fisher, Sheehan & Colton, in November, 2011, at pp. 1-2.

assert that they have no responsibility, nor can the Commission avert its gaze from the reality facing low-income households who simply cannot pay more. As representatives for vulnerable customers noted years ago, before additional revenue requirements were authorized and further changes in rate design resulting in increases for low-income and low-use customers were approved, the observation that “that’s not my responsibility” would be the easy, but inappropriate, response.⁶⁵

The reality is that, for many low income households, there is simply an ongoing lack of sufficient household resources to allow them to consistently pay their home energy bills on a full and timely basis. This inability-to-pay is not a “budgeting” problem. No amount of household “budgeting” will allow a household with an annual income of \$30,000 meet basic family needs of \$45,000. It may be possible to *improve* the situation with budget facilitators (such as leveled budget billing). However, such steps simply allow strained families to juggle competing needs slightly more effectively. At some point, however, additional resources must be made available.

While focusing on customers’ ability to pay, CforAT/Greenlining recognize that customers must have, and meet, some level of obligation. However, regardless of the importance of customers and their responsibilities, they are only one of the stakeholders on the issue of affordability home energy. Unaffordable energy is also a housing problem, a public safety problem, a medical problem, a food and nutrition problem. Thus, ongoing weatherization and efficiency efforts, outreach and coordination with other public benefits programs, outreach to people whose usage is driven by medical factors and other coordination efforts must continue. Yet these efforts will not be enough. Rate design too must play its part in the overall social equation.

⁶⁵ See DisabRA’s Opening Brief in [PGE 2011 Phase 2], noting that “Of course, this proceeding is not about solving humanitarian problems; it is about setting electricity rates. And while lower rates alone will not solve the problems of California’s poorest residents, increased electricity rates will aggravate them. Dr. Faruqui argues that he does not know how a lower price of electricity will make life easier for poor Californians; DisabRA points to the obvious. Lower electricity prices will make it easier for poor Californians to pay their energy bills and maintain some degree of comfort and safety. The Commission can, and should, avoid worsening the energy burden on struggling households.”

III. RATE STRUCTURE

A. Customer Charges Should Not Be Increased

Greenlining/CforAT oppose the introduction or the increase of fixed customer charges that apply to all customers irrespective of usage. It is undisputed that a key objective of those urging flattening of the tiers and/or increasing customer charges would be to generate revenue that will allow utilities to reduce the rates on the highest users. Adding or increasing basic charges or charges for initial tiers would penalize customers who use relatively small amounts of electricity, such as current Tier I and even Tier 2 customers. However, for customers with less usage, a fixed customer charges, assessed on all customers, effectively increase bills.

CforAT/Greenlining opposes customer charges because they may raise bills for customers with the lowest usage to unaffordable levels. The impact of customer charges on a tiered rate structure has been demonstrated in both scholarly studies and in Commission proceedings.

Severin Borenstein analyzed the impact of adding a \$5 customer charge where the customer charge resulted in a reduction to the highest tier rates, using actual California utility rates and usage patterns.⁶⁶ He came to the following conclusion:

In my earlier work, I showed that moving from IBP to a flat tariff would harm low-income customers, though the impact is muted by the CARE program, a means-tested program that offers lower rates to low-income households. I examine here the impact on households in different income brackets of imposing a [Fixed Charge] and reducing the price on higher tiers to offset the revenue change. I find that low-income households who are not on the CARE program would receive little of the benefit from lowering marginal prices, so the bills of such households in the lowest income quintile (approximately) would increase on average by 69%-92% of the fixed charge.⁶⁷

⁶⁶ Severin Borenstein, "Regional and Income Distribution Effects of Alternative Retail Electricity Tariffs," (EI @ Haas Working Paper #225), (University of California, Berkeley). Available at http://ei.haas.berkeley.edu/pdf/working_papers/WP225.pdf.

⁶⁷ *Id.*, at p. 1.

Mr. Borenstein found significant bill impacts on customers with the lowest usage. These customers likely maintain their usage at a low level to avoid unaffordable bills. These customers already maintain their usage at “basic” levels. They would be unable to reduce their usage in order to avoid a bill impact.

The Commission has recently considered the policy implications of the introduction of a proposed \$3.00 customer charge (\$2.40 for CARE customers), in Phase 2 of PG&E’s 2011 General Rate Case. In Decision 11-05-047, the Commission determined that existing statutes did not allow PG&E to implement a residential customer charge.⁶⁸ However, the Commission also found that policy considerations ran against the proposed customer charge:

Thus, recognizing the customer charge as an unavoidable element of baseline usage, we evaluate PG&E’s proposal in terms of rate impacts on [both CARE and non-CARE] customers that utilize only baseline quantities.

....

Given the potential for the fixed customer charge to produce rate increases of up to 10 percent for those customers with the lowest usage and that are least able to afford it, we conclude that the customer charge proposal should also be denied on policy grounds. Even though PG&E represents the dollar amount of the customer charge as a modest amount, for low-income customers struggling to pay their bills in a difficult economy, a 10 percent bill impact could have unduly adverse effects.⁶⁹

The Commission’s consideration of the affordability impacts of PG&E’s proposed \$3.00 customer charge is applicable to customer charges in general. Customer charges have the effect of raising bills of basic energy users, including low-income customers, to unaffordable levels. Thus, customer charges run counter to the first rate

⁶⁸ See D.11-05-047, at pp. 28-32.

⁶⁹ See D.11-05-047, at pp. 33-34.

principle in this proceeding, that low-income customers should have access to basic energy at affordable levels.

Because they are not based on usage, customer charges also do not provide a conservation incentive. As the Commission stated, “[b]ecause a fixed customer charge cannot be avoided by a customer’s reducing usage or being more energy efficient, the customer charge offers no conservation price signal.”⁷⁰ Further, customer charges are actually anti-conservationist because they lower upper volumetric rates and act as an incentive to allow those customers whose usage is already in the higher tiers to consume relatively more energy at a lower cost. Thus, customer charges violate rate principle number 5: “Rates should encourage conservation and energy efficiency.”

Customer charges, unavoidable from all ratepayers regardless of usage, also reduce customer control of their bills. Customers cannot seek to avoid customer charges by reducing their usage or by moving their usage to a different time of the day or by adjusting seasonal usage. Thus, customer charges are inconsistent with rate principle 6: “Rates should be stable and understandable and provide customer choice.” Customer charges do not provide customers with any choice; they are assessed regardless of customer behavior.

Fixed customer charges have the same regressive, anti-conservation and anti-customer choice effects whether in a inclining block rate structure or in a TOU or dynamic rate structure. Shifting revenues from volumetric rates to fixed charges means that customers with the lowest usage will receive larger bills, potentially rising to unaffordable levels. Volumetric rates are reduced due to customer charges, reducing the conservation incentives of the rates absent customer charges.

⁷⁰ See D.11-05-047, at p. 33.

Proponents of customer charges may argue that they are justified as a reliable means of collecting revenue for the fixed costs that arise from every ratepayer. Thus, they might argue, customer charges are congruent with rate principle 3: “Rates should be based on cost-causation principles.” However, this principle provides only ambivalent support for customer charges. Fixed costs constitute a large portion of a utility’s costs. If utilities were to capture all fixed costs through customer charges, they would be many times larger than the charges of only a few dollars, as generally proposed. Thus, some parties may cite cost-causation in support of customer charges, but no parties propose that rates should strictly reflect cost-causation. If a fixed customer charge constitutes only one-tenth of a utility’s fixed costs, it cannot be accurately stated that the customer charge reflects the principle of cost-causation.

With the exception of SCE’s small existing customer charge, the California IOUs currently collect fixed costs through volumetric charges, or, if there is zero or negligible usage by a customer in a given month, through a monthly minimum charge. Volumetric charges combined with minimum charges are an effective means of ensuring that a utility collects enough revenue to cover its fixed costs. CforAT/Greenlining does not oppose increases to minimum charges if they do not affect affordability for low usage customers.

B. Tiered Rates Ensure Affordability for Basic Usage

Presently the major California electric utilities have an inclining block rate (IBR)⁷¹ structure. The baseline for Tier 1 (the lowest usage block) is set to reflect that amount of electricity needed for a significant portion of reasonable energy needs of an average consumer: lighting, refrigeration, and other home appliances.⁷² Baselines vary

⁷¹ Sometimes called an inclining block price (IBP) structure.

⁷² See Cal. Pub. Util. Code § 739(b).

with climate zones, so that customers in areas with higher baseline electricity requirements have a larger baseline amount and larger tiers.

A tiered rate structure, with the cheapest, baseline tier corresponding to the amount of energy required for basic energy needs, helps to keep basic energy use affordable. Customers who want to keep their bills affordable can try to keep their usage in the lowest tiers, resulting in an affordable bill. Thus, a tiered rate structure corresponds to the first rate principle, allowing low-income customers, and other customers seeking affordability the opportunity to keep their energy bills low.

CforAT/Greenlining understand that the existing tiered rate structure may go through some changes as a result of this rulemaking, which may be an appropriate result. Under the current rate structure, some of the tiers may not play an effective role, making change reasonable. The current Tier 2 for example, is such a small tier that it mainly serves to complicate the rate structure. However, we urge the Commission to maintain a lower, economical tier that corresponds to basic usage. This is the most effective way of advancing affordability for customers who can afford only the smallest energy bills.

CforAT/Greenlining urge the Commission to retain a rate structure with at least three tiers. As discussed above, the lowest, most economical tier should correspond to basic usage. A two-tiered rate structure would mean that all other usage would be captured in the remaining tier. This second tier would capture usage that is just above “basic usage” (or even basic usage for larger households), as well as usage that is excessive and wasteful. Such widely divergent types of usage should receive different price signals. A large household that seeks to conserve energy yet still exceeds the first tier of usage should not be charged the same rate as a customer who ignores all

conservation opportunities and uses energy wastefully. The Commission should retain tiered rates with at least three tiers.

Currently, the California IOUs all have a fourth tier. This fourth tier, with the highest volumetric rate, acts to protect CARE customers from these highest rates, as CARE customers are limited to three tiers. CforAT/Greenlining recognizes that this four-tier rate structure, with CARE limited to three tiers, provides a great deal of affordability protection for CARE customers, especially customers who may have greater usage, such as customers in large households. However, if this four-tier system is abandoned, CARE affordability protections must not be diminished. CARE protections, which have previously been their greatest in discounting Tier 4 usage, must be increased for other usage. Rather than providing greater discounts for the highest level of usage, the CARE discount can be spread evenly across all usage, or increased for basic usage. In the section on CARE below, we provide suggestions for maintaining the overall level of the CARE discount and discuss how the discount may be structured.

Tiered rates also give customers a choice and opportunity to control their energy bills. As described above, a customer may seek to avoid higher tier, more expensive usage by maintaining usage in the lowest tier. If a household consists of many family members, such that they cannot avoid consumption that exceeds the average basic usage, they may still seek to avoid higher costs if they are afforded a middle tier of usage. Thus, a tiered rate structure, especially one containing more than two tiers, advances rate principle 6: “Rates should be stable and understandable and provide customer choice.” Tiered rates provide customer choice. For larger households that cannot avoid usage that exceeds the lowest tier allocation, a middle tier provides further customer choice.

CforAT/Greenlining also do not oppose revisions of the existing tiered rate structure to improve customer understanding of rates. As mentioned above, the current Tier 2 may unnecessarily complicate matters. A three-tiered rate structure should be understandable to most customers. Moreover, the availability of smart meters and other customer tools can enhance the understandability of tiered rates, by making it feasible to offer customers a “high bill warning” during the month, or by helping customers understand their monthly usage, so that the customer can back off unnecessary usage for the balance of the month, and keep usage within a lower tier. Thus, tiered rates are consistent with rate principle 10.

Tiered rates also reward conservation, providing customers with price signals based on increasing usage. This is especially so with a three tiered rate structure, where there is a greater price signal for customers with excessive usage. Tiered rates are thus consistent with rate principle 4.

The issue with tiered rates is not the form of the rates, so much as complaints by high-usage customers in the hotter areas of the state that they want to pay less for their electricity. This is so despite the fact that these high-usage areas of the state already have a higher baseline, accommodating this greater need for basic levels of electricity. In fact, because of these baseline differentials by climate zone, customers in hotter climate zones do not pay significantly more on average than they would in the absence of tiers. Further, if tiered rates were to be removed, the impact would be unbalanced, with the reductions going to the customers with very high usage, and those reductions being made up by CARE customers and lower-usage customers.

Severin Borenstein found in his study of the impact of removing the tiered structure that the benefits to high-use regions would be less than commonly predicted.⁷³ He also found that this smaller benefit to high-use climate zones occurs because CARE and other lower-income customers in the same climate zone would bear significant cost increases. He lays out these results in the study's abstract:

I find that, contrary to frequent assertions, IBP does not penalize customers in high-use (i.e., hot) areas on average because the baseline quantities for IBP reflect regional differences in average consumption. In fact, a switch to a flat electricity price would not change average customer bills in these areas. Imposing a FC that is equal for customers in all regions and reducing the price on the higher tiers to offset that revenue would have a slight benefit for customers in hot areas.

Some parties to this proceeding may suggest that residential rates need to be “rebalanced,” to lower volumetric rates for the customers using the most electricity. They may argue that the highest tier rate is too high, especially in high-usage climate zones, and that cost causation and equity justify imposing a customer charge and bringing down the rates at the top tiers. Some may argue that time-of-use rates (TOU) are better suited than tiered rates to support state-wide energy goals, or to facilitate the development of technologies that enable customers to better manage their usage and bills. They may further argue that one cannot mix tiered rates and TOU rates, but must choose between them. None of these assertions is accurate, and all of them ignore or downplay important countervailing realities.

C. **A Two-Tiered Rate Structure, Or a Significant Reduction in the Incline of the Tiers Does Not Advance Rate Principles.**

Increasing the rates charged on initial tiers runs counter to many rate principles. Rate increases on basic usage counters the affordability principle. Reduction in the tier

⁷³ Severin Borenstein, “Regional and Income Distribution Effects of Alternative Retail Electricity Tariffs,” (EI @ Haas Working Paper #225), (University of California, Berkeley). Available at <http://ei.haas.berkeley.edu/pdf/working_papers/WP225.pdf.>

differentials reduces the element of customer choice, as the amount of savings that customers could experience by conserving energy could become negligible. Increase of basic charges and resulting reduction of upper tier charges would also remove incentives for high-use customers to keep excess usage down. It would raise the initial block rate that dominates the bill for very low use customers, and at the same time would remove price signals for the highest usage brackets to curb wasteful use (or pay for the privilege). Such a relaxation of the price incentive would remove incentives not to be profligate with excessive energy use. It would reduce incentives to curb discretionary high-cost peak usage.

Air conditioning has a unique and significant impact on usage, and is the single largest contributor to peak use. Lowering the price signal that lets customers know they should use air conditioning judiciously, by reducing upper tier rates, would remove incentives to cut back on unnecessary air-conditioning at peak hours of the year.⁷⁴

The only customers who benefit from substantial changes to the tiered rate structure are customers with excessive usage in the upper tiers. However, such customers should seek to conserve energy or utilize energy efficiency. To paraphrase the statement of TURN's rate design witness in the PG&E 2011 GRC:⁷⁵ the proposals to add customer charges, reduce the size of the first tier, increase initial tier rates, and reduce rates on the highest users are "largely a solution in search of a problem."

⁷⁴ Air conditioning usage is likely also to be a key driver as to who would benefit from TOU rates. This is discussed in greater detail below, as is the CforAT/Greenlining proposal that certain vulnerable customer groups who cannot easily avoid air conditioner usage during peak hours be excluded from any TOU alternatives.

⁷⁵ Testimony of W. B. Marcus for TURN in A.10-03-014 (PG&E 2011 GRC Phase 2), at p. 59.

D. Time of Use Rates May Not Result in More Efficient Energy Use Compared to Tiered Rates.

As discussed above, CforAT/Greenlining believe that tiered rates provide for affordable basic usage, encourage conservation and provide customer control over their bills. Some may argue that time-of-use (TOU) rates or dynamic rates may provide some of the attributes as a tiered rate structure. However, given the benefits of tiered rates, the Commission should ensure that customers have the option of tiered rates.

Recently, fundamental assumptions about customer behavior in the face of tiered rates have been challenged, sometimes by the same experts who not too long ago strongly recommended the implementation of tiered rates.⁷⁶ For example, the Faruqui/Hledik/Palmer analysis presented by Pacific Gas & Electric claims to show that annual *non-CARE* energy consumption decreases in the event of the elimination of tiered rates.⁷⁷ Based on reasoning like this, some may argue that time-of-use rates (TOU) are better suited than tiered rates to support state-wide energy goals, or to facilitate the development of technologies that enable customers to better manage their usage and bills. But the same expert gave the Commission different advice two years ago.

The *Assessing the Impact* results rely heavily on estimates of customer behavior in response to price changes: otherwise known as price elasticity. The only things the presenters say about the elasticity estimates they used in *Assessing the Impact* are that the elasticities assumed in the 2011 analysis of the removal of tiered rates “are the same

⁷⁶ Compare *Assessing the Impact of Transitioning from Inclining Block Rates to Flat TOU Rates for PG&E's Residential Customer (“Assessing the Impact”)*, preliminary findings prepared for Pacific Gas & Electric, prepared by Ahmad Faruqui, Ryan Hledik and Jenny Palmer, December 20, 2011, provided in response to ResidentialRatesOIR_DR_GreenliningInstitute_001-Q07Atch01 with Ahmad Faruqui, *Inclining Toward Efficiency: Is Electricity Price-Elastic Enough for Rate Designs to Matter?*, Public Utilities Fortnightly, August, 2008.

⁷⁷ *Assessing the Impact*, slide 26. Note that the same analysis showed that CARE customer energy consumption would increase if tiered rates were eliminated. *Id.*, slide 27.

assumptions used in previous Faruqui testimony for PG&E” and that the elasticities used to analyze the impact of the addition of TOU rates “are based on results of the California Statewide Pricing Pilot, calibrated using the 2010 PG&E TOU program evaluation.”⁷⁸

The authors of *Assessing the Impact* have themselves expressed support for tiered rates a number of times, however. In an attachment to his PG&E GRC 2011 testimony, *Inclining Toward Efficiency*, Dr. Faruqui states:

The inclining block rate can be very effective in promoting energy efficiency if it is applied as the default rate.⁷⁹

...

Based on empirical estimates of price elasticity from a number of different sources, inclining block rates can provide energy consumption savings in the 6 percent range over a few years, and even higher savings over the long run.⁸⁰

In *Assessing the Impact*, Dr. Faruqui and his colleagues present results that stand in direct contradiction to what would have been expected based on the asserted sources of their elasticity estimates: Dr. Faruqui’s testimony and the analysis from which his elasticities were taken.⁸¹

Inclining Toward Efficiency says that moving from flat rates to inclining block rates will reduce usage considerably, as a result of price elasticities. *Assessing the Impact* suggests just the opposite: for non-CARE customers, moving in the other direction will also cause usage to go down. One cannot have it both ways. Without a convincing explanation of the way the Prism model works, this result is at best counter-intuitive. *Assessing the Impact* not only does not give a convincing explanation of this anomaly, it completely ignores the question.

⁷⁸ *Assessing the Impact*, slide 22.

⁷⁹ Attachment 11A-7 to Dr. Faruqui’s testimony, *Inclining Toward Efficiency*, at p. 11A-9.

⁸⁰ *Id.*, Attachment 11A-7, at p. 11A-11.

⁸¹ *See id.*

Proponents of basic charges and higher initial tier effective rates may further argue that one cannot mix tiered rates and TOU rates, but must choose between them. An example of this argument comes from Southern California Edison's Initial Comments in this case:

As evidenced in PG&E's residential default dynamic pricing proceeding, the current rate structure detracts from the Commission's ability to adopt a reasonable time-variant residential rate structure. With today's rate structure, higher-usage residential customers would benefit by a change to non-tiered time-of-use (TOU) rates because they could avoid the artificially high rates in Tiers 3 and above. If a majority of higher-usage customers were to move to a non-tiered TOU rate, the resulting revenue deficiency would increase rates for customers remaining on tiered rates, which would in turn create a greater incentive for those remaining customers to depart to TOU rates, thereby creating even larger deficiencies in revenues to be recovered from upper tier residential rates.⁸²

Note, however, that the entire California Special Pricing Project involved layering TOU rates on inclining block rates. It is not necessary to pit tiered rates against TOU rates, and allow customers to self-select the rate that shifts revenue responsibility to other customers. It would be quite feasible to continue the use of tiered rates as the underlying rate structure, while also offering a TOU option.

TOU rates could also open the door to more negative rate design, such as fixed customer charges. Citing concerns of equity and cost-causation, some have argued that basic charges must be included and cost-causation, to reflect the costs a utility will incur regardless of usage. The underlying proposition is that equity requires adherence to cost causation, else high-use customers will be paying for non-usage costs incurred to serve lower usage customers. But equity has more than one aspect, and ratemaking policies serve more than one purpose. As noted, adding basic charges will penalize customers who use the least amount of power, and contribute the least to the marginal cost of

⁸² Comments of Southern California Edison Company on Refined List of Questions and Goals Provided in September 10, 2012 Joint Ruling, filed on October 5, 2012, at p. 4.

supplying power. The price increase per kWh a customer charge would impose on low-use customers would constitute a rate shock. Such a result is inequitable. Further, as noted, there is a conflict in this case between basic charges and the energy policy goals of the state.

E. TOU Exclusions, Education and Outreach are Necessary

To the extent that the Commission adopts any form of TOU rate on a default or mandatory basis, vulnerable customers who are least able to reduce their usage during peak periods must have an enhanced opportunity to be excluded from the TOU rate structure, including targeted outreach and education so that they are aware of their options. If a mandatory TOU rate is authorized, vulnerable customers should retain the option to opt out. If a default TOU rate is authorized, vulnerable customers should not be defaulted, but should have an opportunity to opt in. CforAT/Greenlining believe that this enhanced education and exclusion option should apply to all low-income CARE customers as well as all customers enrolled in the Medical Baseline rate. The ability to more easily be excluded from TOU rates is particularly relevant for those vulnerable customers who necessarily spend substantial portions of their time at home, and have limited or no options for avoiding usage, particularly for heating or cooling, during peak periods when TOU rates are high. These customers should be allowed to avoid participation in any mandatory TOU program (although they should be allowed to opt in if they so choose). If a TOU program is otherwise designed to be an opt-out program, identified vulnerable customers should default out of the program and participate only if they opt in.

The model for treating these home-bound vulnerable customers differently from other residential customers would be the existing Medical Baseline program, in that the

policy justification is essentially the same. Medical Baseline under the current rate system provides for increased amounts of electricity at the lowest (Tier 1) rate for customers who can demonstrate that their usage is based on medical necessity.⁸³ This generally prevents those customers whose energy usage is medically necessary from being charged the highest rates for consumption that they cannot reasonably control. Similarly, vulnerable customers whose electricity usage during peak periods is necessary for comfort or safety, and who are unable to mitigate their usage levels during these periods without extreme hardship, should be protected from rates that will force them to choose between potentially unaffordable bills and their ability to remain in their homes during peak hours.

The vulnerable customers who should be excluded from TOU rates, even such rates that are otherwise mandatory, include those customers who are currently enrolled in Medical Baseline as well as others who are likely to be limited in their ability to reduce usage during peak periods because they have few options to be out of their homes at the relevant times. These vulnerable customers, who are likely to be largely home-bound, or to have limited options for leaving their homes during peak periods, include seniors and people who receive disability benefits (indicating that they are unable to work).⁸⁴ These customer classes are unlikely to be employed outside of the home. They are also the most likely to have fixed (often quite limited) incomes, so that they cannot absorb substantial bill impacts.⁸⁵ Finally, they can be identified and their eligibility to opt out of

⁸³ Cal. Pub.Util. Code § 739(c).

⁸⁴ Many disabilities do not drive energy use except to the extent that the people with disabilities spend more time at home. Thus, there are many customers with disabilities who are not enrolled in (and would not be eligible for) Medical Baseline, but who would risk harmful bill impacts in a TOU setting,

⁸⁵ While other vulnerable customers groups such as parents of young children might also benefit from an option to avoid otherwise-mandatory TOU rates, CforAT/Greenlining recognize the administrative difficulty in identifying customers who would fit into this category.

otherwise-mandatory TOU can be verified through relatively simple administrative review.

Customers who are currently enrolled in Medical Baseline should automatically be excluded from any mandatory or default TOU rate, as is the case under the existing statutory structure,⁸⁶ though a Medical Baseline customer who chooses to do so should be permitted to opt-in (a customer whose increased usage is based on the need to charge a power wheelchair, and who can do so at night, might be an example of a customer on Medical Baseline who would opt in to a TOU rate). Currently seniors and people who receive disability benefits, regardless of whether the disability is one that would independently drive energy use, could not be automatically excluded from TOU rates, because the utilities do not necessarily have these customers identified.⁸⁷ However, to the extent that they are already identified by the IOUs, including to the extent that they have been identified as “vulnerable” customers in the Disconnections proceeding, R.10-02-005, in order to reduce the risk of harm from service disconnections⁸⁸, they should also be automatically excluded and then given an opportunity to opt in. Additionally, these groups should be the subject of an educational campaign if any default or mandatory TOU rates are considered for adoption, so that they can self-identify for exclusion by providing documentation of their age or disability status.

These vulnerable customers groups are likely to use energy at peak periods because they are likely to be home, with few other places to go, and thus need to use heating or cooling in order to preserve their comfort and safety. These Medical Baseline

⁸⁶ Cal. Pub. Util. Code Sec. 745(d)(2), adopted as part of SB 695.

⁸⁷ Section 745(d)(2) does exclude customers on a third-party notification program, which presumably includes primarily seniors and customers with disabilities, from mandatory or default TOU rates. This exclusion should also continue.

customers, third-party notification customers, seniors and other disabled customers should not be penalized for their lack of flexibility in usage. Rather, they should be able to obtain an exemption from participating in any TOU rate by providing documentation of age or disability status. Disability status could be shown either according to the same standards currently used for enrolling in the Medical Baseline program or by providing proof that a household resident receives disability benefits.

This ability to opt-out of a TOU program is necessary for these vulnerable customer groups for any proposed structure that is otherwise mandatory. For a default TOU program, any customer would be eligible to opt-out, but it is particularly important to target those same customers, who are most at risk of unavoidable bill increases with a TOU rate, with educational material explaining the options and describing the type of household that may benefit from the various rate structures. In particular, in any opt-out scenario for TOU, educational material should expressly state that people who are home-bound or who generally spend peak periods at home are likely to see rate increases under a TOU rate structure, and may wish to choose a different alternative. Such material should identify seniors, and people with disabilities, as well as people who stay home with young children, people who telecommute, and others who are home during weekday afternoons, as falling into this category. The educational material should be provided in multiple languages and in accessible formats, and should be accompanied with targeted outreach to the most vulnerable through publications that cater to seniors or people with disabilities, appropriately targeted general advertising, and through community-based organizations serving these populations and providing the same message.

⁸⁸ See D.12-03-054 at p. 30 (applicable only to SCE and PG&E).

F. High Usage Surcharge Proposal

One of the overall principles of rate design that has been established in this proceeding is to “encourage conservation and energy efficiency.”⁸⁹ At the same time, the IOUs make clear that they are seeking ways to reduce rates for customers with current high-tier usage, as they argue that these customers pay more than they cost to serve.⁹⁰ At some level, this is fundamentally a policy argument about the prioritization of various principles of rate design, and CforAT/Greenlining expect this argument to shape much of the outcome of this proceeding. However, for a small subset of customers who use extremely high amounts of electricity, efforts to encourage conservation and energy efficiency should take priority; it should not be controversial to recognize that, for this limited subset of customers who use much more electricity than typical households, a substantial bill reduction (indeed, under many of the concepts under discussion in this proceeding, households that consume the very most energy would see the highest bill reductions) would send the wrong message about the use they are making of the system. Thus, for customers who use extremely high levels of electricity, and consistent with the Commission’s recent efforts in D.12-08-044, addressing the small number of customers on CARE who use more than 400% of baseline consumption of electricity, CforAT/Greenlining propose establishing a surcharge that applies to non-CARE customers who consume over 400% of baseline, with an additional charge for those who consume over 600% of baseline, as an overt mechanism to encourage conservation and energy efficiency among this group.⁹¹

⁸⁹ Scoping Memo at p. 6.

⁹⁰ Cost-causation is another principle for rate design addressed in the Scoping Memo and Ruling Requesting Proposals, and parties are charged with seeking to harmonize potential conflicts between the various principles to the extent possible or to set out their reasoning for prioritizing one principle over another.

⁹¹ The express nature of the proposed surcharge is consistent with yet another principle of rate design set out for parties, namely that “incentives should be explicit and transparent.” Ruling Requesting Proposals, Attachment A at p. A1.

The Commission has recently taken steps to address the small number of CARE customers who use comparable, extremely high levels of electricity in its decision addressing funding for CARE for the 2012-2014 budget cycle.⁹² In that proceeding, PG&E brought attention to the issue of extreme users in its initial application, A.11-05-019 and its supporting testimony.⁹³ As part of this testimony, PG&E provided data regarding the characteristics of an “average” 600%+ baseline customer compared to an “average” 400-600% baseline customer and an “average” customer, showing how much demand is truly represented by these highest use accounts. This data was presented in Table 2.6 of testimony,⁹⁴ and is reproduced below:

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⁹² D.12-08-044, issued in A.11-05-017 et al., at pp. 217-221.

⁹³ This application was consolidated with the applications of the other IOUs, and the overall proceeding is referred to as A.11-05-017 *et al.* Prior to the proposal by PG&E in the CARE/ESAP proceeding, this issue was raised in testimony by Greenlining in PG&E’s 2011 GRC Phase 2 proceeding, A.10-03-014.

⁹⁴ PG&E Prepared Testimony in support of A.11-05-019 at 2-20.

**TABLE 2-6
PACIFIC GAS AND ELECTRIC COMPANY
HIGH USAGE CARE CUSTOMER CHARACTERISTICS COMPARISON**

Line No.	House Characteristics	Avg 600 Percent+ Baseline Customer	Avg 400-600 Percent Baseline Customer	"Average" Customer(a)
1	Square Footage(a)	6,000	3,000	1,438
2	No. Inhabitants	9	5	3
3	Heating/Cooling Load	Double (200%)	133%	Avg (100%)
4	Auxiliary heat	3,750	1,200	—
5	Pool Equipment	3,400	2,650	—
6	Hot Tub/Spa	1,000	1,000	—
7	Lighting/Misc.	4,400	2,700	1,750
8	Refrigerator	1,100	1,100	1,100
9	Stand Alone Freezer	1,100	1,100	—
10	Central AC	6,650	2,750	1,350
11	Clothes Dryer	2,700	1,350	750
12	TVs	1,800	1,200	750
13	Dishwasher	1,350	650	350
14	Cooking	700	600	400
15	Microwave	500	350	200
16	Electronics	1,250	700	250
17	Water Well	2,950	1,650	—
18	Total Annual kWh	32,650	19,000	6,900
19	Weighted Average(b)	~40,000	~21,500	~7,800

(a) The "Average" customer represents one with all standard appliances, whereas the average low income customer may not, and therefore would use less energy.

(b) Weighted Average takes into consideration water and space heating for the 16 percent of customers with all electric service.

As noted in this chart, a household with 600% of baseline consumption would, on average, be more than quadruple the size of an average house, with triple the number of inhabitants, double the heating/cooling load, massive amounts of auxiliary heat and exceedingly high usage of virtually every type of appliance.⁹⁵ In a Powerpoint presentation by PG&E discussing its proposal to address high use CARE customers (presented at a workshop in the CARE/ESAP proceeding), PG&E elaborated on what such consumption levels mean, using an illustration showing that a pharmacy in San

⁹⁵ CforAT/Greenlining believe that these number represent extrapolations developed from averages, rather than any effort to accurately represent customer profiles. For example, the RASS data discussed below would support much smaller household sizes for high use households. However, such extrapolations, particularly those regarding heating and cooling (which are peak drivers) suggest that these customer are likely to have a substantial impact on peak demand based on their overall consumption levels. It then follows that efforts to encourage conservation and/or improved efficiency from such households will have a disproportionately strong impact on peak demand.

Mateo county with almost 11,000 square feet used the equivalent of 665% of residential baseline levels of electricity.⁹⁶

Parallel data for non-CARE customers who use extremely high levels of electricity show that the extrapolations set out in the chart regarding square footage and number of inhabitants are not likely to accurately reflect non-CARE households, meaning that it must be other characteristics that drive high levels of consumption. Specifically, PG&E reports that, based on RASS survey data⁹⁷ and concurrent 2009 usage and billing data, the average non-CARE household with usage exceeding 400% of baseline lives in a 2680 square foot (sqft) dwelling, with an average dwelling size per household member of 1055 sqft per person.⁹⁸ This would calculate to an average of 2.54 individuals living in such a dwelling.⁹⁹ The same data shows that the average non-CARE household with usage exceeding 600% of baseline lives in a 2730 sqft dwelling with an average dwelling size of 1065 sqft per person.¹⁰⁰ This would calculate to an almost identical average number of individuals, 2.56, living in such dwellings.¹⁰¹ Thus, it appears that the consumption levels in these homes are not, on average, driven by the extreme size of the dwelling or by an extremely large number of individuals living in such dwellings.

Any residence with such high levels of consumption should be receiving a clear signal to conserve energy and/or increase its energy efficiency; such a household is also likely to have abundant conservation opportunities. However, a dramatic bill reduction for such customers is likely to signal to them that there is no need to make any changes to their consumption patterns. Nevertheless, many of the proposals under discussion in this

⁹⁶ PG&E Powerpoint Presentation, “CARE High-Usage Strategy: 2012-2014 Proposal” presented at Workshop #7 in A.11-05-017 et al. on October 28, 2011.

⁹⁷ RASS survey data refers to the results of the 2009 Residential Appliance Saturation Survey Sample.

⁹⁸ PG&E response to Greenlining Data Request DR 001-Q06.

⁹⁹ 2680 sqft /1055 sqft/person =2.54 persons.

¹⁰⁰ PG&E response to Greenlining Data Request DR001-Q06.

¹⁰¹ 2730sqft/1065 sqft/person = 2.56 persons.

proceeding are likely to result in bill reductions for high-use customers, with the most extreme bill reductions for those with the most extreme levels of consumption. While such proposals may be offered based on principles of cost causation and/or marginal cost, the result, particularly for the households with the highest level of consumption, would not be good policy.

Rather than lowering the electricity bills of such customers (and specifically rather than lowering them dramatically), non-CARE households with extremely high levels of usage should be targeted through rates to modify their consumption patterns by instituting a surcharge for consumption over 400% of baseline, and an increase in the surcharge for consumption over 600% of baseline, in order to keep their bills stable at approximately the same level as results from current rates, unless they reduce their usage; this surcharge would be supplemented by education and outreach efforts directed toward affected customers to assist them in changing their consumption patterns. Such education and outreach efforts should begin before any transition to rates that include the surcharge, to allow customers to avoid such charges and see a change to their bills. Again, this would be consistent with the steps already authorized to address CARE customers with extremely high usage levels.

As a result of the decision in the CARE proceeding, the subset of CARE customers with extremely high usage is being targeted both to demonstrate eligibility for the program and to receive assistance on reducing usage (or to demonstrate that there is a reasonable basis for their level of consumption). Specifically, they are subject to post-enrollment verification on eligibility and must enroll in the ESA Program, or else be removed from the CARE rate.¹⁰² Additionally, those with usage above 600% of baseline must drop their usage below 600% of baseline in any monthly billing cycle (and have 90

¹⁰² D.12-08-044 at pp. 219-220. Affected customers have the opportunity to appeal from being removed from the program and to demonstrate based on their household circumstances that they should remain eligible for the program. *Id.* at p. 220. In order to address any situations in which demand is being driven by medical usage, part of the education and outreach associated with these efforts includes providing information on Medical Baseline. *Id.*

days to do so).¹⁰³ While the exact same mechanisms are not available to review the usage of non-CARE customers (who cannot be motivated by the risk of being dropped from the program), it is appropriate to adopt an analogous mechanism to ensure that these customers receive price signals that encourage them to reduce their usage through conservation and/or efficiency. As with CARE customers, this element of rate design should provide motivation via price signals, in conjunction with outreach and education to these customers to facilitate conservation.

A substantial rate surcharge applied to customers who use 400% of average usage, with an increase to the surcharge for customers who use 600% of average, could provide the price signal to motivate these customers to take steps to change their consumption habits. As with the CARE program, the customer should receive advance notice prior to the application of such a surcharge so that the customer has an opportunity to change his or her behavior, lower his or her usage, and avoid the surcharge altogether. As with CARE, the customer could be given notice that if household usage is not lowered to under 400% (or 600%) of average within 90 days, the next bill after the 90-day notice period is complete will include the appropriate surcharge. Subsequently, the surcharge can be added to any monthly bill in which the household's usage exceeds 400% (or 600%) of average, with no surcharge added to the bill in any month where usage does not exceed the 400% threshold, and the lower surcharge added if usage does not exceed the 600% threshold.

In conjunction with the notice provided in advance of application of the high-usage surcharge, the customer should be provided with notice (in a form accessible to customers with disabilities and to customers without English language proficiency, and including information about the Medical Baseline Program¹⁰⁴) containing information about available efficiency programs, energy audits, and other potential mechanisms for

¹⁰³ *Id.* at p. 219.

¹⁰⁴ See D.12-08-044 at p. 220 (requiring such protections in the notice sent to CARE high-use customers).

usage reduction. It would also be appropriate to provide these customers with information about solar power options, since they may be good candidates for solar installation. IOUs may also want to develop a program to directly contact those residential customers with the highest level of usage in order to understand their consumption patterns and help them reduce usage and increase efficiency. This will assist customers who are interested in changing their usage patterns and avoiding the surcharge in doing so.

Finally, one further item developed in the context of the CARE proceeding regarding customers with extremely high usage levels was the question of whether their usage was truly residential. Within PG&E's service territory, extremely high-use CARE customer accounts were disproportionately clustered in several counties known for marijuana cultivation,¹⁰⁵ and there was some indication that growers were signing up for CARE rates and thus using the CARE subsidy to benefit their commercial enterprise.¹⁰⁶ While non-CARE customers would not be receiving a subsidy at the same rate, any account that serves a grow house, or indeed any other commercial enterprise, should not be on a residential rate. Thus, in conjunction with the outreach/education campaign encouraging reduced consumption and efficiency, the IOUs could make efforts to verify that the highest-usage accounts are, in fact, residential. Any account that is discovered to serve a commercial operation should be removed from the residential category and placed in the appropriate customer class.

¹⁰⁵ The counties in PG&E's service territory with a high proportion of high-use CARE customers were Humboldt, Mendocino, Sonoma, and Santa Cruz.

¹⁰⁶ In the CARE/ESAP decision, the Commission noted that the "parties provided anecdotal evidence that a small number of customers may be using the CARE rates to subsidize unlawful activities such as marijuana growing operations..." D.12-08-044 at p. 218.

IV. CARE RESTRUCTURING

A. Rates for Low-Income Households Must Not Increase Significantly.

As has already been noted, CforAT/Greenlining are not presenting a detailed rate proposal, but rather are providing a number of principles that should be incorporated into any final rate design structure. Consistent with this effort, our recommendations for the CARE program are not tied to a specific rate structure. Given the likelihood that the existing electricity rate structure will change in some manner, it is vital that, whatever changes are enacted, the Commission must ensure that low-income customers are not faced with significant bill increases. As has been discussed above and as shown again below, low-income customers can barely afford to pay their bills currently. Thus the Commission should not adopt changes to rates that result in structural increases for low income customers, and the Commission should also ensure that, regardless of rate structure, CARE provides adequate support to ensure that low-income customers can afford their basic electricity needs.

At minimum, the Commission should ensure that the aggregate CARE discount for low-income customers is not diminished. CforAT/Greenlining are concerned that parties will argue for a CARE subsidy that is simply a 20 percent discount off of non-CARE rates, however they are structured.¹⁰⁷ Such a proposal would be inherently faulty because it would result in a substantial reduction in the aggregate support provided to CARE customers, and would be insufficient to allow CARE-eligible households to afford adequate supplies of electricity. In order to meet the principle that low-income customers should have access to basic electricity needs at an affordable cost, the aggregate CARE

¹⁰⁷ CforAT/Greenlining expect that such an argument would rely on current Section 739.1(b)(4) of the Public Utilities Code, which sets a cap on CARE rates of no more than 80% of corresponding non-CARE rates, with certain additional exclusions. As discussed below, however, the actual CARE discount rate necessarily exceeds this cap.

discount must, at minimum, provide the existing level of support for low-income households, even if the distribution of the support changes.

A number of statutes currently govern the CARE program. Section 739.1(b)(4) of the Public Utilities Code requires that tiered CARE rates shall not exceed 80 percent of corresponding non-CARE rates, while also exempting CARE customers from a number of charges and surcharges. CARE is also limited to three tiers.¹⁰⁸ While parties may point to this statute as support for a flat 20% discount in rates for CARE customers, this view would be incorrect. Section 739.1(b)(4) provides the absolute ceiling for a CARE rate; in fact, the CARE discount is necessarily greater than 20 percent due to various exclusions as well as the existence of a fourth tier for non-CARE rates that does not have a corresponding CARE rate. The fact that the effective discount for CARE is greater than 20% off of non-CARE rates is necessary to support affordability of electricity for CARE customers.

Other statutes provide further guidance that affordability, rather than a specific percentage discount, is the touchstone for CARE rates. Cal. Pub. Util. Code Sec. 739.1(b)(1) states that “The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.” Cal. Pub. Util. Code 382(b) provides that:

In order to meet legitimate needs of electric and gas customers who are unable to pay their electric and gas bills and who satisfy eligibility criteria for assistance, recognizing that electricity is a basic necessity, and that all residents of the state should be able to afford essential electricity and gas supplies, the commission shall ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.

While the Ruling Requesting Proposals in this proceeding instructs parties to develop their rate proposals assuming no legislative restrictions, the principle of affordability, at least for basic needs of vulnerable customers, remains a vital requirement:

¹⁰⁸ See Cal. Pub. Util. Code § 739.1(b)(5).

Low-income and medical baseline customers should have access to enough electricity to ensure basic needs (such as health and comfort) are met at an affordable cost.

As a matter of policy, neither the legislature nor the Commission should be prepared to reverse the fundamental principle of affordability for basic usage for vulnerable customers or to subjugate this mandate to other principles of rate design. As discussed above, CforAT/Greenlining believe that *all customers* should be able to meet their basic needs at an affordable cost and that the model rate design developed in this proceeding should reflect that. When dealing with low-income customers, affordability becomes even more important.

Thus, the CARE discount, when applied to a changed rate structure, should not be set as a 20 percent discount. Rather, the discount should be set at a rate that ensures affordability for basic needs, and the aggregate total discount for CARE customers should not be reduced below current levels. Under the current rate structure, the CARE discount has been much higher than 20 percent. This level of CARE discount has been necessary to advance the principle of affordability.

As demonstrated below, the average CARE discount, across all CARE customers for each utility, has effectively been much more than 20 percent in recent years.

Effective CARE Discount¹⁰⁹

Year	PG&E	SDG&E	SCE
2008	43%	24%	28.57%
2009	47%	28%	30.11%
2010	49%	30%	29.46%
2011	48%	33%	30.29%
2012	47%	33%	31.00%

¹⁰⁹ See PG&E Response to TURN Data Request DR 03, Question 8; SDG&E Response to TURN Data Request DR-01, Question 3c; SCE Response to TURN DR 03, Question 4c. The effective CARE discount is calculated based on the discount relative to the total bill CARE customers would pay if their usage were billed at standard non-CARE rates.

Despite the size of the effective CARE discount, far above the minimum required by statute, CARE as currently structured has not achieved the rate principle of affordability for basic usage. Even after the CARE discount, energy is not affordable for a significant number of low-income customers. Data on the levels of arrearages and disconnections for PG&E's and SCE's CARE customers demonstrate that CARE customers continue to struggle to pay their bills, despite the CARE discount.¹¹⁰

PG&E: Number of CARE Customers in Arrears, Annual Average of Each Month

	Customers 31-60 days in Arrears	Percentage of CARE population	Customers 91+ days in Arrears	Percentage of CARE population
2011	209,599	13.6%	160,051	10.4%
2012	198,339	13.0%	173,805	11.4%

SCE: Number of CARE Customers in Arrears, Annual Average of Each Month

	Customers 31-60 days in Arrears	Percentage of CARE population	Customers 91+ days in Arrears	Percentage of CARE population
2011	309,033	21.70%	139,089	9.8%
2012	324,816	22.70%	175,441	12.3%

Thus, for a significant percentage of CARE customers in the two largest utilities in California, rates are not affordable. In the last two years, an average of about 13% of PG&E's CARE customers could not pay their bill on a timely basis every month. Bill affordability is not just a short-term problem for PG&E's CARE customers, as about 11% of PG&E's customers every month entered into long-term arrearages in 2011-2012.

The problem of short-term arrearages is much worse for SCE, where almost a quarter of CARE customers could not pay their bill on a timely basis every month in 2011-2012. Bill affordability is an increasing and long-term problem for SCE's CARE customers. The long-term arrearage problem affected an average of more than 12% of

¹¹⁰ Data on arrearages is based on monthly reports ordered to be filed by PG&E and SCE in R.10-02-005. CforAT/Greenlining provides the average number of customers in each month who were in arrears, and the percentage of the total customer class that are in arrears. Data on arrearages is not available for SDG&E.

SCE's CARE customers in 2012. This problem show an increasing trend, as more than 16% of SCE CARE customers were in long-term arrears in December 2012 and January and February 2013, the most recent months in which data is available.¹¹¹

Non-CARE, non-FERA customers also experience arrearages, but CARE customers have it much worse, especially in regards to long-term arrearages. Only an average of 3.7% of PG&E's non-CARE, non-FERA customers and 3.2% of SCE's non-CARE, non-FERA customers were in long-term arrears each month in 2012. For just these two utilities, hundreds of thousands of CARE customers are unable to pay not only their most recent bill, but also a three month backlog of bills.

In order to address the existing crisis in energy affordability and access for CARE customers, the CARE discount must be set at a level that ensures access to basic energy needs at an affordable price. However, as shown by the above arrearage and disconnection data, the existing effective CARE discount, even though it is much greater than 20 percent, still does not successfully make basic energy affordable for a large portion of CARE customers.

At minimum, whatever rate structure results from this proceeding, the Commission must ensure that bills do not increase significantly for CARE customers. Higher rates for CARE customers will only lead to even higher levels of arrearages and disconnections. Moreover, higher rates may lead to CARE customers forgoing health and comfort in order to afford their electricity bills, as shown in the KEMA Report and anecdotal information set out above.

B. Households with Extreme Poverty May Need Greater Assistance.

CforAT/Greenlining urge the Commission to maintain the overall level of discount for low-income households. However, the Commission now has an opportunity to review residential rate structure, including the structure of the CARE discount. The

¹¹¹ This data was all collected before the changes authorized in the most recent General Rate Cases (Phase 1 and Phase 2), as set forth above, for SCE went into effect. Some of the changes authorized in PG&E's 2011 GRC were in effect during the time this information was collected.

Commission may consider increasing the assistance provided to customers with the lowest level of income. As demonstrated by the arrearage data above, many CARE households may need greater assistance than what is currently provided. While all CARE customers are likely struggling with affordability issues, it is likely customers with the lowest income who face the largest problems.

Data from the KEMA Report bears this out. Low-income households overall are likely to experience a high energy burden, where 5% or more of the household income is spent on home energy costs, an indication of the unaffordability of energy. While 43% of all low-income households had such a high energy burden, a much greater percentage (73%) of households with incomes less than \$15,000 faced had such a high energy burden.¹¹² Households with incomes of less than \$15,000 represent the poorest of low-income households, constituting about 35% of the low-income population at the time of the KEMA Report's findings.¹¹³ Households with incomes below \$15,000 also reported high levels of "energy insecurity" (72%) as measured by the KEMA Report, meaning that they were more likely to cut back on essential household energy uses and fall into arrearages.¹¹⁴

The households with the lowest incomes – and thus the highest energy burdens – are in need of greater assistance than the current CARE discount provides. The Commission should consider a mechanism for delivering a greater level of discount for customers with the lowest incomes. A number of states and jurisdictions have developed various low-income programs. One concept for ensuring that customers with the greatest need get the level of assistance they need is a Percentage of Income Payment Plan (PIPP). Under a PIPP, a household is only expected to spend a certain percentage of its income

¹¹² See KEMA Report, p. 5-15, Table 5-10.

¹¹³ See *id.*

¹¹⁴ See KEMA Report, p. 5-22, Table 5-13. See also Section II.B. above for description of factors that measure "energy insecurity."

for home energy needs. As an example, Ohio has had a statewide PIPP since 1983 when it was created by the Public Utilities Commission of Ohio. It is the largest and oldest state mandated PIPP in the country, serving over 230,000 households in 2009.¹¹⁵ Under Ohio's PIPP, which applies to all large utilities, customers need only pay \$10 or 6 percent of their gross monthly household income each month – whichever is greater – for each of their natural gas and electric service (\$10 or 10 percent of their gross monthly household income each month – whichever is greater – for all-electric homes).¹¹⁶ Nevada has a PIPP where customers get a Fixed Annual Credit equal to the difference between their total home energy costs and 2.30% of the household's total income (although in practice, with limited funding, low-income households ended up paying much more than that percentage).¹¹⁷ North Dakota also has a PIPP program, and many other states consider a customer's relative energy burden when setting assistance levels.

California's CARE program serves a much larger number of customers than even the largest PIPP, in the state of Ohio. Because of its size, individualized determinations of energy burden would not be administratively feasible. However, the Commission may consider setting different levels of assistance for customers based on the level of household income. For example, the Commission could set one level of discount for customers in extreme poverty, at 50% of federal poverty guidelines, another level of discount for customers at 100% of federal poverty guidelines, another at 150% of federal poverty guidelines, and a final discount level at 200% of federal poverty guidelines. California may not be able to tailor the assistance provided to each household's energy

¹¹⁵ See LIHEAP Clearinghouse, STATE STRATEGIES BASED ON HOUSEHOLD INCOME, ENERGY BURDEN AND HEATING COSTS, March 2010, available at <http://www.liheap.ncat.org/pubs/510targ.htm#oh>

¹¹⁶ See Public Utilities Commission of Ohio PIPP webpage, available at <http://www.puco.ohio.gov/puco/index.cfm/consumer-information/consumer-topics/percentage-of-income-payment-plan-plus-pipp-plus/>

¹¹⁷ See SFY 2012 Evaluation: Energy and Weatherization Assistance Programs, Prepared for the State of Nevada by H Gil Peach & Associates, Dec. 4, 2012, p. 14, available at https://dwss.nv.gov/pdf/EAP_12ProgramYearEval.pdf . Nevada's assistance is limited by benefit caps.

burden in the manner that other state"s do, but a more targeted set of discounts would be administratively feasible.

C. Alternatively, Basic Usage May Receive a Larger CARE Discount.

As mentioned above, the effective total level of the CARE discount must not diminish. However, the Commission has the opportunity to not only examine rate design structures, but also the structure of the CARE discount. The Commission may explore manners of ensuring affordability for CARE customers. Above, CforAT/Greenlining suggests various levels of discount available to customers based on the level of household income. Another alternative that the Commission may consider is providing a greater level of discount on basic levels of usage, and a lower level of discount on higher levels of usage.

Basic usage is the most vital, necessary usage. This is usage that every household needs for health, safety and survival. As we state above, basic usage must be maintained at the most affordable rates, especially for CARE customers. Application of a greater discount on basic usage promotes affordability. However, such a structure to CARE may not be perfect. Some CARE customers who cannot avoid higher levels of usage, such as large households, may face larger bills. These are considerations the Commission may consider when evaluating alternatives for the CARE discount.

D. The Family Electric Rate Assistance Program Must Continue to Assist Large Households.

As stated above, CforAT/Greenlining believes that affordability of basic energy needs should be assured not just for low-income customers, but all customers. Low-income customers face the greatest challenges in regards to energy affordability, but other customers, especially lower-income customers just above CARE"s income threshold, also face problems. Affordability challenges can be demonstrated by the situation of customers participating in the Family Electric Rate Assistance (FERA)

program. The FERA program, which currently provides Tier 3 energy use at Tier 2 rates, is available to households with three or more individuals, with income eligibility set at up to 250% of federal poverty level.

The Commission created the FERA program in 2004 to address problems faced by large households, who tended to have greater electricity use than smaller households.

As the Commission found:

The record establishes that the average electricity use of households with three or more occupants is higher than the average usage of smaller households that are similar in other respects, with usage typically exceeding 130% of baseline quantities year-round and with higher use in peak summer months. Large households are unlikely to be able to conserve as much as other households as a means of maintaining affordable energy bills.¹¹⁸

The Commission recognized that large households above CARE's eligibility limits would have faced affordability issues:

Lower-middle income large households served by PG&E, SCE, and SDG&E have a need for electric rate relief in order to ensure the affordability of their reasonable energy needs.¹¹⁹

Thus, the Commission created the FERA program in recognition of the greater energy usage of larger households. Data on arrearages bears out that this class of customers facing energy affordability issues and requires assistance.¹²⁰

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¹¹⁸ D.04-02-057, p. 51. *See also* Findings of Fact 15, 16.

¹¹⁹ D.04-02-057, Finding of Fact 18.

¹²⁰ Data on arrearages is based on monthly reports ordered to be filed by PG&E and SCE in R.10-02-005. CforAT/Greenlining provides the average number of customers in each month who were in arrears, and the percentage of the total customer class that are in arrears. Data on arrearages is not available for SDG&E.

**PG&E: Percentage of FERA Customers in Arrears,
Annual Average of Each Month**

	Percentage of FERA population 31-60 days in Arrears	Percentage of FERA population 91+ days in Arrears
2011	20.0%	8.9%
2012	18.4%	10.3%

**SCE: Percentage of FERA Customers in Arrears,
Annual Average of Each Month**

	Percentage of FERA population 31-60 days in Arrears	Percentage of FERA population 91+ days in Arrears
2011	21.0%	9.3%
2012	22.2%	9.9%

The problem of arrearages for FERA customers is comparable to the problem of arrearages for CARE customers. During the past two years, PG&E and SCE FERA customers have had an even a greater level of short-term arrearages than CARE customers, as approximately 20% of these customers could not pay their bill on a timely basis every month.

Long-term arrearages are also a problem for both PG&E and SCE FERA customers; in 2012 about 10% of each utility's FERA customers were 91 days or more in arrears each month. The level of long-term arrearages for FERA customers is much greater than for non-CARE, non-FERA customers. Only an average of 3.7% of PG&E's non-CARE, non-FERA customers and 3.2% of SCE's non-CARE, non-FERA customers were in long-term arrears each month in 2012.

In the rate design principles laid out in this proceeding, the principle of affordability for basic energy use is specified only for low-income and medical baseline customers. However, as demonstrated by the level of arrearages, large households with moderate income face affordability challenges comparable to, and sometimes exceeding,

those experienced by low-income customers. The principle of affordability for basic uses should be applied to FERA-eligible households. The assistance provided by the FERA program should continue whatever rate structure results.

Currently, the FERA program provides these customers with Tier 3 energy use discounted to the Tier 2 rate. CforAT/Greenlining urges the Commission to retain a tiered rate structure as the model rate design resulting from this proceeding. If so, the FERA program should continue to provide discounted energy to large households. However, if the tiered rate structure changes, such as a change in the size of the tiers, then the FERA program should be modified to continue to provide the same level of assistance. Moreover, under any circumstances, more effort should be made to promote the availability of the FERA program so that eligible struggling households can obtain assistance.

V. ARREARAGE MANAGEMENT PROGRAM

In a number of prior rate design proceedings, CforAT and Greenlining have expressed concern that the IOUs' efforts to reduce the rates charged to upper-tier customers would be accompanied by corresponding rate increases on low-income and/or low-usage customers, including customers who have the least ability to pay.¹²¹ At the same time, over the past several rate case cycles, as noted above, all of the IOUs have seen their overall revenue requirements increase substantially, driving up residential rates in general. In this proceeding, CforAT/Greenlining's concerns for the impact of increasing electricity rates on vulnerable consumers continue, as many of the mechanisms

¹²¹ See, e.g., CforAT/Greenlining Reply Comments, filed in A.10-02-028 et al. (PG&E PTR proceeding, used as "preview" for this Rulemaking) on April 26, 2012, at pp.1-2; CforAT/Greenlining Response to SCE Settlement, filed in A.11-06-007 (SCE 2012 GRC Phase 2 Proceeding) on August 27, 2012, Opening Brief of the Greenlining Institute and the Center for Accessible Technology in A.11-10-002 (SDG&E 2012 GRC Phase 2 proceeding), filed on November 16, 2012 (urging the Commission to reject SDG&E's proposals to introduce a Basic Service Fee, to consolidate Tiers 3 and 4 and to remove the rate cap on the CARE Tier 3 rate); Joint Opening Brief of the Greenlining Institute and the Center for Accessible Technology in A.12-02-020 (PG&E 2012 Rate Design Window Application), filed on November 2, 2010, and separate briefs filed by the Greenlining Institute and Disability Rights Advocates (CforAT's predecessor) in A.10-03-014 (PG&E 2011 GRC Phase 2 proceeding) on December 20, 2010.

that have been on the table since the proceeding was initiated would again result in substantial bill impacts on low-income and low-usage customers.

As discussed in detail above, various competing goals of rate design, including efforts to encourage conservation and to base rates on cost-causation principles or marginal cost, cannot be given primacy over affordability, particularly for low-income and otherwise vulnerable customers. In particular, parties were charged to “focus on how their proposed rate design ensures that low-income customers and customers with medical needs have access to sufficient electricity to meet basic needs at an affordable cost.”¹²² This policy goal has always included subsidies, which is appropriate since such subsidies support the explicit state policy goal¹²³ (and U.S. Supreme Court mandate) to ensure that all customers have access to necessary supplies of electricity.

In order to advance the policy goal of affordability more effectively, particularly in conjunction with any transition from the existing rate structure to a new structure that may be authorized in this Rulemaking, CforAT/Greenlining propose to include adoption of arrearage management tools for customers who are in arrears at the time of any change in rate structure. While not specifically an element of rate design, an Arrearage Management Program, implemented in conjunction with changes to traditional rate elements, will provide an additional layer of protection to vulnerable consumers who risk rates that are unaffordable. Such a program will provide a safety net that may mitigate against any harmful changes in rate design (or overall rate increases due to increasing revenue requirements) that result in unaffordable bills for vulnerable customers in a new structure.

¹²² Scoping Memo at pp. 5-6.

¹²³ The Principles for Rate Design in this Rulemaking state that “rates should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals.” Of course, the first principle is to ensure that low-income and medical baseline customers have access to affordable electricity sufficient to meet their basic needs. Ruling Requesting Proposals, Attachment A at p. A1.

Arrearage Management Programs can take a variety of forms, which can be adopted concurrently. The primary arrearage management tool proposed by CforAT/Greenlining is a program that includes arrearage forgiveness in conjunction with payment plans for customers who have fallen behind on their bills. This concept has been raised before the Commission previously; while the Commission has declined to adopt it, it has clearly indicated its willingness to revisit the proposal at an appropriate time. Now, in conjunction with the broad review of rate design, such further review is warranted.

Arrearage management was proposed in detail in a petition filed by TURN in 2009.¹²⁴ While the petition was eventually denied,¹²⁵ the evidence set forth by TURN in support of its petition served as important impetus toward the Commission's ongoing review of service disconnections for residential customers as developed through R.10-02-005.¹²⁶ When the proposal was raised again during Phase 2 of the service disconnection rulemaking, the Commission again declined to incorporate it at that time, but expressly reserved the right to revisit the issue, stating "we make this determination without prejudice to future consideration of arrearage management plans."¹²⁷ Now is the time for the issue to be given full consideration.

¹²⁴ P.09-06-022, Petition of The Utility Reform Network to Adopt, Amend, or Repeal a Regulation Pursuant to Pub. Util. Code § 1708.5 Related to Arrearage Management and Shutoff Prevention for Residential Customers of the Major Jurisdictional Electric and Gas Utilities, filed on June 19, 2009. The Petition included a detailed proposal regarding eligibility and implementation of an AMP.

¹²⁵ D.10-03-006, denying TURN Petition as moot.

¹²⁶ As noted in D.10-03-006, the Commission opened R.10-02-005, a Rulemaking to establish ways to improve customer notification and education to decrease the number of gas and electric utility service disconnections due to non-payment of bills, following its review of TURN's Petition, as well as a report by DRA titled "Status Report on Energy Utility Service Disconnections," issued on November 19, and discussing data regarding service disconnections and reconnections from January 2006 through August 2009, a related en banc hearing on December 16, 2009 and a workshop on January 5, 2010 to afford the utilities and other stakeholders an opportunity to discuss "best-practices" for customer outreach and education so that customers can address repayment of arrearages before they are disconnected. D.10-03-006 at pp. 2-3. The Decision expressly stated that the Commission's decision to open the rulemaking was the factor that rendered TURN's Petition moot. *Id.* at p. 5.

¹²⁷ D.12-03-054 at p. 48.

Arrearage management plans generally refer to arrangements that include forgiveness of some or all of a customer's arrearages in conjunction with development of a payment plan (and with the customer's timely payments consistent with the terms of such plan). States that have such requirements include Connecticut,¹²⁸ Illinois,¹²⁹ Maryland,¹³⁰ Massachusetts,¹³¹ New Jersey,¹³² Ohio,¹³³ and Pennsylvania.¹³⁴ Other states may not have mandatory arrearage management for all regulated utilities, but still have at least one utility that provides such a plan for its customers. This exists in Minnesota,¹³⁵ Missouri,¹³⁶ and New York.¹³⁷

¹²⁸ See Connecticut General Statutes §16-262c.

¹²⁹ See 305 ILCS 20/18. This provision, which was adopted in 2009, also includes a PIPP, as discussed below.

¹³⁰ See Maryland Code, Public Utility Companies, § 7-512.1

¹³¹ Massachusetts St. 2005, c. 140 § 17 (known as the HEAT Law, "Chapter 140")(requiring all electric and gas utility companies to establish arrearage management programs for low-income consumers).

¹³² Universal Service Fund "Fresh Start Program" (created by the NJ Board of Public Utilities, which offers arrearage forgiveness for eligible gas and electric low-income customers), see <http://www.state.nj.us/bpu/assistance/programs/#nbr4> .

¹³³ See information on Ohio PIPP, instituted in 2010, including extended payment arrangements, capped bills based on annual household income, and an arrearage forgiveness program: http://development.ohio.gov/is/is_pipp.htm

¹³⁴ See information on Pennsylvania's Customer Assistance Program (CAP), which can lower monthly bills and remove arrearages, at http://www.puc.state.pa.us/consumer_info/electricity/energy_assistance_programs.aspx .

¹³⁵ CenterPoint Energy's "Gas Affordability Program" (which includes an arrearage forgiveness component), <http://www.centerpointenergy.com/services/naturalgas/residential/customerservice/paymentassistance/e9f200979b1e4110VgnVCM10000001a10d0aRCRD/MN/> .

¹³⁶ Laclede Gas Company's "Low Income Energy Affordability Program" (which includes the "Arrearage Repayment Program") <http://www.lacledegas.com/rates/regulations.php> ,(Tariff PSC Mo. No. 5, starting with Sheet No. R-49).

¹³⁷ Central Hudson Gas & Electric's "Powerful Opportunity Program" (which includes an arrearage forgiveness component) (<http://www.centralhudson.com/residential/pop.html>); KeySpan / National Grid's "On Track Program" (which includes an arrearage forgiveness component) (http://keyspanenergy.com/customer/payhelp/payhelp_ny_kedli.jsp); Niagara Mohawk Power Corporation / National Grid's "AffordAbility Payment Plan" (which includes an arrearage forgiveness component) (NY PSC Case No. 01-M-007, Order June 23, 2008, "Niagara Mohawk Holdings, Inc., Niagara Mohawk Power Corporation, National Grid PLC and National Grid, Order Regarding Modifications to the Low Income AffordAbility Program").

A full analysis of how to create an effective low-income affordability program was recently prepared for the Community Action Partnership Association of Idaho.¹³⁸ The proposal, for a state that did not previously have any rate assistance for low-income customers, included three components: (1) rate assistance for customers with incomes up to 185% of the federal poverty level; (2) arrearage management consisting of forgiveness of pre-program arrears over a three year period, and (3) a crisis intervention program for situations triggered by unusual expenses rather than persistent low income. This detailed report described the purpose of an arrearage management component as a way to help low income customer get „even“ so that they would “have a chance at future success in making payment.” It noted that “it makes no difference to have current bills be affordable if the total bill is unaffordable due to payment obligations required to retire past due bills,” in that case referencing arrearages incurred before the introduction of any form of low-income assistance.¹³⁹

California, too has worked to provide assistance to customers who have already fallen into arrears, with a particular focus on low-income customers. In R.10-02-005, this Commission sought “to reduce the number of residential gas and electric utility service disconnections due to nonpayment by improving customer notification and education.”¹⁴⁰ However, as evident in the name of the Rulemaking, that proceeding focused on ensuring that customers receive effective notice and information about payment plan options, rather than consideration of underlying concerns about the affordability of bills. Given the focus on affordability as part of rate design efforts, now is the time to revisit the

¹³⁸ *Home Energy Affordability in Idaho: Low-Income Energy Affordability Needs and Resources* (Idaho Report), prepared by Roger Colton, Fisher, Sheehan & Colton, in November, 2011.

¹³⁹ Idaho Report at p. 101.

¹⁴⁰ Order Instituting Rulemaking to Establish Ways to Improve Customer Notification and Education to Decrease the Number of Gas and Electric Utility Service Disconnections (Disconnections OIR) issued in R.10-02-005 on February 5, 2010, at p. 1. A second phase focused even more directly on efforts to reduce service disconnections for low-income customers. *See* Scoping Memo of Assigned Commissioner, issued in R.10-02-005 on August 17, 2011 at pp. 6-8 (discussing Phase 2 of Disconnection proceeding).

question of how the design of payment plan requirements and arrearage management can be part of the state's efforts to comply with its affordability mandate.

The Idaho Report notes that payment plans alone can fail to provide an opportunity for customers in arrears to obtain a clean slate and move forward to successfully pay their utility bills. In particular, it reviewed a program instituted in New Jersey, which showed that arrearage management was necessary to help participants in that state's affordability program (known as the Universal Service Fund, or USF) successfully comply with the payment terms, noting that "in the absence of Fresh Start [the arrearage management provisions of the program], USF program participants would be responsible for complete payment of their pre-program arrears. These arrearage payments would be above and beyond the percentage of income burdens found to be affordable."¹⁴¹ Specifically, for a program designed to structure payments as a percentage of income, payment plans for pre-existing arrearages would increase the payments as a percentage of income, leading to decreases in payment compliance.¹⁴² This is consistent with current experience in California, where customer payment plans that do not forgive any arrearages or otherwise take into consideration whether bills for ongoing usage are affordable have a high incidence of failure.¹⁴³

Instead of retaining the existing structure of payment plans that include a heightened payment obligation (all new usage plus a portion of the arrearage), a new rate design plan for California should include an arrearage management program involving forgiveness; such a program, like the one in New Jersey, could provide a fresh start for low income customers with arrearages.

¹⁴¹ Idaho Report at pp. 101-102.

¹⁴² Id., citing to Apprise, Inc. (2006), *Impact Evaluation and Concurrent Process Evaluation of the New Jersey Universal Service Fund*, prepared for the New Jersey Board of Public Utilities, Apprise, Inc.; Princeton (NJ).

¹⁴³ See e.g., PG&E's Response to Questions Posed in Scoping Memo and Related issues, filed in R.10-02-005 (the Service Disconnection proceeding) on March 12, 2010, at p. 6, stating that 52% of payment plans are broken by customers.

While the goal of such a plan should be to get customers in arrears back onto a level playing field, it would be appropriate for such customers to contribute to the arrearage management program, as part of the process of forgiving arrearages over time. The Idaho Report proposes a “co-payment” each month for customers receiving arrearage management of \$5, over the three-year life of the forgiveness program, while allowing customers who do not keep current with their current service charges to be placed into the same collection process as all other residential customers.¹⁴⁴ Other programs cap the total amount of arrearages that can be forgiven. While California can consider various options for how to structure an arrearage forgiveness program, it is appropriate to provide an opportunity for customers to obtain a fresh start, as part of a fresh look at residential rate design and affordability.

VI. CONCLUSION

CforAT/Greenlining urge the Commission to consider the vital rate principle of affordability for vulnerable customers.

Respectfully submitted,

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¹⁴⁴ *Idaho* Report at pp. 103-104.