

**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)
Phase 1

**PREHEARING CONFERENCE STATEMENT OF
THE SOLAR ENERGY INDUSTRIES ASSOCIATION AND
THE ALLIANCE FOR SOLAR CHOICE**

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In accord with the Assigned Commissioner's Ruling issued in the above captioned proceeding on February 13, 2014, the Solar Energy Industries Association (SEIA)¹ and the Alliance for Solar Choice (TASC) submit this Prehearing Conference Statement addressing Phase 1 issues.

I. INTRODUCTION

The rate design applications made by each of the three investor owned utilities (IOU) on February 28, 2014, propose significant and broad reaching changes to the residential rate design construct which has been in place in the state for over a decade. SEIA / TASC recognize that the IOUs are in a rush to fix what they believe to be a broken structure. The issues at play in this proceeding, and the resolution thereof, however, will have long lasting implications not only for California electricity consumers, but also for the industries which have been fostered by the Commission in order to decrease electricity usage (*e.g.*, solar, demand response, energy efficiency), and, ultimately for the IOUs, themselves. The Commission should assure that

¹ The comments contained in this filing represent the position of the Solar Energy Industries Association as an organization, but not necessarily the views of any particular member with respect to any issue.

sufficient time is afforded to build a robust record, providing sufficient analysis upon which the Commission can properly shape the next era in residential rate design.

II. FACTUAL AND LEGAL ISSUES TO BE ADDRESSED IN PHASE 1

Upon initial review of the IOUs' Phase 1 rate design applications, SEIA / TASC have identified the following issues which the Commission will need to decide in Phase 1 of this proceeding. Given the limited time for review between the filing of the applications and the submission of this Prehearing Conference Statement, this list should be viewed as preliminary, with SEIA / TASC reserving the right to present additional issues.

1. Should the Commission adopt a minimum bill in lieu of a fixed charge?

While AB 327 allows for the Commission to authorize the IOUs to assess fixed charges up to a stated amount commencing in January 2015, it clearly states that the Commission is not required to approve any new or expanded fixed charges.² Moreover, the statute clearly affords the Commission the opportunity to "consider whether minimum bills are appropriate as a substitute for any fixed charges."³

While each of the IOUs have proposed fixed charges commencing in January 2015, it is clear that more deliberation is needed on this issue. As Commission Staff has recognized:

[E]ither a minimum bill requirement or a fixed charge for residential customers is consistent with the Commission's rate design principles. Each will advance different principles more than others as each has its trade-offs.⁴

Thus the Commission must determine which billing element -- fixed charge or minimum bill -- best comports with the rate design principles established in this proceeding. In this regard, the IOUs have presented factual statements in their testimony which purport to illustrate that a fixed

² Public Utilities Code Section 739.9 (g).

³ Public Utilities Code Section 739.9 (h).

⁴ Staff Proposal for Residential Rate Reform in Compliance with R. 12-06-013 and Assembly Bill 327, R. 12-06-013 (January 3, 2014) (Staff Report), p 14.

charge fully comports with the Commission’s rate design principles. This testimony will need to be explored through discovery and cross examination to determine its accuracy.⁵ Similarly, this evidence will need to be weighed against the evidence, already on the record and to be supplemented through intervenor testimony, on why minimum bills should be used in lieu of fixed charges.

2. *Is a time of use rate or a tiered rate the appropriate default rate for residential customers?*

The IOUs took differing approaches to a default residential rate schedule. SCE and PG&E both propose a two tiered default rate schedule, with SDG&E proposing a default TOU rate. While it is not legislatively required that all three IOUs have the same type of default rate, it stands to reason that one type is more reflective of the Commission’s rate design principles. Through the submittal of parties’ recommended optimal rate designs, the record of this proceeding already contains significant evidence that a default TOU rate best comports with the Commission’s rate design principles while also meeting the statutory requirements of AB 327.⁶ As part of its Phase 1 analysis, the Commission must evaluate the IOUs’ proposals in light of the record evidence and make the determination as to which rate structure best meets the Commission’s rate design principles.

3. *What is the appropriate number of tiers and the appropriate tier differentiation for tiered*

⁵ See, e.g., SCE Testimony in Support of Phase I Residential Rate Proposal, R. 12-06-013 (February 28, 2014) (SCE Testimony) p. 38 (“SCE’s proposed fixed charge does not overburden low income customers.”); p. 36 (“SCE’s proposed fixed charge does not unreasonably impair incentives for conservation, customer generation, and energy efficiency.”).

⁶ See, e.g. Rate Design Proposal of the Solar Energy Industries Association and the Vote Solar Initiative, R. 12-06-013 (May 29, 2013) (illustrating that TOU rates will allow rates to be more closely aligned with the utility’s underlying long-run marginal costs and thus should serve to encourage conservation, energy efficiency, and the use of renewable distributed generation – demand-side investments which will reduce both coincident and non-coincident peak demand – consistent with the state’s energy goals).

rate schedules?

While AB 327 requires tiered rates to have a minimum of two tiers, it does not prohibit the Commission from requiring more. Each of the IOUs have proposed to transition to a two tier rate structure. The Commission must determine whether such a structure is in fact consistent with its rate design principles. Moreover, should the Commission determine that two tiers is sufficient, it is critical that the Commission examine the adequacy of the proposed differentiation between tiers. Specifically, the IOUs have proposed a ratio of 1.2:1. In support for this minimal differentiation, the IOUs point to the fact that prior to the energy crisis they had a two tiered structure with an even smaller differentiation (1.15:1).⁷ PG&E attests that the CPUC consistently found that such an differential was “adequate to incent conservation.”⁸ Commission decisions made twenty years ago regarding the adequacy of tier differentials are not relevant to the substantially changed energy environment which the state now faces. The Commission must make a determination as to what the appropriate tier differentiation is, consistent with its current rate design principles.

4. *Are all residential customers entitled to the legal protections of Public Utilities code Section 739?*

Even the IOUs which are not proposing TOU rates as their default rate structure will be promoting customer conversion to those rates.⁹ Accordingly, even if TOU rates are not made the default rate structure, an increasing number of Californians will be migrating to TOU rates. The Commission must determine whether such customers are entitled to the legal protections of Public Utilities Code Section 739 which requires the Commission to designate a baseline

⁷ PG&E Testimony, p.1-13; SCE Testimony, p. 22.

⁸ PG&E Testimony, p. 1-13.

⁹ SCE Testimony, p. 47 (emphasis will be placed on “encourage[ing] customer adoption of optional cost-based TOU rates); *see also*, PG&E Testimony, p. 2-58 (it is “PG&E’s intent is that significantly more residential customers opt-in to TOU rate plans over the next several years.”)

quantity of electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer and for the Commission to assess a lower rate for that portion of the customer's usage.

5. *What are the impacts of any rate design changes on customer participation in energy efficiency, demand response, and distributed generation programs?*

It is critical that the rate design changes approved by this proceeding do not undo the significant advances which have been made in energy efficiency, demand response and distributed generation programs over the last decade. Yet the IOUs' submittals are surprisingly deficient on this point. Thus, for example, PG&E merely states, that "[t]here are many variables that affect participation in EE, DR, and DG programs, including factors exogenous or unrelated to rate design. Therefore, it is difficult to quantify the expected impacts of PG&E's proposed rate design on customer participation and load impact of PG&E's EE, DR and DG programs."¹⁰ The Commission must establish a record upon which it can make such a critical determination.

Similarly, as part of their rate submittals, the IOUs were asked to "quantify the bill impacts (including the average, median, and range) of any rate design changes on NEM customers." PG&E failed to submit that analysis, stating only that they were working on it and giving no set date upon which it would be provided.¹¹ Absent such analysis on the record, SEIA is unable to address what issues it may raise.

III. CLARIFICATION ON ISSUES TO BE DETERMINED IN OTHER PROCEEDINGS IS NECESSARY

Equally important to the determination of which legal and factual issues the Commission

¹⁰ PG&E Testimony, Appendix D, p. D-31; *see also*, SCE Testimony, Appendix E, p. E-28 ("SCE has no data regarding the impacts of rate design changes on customer participation and load impact on EE, DR, or distributed generation programs.").

¹¹ PG&E Testimony, Appendix D, pp. D-32-D-33.

must determine in this Phase 1 is clarification on which issues will *not* be decided and what the appropriate forum for their determination is. In this regard, SEIA / TASC submit that the Commission must provide the IOUs with clear direction on where and when to submit proposed changes to their TOU periods.

Each of the IOUs have followed a similar strategy for establishing the appropriate TOU periods for their respective TOU Rate Schedules. While each has proposed to establish residential TOU Rates (either optional or default) in this proceeding, they have relegated the determination of the appropriate TOU periods for those rates to another proceeding. Thus, SDG&E states that “[g]iven the utility specific concerns associated with the determination of TOU periods, it is appropriate that TOU periods be determined in utility specific rate design proceedings” and that “is why SDG&E proposed changes to its TOU periods in its Rate Design Window Application, filed on January 31 2014.”¹² While SCE is attempting to effect the same result (i.e., determination of its TOU periods for residential rates in its current RDW proceeding), it has been a little more indirect about the process. Thus SCE states that its “Phase 1 Proposal for a non-tiered TOU rate, Schedule TOU-D, is described in its pending Rate Design Window (RDW) application, A.13-12-015”¹³ but then explains in a footnote that its “RDW was predominantly designed for electric vehicle (EV) chargers, but the TOU periods and rate differentials are reasonable as applied to customers regardless of whether they are using electricity to charge EVs.”¹⁴ Finally, PG&E states that because it has yet to study the most appropriate future TOU periods for its new E-TOU rate, it has proposed an interim measure and will submit a proposal for long term TOU periods in an upcoming Rate Design Window

¹² Prepared Direct Testimony of Chris Yunker on Behalf of San Diego Gas & Electric Company, R. 12-06-013 (February 28, 2014), pp. CY-16 - CY -27.

¹³ SCE Testimony, p. 47.

¹⁴ *Id.*, p. 47, footnote 73.

proceeding.¹⁵ The development of the TOU periods in Rate Design Window proceedings regardless of whether that proceeding is concurrent with or subsequent to this Phase 1 of the Residential Rate Design Rulemaking is completely inappropriate. The Commission must give clear direction to the IOUs that changes to their current TOU periods should be made in a GRC filed subsequent to the Phase 1 decision in this proceeding.

TOU periods are not just used for rate design; they are also integral assumptions used in calculating marginal costs and in allocating revenues among the customer classes. The impacts of changing TOU periods are not limited to rate design. As a result, this issue, as recognized by Commission Staff, is not properly within the scope of a Rate Design Window or this Residential Rate Design Rulemaking:

TOU time periods and rate design need to be carefully developed in the context of GRCs, or comparable rate setting proceedings. Between now and the time of the default to TOU rates in 2018, the Commission should assess the appropriate TOU time periods and seasons that best reflect marginal costs and advance the OIR.¹⁶

Finally, it has been the Commission's consistent historical practice to review issues concerning TOU periods in the Phase 2 cases of GRCs.

While it is clear that the Commission will need to make certain policy decisions regarding TOU rates in this proceeding (e.g., should a TOU rate be the default rate), the determination of each IOU's appropriate TOU periods is not within the scope of this rulemaking. Nor is it appropriate to address TOU periods in Rate Design Window proceedings. The Commission must give clear direction to the IOUs on this matter.

IV. PROCEDURAL MATTERS

Given the breadth of issues at play in this proceeding, coupled with the fact that rate

¹⁵ Pacific Gas and Electric company Long Term Residential Rate Design Reform Proposal, Phase 1 Prepared Testimony, R. 12-06-013 (February 28, 2014), pp. 2-55 - 2-56.

¹⁶ See SDG&E Application, p. 18, *citing* Energy Division Proposal, pp. 62-63.

design is being addressed for all three of the state's major IOUs, SEIA / TASC anticipate that hearings will be needed in this proceeding. SEIA / TASC urge the Commission to allocate sufficient time to allow all parties to fully participate. In this regard, SEIA / TASC note that the preliminary procedural schedule is structured such that the Proposed Decision will issue in late October 2014. As there are no statutory requirements that the rate design changes reflected in AB 327 go into effect in January 2015, SEIA / TASC submit that the Commission should not be held to an artificial timeline advanced by the IOUs. The Commission should assure that the schedule allows sufficient time for the full development of the record upon which decisions on the restructuring of residential rate design will be made.

V. CONCLUSION

SEIA / TASC appreciate the opportunity to provide this Prehearing conference Statement and looks forward to full participation in this proceeding.

Respectfully submitted this 10th day of March, 2014, at San Francisco, California

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