

**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 INTERSTATE RENEWABLE
ENERGY COUNCIL, INC.**

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Pursuant to the *Assigned Commissioner's Ruling Requiring Utilities to Submit Phase 1 Rate Change Proposals* ("Ruling") filed on February 13, 2014, the Interstate Renewable Energy Council, Inc. ("IREC") respectfully submits its prehearing conference statement. The Ruling invites parties to comment on: (1) the specific legal and factual issues that the Commission needs to decide in Phase 1; (2) the possibility and/or status of settlement discussions; (3) the need for discovery/data requests and the anticipated date that discovery will be completed; (4) the need for evidentiary hearings, including the estimated number of days required and type of testimony to be addressed at hearing; and (5) the preliminary procedural schedule in the Ruling.¹

IREC's goal in this proceeding has been to shine a light on the impacts that structural rate design changes will have on a significant and growing constituency of ratepayers: customer-generators engaged in net energy metering ("NEM"). While one of the original and primary purposes of the Order Instituting Rulemaking was to provide recommendations on optimal rate

¹ Ruling at 9.

design to the Legislature, the intervening passage of Assembly Bill (“AB”) 327 has given this proceeding more immediate and direct relevance to residential ratepayers. AB 327 makes it certain that structural changes are coming that will impact NEM customers and the price signals in rates that support other state policy objectives. For IREC, the fundamental question for Phase 1 is how to achieve an optimal rate design that appropriately balances the Commission’s multiple ratemaking objectives and minimizes negative impacts on NEM customers. IREC respectfully suggests that the tiered-rates proposals submitted by the investor-owned utilities (“IOUs”) do not balance those objectives, but are rather the closest approximation to flat rates and high fixed customer charges that are allowed by AB 327.

IREC anticipates that in the absence of certainty regarding time-of-use (“TOU”) rate periods, the solar industry will need to rely on tiered rates to give new NEM customers any level of assurance of overall energy expenditure savings. Under current TOU periods, many NEM customers can achieve the greatest savings on TOU rates, but with the potential for those periods to shift to later in the day, IREC expects tiered rates to be the more viable option. It is quite possible that NEM customers will be uniquely positioned to use energy storage in the future to take full advantage of TOU rates, but storage is not a viable load-shifting option at present. With the likelihood that tiered rates will be a widely-used option (whether opt-in or opt-out), IREC suggests that the structure of tiered rates is especially important.

Accordingly, IREC suggests that the following three issues should be considered within Phase 1 to address impacts on NEM and other demand-side programs:

- Under either a two-tier or three-tier structure, what tier differential should be maintained to support California’s conservation-related policy objectives;
- Whether a minimum bill would meet the objective of assuring that all customers cover fixed customer costs, rather than instituting a fixed customer charge; and

- Whether TOU periods should be adjusted at this time.

Lastly, IREC suggests that the procedural schedule should be extended to maximize the time available for discovery and building the evidentiary basis to support a comprehensive overhaul of residential rate structures across the investor-owned utilities (“IOUs”).

I. Specific Legal and Factual Issues the Commission Needs to Decide in Phase 1

A. The Tier Differential Should Be Sufficient to Send a Meaningful Price Signal to Discourage Excessive Usage and Encourage Customers to Deploy Demand-Side Measures.

IREC expects that the existing tiered rate structure will, ultimately, be reduced to two rate tiers, though three-tiered structures should be considered. AB 327 provides that the default residential rates shall have “at least two usage tiers”² and the IOUs proposals all move toward a two-tiered system. If tiered rates are reduced to two tiers, IREC suggests that a meaningful differential is necessary to preserve the conservation price signal to discourage high usage. IREC suggests a differential ratio of 2:1 to preserve a strong price signal that will continue to support customer investment in distributed generation, energy efficiency, or energy storage.

Phase 1 of this proceeding should consider what the Legislature intended in requiring that at least two usage tiers be maintained, if the Commission does not adopt a default time-of-use rate. Factually, the Commission should consider what level of tier differential is sufficient—in a two-tiered structure—to support the historic role of upper-tier price signals to encourage conservation and other demand-side energy measures. The extent of the tier differential will have a critical impact on the efficacy of net metering and other demand-side programs that rely on the upper-tier price signal to encourage customer behaviors and participation. As well, the modest

² Cal. Pub. Util. Code Section 739.9(c).

differential proposed by both Energy Division and the IOUs will cause substantial bill increases for lower-usage customers, many of whom are low income.

In addition to the tier differential, IREC notes that the treatment of “baseline” will become increasingly important as the IOUs seek to reduce the number of rate tiers. The IOUs propose to reduce baseline to the minimum of 50% of average use by climate zone, the largest reduction allowed by law. Under the current structure, customers enjoy relatively low rates for consumption up to 130% of baseline, which constitutes a significant portion of average use. If the Commission approves a two-tiered rate structure, IREC suggests that baseline should be set higher than 50% of average. Such an adjustment will help to mitigate rate shock for those customers with average usage who will suddenly find a greater share of their consumption being billed at a higher rate.

B. The Desire of IOUs to Impose the Maximum Allowable Customer Charges Should Be Tempered By the Negative Impact of Customer Charges on Policy Objectives.

IREC suggests that Phase 1 should properly consider whether customer charges—which tend to suppress the upper-tier price signal in the IOUs’ proposed rate designs—are necessary to achieve optimal rate design and balance the Commission’s priorities. IREC has already provided analysis in this proceeding demonstrating that customer charges have a negative impact on the economics of NEM systems for customer-generators. This effect would also apply to energy efficiency measures that rely on the value of avoiding expensive upper-tier consumption to justify long-term investment. To the extent that imposing substantial customer charges cuts against these important policy objectives (and undermines California’s loading order), approaches to rate design that advance cost-causation principles without heavy reliance on fixed charges should be preferred. Customer charges provide a blunt, imprecise means of cost recovery

that would increase utility revenue income certainty at the expense of state policy objectives.

Even if the Commission approves customer charges as an element of its preferred rate design, these charges should be balanced with other objectives and remain modest. AB 327 removed a legal impediment for the IOUs to seek customer charges to recover a portion of their costs, but it did not mandate the imposition of customer charges and certainly does not require the Commission to approve the maximum allowable customer charge.

In addition, IREC suggests that Phase 1 should feature significant discussion of whether minimum bill provisions meet the policy objective of assuring that all customers pay for their fixed costs.

C. TOU Periods Should Be Addressed in Phase 1.

As many parties have noted, time-of-use rates hold the most promise of achieving true cost-based rates for residential customers. Acknowledging the challenges of customer education and initial rollout, IREC suggests that the development and implementation of TOU rates should be a high priority in Phase 1. There are numerous factual and legal issues to develop, such as the appropriate definition of TOU periods and the amount of time that initial TOU period definitions should remain static in the IOUs' tariffs.

In setting TOU period definitions, IREC suggests that the Commission should consider the impact of altering those definitions on current and prospective NEM customers. As IREC's prior analysis has demonstrated in this proceeding, TOU period definitions have a substantial impact on the economics of NEM systems. NEM systems that provide peak reduction (at times of system peak), should have that value reflected in peak or part-peak period rate credits for exports occurring during those periods. TOU period definitions should not be altered, based on

anticipated future load curves, as a means of undervaluing NEM exports or undermining the value of NEM to customer-generators. Parties should develop a sufficient record to ensure that TOU period definitions are rooted in cost-causation grounds and reflect the current reality.

Additionally, Phase 1 should consider what impact TOU rate design will have on customer adoption of energy storage. In D.13-04-013 (Energy Storage Procurement Framework), the Commission considered the fact that changes in residential rate design will inform the types of innovative policies that will drive the behind-the-meter energy storage market. As the price of energy storage devices continues to fall, the prospect of widespread deployment grows. IREC suggests that it would be prudent to include consideration of TOU rate design on energy storage applications, particularly where those systems are paired with net-metered solar PV systems.

II. Possibility for Settlement

IREC is open to working with parties to resolve the issues discussed above via a settlement process. IREC has not initiated such discussion, at this time, and does not have any further information regarding the possibility of settlement to report to the Commission.

III. Discovery Considerations

IREC anticipates that its participation in Phase 1 will require additional discovery. Though IREC expects to complete most of its discovery within the next 6-8 weeks, it may be beneficial to allow discovery to continue until commencement of evidentiary hearings.

IV. Need for Evidentiary Hearings

IREC foresees the need for evidentiary hearings to determine the factual issues it has outlined above, in Section I. IREC expects that evidentiary hearings could take anywhere from one to two weeks, given the large number of intervenor and IOU witnesses involved and the

broad range of issues that parties and the Commission will examine.

V. The Procedural Schedule Could Be Extended and Still Provide for a Final Decision By the End of 2014.

IREC proposes that the procedural schedule be extended by one month to allow enough time to for parties to conduct discovery and to prepare intervenor testimony on the complex and comprehensive changes to residential rate design being proposed. Even with a one-month shift of the procedural schedule, the Commission could still issue a final decision by the end of 2014.

The Commission does not need to rush to reach a decision in order to have new rates in place by January 2015. With the prospect of a settlement in Phase 2 of this proceeding, it is possible that Phase 2 interim rates could remain in place until June 2015. In fact, the interim period between a final decision in Phase 1 and the implementation of new rates in June 2015 provides a reasonable period of time for the IOUs to conduct customer outreach and education to prepare residential customers for the coming changes.

Respectfully submitted at San Francisco, California on March 10, 2014,

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