

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

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

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

**REPLY COMMENTS OF THE CALIFORNIA LARGE ENERGY CONSUMERS
ASSOCIATION ON THE RESIDENTIAL RATE DESIGN PROPOSALS FILED
MAY 29, 2013**

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Introduction

These reply comments respond to various comments on residential rate design and are submitted pursuant to the Rulings of Administrative Law Judge Jeanne McKinney of June 18 and June 24, 2013 by the California Large Energy Consumers Association (CLECA). CLECA filed its proposal for changes to residential rate design in this proceeding on May 29, 2013 and submitted comments on July 12, 2013 on the residential rate design proposals of other parties.

The June 18 ruling directed parties to use the Principles for Rate Design and Questions for Rate Design Proposal set forth in Attachment A to the March 18, 2013 Ruling. CLECA's comments follow the Principles set forth in that Ruling to the extent possible.

1. 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;

The proposals of the Center for Accessible Technology (CforAT) and Greenling Institute (GL) (collectively CforAT/GL) says it could potentially support TURN's proposal to decrease the level of the CARE discount as customer usage enters higher tiers.¹ TURN recommended that the structure of the CARE discount be re-designed to provide a very significant discount for the lowest usage, with declining discounts as usage increases. Its proposal included a 50% discount for Tier 1, a 30% discount for Tier 2, and a 10% discount for Tier 3. As discussed elsewhere, TURN proposes to adjust the usage quantities for each tier, with Tier 1 set as 0-100% of baseline, Tier 2 as 101% - 200% of baseline, and Tier 3 as 200% of baseline.²

This TURN proposal represents an acknowledgment of the flawed price signal sent to CARE and FERA customers as to the cost of the power they are buying; it provides no incentive for conservation or even a focus on efficiency. However, while CforAT/GL states that such a rate design would have to assure no reduction in the CARE subsidy, it could actually increase it. More than half of all residential usage occurs in the first tier, and 65-70% occurs in the first two tiers. The proposed 50% discount for the first tier would result in a huge discount for over 50% of CARE usage, a massive divergence from cost. A 30%

¹ "CforAT/Greenlining would potentially support modifications to CARE that would provide a greater subsidy level for essential supplies of energy, and a reduced subsidy for higher levels of consumption, such as proposed by TURN. Such an adjustment in the CARE discount can focus more assistance for essential usage. However, the average effective level of the CARE discount must not diminish from present levels." (CforAT/GL Opening Comments, p. 22.)

² TURN Proposal, May 29, 2013, pp. 51-52.

discount for the second tier would not differ much from current SCE and SDG&E discounts, although it would be lower than the PG&E discount. A 10% CARE discount in the third tier is not likely to offset the greater discount for the first tier, increasing the overall level of CARE subsidy. Furthermore, CforAT/GL's proposal to discount Tier 2 rates to Tier 1 levels would also substantially increase the overall level of subsidy.³ Because of these and other issues, CLECA has proposed elimination of tiered rates. If, despite the reasons to discontinue them, tiered rates continue, any decision to tier the CARE discount should not result in an *increase* in the overall level of CARE/FERA subsidy. Indeed, for PG&E, the overall level of subsidy should be reduced over the next several years because it is so far in excess of the level of subsidy for SCE and SDG&E.⁴ This differential is not based in any demonstrated difference in need.

DRA proposes to cap any increases in CARE rates to no more than the level of inflation.⁵ CARE rates for the first two tiers have not increased at all in well over a decade. This proposal guarantees that these already high subsidies will increase over time. The pressures on utility revenue requirements from aging infrastructure, RPS requirements, smart grid, etc., make average rate increases of no more than inflation highly unlikely for the rest of the decade and beyond. There is concern that rate increase will outpace inflation. Increasing levels of CARE subsidy will further raise rates for all non-CARE customers, residential and non-residential, all of whom pay the CARE surcharge (except

³ CforAT/GL Opening Comments, p. 25.

⁴ The PG&E discount is 47%, SCE is 31% and SDG&E is 34%. See CLECA Opening Comments.

⁵ DRA Opening Comments, p. 54.

street lighting) on a statutory equal cents per kWh basis. The focus of parties supporting existing or even increased levels of subsidies for low-income customers demonstrates no concern for who is paying the subsidies.

CforAT/GL argues that FERA customers should be exempt from time-varying pricing on the grounds that they would have difficulty shifting their usage patterns.⁶ However, they provide no evidence to support this assertion. The Commission should not accept such unsubstantiated assertions as facts.

Sierra Club apparently argues that a reduced CARE subsidy is problematic because it lowers non-CARE rates and reduces any incentive for more efficient air conditioning (A/C).

“[r]educing the CARE subsidy results in lower rates for non-CARE customers. This occurs because less revenue is required of the non-CARE customers to provide the funding needed for the CARE subsidy. The lower revenue required from non-CARE customers results in lower rates, thus reducing their energy costs related to AC and increasing the payback period of an upgrade.” (Sierra Club Opening Comments, p. 11.)

Even if Sierra Club’s goal of rate design is to increase rates in order to improve A/C efficiency, that is not a rate design principle that should be endorsed by the Commission. Similar to Sierra Club’s argument for higher rates for higher tiers to promote solar, this is the tail wagging the dog.

Sierra Club also says that a reduced CARE subsidy would cause higher rates for non-CARE customers.⁷ This is utterly incorrect, since non-CARE

⁶ CforAT/GL Opening Comments, p. 25.

⁷ “Most obviously, by reducing the CARE subsidy, rates go up for non-CARE customers.” (Sierra Club Opening Comments, p. 14.)

customers pay the CARE subsidy, which raises their rates. A lower CARE subsidy would reduce their rates.

EDF makes various statements in support of maintaining and even increasing the CARE discount, but provides no reason.⁸ It furthermore states that “many ratepayers-including the working poor-are paying for more than their fair share of utility expenses”.⁹ It provides no basis for this claim, probably because there is none. EDF has provided no information on cost allocation, nor is that a topic for this proceeding. The Commission should dismiss such unsubstantiated assertions.

2. Rates should be based on marginal cost;

We provide no reply comments under this section because they would overlap comments provided under Principles 3 and 5.

3. Rates should be based on cost-causation principles;

Many parties ignore cost causation in their arguments for low-income subsidies. CARE rates are already well below cost, and even more so for the first two tiers. Any proposal to maintain or even increase the CARE discount on rates in the first two tiers is at odds with cost causation and with sending price signals to encourage customers to either reduce or shift usage to lower-cost time periods and should be rejected.

NRDC makes the claim that smaller users are less expensive to serve.¹⁰

⁸ “EDF supports maintaining and even increasing the CARE discount.” EDF Opening Comments, p. 5.

⁹ EDF Opening Comments, p. 6.

¹⁰ NRDC Opening Comments, p. 9.

NRDC has provided no evidence to support this claim. Furthermore, SCE's evidence of increasing load factors for larger users suggests the opposite.

CLECA agrees with DRA that time varying pricing is the most cost-based and would provide all residential customers with incentives to reduce and shift their usage, to the benefit of the residential class and indeed all customers. Although CLECA supports a modest fixed charge to cover such costs as customer billing and service, time-varying pricing is more important than the issue of fixed charges.

On the other hand, all matters of cost allocation are outside the scope of this proceeding. Perhaps in response to utility arguments that certain costs be included in fixed charges, DRA's comments go on at great length about the allocation of the costs of energy efficiency, RD&D, etc. These matters should be dealt with in Phase 2 of general rate cases, not here. CLECA strongly disagrees with many of the assertions made by DRA in its Opening Comments. However, CLECA refrains from responding since it is clear that they are not appropriately addressed in this proceeding. If the Commission were to decide that these matters were germane, CLECA would request an opportunity to respond before the record in this proceeding is closed.

On a more specific basis, we note that DRA raises the issue of whether a demand charge, if adopted, would have a ratchet.¹¹ While not supporting a residential demand charge, the use of ratchets was discontinued years ago for non-residential customers; ratchets are highly unlikely to receive any support as a feature of any recovery of residential demand-related costs. Furthermore,

¹¹ DRA Opening Comments, p. 12.

DRA's claim that "non-coincident demand is normally highly correlated with volumetric consumption" is not supported by any evidence; this simple assertion should not be taken as valid without substantiation.¹² There have been far too many assertions made by far too many parties in this proceeding that are not supported by evidence.

Sierra Club's comments seem to focus on the use of rate design to provide incentives for distributed solar and A/C upgrades to the exclusion of any other principles. The Commission put forth numerous rate design principles for a reason: to reflect its many objectives. While different parties may weight these principles in different ways, the singular focus of Sierra Club should not be adopted.

Similarly, solar advocates in this proceeding argue that rates should not change for customers with solar even if the cost structure changes. SEIA/Vote Solar argues that the rates of customers with solar should be grandfathered.¹³ CLECA disagrees. TURN rightly states that the Commission should not design a residential rate based on net energy metering in order to promote solar.¹⁴ Rate structures and rate design cannot and should not be used to guarantee or justify the economics purchasing residential solar PV. Indeed, no Commission can bind a future Commission on rate design or much of anything else. Grandfathering is not appropriate. In addition, if the system cost structure changes and the peak moves, this should be reflected in time-of-use periods in a timely manner. While SEIA/Vote Solar says that there has been no change in the peak hour at the ISO

¹² Id, p. 11.

¹³ SEIA/Vote Solar Opening Comments, p. 16.

¹⁴ TURN Opening Comments, pp. 52-53.

system level, the utilities have found that peaks are shifting later. The evidence for this has appeared in other proceedings and there is no need to produce it now.¹⁵ It would be incorrect to say that there has been no change in the time of the peak for any of the utilities.

CLECA has one other concern about provision of service at less than cost. DRA supports baseline amounts below cost for all residential customers, CARE and non-CARE, but provides no reason for this subsidy other than general affordability regardless of income.

P.U. Code §§739.9(b-c) should not be deleted or modified because they contain important baseline protections for non-CARE customers. Affordable baseline rates are essential for ensuring all Californians have access to an essential service. The concept of baseline rates was created by the Warren-Miller Energy Lifeline Act of 1976, which required the Commission to designate a baseline quantity of gas and electricity, necessary to supply a significant portion of the reasonable energy needs of the average residential customer, at affordable rates below average cost. This Act highlights the need and utility of affordable baseline rates. (DRA Opening Comments, p. 52.)

This provision may be in statute at present, but pricing between 50 and 60% of average usage below cost contravenes cost causation. Indeed pricing up

¹⁵ See, for example, SDG&E May 29, 2013 Rate Design Proposal, p. 16, and A. 12-12-002, "AMENDED PREPARED REBUTTAL TESTIMONY OF JAMES A. ROSS ON BEHALF OF THE ENERGY PRODUCERS AND USERS COALITION", Table II-1, p. 21. Also, see "Electricity Bill Savings from Residential Photovoltaic Systems: Sensitivities to Changes in Future Electricity Market Conditions" January 2013, LBNL-6017e which at page 40 discusses "the peak period in the high season shifting towards the evening time" and page 50 says: "With a 33% renewable penetration, the modeled wholesale price profiles are found to change considerably; the peak prices shift from mid-afternoon to early evening when insolation and therefore PV generation tapers off."

to 70% of usage below cost, if the second tier is taken into account, is not consistent with cost causation, marginal cost, making subsidies explicit, encouraging conservation, encouraging reduction in peak demand. This countermands most of the Commission's rate design principles. We question whether this is the best way to set rates, even where there is an interest in affordability. This is why we proposed a CARE discount separated from the rate design, elimination of increasing block pricing, and time of use rates—to send appropriate price signals to *all* customers.

4. [Rates should encourage conservation and energy efficiency; [KLC1]

Once again, NRDC asserts that increasing block pricing (IBP) results in significant conservation. Once again, NRDC has failed to provide any empirical evidence to support this position. NRDC provides no empirical evidence of conservation under an IBP rate structure. The EPA guide to rate design is not empirical evidence. NRDC (and others with whom it has apparently been collaborating) newly cites a presentation by Xcel claiming to demonstrate conservation resulting from the introduction of an IBP (aka IBR) rate design. However, regardless of NRDC's characterization, the Commission should be very wary of relying on a power point presentation as empirical evidence.

The Xcel document cited is only a presentation. No paper with the details of the analysis has been provided. The presentation shows an after-the-fact estimate of the impact of a change from flat rates to IBP for all customers by backing out other presumed influences on their usage. It does not represent a study using a control group and developing statistically significant results. The presentation compares “actual data with assumed response at time IBR rates

were approved”. (emphasis added) The “response” is clearly and admittedly an estimate, not a metered response. Furthermore, the presentation makes a number of additional assumptions that are not supported (e.g. a constant residential load factor). In addition, there is not enough information on the adjustments to usage data to determine the validity of these adjustments, particularly economic conditions. The presentation even contains its own set of caveats on page five.

Since the presentation looks at a change from a flat rate to IBP, it is not comparable to California, where residential customers already have IBP rates. Thus, it is not clear if the results would have any relevance in California, even if they could be evaluated and substantiated.

TURN’s comments that “cost causation can be used to support decoupling” is entirely unsubstantiated. (TURN p. 33) In addition, TURN’s argument that TOU rates do not well simulate wholesale prices may be true, but it does not take into account the lack of a capacity component to wholesale prices. It is the introduction of capacity cost incurrence that demonstrates TOU price variations do capture cost differences.

CforAT/GL cites NRDC as saying customers with less overall usage cannot shift it by time period.¹⁶ However, the NRDC proposal cites the imposition of TOU rates for some customers of Puget Sound Energy and claims they were not able to save much money on TOU rates. No evidence was provided as to the details of this rate design, the rate differentials, the previous rates, the overall level of the rates or bills, or customer education. The NRDC

¹⁶ CforAT/GLK/ Opening Comments, p. 2, referring to NRDC Proposal, pp. 11-12.

proposal does not justify CofAT/GL's apparent conclusion. Furthermore, SCE's data showing lower load factors for lower income customers, suggests more room to shift load.¹⁷

CofAT/GL also says TOU rates have not been proven to decrease load or change behavior.¹⁸ The SMUD results presented by CLECA (real empirical evidence) show the opposite. The claim of these parties that TOU has not been defended on a cost of service basis demonstrates their lack of familiarity with the comments filed in this proceeding.

5. Rates should encourage reduction of both coincident and non-coincident peak demand;

TURN's discussion of the bill impacts associated with TOU rates refers to the use of average customer load profiles provided by the utilities and to load profiles of customers using A/C.¹⁹ However, TURN does not discuss the possibility that residential customers can and will change their load profiles on TOU rates if they receive proper customer education. The empirical evidence provided by CLECA in this proceeding from the SMUD Summer Solutions Study shows clearly that TOU rates can do result in changes in load shapes if residential customers are well-educated about the rates and about how to respond to them. They also lead to a reduction in total usage. Thus, TURN's results should not be taken as a definitive assessment of the impact of a change to TOU rates. With good customer education, SMUD has shown that these rates can be very effective and *even reduce customer bills*.

¹⁷ SCE Proposal for CPUC Workshop 6.25(v.4).ppt, slide 9.

¹⁸ Ibid, p. 17.

¹⁹ TURN Opening Comments, p.6 et seq.

6. Rates should be stable and understandable and provide customer choice;

As noted in CLECA's opening comments, given the problems with current rates, rate stability should not be a primary objective if it means retaining the current rate design. Instead, the focus should be on a well-informed transition to rates that better meet the Commission's principles, like TOU rates. Customer education and outreach over a 4-5 year period should make the rates understandable. (There has been a much shorter transition to TOU rates for all other classes of customers.) Customer choice can be provided through opt-out non-TOU rates that at least avoid sending signals to use additional power at times when rates are below cost. We have recommended flat rates to achieve this end, along with some dynamic pricing signal for periods when usage should be reduced or avoided and periods when there would be benefits from increased usage.

7. Rates should generally avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals;

Sierra Club criticizes flatter tiers for reducing bills of high-income households, implying that an objective of rate design is to redistribute income.²⁰ This is not a rate design principle and we do not recommend that it become one.

EDF supports providing ratepayers, especially low income, with enabling devices.²¹ Evidence in this case demonstrates that devices like programmable

²⁰ Sierra Club Opening Comments, p. 14.

²¹ EDF Opening Comments, p. 17.

communicating thermostats (PCTs) are far more successful in helping customers to respond to rate design price signals, shift load, and reduce usage than customer information devices, especially for A/C customers, so the former should be preferred. In addition, if devices are provided for free, there is no incentive for customers to use them and considerable ratepayer dollars could be wasted. Sharing in the cost would give them “some skin in the game”. We would prefer to see discounts for enabling devices tightly coupled with customer education on rate design changes so that behavior changes can be pursued as a way to benefit from changed rates. This approach worked well at SMUD.

8. Incentives should be explicit and transparent;

As noted in our opening comments, subsidies and incentives should not obfuscate clear price signals as to the cost of usage tied to the time of usage.

9. Rates should encourage economically efficient decision-making

CLECA’s opening comments incorporated an extensive discussion of economically efficient decision-making, which we will not repeat here.

10. Transitions to new rate structures should emphasize customer education and outreach that enhances customer understanding and acceptance of new rates, and minimizes and appropriately considers the bill impacts associated with such transitions.

All parties support customer education and outreach. This is vitally important if the Commission adopts a new rate structure, such as TOU and/or dynamic rates. SMUD has shown the power of effective education and outreach in the results of its Summer Solutions Study described in considerable detail in

our May 29 comments. If the Commission continues with IBP, there is evidence in this proceeding that these rates are not well understood even though they have been in effect for many years. While education and outreach would make them more understandable, we believe that there is greater system benefit to educating customers about a 4-5-year plan to introduce time-based rates and the reason why these rates are appropriate than to educating them as to the current rate design. This will allow customers who can benefit from these TOU rates to participate on an opt-in basis during the transition, and will prepare all customers for the transition to default TOU rates. Since we do not support IBP, education in the interim to explain IBP should not undermine preparation for a transition to TOU rates. Again, we believe that tiered TOU rates are likely to be very confusing for most customers and much harder to explain.

Conclusion

CLECA believes that this review of residential rate design is a critically important Commission activity. Load, of which residential load represents a very large fraction, can either exacerbate the peakiness of the current system load shape, or to reduce it to the benefit of all customers. Shifting load in response to clear price signals can improve the system load shape and reduce costs of providing service for all customers, residential and non-residential alike. Non-residential customers already have or will shortly have time-varying and dynamic

rates that provide such price signals. It is time for the residential class to have the same.

Respectfully submitted,

A handwritten signature in black ink that reads "Nora Sheriff". The signature is written in a cursive style with a prominent initial "N" and a long, sweeping underline.

Nora Sheriff
Counsel to the California Large Energy
Consumers Association

July 26, 2013