

**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)

**MOTION FOR EVIDENTIARY HEARING OF THE CENTER FOR ACCESSIBLE
TECHNOLOGY AND THE GREENLINING INSTITUTE**

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January 7, 2014

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Introduction

Pursuant to Rule 11.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Assigned Commissioner's Ruling Inviting Utilities to Submit Interim Rate Change Applications (~~Phase 2 Ruling~~), and the updated schedule set following the first Prehearing Conference, the Center for Accessible Technology (CforAT) and the Greenlining Institute (Greenlining) hereby submit this Motion for Evidentiary Hearing. Evidentiary hearings are necessary in this proceeding in order to analyze all three electrical utilities' supplemental filings proposing interim rate changes (~~Phase 2 Filings~~). The Phase 2 Filings specifically include the Supplemental Filing of Pacific Gas and Electric Company (PG&E) for Summer 2014 Residential Electric Rate Reform (~~PG&E Filing~~), the Supplemental Filing of San Diego Gas & Electric Company (SDG&E) for Phase 2 Interim Rate Changes (~~SDG&E Filing~~) and the Phase Two Supplemental Filing of Southern California Edison Company (SCE) for Interim Residential Rate Design Changes (~~SCE Filing~~). Each of these filings raises substantial factual issues that can only be given appropriate consideration through evidentiary hearings.

In their filings, all three utilities propose significant changes to their rate structures. Both PG&E and SCE propose to reduce the number of rate tiers from four to three. SDG&E proposes to reduce the number of rate tiers from four to two. All three utilities propose significant rate increases for the lower tiers, resulting in large bill increases on those customers with the lowest level of usage. All three utilities propose corresponding rate reductions for high tier usage, which will reduce rates for those customers with the highest level of usage and impact the conservation signals given to these customers. All three utilities propose to modify the Family Energy Rate Assistance (FERA) Program and the Medical Baseline Program, which currently rely on the existing tier structure to deliver their rate assistance to eligible customers. Finally, PG&E proposes to take a large step towards reducing its California Alternate Rates for Energy (CARE) discount into the statutorily mandated range, raising questions as to whether this rapid movement is appropriate. As CforAT/Greenlining discuss with more specificity below, all of these proposals are significant changes to the utilities' rates and rate structures and would result in significant impacts to customer bills, rate affordability, and conservation incentives. Thus the issues raised by these proposals require an evidentiary hearing in order to analyze these and other factual considerations.

I. CforAT/Greenlining Will Analyze the Utilities' Proposals to Determine if They Result in Affordable Rates for Basic Usage.

Each of the IOUs' proposals regarding non-CARE rates would raise rates for customers with low usage. Each utility proposes to raise rates significantly for usage up to 100% of baseline (Tier 1) and 130% of baseline (current Tier 2). CforAT/Greenlining will demonstrate in evidentiary hearings that the rate impacts resulting from the IOUs' proposals do not result in affordable rates for this essential electricity usage.

Although AB 327 removed multiple specific restrictions on rates up to 130% of the baseline quantity, as a policy priority and as a matter of law the Commission should continue to recognize that the price for essential energy needs must remain affordable, not just for CARE customers, but for all customers.

AB 327 amended Cal. Pub. Util. Sec. 382(b) to read:

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. Energy expenditure may be reduced through the establishment of different rates for low-income ratepayers, different levels of rate assistance, and energy efficiency programs. (emphasis added)

While it is true that Section 382(b) references low-income customers and the programs that serve them, its language states that—electricity is a basic necessity. Electricity is a basic necessity not just for low income customers, but for all customers. The statute also states that—**all residents of the state** should be able to afford essential electricity and gas supplies (emphasis added). Essential electricity supplies can be understood to mean electricity up to the baseline quantity.

The IOUs' proposals raise rates significantly for the most essential energy usage, such that this usage is no longer affordable, even for customers above the CARE eligibility guidelines. Evidentiary hearings are necessary to analyze if the proposals result in an affordable price for essential energy usage and CforAT/Greenlining will present evidence regarding this issue.

A. Evidentiary Hearings Are Needed to Examine Bill Impacts from the Phase 2 Proposals Together with Other Recent and Pending Rate Changes.

Any changes in rate design proposed in the Phase 2 Filings must be considered along with other recent changes in rate design, as well as other Commission decisions and actions that will impact actual rates. For example, recently the calculation of SCE's baseline quantity was

changed from 55% of average usage to 53% of average usage.¹ This change had the effect of raising bills for customers with low to moderate usage. PG&E has proposed changing its baseline quantity from 55% to 50%; this request is currently pending in R.12-02-020.² However, if this proposal is not approved by the Commission, PG&E seeks even larger increases on usage in the lower tiers.³ SDG&E's proposal to add a fixed customer charge, which would increase rates for customers with low usage, was rejected in a pending proposed decision, but this case has not fully resolved.⁴ Moreover, SDG&E, PG&E and SCE all were granted 3% percent increases to their current Tier 1 and Tier 2 rates, effective January 1, 2014.⁵

In addition to these other changes regarding rates and rate design, each utility may be authorized to implement additional increases in their upcoming authorized revenue requirements which would necessarily result in bill increases. Evidentiary hearings are needed to correctly analyze bill impacts, including the actual rates that customers will pay, given a more up to date revenue requirement. Moreover, at least for PG&E, the bill impact calculations do not reflect the

¹ See D.13-03-031, p. 17. Although the change in baseline quantity was adopted by the Commission pursuant to a settlement agreement between a number of parties, the change was reviewed thoroughly by the Administrative Law Judge in evidentiary hearings. See A.11-06-007, Evid. Hearing Transcript, Vol. 5 (Sept. 20, 2012), pp. 193-220.

² This proposal to change PG&E's baseline quantity was also fully analyzed by parties and the Commission in evidentiary hearings. See A.12-02-020, Evid. Hearing Transcript, Vol. 1 (Sept. 24, 2012), pp. 25-167; Vol. 2 (Sept. 25, 2012), pp. 168-243; Vol. 3 (Sept. 27, 2012), pp. 306-414.

³ See PG&E Summer 2014 Residential Electric Rate Reform Proposal, Phase 2 Prepared Testimony (PG&E Testimony), pp. 2-3, 2-4 and 2-24.

⁴ See pending Proposed Decision in A.11-10-002, currently on the Commission's agenda for January 16, 2014. Both Greenlining and CforAT conducted cross examination on the issue of the proposed customer charge (referred to as—basic service fee or—BSF). See, e.g. A.11-10-002, Evid. Hearing Transcript, Vol. 4 (October 9, 2012), pp. 179-187 (E. Gallardo for Greenlining examining SDG&E Witness Yunker); pp. 243-246 (M. Kasnitz for CforAT examining SDG&E Witness Fang).

⁵ See PG&E Advice 4314-E, SDG&E Advice 2542-E and SCE Advice 2964-E, all filed Nov. 13, 2013 and approved by the Commission on Dec. 31, 2013.

proposed additional rate increases of nearly 13% sought for gas usage in the Gas Transmission and Storage Rate Case Application, filed on Dec 19, 2013.⁶

All of these recent or prospective rate changes raise bills of customers with usage primarily lower than 130% of baseline. The IOUs' proposals in the Phase 2 Filings, which would also raise rates for customers with this basic usage, must be considered cumulatively with any recent changes and must take into consideration other pending proceedings that will impact the bills customers must pay for basic energy usage.

Evidentiary hearings are needed to accurately consider the cumulative impact of multiple changes in rates. It would be difficult to properly analyze several rate changes, along with the impact of the applicable revenue requirement, without the question, answer and re-question process available in evidentiary hearings. Moreover, evidentiary hearings are especially needed where an IOUs' Phase 2 proposals vary depending on other circumstances. For example, PG&E's proposes a rate increase for the lower tiers; however, PG&E proposes a greater increase if its proposal in A.12-02-020 to change the baseline quantity calculation from 55% to 50% of average usage is not adopted. Evidentiary hearings are needed in order to accurately analyze such changing and cumulative proposals. Merely providing one opportunity for response in the form of written testimony or comments without an opportunity for cross-examination will not provide a sufficient opportunity for analysis of an IOUs' varied proposals. Given that evidentiary hearings are routinely scheduled for applications that propose a more limited range of changes to rate design than are put forth in these proposals, there is no basis to consider the supplemental filings without such hearings.

⁶ Application 13-12-012.

B. Evidentiary Hearings Are Needed to Analyze Data from the Low Income Needs Assessment.

CforAT/Greenlining will review the recently issued Low Income Needs Assessment (LINA)⁷ and present information from the LINA to examine whether the IOUs' proposals provide for affordable rates. For example, the new LINA shows high levels of energy burden among low-income households under the *current* rate design. Evidentiary hearings are needed to analyze the impacts of the proposed changes in terms of aggravating existing energy burden. The LINA shows that a substantial number of customers already compromise their health and safety due to the high burden of energy bills. Evidentiary hearings are needed to analyze the IOUs' proposals and how they may impact concerns about customer health and safety.

The LINA includes valuable information, including information about energy burden among specific low income populations. For example, the LINA includes data about the energy burden among customers with varying levels of usage. CforAT/Greenlining will present evidence about the current energy burden among with basic energy usage levels, and the potential impact of the IOUs proposals, which would have the largest negative impact on these low-income customers with low levels of usage.

The LINA also shows that low income households in the Central Valley currently have among the highest levels of energy burden. Evidentiary hearings are needed to examine if the IOUs' proposals exacerbate this energy burden.

⁷ The LINA, which was issued on December 16, 2013, is available at <http://www.energydataweb.com/cpucFiles/pdaDocs/1016/ESA%20CARE%20LI%20Needs%20Assessment%20Final%20Report%20-%20Volume%201%20-%2012-16-13.pdf> (Volume 1); <http://www.energydataweb.com/cpucFiles/pdaDocs/1015/ESA%20CARE%20LI%20Needs%20Assessment%20Final%20Report%20-%20Volume%202%20-%2012-16-13.pdf> (Volume 2). Volume 3 is available as a Word document at <http://www.energydataweb.com/cpuc/search.aspx>

The LINA provides valuable factual information about energy burden among various low-income populations and this information, as well as the implications that flow from it, should be examined in evidentiary hearings.

C. Evidentiary Hearings Are Needed to Determine if the Pace of PG&E's Proposed Reduction in the CARE Discount Is Reasonable.

PG&E proposes to increase the rates paid by CARE customers, so that the effective total CARE discount is reduced from 49% to 43%. PG&E asserts that it is following the direction of AB 327 and the Phase 2 Ruling. Both AB 327 and the Phase 2 Ruling provide that utilities should decrease the effective CARE discount on a reasonable basis.⁸ The Phase 2 Ruling states that the effective CARE discount—should be adjusted on a glidepath towards the *35% effective discount limit...||* (emphasis added).⁹ Thus, the Phase 2 Ruling references the 35% discount limit.

PG&E's proposal is to take a huge step in that transition immediately. The glidepath of PG&E's transition is such that the transition could be complete after two years (from 49% to 43% in the first year, from 43% to 35% in the second year). It also fails to take into consideration other changes, such as the new review of CARE customers with extremely high levels of usage, to see how they impact the size of the CARE subsidy separate from proposed changes. Evidentiary hearings are needed to examine the factual issues regarding the transition in the CARE discount and whether its pace is—reasonable|| or even necessary. Factual considerations – such as bill impacts and energy burden – will inform whether the proposed changes provide for a reasonable glidepath, while additional factual considerations such as the reductions in the size of the fund that may flow from other policy changes, must also be taken into consideration. These factual considerations must be examined in evidentiary hearings.

⁸ See Cal. Pub. Util. Code § 739.1(c)(2).

⁹ Phase 2 Ruling, p. 5.

D. If the Commission Is to Consider the Climate Dividend along with Bill Impacts, It Should Only Do So in Evidentiary Hearings.

CforAT/Greenlining have argued that the Climate Dividend is not a component of rates and should not be considered when evaluating the bill impacts of an IOU's proposal, or when evaluating the effective CARE discount. On December 24, 2013, Administrative Law Judge McKinney agreed, issuing an e-mail ruling stating that:

[T]he bill impact of the proposed rate changes should be evaluated without the Climate Dividend. The Climate Dividend is derived from the sale of GHG allowances allocated to ratepayers by the state. Thus, it is not appropriate to include this amount when calculating bill impacts.

The e-mail ruling also ordered the IOUs to provide bill impact analyses without the Climate Dividend.

All of the IOUs complied with the ruling and provided bill impact analyses without the Climate Dividend. However, in their Reply to Protests both SDG&E and SCE suggest that the Commission should continue to consider the Climate Dividend when analyzing bill impacts:

In considering the ratepayer impacts associated with reforms to residential rate design, it is appropriate to consider the Climate Dividend because these rate reforms would result in more accurate rate signals and, as a result, lead to more efficient consumption decisions and greater emission reductions over the long term, furthering the state's Greenhouse Gas (GHG) reduction goals.¹⁰

In SCE's view, failing to consider the bill impact of the Climate Dividend would result in flawed weighing of evidence, as that approach would focus unduly on the impact of bill increases without taking into account the impact of bill decreases.¹¹

CforAT/Greenlining continue to believe that the Climate Dividend should not be included in any bill impact analysis. However, if the Commission is to determine whether the Climate Dividend should be in any way considered as an offset or rebate of rates, as SDG&E and SCE argue, it

¹⁰ Reply of SDG&E to Protests on Supplemental Filing for Phase 2 Interim Rate Changes, filed Jan. 3, 2014, p. 13.

¹¹ Reply of SCE to Protests of Various Parties to Its Phase 2 Supplemental Filing for Interim Residential Rate Design Changes, filed Jan. 3, 2014, p. 6.

must do so in an evidentiary hearing. The Commission must consider the background of the Climate Dividend, the purpose it is intended to serve, and whether it should be evaluated as a rate—offset|| or—rebate.|| The Commission must examine if inclusion of the Climate Dividend with the IOUs’ rate proposals truly furthers the state’s GHG reduction goals as argued by SDG&E. The Commission would need to consider whether a dividend provided bi-annually should be considered in evaluating monthly bill impacts. Thus, the only way of evaluating if the Climate Dividend should be included in an analysis of the IOUs’ proposals is through an evidentiary hearing.

II. Evidentiary Hearings Are Needed to Analyze Proposed Changes in Rate Structures.

All of the IOUs in this proceeding propose not just changes to their rates, but significant changes to their rate structure. These changes in the rate structure are long-term, fundamental changes and they require full consideration via evidentiary hearings.

A. Evidentiary Hearings Are Needed to Examine the IOUs Tier Consolidation Proposals.

All of the IOUs propose to change their tier structure, reducing the number of tiers from four tiers to either three tiers (PG&E and SCE) or two tiers (SDG&E). These proposals would constitute significant changes in tier structure, with significant bill increases for customers in the lower levels of usage and significant bill decreases for customers in the upper levels of usage. Such changes should be analyzed in evidentiary hearings. CforAT/Greenlining will present evidence regarding the bill impacts of the proposed changes in rate structure and the implications of these bill impacts for various customer segments.

The IOUs present varying proposals for the future of rate design. PG&E and SCE both propose a three tier rate structure, with Tier 1 based on 100% of the baseline quantity and Tier 2 between 101% and 200% of the baseline quantity. However, SDG&E proposes a two tier rate

structure, with Tier 1 based on 130% of the baseline quantity. Evidentiary hearings are needed to analyze the various proposals and consider them comparatively.

The various proposals will significantly reduce bills for customers with high usage. Evidentiary hearings are needed to examine whether these changes will have an impact on conservation at the highest usage levels.

B. Evidentiary Hearings Are Needed to Examine the Benefits of Setting a Model Tier Ratio.

Part of the justification SCE uses for its proposed rates is that the rates are based on a tier ratio of 1/1.3/1.6.¹² Thus, SCE proposes that the Commission establish a model tier ratio in its Phase 2 decision. The Commission should not institute a model tier ratio without proper factual consideration. A Commission—approved model tier ratio would have a number of implications. For example, a tier ratio of 1/1.3/1.6 could force Tier 1 rates to rise to unaffordable levels for customers with basic energy usage. Such a tier ratio could also establish Tier 3 rates that result in reduced conservation for customers with the highest usage. All of these implications must be analyzed and considered in evidentiary hearings. CforAT/Greenlining will present evidence regarding the implications of SCE’s proposed model tier ratio.

C. Evidentiary Hearings Are Needed to Examine the IOUs’ Proposals to Establish a Methodology to Automatically Raise Rates on the Lower Tiers.

Both PG&E and SDG&E propose to establish a fixed methodology to determine how to allocate additional revenue requirements in the coming years.¹³ PG&E proposes that any additional revenue requirement occurring between rate cases be allocated to all other rate tiers, except for its proposed non-CARE Tier 3, on an equal percentage so as to collect the incremental

¹² See SCE Testimony, pp. 3, 22-23.

¹³ See PG&E Testimony, p. 2-29; Yunker Testimony, p. 18; Fang Testimony, p. 20.

revenue amount.¹⁴ SDG&E proposes to allocate all rate increases onto lower tiers by a ratio of 1.5 compared to upper tiers.¹⁵

The implications of any such—automatic|| methodology for allocating new revenue requirements are far-reaching. Such an—automatic|| methodology could implement automatically unaffordable bills for customers with basic usage; at minimum, it would deny policy-makers an opportunity to consider affordability of rates when implementing changes in overall revenue. This is not permissible; the Commission’s responsibility for determining that essential electricity supplies remain affordable prevents it from allocating new revenue requirements without proper consideration of actual proposals and the accompanying bill impacts. CforAT/Greenlining believe that an automatic revenue requirement allocation process is simply not allowed by statute. However, if the Commission were to consider these —automatic|| revenue procedures, it must do so with a full record. CforAT/Greenlining would present evidence regarding the implications of such a methodology on affordability. Evidentiary hearings are needed if the Commission intends to consider the IOUs’ proposals for an automatic revenue allocation methodology.

D. The Family Electric Rate Assistance Could Be Fundamentally Transformed.

As each IOU proposes to fundamentally alter its tiered rate structure, the Family Electric Rate Assistance (FERA) program would necessarily be altered. Evidentiary hearings are needed to determine if the IOUs’ various proposals for transforming the FERA program would result in a program that addresses the issues the Commission identified when it created the FERA program.

¹⁴ See PG&E Testimony, p. 2-29

¹⁵ See Yunker Testimony, p. 18; Fang Testimony, p. 20

The Commission created the FERA program in 2004, recognizing that large households often require greater energy usage (at upper tier levels) to meet basic needs; thus FERA, provides a discount for large households with income below 250% of the federal poverty level.¹⁶ The discount consists of charging Tier 2 rates for Tier 3 usage. However, each of the IOUs proposes to alter its current tier structure, resulting in changes to the definition of Tiers 2 and 3. Thus, provision of Tier 2 rates for Tier 3 usage would result in a different level of discount under the IOUs' tier consolidation proposals.

Each IOU proposes a different manner of continuing to provide FERA customers with a discount under its proposed tier structure.¹⁷ In order to examine the various FERA proposals and consider which (if any) carries out the Commission's objective in creating the FERA program, hearings are necessary and a streamlined process is not appropriate. If the Commission were to adopt the proposed changes in the IOUs' basic rate structure, then evidentiary hearings are needed to examine how best to recreate an appropriate FERA program and how it should operate in any changed rate structure.

E. The Medical Baseline Program Could Be Fundamentally Transformed.

The Medical Baseline Program provides additional baseline allowances at the lowest tier rate to customers who demonstrate that they require higher levels of energy usage based on medical need, consistent with statute; it also caps the rate that qualified customers pay at current Tier 3 rates and exempts qualified customers from certain charges. SCE proposes to discontinue the bond charge exemption, and raises (but does not formally propose) the option of reducing the

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

¹⁷ See PG&E Testimony, pp. 2-12 to 2-13; Fang Testimony, p. 16; Addendum to Phase 2 Interim Residential Rate Design Proposal of SCE (–SCE Addendum), p. 1.

actual allowances.¹⁸ These proposals appear to be afterthoughts, as they do not appear in SCE's primary Phase 2 Filing, but rather in an Addendum that was filed on December 4, 2013.

PG&E proposes to transform the current Medical Baseline discount into a direct discount off of usage above 200% of baseline; it fails to address how it would modify the additional allowance levels.¹⁹ SDG&E puts forth a complex proposal, to be implemented over four years²⁰ as follows:

all medical baseline customers would continue to receive an additional baseline allowance of 16.5 kWh per day per device and exemption from the DWR-BC with non-CARE medical baseline customers now paying non-CARE rates (less the DWR-BC exemption) and CARE medical baseline customers paying the new CARE rates with the new line item discount. SDG&E proposes to implement this transition over a 4-year period for non-CARE medical baseline customers. Specifically, beginning January 1, 2015, the medical baseline rate for Tier 1 and Tier 2 usage will increase by 25% of the differential between non-CARE and medical baseline rates.²¹

Overall, the IOUs' proposals for Medical Baseline (and particularly SDG&E's proposal to implement changes over four years) reflect fundamental changes that should require evidentiary hearings and should not be considered on a streamlined basis. If the Commission were to adopt the proposed changes in the IOUs' basic rate structure, then evidentiary hearings are needed to examine how best to recreate an appropriate Medical Baseline program and how it should operate in any changed rate structure.

III. The IOUs' Desire for Rapid Changes to Rate Design Cannot Trump the Requirement for Evidentiary Hearings Where Factual Disputes Exist.

The Utilities have opposed setting a date for evidentiary hearings because they want to implement changes to rates prior to the 2014 summer season. This desire for rapid changes to

¹⁸ See SCE Addendum, pp. 2-3.

¹⁹ See PG&E Testimony, p. 2-12.

²⁰ Obviously any proposal that would require a four year implementation period is, on its face, not an interim proposal. Thus SDG&E fails to follow the guidelines issued for Phase 2 with regard to its Medical Baseline Customers.

²¹ Fang Testimony, p. 17.

rates cannot trump the Commission's obligation, based in due process requirements, to allow an opportunity for cross examination where factual issues are in dispute and where such disputed facts must be resolved in order to reach a final decision. It is not reasonable to invite proposals that rest on disputed factual issues on a timeline that would not allow for adequate review and then use that truncated timeline to dispense with necessary process.

As the utilities have repeatedly made clear, they have multiple tools available to request changes to rates apart from the standard general rate case cycle. Had the utilities wanted to seek changes in advance of the 2014 summer season, they could have filed applications in a more timely manner that would have allowed for full consideration. The late release of the Phase 2 Ruling cannot be used to avoid a meaningful review of the substantial issues raised in the IOU's supplemental filings.

Conclusion.

In their supplemental filings, the IOUs each propose a number of significant changes in their rates and their rate structure. These proposed changes would have great immediate impacts, especially on customers with basic energy usage and those who participate in special rate programs such as FERA and Medical Baseline. They also will impact the way in which customers who already use the greatest amount of energy are given price signals to promote conservation. Moreover, the proposed changes would have significant far-reaching implications for the future of rate design. The Commission must fully consider these proposed changes in evidentiary hearings. CforAT/Greenlining will participate in these hearings, presenting evidence concerning the impact of the proposed changes on affordability, among other things.

Respectfully submitted,

Dated: January 7, 2014

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