BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA4

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Designs, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.	Rulemaking 12-06-013 (Filed June 21, 2012)

OPENING COMMENTS OF THE CONSUMER FEDERATION OF CALIFORNIA ON THE ASSIGNED COMMISSIONER'S RULING INVITING UTILITIES TO SUBMIT INTERIM RATE CHANGE APPLICATIONS

Introduction

As the Assigned Commissioner's Ruling Inviting Utilities to Submit Interim Rate Change Applications (Phase 2 Ruling) points out, AB 327 removed various restrictions, relating to residential electricity rates. These restrictions were put in place in 2001, in response to the energy crisis. The Phase 2 Ruling also focuses on the lifting of restrictions relating to CARE rates.

Specifically the Assigned Commissioner invited three investor owned utilities, namely Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) (IOUs) to file applications for *interim* residential rate changes involving tiered rate and CARE rates. Applications are to be filed by no later than November 29, 2013.

The Phase 2 Ruling establishes Phase 2 of the ongoing rulemaking R.12-06-013. The Assigned Commissioner "expects" Phase 2 will be designated as "ratesetting," wherein the applications for interim rate changes made by the IOUs will be analyzed, at least to some degree.

The Phase 2 Ruling invites the parties to comment on two limited issues: 1. the procedural schedule, as presented, and 2. the need for evidentiary hearings.

CFC opposes the abbreviated schedule, sees no justification for interim rate relief and believes the standard procedures relating to ratesetting be adhered to.

1. Comments on Procedural Schedule

The parties have been invited to comment on the ambitious procedural schedule set forth.

CFC is deeply concerned with the procedure contemplated and the schedule as proposed. The schedule as set forth, which seems to include three simultaneous rate proceedings, does not allow enough time for intervenors to effectively participate. CFC sees no need for imposing this expedited schedule on intervenors. CFC sees no reason why these rate applications cannot be dealt with using standard procedures and timelines.

The Phase 2 Ruling *seems* to indicate that somehow, interim rate changes can and will be granted without the need for evidentiary hearings. However, that is not completely clear. However, the question regarding the need for evidentiary hearings seems to contemplate no evidentiary hearing. If this is the case, CFC strongly opposes that approach.

Of, the Phase 2 ruling could be read as contemplating some form of interim relief followed by evidentiary hearings. If this is the case, CFC strongly opposes that approach.

The complexity of the rate filings also impacts the unfairness of the proposed schedule. On page four of the Phase 2 Ruling it is stated ". . . each utility will need to implement any new *rate structure* through a general rate case or other ratesetting proceeding." (Our emphasis.) We read this to mean that the applications contemplated to be reviewed in Phase 2, will not contain new rate design proposals, which are inherently complex, but will only request changes to rates within the IOUs existing tiered rate design structures. But again, this is not at all clear.

The Phase 2 Ruling also provides admonishments to the IUOs relating to the complexity and understandability of the rate change requests[1]. These admonishments might be viewed as limiting, somehow, the scope of the rate changes requested, but again, other language casts doubt on this interpretation.

[1] Phase 2 Ruling, page 4

As the Ruling points out, "the Commission cannot restrict investor owned utilities from applying for other, more complex, changes in residential rate design."

This means there are no guarantees that the rate change proposals will lend themselves to quick and easy analysis. And it is well within the realm of possibility that the IOUs present more, rather than less, complex rate change proposals. CFC does not see how the proposed schedule could possible work if the applications submitted are of a complex nature and not merely minor changes within the IOU's current rating structures.

To CFC, no matter how you slice it, the intervenors are being squeezed by a schedule that has the potential to not only make things difficult, but to make it impossible for intervenors to make meaningful contributions in this case and in so doing the proposed schedule seriously threatens to deny intervenors' due process right.

2. Decision on Allowing Interim Changes

The Ruling makes clear that a decision allowing interim rates has already been made. The Ruling provides, ". . . Phase 2 will allow some interim changes to be made to stabilize and rebalance tiered rates."[2] CFC does not understand how this statement can be made before a hearing without an opportunity for the public to participate.

3. Basis for Interim Rates

While it is clear the Commission has the power to grant interim rate relief, it is equally clear that this power should only be exercised if the facts and circumstances warrant such relief.

In this case we are aware of no emergency or other factual circumstances upon which granting of interim rates may be based.

We read the Phase 2 Ruling to imply the various rate restrictions that were in effect, restrictions that have now been lifted, caused higher usage customers to

[2] Phase 2 Ruling, page 3.

experience “inequitable rate increases that do not reflect the cost of service,[3] and this somehow justifies interim rate relief. CFC does not believe this “inequity” justifies abandoning normal, standard procedures.

CFC does not believe the rate inequities discussed above, taken in tandem with fact that AB 327 lifted certain restrictions that may or may not remedy certain inequitable rates, justifies abandoning normal, tried and true procedures that are traditionally used in these cases in favor of a procedure that threatens to prevent the public from meaningful input in these cases.

And, we are also very concerned that this unusual procedure is being foisted upon the intervenors based on the Assigned Commissioners blanket assertion regarding “inequitable rates.” No evidence for this assertion is cited. And even if it were true - that larger energy users were subject to inequitable rates - CFC sees no “emergency” justify abandoning normal procedure for an expedited schedule that threatens meaningful input from the public, presenting a real danger of denial of due process.

CFC wants to be clear, that there have been inequitable rates in the past, coupled with changes in the law that might address those iniquities, cannot be relied upon as the basis interim rate relief and the abbreviated schedule contemplated.

4. CARE

Adding to the uncertainty relating to the schedule are changes to CARE rates. Due to the nature of CARE, changes to care rates will engender significant scrutiny and significant input from interested parties. Some of the parties to these cases are, by definition, focused on consumers who are CARE customers.

The schedule as proposed presents a real danger that there will not be enough to for intervenors to carefully study changes to CARE rates, which are again, inherently complex. This is simply unconscionable.

[3] Phase 2 Ruling, page 2.

5. The Need for Evidentiary Hearings in Phase 2

CFC assumes that the question regarding the need for evidentiary hearings relates to evidentiary hearings that would take place as part of Phase 2. Put another way, we read the question to be whether we think evidentiary hearings will be needed in setting the interim rates in Phase 2. The answer is yes, hearings are needed. We see no reason why this ratesetting should be treated differently than any other ratesetting.

However, the question regarding the need for evidentiary hearings becomes more mysterious when the proposed schedule refers to evidence in the form of testimony, to be offered into the record in Phase 2. So, if evidentiary hearings are already contemplated what is the purpose of having the parties comment on the need to have those hearings? Or perhaps CFC is reading too much into the use of "testimony."

And, unfortunately it is not clear whether the evidentiary hearings contemplated in the Phase 2 schedule are hearings to take place, before or after the granting of interim rate relief. Because the Phase to Ruling is not clear it might be read as contemplating the granting of interim rate relief with hearings to follow. If this is the case, CFC opposes this procedure. Again, CFC sees no reason that standard procedures and timelines are not being followed in this case.

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6. Conclusion

For the reasons stated herein, CFC opposes both the schedule as proposed and the granting of interim rate relief. CFC believes the standard ratesetting procedures should be followed in this case.

Respectfully Submitted November 8, 2013 at San Francisco CA

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