

**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)

**PREHEARING CONFERENCE STATEMENT
OF THE UTILITY REFORM NETWORK
REGARDING PHASE 1 SCOPE AND SCHEDULE**



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March 10, 2014

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PREHEARING CONFERENCE STATEMENT OF THE UTILITY REFORM NETWORK REGARDING PHASE 1 SCOPE AND SCHEDULE

Pursuant to the directions in the Assigned Commissioner's Ruling of February 13, 2014 ("ACR"), the Utility Reform Network ("TURN") respectfully submits this prehearing conference statement concerning the scope and schedule of Phase 1 of this proceeding.

1. Summary of TURN Recommendations

The Assigned Commissioner directed the three utilities to provide Rate Change Proposals for the entire period from January 1, 2015 through December 31, 2018, the so-called OIR Rate Period.¹ The ACR ordered the utilities to submit proposals for default and optional rate tariffs, and to answer a number of questions related to rate design. The ACR proposed a schedule that would require intervenor testimony in two months and submission of the case by August 29, 2014.

The proposed schedule does not provide sufficient time to evaluate the factual and policy issues in dispute concerning the adoption of default TOU rates. It is an ambitious schedule even if the scope is limited to the evaluation of changes to tiered rates in 2015 through 2017 since the utilities have proposed

¹ ACR, p. 4.
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novel three-tier and two-tier rate designs along with significant new and expanded fixed charges.

TURN strongly recommends that the Commission limit the scope of this proceeding to consider only 2015 rates, or alternatively rates for the transition period 2015-2017. Subsequent phases, or new proceedings, can address any additional rate design changes for 2016 and beyond. Such phasing would be the most effective means of advancing the Commission's long-term rate design goals while meeting the statutory requirements to consider the impacts of new rate designs on customer bills, conservation and efficiency incentives, and low income cost burdens.

However, if the Commission is determined to adopt a global road map resulting in a default residential Time of Use ("TOU") tariff by January 1, 2018, the proposed scope and schedule must be modified. At least two significant factual issues – the seasonal and geographic bill impacts of default TOU rates, and the alleged greenhouse gas ("GHG") benefits of default TOU rates – have never been adequately explored to justify a finding based on substantial record evidence. Consideration of these issues, as well as the multiple issues related to the restructuring of optional rate schedules, warrants an extension of the procedural schedule by a minimum of six months. Indeed, TURN recommends that the Commission first order the utilities to modify the bill calculators created in 2013 to provide for the ability to consider seasonal and baseline territory bill

impacts, and then schedule intervenor testimony no earlier than four months after this change. However, the more efficient process would be to simply defer any schedule for consideration of default TOU rates until determinations have been made regarding default and optional rate design for 2015-2017.

2. The Current Schedule Could be Maintained *If* the Commission Limits the Scope of This Phase to Setting Residential Rates for the Three Electric IOUs Only for 2015-2016

TURN recommends that the Commission narrow the scope of this proceeding to the determination of the appropriate rate structure for 2015, or alternatively for the three-year “transition period” 2015-2017. The evaluation of transition period rates that satisfy the requirements of newly enacted AB 327 will require consideration of several critical issues, but might be possible on the schedule envisioned in the ACR.

In their January 28, 2014 filings proposing rate designs for 2015-2018, both SCE and PG&E proposed to transition to a two-tier rate design by 2018, with a simplified opt-in TOU rate available in all years. SCE proposed a default three-tiered rate for 2015-2016, to be followed by a default two-tiered rate for 2017 and beyond.² PG&E proposed a similar structure, but with the two-tiered rate commencing in 2018.³ Both utilities proposed an opt-in non-tiered TOU rate to be available starting in 2015. PG&E proposed a fixed charge of \$5 in 2015, escalating

² SCE Proposal, January 28, 2014, p. 5, Table III-1.

³ PG&E Proposal, January 28, 2014, p. 6.

to the statutory maximum of \$10 in 2016. SCE proposed a fixed charge of \$5 for 2015 escalating to \$10 by 2017.

SDG&E proposed more dramatic changes, proposing a two-tiered rate starting in 2015 and a default TOU rate in 2018. SDG&E's fixed charge proposal was identical to that of SCE.

Evaluation of rate designs for 2015 would comport closely with the IOU filings and would not require any additional information or testimony from the utilities. It would still require analyzing and evaluating: 1) the proper design of a two- or three-tier rates, including tier boundaries, tier differentials and baseline amounts, 2) the impacts of any potential fixed charges, 3) the proper design of an opt-in non-tiered TOU rate, including the potential consolidation of existing opt-in TOU rates and the setting of a proper TOU period that is reasonable for five years, 4) the design of CARE discounts and CARE rates, and 5) the design of any other voluntary alternative residential tariffs that depend on the otherwise applicable tariff.

Performing even these tasks (including at a minimum the proper design of a three-tiered rate, the proper design of a voluntary TOU rate, and the impact of potential fixed charges) simultaneously for all three IOUs is a major undertaking and will be challenging within the timeline proposed in the ACR. TURN's experience in Phase 2 of this proceeding demonstrates that even modest tier changes require a significant investment of time and effort by all parties. In

Phase 2, TURN and ORA have dedicated large amounts of staff and expert time to reviewing the summer 2014 rate proposals and negotiating with all three IOUs in an effort to obtain settlements. This work led to the multi-party settlements with PG&E and SCE that were recently submitted for consideration.

The proposed scope for Phase 1 would include all of the issues included in the summer 2014 rate proposals, near-term changes to TOU rate design, the question of whether to adopt default TOU rates in 2018, and the appropriateness of new or expanded fixed charges. It is difficult to imagine that the Commission could develop a complete evidentiary record on these issues under the highly expedited schedule proposed in the ACR. Given the deep and broad impacts of changes to residential rates, and the potential backlash that such changes will trigger, the Commission should avoid the adoption of a schedule that seems designed to prevent a comprehensive examination of the relevant issues.

3. *If the Commission Seeks to Approve Default TOU Rates for 2018 in This Proceeding, the Scope of the Proceeding Must Include Relevant Factual Issues Concerning the Bill Impacts of TOU Rates and the Environmental Benefits of TOU Rates, and the Schedule Must be Extended to Allow Meaningful Consideration of the Issues*

The Amended Scoping Memo of January 6, 2014 and the Assigned Commissioner's Ruling of February 13, 2014 defined the scope of this proceeding as including the setting of rates for the entire period from January 1, 2015

through December 31, 2018.⁴ The ACR indicated that rates and the actual rate design might change in each of the four years 2015-2018 so as to achieve a default TOU rate structure by 2018, in accordance with prior Commission policy direction in D.08-07-045⁵ and with the statutory guidance concerning preserving conservation and energy efficiency incentives and limiting cost burdens on low income customers contained in §§ 739(d), 739(e) and 739.9(b).⁶

If the Commission determines to proceed with this scope in Phase 1 of this proceeding, it should set a procedural schedule that allows parties to address several factual issues which must be resolved to ensure that any future rates both comply with statutory direction, support legislative and Commission environmental goals and prevent significant bill impacts for customers in hot, inland climates with significant summertime air conditioning needs. The Commission has not previously evaluated the seasonal and geographic bill impacts of default TOU rates, and the Commission has not properly evaluated the environmental benefits of load shifting. Furthermore, TURN recommends that the Commission order the utilities to revise the functionality of the bill calculators to allow for an analysis of bill impacts by season and baseline territory as a first step to any further evaluation of default TOU rates.

⁴ ACR, February 13, 2014, p. 4.

⁵ Amended Scoping Memo, January 6, 2014, p. 5-6.

⁶ ACR, February 13, 2014, p. 4.

a. The Scope Must Include Two Disputed Material Issues of Fact

i. The Geographic and Seasonal Impacts of TOU Rates Has Not Been Factually Examined, and Could Have Extremely Harmful Impacts on Both Customer Bills and Customer Health and Safety

Evidence presented thus far in this proceeding shows that default TOU rates will most significantly impact the bills of customers who live in hot climate zones and run their room or central air conditioners during the hot summer afternoons. Shifting from tiered rates to default time of use rates may cause these customers to pay an increased overall percentage of the residential class revenue requirement both on a seasonal and annual basis.

While default TOU rates are intended to motivate people to reduce electric consumption during hot summer afternoons, they provide a blunt signal that may provide few options for customers located in hot, inland climate zones. Reducing air conditioning use through temperature adjustments with central controls and programmable thermostats may be quite feasible for certain households with no impact on comfort. But most customers do not have such automation or control, and each year there are a significant number of heat-related deaths around the country because some customers are so concerned about electric bills that they reduce their air conditioning to harmful levels. This may be a particularly severe problem for senior citizens living on fixed incomes.

Advocates of default TOU rates argue that this structure better reflects the actual cost of electricity during different hourly periods and promotes economic

efficiency. Advocates claim that the average annual bill impacts for all customers in the utility's service territory are not significant, and that, in fact, lower usage and lower income customers might benefit, as they tend to have a better load profile. However, there is little dispute that default TOU rates will increase the average summer bills of customers in hot climate zones. Unfortunately, neither the Commission nor the IOUs have ever quantified this seasonal and geographic impact on customers.

For example, in Phase 1 of this proceeding TURN emphasized the need to have bill impacts segregated by climate zone and season, and our initial impression from early workshops was that the Commission likewise desired this information. However, the utility bill calculators did not provide for this functionality, even though the data was embedded in the detailed customer-specific results of the spreadsheets.

Nevertheless, TURN provided significant information concerning seasonal and geographic bill impacts through data requests to ORA and PG&E. The additional modeling work conducted by ORA using its proposed cost-based TOU rate for PG&E demonstrated that the average total annual bill of 60% of Bakersfield customers would increase by more than \$120, but the average total summer bill (six-months) for almost 60% of Bakersfield's customers would increase by \$180; and fully 93% of Bakersfield customers would see their six-month total summer bill increase by at least \$60 under TOU rates compared to

present rates.⁷ The additional analysis conducted by PG&E showed that showed that TOU rates produced greater bill volatilities in hot climate zones than even existing four-tiered rates.⁸

The Staff Report touts the “modest” bill impacts of its proposed TOU rates by calculating the average monthly impacts on an average customer, disaggregated by three usage levels, across the entire utility service area.⁹ The Staff Report does not even address the issue of seasonal or geographic bill impacts,¹⁰ despite the fact that TURN’s substantive comments concerning rate design proposals were emphasized this issue.¹¹

TURN is not aware of any other proceeding where the Commission or the IOUs have evaluated the seasonal or geographic impacts of TOU rates.

ii. The Impacts of Default TOU Rates on Conservation, Energy Efficiency and GHG Emissions

AB 327 requires that the Commission ensure that rate changes do not impair incentives for energy efficiency and conservation. Written comments

⁷ See, TURN Opening Comments on Rate Design Proposals, July 12, 2013, pp. 2-4, 24-26.

⁸ See, TURN Opening Comments on Rate Design Proposals, July 12, 2013, pp. 2-4, 19-20.

⁹ Energy Division Staff Proposal, January 3, 2014, p. 24-26. (hereinafter “Staff Proposal”) TURN

¹⁰ TURN saw no discussion of this issue in the relevant sections, and a search for the word “summer” yielded no results (aside from rate tables).

¹¹ TURN notes this point only because the Staff Proposal provides detailed descriptions and rebuttals to many of TURN’s analyses and position, hence it was striking that the Staff Proposal entirely fails to mention this issue.

submitted to date in this proceeding highlight a strong dispute concerning these issues. For example, the NRDC provided extensive evidence concerning the conservation impacts of tiered rates, and the fact that tiered rates promote investments in energy efficiency.

The Staff Proposal generally dismisses these arguments.¹² Since the Commission has not provided an opportunity for parties to respond to the analysis and the findings contained in the Staff Proposal, it remains unclear whether these issues are considered to be fully submitted pending a final Commission decision. If so, TURN strongly urges the Commission to reconsider this narrow approach in favor of a more comprehensive examination of these issues.

The conservation and efficiency impacts of tiered rates versus default TOU rates are factual issues that have been the subject of some academic study and expert analysis. It should be evaluated through expert testimony and hearings. The Legislature required that the Commission evaluate the impacts of new rate designs on conservation and efficiency incentives.

TURN suggests another issue critical to achieving state environmental policy goals must be included within the scope of this proceeding. The issue is the impact of default TOU rates and load shifting on GHG emissions.

¹² Staff Proposal, p. 49-50.
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One of the primary stated goals of any time-variant pricing is to achieve demand response – shifting of load from one time period to another – so as to reduce system costs and lower overall GHG emissions. However, the presumption that load shifting reduces emissions has never been properly evaluated by this Commission.

None of the numerous proceedings addressing demand response have considered significant factual evidence on this subject. The primary goals of demand response programs have been the enhancement of system reliability (emergency demand response) and the reduction of power prices by flattening the load curve (price responsive demand response).¹³ In this rulemaking, assertions that load shifting would also provide environmental benefits have been based on the fact that **within California**, the heat rates (and thus emission intensity) of plants on the CAISO system dispatched on the margin during summer peak periods are higher than during off-peak periods. Consequently, any load shifting has been assumed to reduce emissions of pollutants and GHG. The use of relative heat rates of California units was the basis of the analyses conducted in this proceeding by EDF and the ORA, and it was explicitly the basis for conclusions in the Staff Proposal regarding the environmental benefits of TOU pricing.¹⁴

¹³ See, for example, D.05-01-056, p. 4-8.

¹⁴ Energy Division Staff Proposal, p. 50 (“Load shifting to off-peak hours encourages marginal generation that is more efficient than the marginal

The analysis of emissions changes due to load shifting based on California marginal heat rates entirely ignores the impact of system power imports and flows between California and the integrated Western Electricity Coordinating Council (“WECC”) system. Indeed, the only evidence on the record in this proceeding addressing this concern shows that while emission intensities in California are highest during the summer-on peak period, the emission intensities WECC-wide are highest during the summer part-peak period.¹⁵ Moreover, the WECC-wide summer on-peak emission intensities are lower than the California summer off-peak emissions intensities.¹⁶

The fact that emissions intensities are impacted by power flows on a WECC-wide basis is not a novel notion. The Commission previously found that “the WECC system average is generally not reflective of California activities or markets” when it considered how to treat “unspecified contracts” for purposes of the emissions performance standard.¹⁷ However, the Commission has not attempted to analyze the detailed impacts of load shifting in California on actual emissions rates. Indeed, TURN’s attorney Michel Florio raised this very issue in

generation on peak, which in turn leads to lower marginal GHG emissions and natural gas conservation.”)

¹⁵ See, R.12-06-013, Sierra Club Residential Rate Proposal, EcoShift Consulting, May 29, 2013, p. 16, Table 3.

¹⁶ *Id.*

¹⁷ D.07-01-039, Finding of Fact 137, p. 249.

2008 in comments on the proposed decision that was ultimately adopted as D.08-07-005:

The PD also seems to be making an assumption that may lack factual support when it asserts that Real Time Pricing (RTP) will further this Commission's greenhouse gas reduction policies:

'RTP can also connect retail rates with California's greenhouse gas policies if wholesale energy prices reflect the cost of greenhouse gas emissions. For example, when wholesale energy prices are being set by inefficient generation sources with high greenhouse gas emissions, RTP could reflect the cost of greenhouse gas emissions and discourage retail customers from consuming polluting power. Conversely, if other time periods are dominated by non-emitting resources such as nuclear, water, and wind, RTP could signal to customers that the supply of power is clean.' (PD at 73)

This assumption may be correct under some market conditions, but when imported coal-based power is on the margin during off-peak periods, the opposite may very well be true – shifting demand from peak to off-peak could *actually increase GHG emissions*. This is a factual matter that would benefit from real evidence as opposed to supposition."¹⁸

In comments in the current rulemaking, TURN explained that the only detailed study of this issue, done as part of research funded by the Energy Commission, found that load shifting in California may lead to net increase net GHG emissions when considering impacts across the WECC.¹⁹ The Staff

¹⁸ A.06-03-005, "Comments of TURN on the Proposed Decision of Commissioner Chong," June 30, 2008, p. 4 (emphasis in original). Available at <http://docs.cpuc.ca.gov/PublishedDocs/EFIELD/CM/84851.PDF>

¹⁹ See, TURN Opening Comments on Rate Design Proposals, July 12, 2013, p. 43-44 (citing to Synapse Energy Economics, Final PIER Report, "Emissions Reductions from Renewable Energy and Energy Efficiency in California Air Quality Management Districts, November 2011). The study found that energy

Proposal fails to address the detailed assumptions in this analysis and instead offers a simplistic response based on the on- and off-peak heat rates of California units (which TURN does not dispute), and then concluding:

This implies that, during off-peak hours, there are relatively efficient natural gas units that are idle due to low demand. If TOU-induced load shifting were to occur in California, it is more likely that these idle more efficient units would be called upon before any 'dirtier system power from the southwest' would be, as TURN has charged.²⁰

The Staff Proposal assumes that less polluting gas units within California would be dispatched before more polluting units from the southwest. This analysis of plant dispatch is inconsistent with the reality of actual economic dispatch among plants with different technologies. The staff analysis would only be true if one were comparing two similar gas-fired plants. In that case, both the fuel cost and the emissions are directly linked to heat rates (plant efficiency). This is not true when comparing between a coal and a gas unit, due to the fundamental fact that the emissions per unit of fuel is different for coal and gas. A coal unit with a lower heat rate than a gas unit would thus be dispatched first under economic dispatch, but the coal unit might still emit more GHG than the gas unit with a higher heat rate. In other words, the heat rate (plant efficiency) and emissions intensity are not directly correlated.

efficiency in California is more likely to displace out of state coal than in state natural gas generation.

²⁰ Energy Division Staff Proposal, p. 51.

The analysis in the Staff Proposal is entirely inapplicable to comparing gas-fired units versus coal units, at least in the present situation where carbon emission costs are not internalized within prices on a WECC-wide basis. This issue should be squarely included within the scope of this proceeding **if** the Commission seeks to authorize a default TOU rate design for 2018.

b. If the Commission Does Not Modify the Scope, the Schedule Should be Extended by at Least Six Months

The ACR proposed a schedule with utility responses to the rate design questions submitted March 21, intervenor testimony submitted May 16, hearings held in June/July, and reply briefs submitted by August 29, 2014.

If the Commission does not limit the scope of the proceeding as suggested above, the schedule proposed in the ACR will not provide adequate time to evaluate default TOU rate proposals.

In order to evaluate proposals for 2015 parties will have to evaluate the bill impacts and implications on other rates (including CARE rates) of a new three-tiered rate design and proposed two-tiered rate designs. Parties will also have to model and evaluate the impacts of adopting a \$5 per month fixed charge, and the possible impact of a \$10 per month fixed charge. These are new rate design features that have not been evaluated over the past fifteen years. It will be extremely challenging to accomplish these tasks in time to submit expert testimony two months from today.

It would be impossible to accomplish these tasks while at the same time addressing the factual issues in dispute concerning a default TOU rate for 2018. As discussed above, there is still **no practical usable model** to calculate seasonal and geographic bill impacts. Intervenors simply cannot create a model and evaluate these impacts of TOU rates within the next two months. Intervenors cannot evaluate the actual GHG emissions impacts of load shifting in the next two months. Both of these tasks will require significant resources. Without this evidence, the Commission cannot reasonably conclude that the adoption of default TOU rates is reasonable and satisfies the relevant statutory requirements.

As discussed previously, TURN recommends that the most efficient path forward would be to limit the scope of the review in this phase to rate design for 2015, including both default non-CARE and CARE rates and optional tariffs.

At the same time, the Commission should order the utilities to modify the bill calculators developed in 2013 to provide outputs showing seasonal and climate zone bill impacts. The bill calculators already produce the requisite data internally, since bills are calculated for the sample customers segregated by baseline territory and month. The utilities need to expand the spreadsheet algorithm to allow for the aggregation of the resulting data by different climate zones and by seasonal periods. TURN recommends that the utilities provide guidance at the PHC on the amount of time required to complete this task.

After the bill calculators are revised, TURN recommends that *if* the Commission seeks to evaluate default TOU rates in this proceeding, it should allow parties at least four months after completion of the bill calculators to submit intervenor testimony regarding default TOU rates.

4. Need for Evidentiary Hearings

Resolution of the two issues discussed above, as well as of several other material factual issues that are typically in dispute in a rate design proceeding, requires evidentiary hearings. TURN has already discussed the need for evidentiary hearings concerning bill impact analyses and dynamic pricing benefits in two motions filed in this proceeding,²¹ and TURN thus limits its discussion to an explanation of why hearings are necessary to address the two issues discussed above.

As discussed above, the Commission has never addressed the factual issue of seasonal and geographic bill impacts from a TOU rate. In Decision 08-07-045 the Commission ordered the utilities to submit proposals for dynamic pricing *after* then-existing statutory restrictions were lifted. Thus, the policy position in support of time-variant pricing in D.08-07-045 does not in any way imply a resolution of underlying factual issues concerning the bill impacts of

²¹ See, Motion of TURN for Evidentiary Hearings, May 29, 2013 (material facts concerning marginal costs, price and income elasticities, and benefits of load shifting); Motion of TURN for Evidentiary Hearings, January 7, 2014 (bill impact analyses).

time-variant pricing. Indeed, in the underlying Application 06-03-005 TURN had filed a conditional motion for evidentiary hearings where TURN stated:

TURN conditionally *moves for evidentiary hearings* in this proceeding. Our motion for hearings is conditional in the sense that we seek an evidentiary hearing **IF AND ONLY IF** the Commission intends, in this proceeding, to consider policies that would establish a time-differentiated rate structure for the residential class *on a mandatory or default basis*. If the Commission does *not* intend to consider mandatory or default time-differentiated residential rates in this proceeding, but only *optional* rates, then TURN's motion for evidentiary hearings would be moot, and such hearings would not be necessary until such time as the Commission might be inclined to consider such mandatory or default rates.²²

In its conditional motion for evidentiary hearings TURN attached a report from JBS Energy providing a detailed analysis of residential load and demographic data, and TURN explained that "data such as these, as well as information on the customer impacts of any proposed mandatory or default time-differentiated rate structure for the residential class, **MUST** be considered by the Commission **BEFORE** it adopts any policy in favor of the imposition of such rates."²³

No hearings were held in A.06-03-005. However, the proposed decision in that proceeding acknowledged that "it is premature and unnecessary to tackle the legal and policy issues surrounding the design of residential rates once AB

²² A.06-03-005, "Conditional Motion for Evidentiary Hearings and Post-Workshop Comments of TURN," December 11, 2007, p. 2 (emphasis in original). Available at

<http://docs.cpuc.ca.gov/PublishedDocs/EFIELD/MOTION/76614.PDF>

²³ *Id.* at 3 (emphasis in original).

1X rate protections are no longer in place,” thus satisfying TURN’s primary concern at that time. The final decision explained:

We agree with TURN that it is premature and unnecessary to tackle the legal and policy issues surrounding the design of residential rates once AB1X rate protections are no longer in place. We do, however, believe it is important to establish a point in time when residential rate design will be thoroughly examined.²⁴

Based on the directives of D.08-07-045, PG&E filed Application 10-08-005 proposing a residential TOU/CPP tariff. Parties filed legal briefs and comments regarding rate design. No intervenor testimony was submitted and no evidentiary hearings were held. The proceeding was consolidated with a rate design window proceeding, and the Commission recently dismissed the proceeding as moot due to the existence of this rulemaking.²⁵

If the Commission seeks to address a default TOU tariff for 2018, it must “thoroughly examine,” through expert testimony and evidentiary hearings, the material issues in dispute concerning the impacts of a potential time-of-use rate on residential customers bills.

As explained above, TURN also recommends that testimony and evidentiary hearings be held concerning the impacts of TOU rates on conservation and energy efficiency incentives. Similarly, there is a need for evidentiary hearings to address the impact of TOU and load shifting on GHG

²⁴ D.08-07-045, p. 39.

²⁵ A.10-02-028/A.10-08-005, Joint Ruling and Amended Scoping Memo, January 27, 2014, p. 10.

emissions reductions. The “environmental benefits” of demand response had always been assumed based on the seemingly obvious fact that within California the marginal on-peak heat rates are higher than the marginal off-peak heat rates. However, the generation mix within California is significantly different than in the WECC, and a complete analysis of the environmental impacts of load shifting must account for actual power imports to California.

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Respectfully submitted,

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