

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)

**LIMITED OPENING BRIEF  
OF THE OFFICE OF RATEPAYER ADVOCATES  
ON CLIMATE CREDIT AND CARE DISCOUNT ISSUE**

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**I. INTRODUCTION**

Pursuant to Rule 13.11 of the Commission's Rules of Practice and Procedure and to the Administrative Law Judge's (ALJ) March 26, 2014 e-mail ruling, the Office of Ratepayer Advocates (ORA) hereby submits its opening brief (OB) on the issue regarding whether or not the climate credit should be considered in the effective California Alternative Energy Rates (CARE) discount calculation.

ORA notes that several parties (including ORA) have reached settlement agreements with the three Investor Owned Utilities (IOUs) for setting the 2014 summer rates. ORA joins Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) and other settling parties, which also file joint opening briefs supporting the settlement agreements. However, the rates reached in the settlement are independent of the climate credit. Therefore, this issue does not affect the Phase 2 Settlement proposed by the Settling Parties. ORA urges that the Commission defer this issue in Phase 1 of this proceeding. It is of paramount importance that the Commission move expeditiously in considering and approving the unopposed settlements for 2014 summer residential rates.

## II. DISCUSSION

ALJ McKinney's e-mail ruling on March 26, 2014 requested the utilities to provide additional data as well asking parties to brief the following issue:

Should the CALIFORNIA CLIMATE CREDIT be included in the calculation of the effective discount percentage for CARE rates when determining if the effective discount is within the statutory range of 30-35%? Please cite legal authority supporting your position.<sup>1</sup>

ORA submits that the effective CARE discount calculation should not include the climate credit. CARE is a rate schedule for low income customers, and the climate credit is simply a mechanism for implementing Cap-and-Trade of green-house gas (GHG) policy.

### **A. CARE Rates Are Discounted Electric Rates And The CARE Program Is Intended To Provide Low Income Customers Affordable Electric Services**

The Legislature requires that the Commission provide a program to assist low income customers:

The commission shall continue a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. For one-person households, program eligibility shall be based on two-person household guideline levels. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.<sup>2</sup>

The Commission established the CARE program pursuant to legislative requirements for eligible low-income customers in which those enrolled can receive a discount on their electric or natural gas bills.

In addition, PU Code Section 739.1 (c) (1) states:

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<sup>1</sup> ALJ McKinney March 26, 2014 e-mail requesting additional data to be submitted by the utilities and additional issue to be briefed.

<sup>2</sup> Public Utilities Code (PU Code) Section 739.1.(a).

The average effective CARE discount shall not be less than 30 percent or more than 35 percent of the revenues that would have been produced for the same billed usage by non-CARE customers .... The average effective CARE discount shall be calculated as a weighted average of the CARE discounts provided to individual customers.

The issue at hand is whether the climate credit should be counted as part of the effective CARE discount set forth above. ORA's response is no; it is a separate credit and should not be part of the calculation of CARE customers' 30 to 35 percent discount of the electric rates of non-CARE customers. As demonstrated below, the climate credit is not designed solely to provide electric bill relief. Nor is it considered an electric rate reduction.

**B. Climate Credit Is Intended To Mitigate The Increased Costs Of Goods And Services Resulting From Cap-And-Trade Program**

The Commission has clearly stated its rationale for the climate credit, which would provide an offset to customers' increased expenditures on goods and services because of the Cap-and-Trade program:

Provision of the remaining GHG revenues to residential customers will largely preserve the overall demand for goods and services in the economy. To the extent that residential consumers receive the value of the GHG allowance revenues and subsequently spend these revenues, the net costs of the Cap-and-Trade program are substantially reduced. Total spending in the economy will be largely maintained but will be influenced by pricing that more appropriately reflects the real costs of spending decisions on the environment through the inclusion of a carbon price signal.<sup>3</sup>

The Commission also points out that the Cap and Trade program may disproportionately increase the burden on the low income customers regarding non-energy expenses:

The non-energy expenses of low-income households will increase as a result of the Cap-and-Trade program due to the increased costs of goods and services inclusive of increased electricity costs. The impact of these price increases will likely be proportionally greater on lower-income

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<sup>3</sup> D.12-12-033, p. 180, Finding of Fact 114.

households because low-income households tend to spend a greater proportion of their incomes on basic goods and services.<sup>4</sup> (p. 180, D.12-12-033)

As a result of the above considerations, the Commission decided that every residential customer, both low income and regular customers, should be given identical fixed dollar payments.

Also, in both D.12-12-033 and a Commission Resolution (E-4611) on Education and Outreach regarding the CA Climate Credit, the Commission was clear that the CA Climate Credit must be attributed to the state of California or the state of California's Cap and Trade Program, and emphasized that it can't be characterized as bill relief provided by the IOUs.

All customer outreach and education materials addressing the distribution of GHG allowance revenues should attribute the distribution of revenues to the State of California or California's Cap-and-Trade program.<sup>5</sup>

Based on the discussion above, it is clear that the climate credit is intended to be treated independent of the electric bills.

**C. The California Climate Credit Should Not Be Included In The Calculation Of The Effective CARE Discount Because The Climate Credit Is Not An Electric Rate Reduction.**

Furthermore, the Commission makes it clear that the electric utilities' green-house gas (GHG) emission revenue return must be done in a way that preserves the carbon price signal. As a result, the Commission specifically designed the climate credit so that it would not result in a reduction of the electric rates. This is illustrated in D.08-10-037, the *Final Opinion on Greenhouse Gas Regulatory Strategies*, in Phase 2 of Rulemaking (R.) 06-04-009:

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<sup>4</sup> D.12-12-033, p. 180, Finding of Fact 115.

<sup>5</sup> D.12-12-033, p. 199, Conclusions of Law 49.

We agree with parties that all auction revenues should be used for purposes related to AB 32. ... In our view, the scope of permissible uses should be limited to direct steps aimed at reducing GHG emissions and also bill relief to the extent that the GHG program leads to increased utility costs and wholesale price increases. It is imperative, however, that ***any mechanism implemented to provide bill relief be designed so as not to dampen the price signal resulting from the Cap-and-Trade program.***<sup>6</sup>

At the end, the Commission decides that the climate credit should be a semi-annual fixed payment, as a separate line item on customers' bills, and is not a component of overall \$/kWh rates:

Distribute all revenues remaining after accounting for the revenues allocated pursuant to the prior three uses to residential customers on an equal per residential account basis delivered as a semi-annual, on-bill credit.<sup>7</sup>

In the same decision, the Commission also pointed out:

We share the concern of [O]RA and others that customers may perceive the GHG allowance revenue return, even if calculated non-volumetrically, as a rate reduction if it is returned via an on-bill credit against each customer's bill. Therefore, from the policy standpoint of preserving the carbon price signal, it is preferable to return revenues separate from customer bills through a check or some other form of off-bill rebate. As argued by [O]RA, the Joint Parties, and IEP, customers would essentially receive the revenues as cash or a cash equivalent, wholly independent of their electricity bills; thus, ***there would be no risk that customers would interpret the refund as a reduction in electricity rates.*** Furthermore, residential customers would be able to use the money as they see fit to mitigate the increased costs of goods and services.<sup>8</sup>

Additionally, SDG&E in a recent supplemental filing to Advice Letter (AL) 2581-E-A (which introduces GHG costs and revenues into rates and establishes the CA Climate Credits in tariffs) includes a footnote in its illustrative rate table that says:

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<sup>6</sup> D.08-10-037, Section 5.5, emphasis added.

<sup>7</sup> D.12-12-033 Ordering Paragraph (OP) 1

<sup>8</sup> D.12-12-033, pp. 120-121, emphasis added.

This illustration includes the impacts of the semi-annual residential California Climate Credit, which is a line item bill credit, and *does not represent a reduction in electric rates.*<sup>9</sup>

Therefore, the Climate credit cannot be considered part of CARE discount, as they are not considered electric rate relief. The credit could have been mailed out totally separately from the electric rates. The reason they are included in the electric bill is for administrative efficiency and least cost consideration.

### III. CONCLUSION

The Commission should defer its deliberation on whether climate credit should be included in effective CARE discount issue in Phase 1 of this proceeding. The Commission should find the climate credit issue irrelevant in reaching the 2014 summer rate settlement for the three IOUs. The Commission should also find that climate credit should not be counted as part of effective CARE discount because climate credit is specifically designed as semi-annual fixed payments and not as an electric bill or rate relief. The Commission does not want the climate credit to dampen the price signal resulting from the Cap-and-Trade program.

Respectfully submitted,

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<sup>9</sup> AL2581-E-A, emphasis added.