

**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)

**REQUEST OF MARIN ENERGY AUTHORITY
FOR EVIDENTIARY HEARINGS**

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I. Introduction

Pursuant to the Scoping Memo and Ruling of Assigned Commissioner filed November 26, 2012 and the Administrative Law Judge's Ruling Requesting Residential Rate Design Proposals filed on March 19, 2013, the Marin Energy Authority ("MEA") submits this formal request for evidentiary hearings in the instant proceeding, Rulemaking ("R.") 12-06-013. MEA believes there are certain issues relevant to cost shifting and competitive neutrality that must be addressed when considering the residential rate proposals within this proceeding. MEA requests for these matters to be addressed either in evidentiary hearings, or through a subsequent formal track in an appropriate proceeding.

MEA is a Community Choice Aggregator ("CCA"), which acts as an alternate generation service provider for customers and communities electing to participate in its program. MEA administers the MCE Clean Energy program, which provides either 50% or 100% renewable energy to customers throughout the County of Marin and the City of Richmond. By the end of the summer, MEA expects to serve approximately 120,000 customers with 108,000 residential customers in Northern California. For purposes of rate design, these 108,000 residential ratepayers are treated as unbundled customers because they elect to receive their generation

services from MEA while still receiving transmission and distribution services from Pacific Gas & Electric (“PG&E”). Thus, any proposed residential rate structures contemplated within this proceeding will distinctly impact unbundled customers participating in CCAs. To the extent that these rate proposals shift costs between generation and non-generation components of the residential rate structure, unbundled customers will face anti-competitive rate design elements that bundled customers will not experience.

II. There Are Areas of Relevant Factual Inquiry That Have Not Been Addressed.

As indicated in MEA’s April 8, 2012 Motion to Delineate Generation and Non-Generation Rate Functions Within Proposals (“Motion”), the discussions regarding proposals and calculations within this proceeding have focused on bundled rate structures. These proposals must also be analyzed regarding unbundled rate structure in order to ascertain any anti-competitive impacts that would be imposed upon the unbundled residential customers electing to participate in CCA programs. Beyond the 108,000 residential customers participating in MEA’s MCE Clean Energy program, soon close to one million additional residential customers throughout Northern California may elect to join upcoming CCA programs led by City and County of San Francisco (“CCSF”) or the Sonoma County Water Agency.

The impact of these proposed residential rate designs on unbundled CCA customers must be addressed. CCAs have the authority to design and implement their own rate structures with approval from their Boards of Directors. MEA has chosen to mirror PG&E’s rate structure in order to maintain competitiveness and comparability with PG&E’s generation services. Without a factual inquiry into the impact of the proposed rate designs on unbundled customers, it is possible that these CCAs will be forced to couple their generation rates with Investor Owned Utility (“IOU”) non-generation rates that would impose unfair costs upon CCA customers. For

example, if costs attributable to IOU generation services are shifted to the non-generation components of the rate for cost recovery, then CCA customers have higher bills due to inflated non-generation rate components. Thus, these CCA customers will effectively pay for bundled ratepayers' generation service costs.

This type of cost-shifting from bundled ratepayers to unbundled ratepayers violates the statutory language and legislative intent within Senate Bill ("SB") 790.¹

Potential areas of relevant factual inquiry include:

- Does the rate design proposal violate the prohibition of 'shifting of costs' between bundled and unbundled customers in accordance with P.U. Code Section 366.2(a)(4)?
And if so, how?
- Does the rate design proposal preserve CCA control over its own generation services and procurement in accordance with P.U. Code Sections 366.2(a)(5), 380(b)(4) and 380(h)(5)? And if so, how?
- Does the rate design proposal address the collection of non-bypassable charges ("NBCs") and administration of these funds in accordance with P.U. Code Sections 366.2(k)(1)-(2)?
And if so, how?
- Does the rate design proposal reflect the allocation of 'unavoidable electricity costs' to CCA customers reduced by the value of any benefits that remain with bundled service customers in accordance with P.U. Code Section 366.2(g)? And if so, how?

¹ SB 790 was enacted by the California Legislature in 2011 in order to "facilitate the consideration, development, and implementation of community choice aggregation programs, to foster fair competition, and to protect against cross-subsidization by ratepayers" (SB 790 at Section 2 (h).)

Unless the Commission envisions addressing these issues in a later track of this proceeding or in another proceeding, these issues must be examined in evidentiary hearings in the instant proceeding.

III. Rate Design Proposals Will Likely Contain Material Contested Issues of Fact.

MEA requests that the Commission hold evidentiary hearings on the issues enumerated above if these issues will not be addressed later in this proceeding or designated for scrutiny in another proceeding.

Potential rate designs have yet to be filed. However, if any of the rate designs propose changes that could shift costs between bundled and unbundled ratepayers, the competitive impact of these changes must be examined. As discussed above, MEA's rate design generally mirrors PG&E's rate design in order to maintain competitiveness and comparability. MEA, like PG&E,² strives to more accurately associate its rates with true cost of service while maintaining and improving upon the simplicity of these rate structures.

In order to properly evaluate rate design proposals, facts must be established in order to assess whether these proposals reflect the true cost of service, or if they diverge by shifting costs between different utility service categories. This information, to the extent it is present in these proposals, is likely to be classified as a material contested issue of fact. If this information is not present within these proposals, then additional factual content must be presented into the record in order to properly evaluate these residential rate proposals in terms of competitive neutrality and cost shifting. This additional information could be provided through testimony or through additional process within this (or another) proceeding.

² See A.13-04-012, Phase II of PG&E General Rate Case.

IV. If the Commission Does Not Address These Issues Within A Separate Track or Proceeding, Evidentiary Hearings Are Legally Required In the Instant Proceeding.

The issues listed above were all raised by SB 790. These issues are legally required to be addressed by the Commission. The current proceeding carries significant implications for CCA customers throughout California and any potential rate design that does not take unbundled customers into account would contravene SB 790 and could create severe financial consequences for CCAs and their customers. Thus, unless the Commission addresses these issues in a separate track or proceeding, evidentiary hearings are legally required in order to determine the impact of any potential rate design on unbundled customers.

V. Conclusion

MEA thanks Assigned Commissioner Peevey and Assigned Administrative Law Judges McKinney and Sullivan for considering this Request within the forward-looking Residential Ratemaking Proceeding.

Respectfully submitted,

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