

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)

**PRE-HEARING CONFERENCE STATEMENT OF THE OFFICE OF
RATEPAYER ADVOCATES ON PHASE I ISSUES**

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I. INTRODUCTION

On February 13, 2014, the Assigned Commissioner issued a ruling requiring utilities to submit phase 1 rate change proposals. Pursuant to the direction sets forth by this Assigned Commissioner's Ruling (ACR), the Office of Ratepayer Advocates (ORA) hereby submits this Prehearing Conference Statement (PHC).

II. DISCUSSION

The February 13, 2014 ACR states:

The PHC Statements filed in March 2014 will be used to identify and refine the factual and legal issues that need to be resolved in Phase 1. Parties are invited to file PHC Statements addressing any of the following topics:

1. The specific factual and legal issues that the Commission needs to decide in Phase 1 of this proceeding;
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 the hearings;
5. Comments on the preliminary procedural schedule addressed in ACR.

It has been merely tens day after the Investor Own Utilities (IOUs) filed their Phase 1 testimony. Therefore, ORA has not had adequate time to thoroughly review the IOUs' filings. ORA makes its best effort to provide some preliminary comments on the above-identified issues.

1. The specific factual and legal issues that the Commission needs to decide in Phase 1 of this proceeding.

ORA will need to review the IOUs testimony and workpapers¹ thoroughly to be able to properly determine what the factual issues are and whether or not the IOUs'

¹ ORA does not yet have the workpapers from the utilities.

filings meet the legal requirements. ORA will review the IOUs filings in all seven subject areas identified by the ACR: 1) overall rate design structure, 2) fixed charge/minimum bill proposals, 3) CARE, Family Electric Rate Assistance (FERA), and medical baseline programs, 4) greenhouse gas (GHG) costs embedded in residential rates, 5) impact of rate design changes on coordination with demand management programs (DSM), 6) TOU rate, time periods and seasons; and 7) customer communication, outreach, education, and technology. Each of the aforementioned topics may have to satisfy certain legislative requirements or the Commission's orders. For instance, ORA will assess whether each of the IOUs' overall rate structures, fixed charges, CARE, and FERA proposals fulfill the legislative mandate established by AB327. ORA will present its findings in its testimony to be filed on May 16, 2014.

Based on a cursory reading, however, ORA anticipates two issues that will become important in this proceeding. The first is a factual issue and concerns Question 1 of ACR. Question 1 directs IOUs to present rate proposals assuming two revenue scenarios: a) no additional revenue requirement change and b) a CPI-adjusted escalation of revenue requirements. Neither of these scenarios is realistic. In recent years, electric rates have increased by CPI plus one or two percentage points. The IOUs assert that its 2014 summer revenues are likely to increase by ten percent or more from last year, which led the Commission to establish a Phase 2 for this proceeding to expeditiously set 2014 summer rates. ORA, in its testimony in this proceeding, will endeavor to present rates assuming a higher revenue increase scenario so that the Commission will have more realistic rate outcome comparison.

The second is a legal issue and concerns question 3 of the ACR. It directs the IOUs to describe how their rate design proposals comply legally and substantively with relevant provision of D.08-07-045, particularly ordering paragraph (OP) 8, which states:

PG&E shall file an application proposing a default CPP rate for residential customers 30 days after any change in the law that changes the Assembly Bill 1X rate protections in a manner that could allow default or mandatory time-variant rates for residential customers. *If the Commission approves a*

decision that interprets the Assembly Bill 1X rate protections in a manner that could allow default or mandatory time-variant rates for residential customers, then PG&E shall file an application proposing a default CPP rate for residential customers not later than 90 days after the Commission decision goes into effect and is no longer subject to rehearing or judicial review. PG&E shall propose an effective date that is no later than one year after the filing date unless PG&E can justify a later effective date as being necessary to allow time for customer education and system upgrades. (emphasis added)

AB327 has dictated that CPP rates should be optional. Therefore, it would not be lawful for the IOUs to propose default CPP rates. It is unclear what the ACR's intent is when it asked the IOUs to show that their proposals comply legally and substantively with OP 8 of D.08-07-045.

2. The possibility and/or status of settlement discussions.

As in Phase 2 of this OIR, ORA will exert its best effort to discuss settlement opportunities with the IOUs and the other parties. ORA was able to reach settlements with PG&E and SCE in Phase 2.

3. The need for discovery/data requests and the anticipated date that discovery will be completed.

Discovery is essential for the parties to reasonably assess the IOUs' proposals and develop their alternatives. ORA has started its discovery by seeking workpapers. The Commission should not set a deadline for the discovery. One reason is because IOUs sometimes bring new evidence in their rebuttal testimony. Similarly, some new issues may arise at the hearing room when expert witnesses testify. The ALJs normally allow parties to make requests at the hearing on site when this occurs. This way, the Commission will have complete records for informed decision-making.

4. The need for evidentiary hearings, including the estimated number of days required and type of testimony to be addressed at the hearings.

It is premature to determine how many hearing days and the type of testimony to be addressed at the hearings at this point. The interveners have yet not had an opportunity to review the IOUs' testimony. The parties will be able to respond to this question more adequately after all the parties have served their opening and rebuttal testimony. ORA recommends that the ALJs ask IOUs to confer with other parties one week after the rebuttal testimony is served. Then, the IOUs can submit joint recommendations regarding issues to be addressed at the hearings as well as the estimated hours and days needed for the hearings.

5. Comments on the preliminary procedural schedule addressed in the ACR

There is a significant overlap among the RROIR Phase 1 and SCE and SDG&E's RDW cases,² especially regarding time of use period and optional TOU rates. For example, the new optional TOU rates being designed in the RROIR Phase 1 are targeted for implementation on January 1, 2015, the same date that the TOU rate schedules in SDG&E's RDW proceeding would be implemented. It seems duplicative to be doing rate design in two different proceedings where the rates in one are dependent on decisions made in the other proceeding and vice versa. SDG&E's RDW testimony recognizes these interdependencies:

Since the overall structure of residential rates under AB 327 is still to be addressed before the Commission in the Residential Rate OIR, the residential rates presented in this RDW Application continue to reflect the current effective structure, which still reflects the SB 695 legislative constraints. Upon resolution and final adoption of new residential rate structures in the Residential Rate OIR, SDG&E will update rates in this proceeding to reflect such decisions.

² SCE RDW case is application 13-12-015, SDG&E RDW case is application 14-01-027.

When a similar problem arose in the PG&E GRC Phase 2 (A.13-04-012), ALJ Long suspended most of the residential rate design work in the GRC and deferred it to the RROIR, which mitigated the need for parties to address the same issues in two proceedings. All the parties as well as the Commission have limited resources. It is essential that the Commission provides guidance to reduce duplication of efforts by consolidating similar issues in one proceeding. In this case, ORA recommends that the TOU issues be consolidated in RROIR Phase 1.

ORA also recommends that the Commission further bifurcate RROIR Phase 1 issues into two phases. Phase 1 should focus on setting both default tiered rates as well as optional TOU rates for 2015, while Phase 3 would address the policy issues for setting both tiered and TOU rates for years 2016 through 2018. Parties should be free to provide rules for how rates would change in those years given different increases in the residential revenue requirement.

There are many uncertain elements that may impact how the IOUs can move toward a two-tiered rate option and default TOU. For instance, if the IOUs' revenue requirements increase by significantly more than the cost of living index, the Commission may have to slow down the progress toward a two-tiered rate and the default TOU rates. It is very likely that the Commission still will have to assess the IOUs' rates each year for the period between 2016 and 2018 based on both the IOUs' operation and market conditions at that time. Developing tiered and TOU rates for 2015 alone is equivalent to processing three rate design window proceedings simultaneously. To also develop rates for 2016 to 2018 at this time is an extra burden on the parties. In addition, it is work that only will have to be duplicated later on. If the Commission agrees with this concept to bifurcate the proceeding, the Assigned Commission and/or the ALJs can direct the IOUs to confer with the parties to present a schedule for Phase 3 and report back to the Commission.

Respectfully submitted,

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