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)

REPLY BRIEF OF UTILITY CONSUMERS' ACTION NETWORK (UCAN) ON QUESTION OF THE CALIFORNIA CLIMATE CREDIT AND CARE DISCOUNT ISSUE

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I. INTRODUCTION

In initial briefing UCAN filed a joint brief with SDG&E, ORA, TURN and SDCAN favoring the settlement of SDG&E's Phase 2 filing, indicating why the settlement regarding the interim 2014 residential electric rates reached between the parties is reasonable, in the public interest and comports with law. As that brief notes, the Settlement Agreement represents a balanced approach to an interim rate given both the diverse interests of the parties and more importantly, to the residential customers in each of the four tiers.

In addition, SCE and PG&E also briefed their proposed settlements asking that they be approved. In supplemental briefing on the issue of should CARE rates reflect the California Climate credit, ORA, TURN, PG&E, SDG&E, and SCE all requested that the issue be addressed in Phase 1 of this proceeding. UCAN would like to echo the other parties regarding the issue of the California Climate Credit being an issue best left for Phase one.

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Phase 2 was intended to address the limited issue of interim residential rates for 2014. The California Climate Credit as it apples, or not, to the calculation of the CARE rates is an issue that should in no way prevent or delay the implementation of the settlements on the phase 2 interim rates reached, and UCAN agrees with the other parties that support that approach.

While UCAN agrees with these parties on when the Commission should consider this issue (Phase 1), UCAN disagrees with the positions of PG&E, SCE and SDG&E on how the Commission should treat the Climate Credit as it relates to the calculation of the CARE rates. Given that all three IOU's take the position that the Climate Credit is a bill credit that must be included in CARE rate calculations, should the Commission decide this issue in a Phase 2 ruling, UCAN would urge the Commission to reject the IOU's interpretation. The California Climate Credit is a credit to each residential ratepayer, regardless of amount of electricity used, and the IOUs are simply the instrument chosen by the State of California to provide those funds to its citizens.[1]

The positions of PG&E, SCE and SDG&E are contrary to D. 12-12-033 that held that the Climate Credit is a payment from the State of California to its rate paying citizens. The credit is to be viewed as separate from reducing a consumer's bill. The Climate Credit is intended to mitigate the effects of the Cap-and-Trade program, specifically the effects on low-income households.

As noted in D.12-12-033:

> "all descriptions in outreach and education materials of the Cap-and-Trade program and the various greenhouse gas allowance revenue returns authorized in this decision must be attributed to the State of California or the State of California's Cap-and-Trade Program."[2]

II. DISCUSSION

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[1] D.12-12-03 conclusion of law 49 states 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.

[2] D.12-12-033 ordering paragraph 11.

I. THE CALIFORNIA CLIMATE CREDIT IS NOT A "CHARGE NOT PAID BY CARE CUSTOMERS" AND SHOULD NOT BE INCLUDED IN THE CARE RATE CALCULATION.

Public Utilities Code Section 739.1(c) (1) defines how the effective CARE rates are to be calculated:

> (1) 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 discount determined by the commission shall reflect any charges not paid by CARE customers, including payments for the California Solar Initiative, payments for the self-generation incentive program made pursuant to Section 379.6, payment of the separate rate component to fund the CARE program made pursuant to subdivision (a) of Section 381, payments made to the Department of Water Resources pursuant to Division 27 (commencing with Section 80000) of the Water Code, and any discount in a fixed charge. The average effective CARE discount shall be calculated as a weighted average of the CARE discounts provided to individual customers.

PG&E, SCE and SDG&E all take the position that the Climate Credit reflects charges not paid by CARE customers and therefore, pursuant to the mandate of section 739.1(c)(1) the Climate Credit must be included in the CARE rate calculation. SCE for example notes that "739(C)(1) mandates that to determine whether the average effective CARE discount is within the 30% to 35% statutory range, the discount calculation must compare revenues received by CARE customers to 'the revenues that would have been produced for the same billed usage by non-CARE customers.'"[3]

UCAN disagrees with the characterization that because SCE, as well as the other IOUs, receives customer funds from the auction of GHG emission allowances that their customer revenues are being decreased. On the contrary, through the Climate Credit SCE is holding payments for their customer's electric bills.

This money, the Climate Credit, is to be disbursed to residential customers intended to mitigate the increased costs associated with the Cap-and-Trade program. The Commission clearly expressed the purpose of the Climate Credit in D. 12-12-033:

[3] SCE Brief at pg 2, citing Public Utilities Code section739.1(c)(1)

"It is in the public interest to return all remaining GHG allowance revenues (after the compensation of EITE and small business customers and the neutralization of GHG costs in residential rates) to all residential customers on an equal per-residential account basis (the climate dividend) to offset the increased costs of goods and services in the economy that will occur when electricity costs increase as a result of the Cap-and-Trade program and that will ultimately be borne by all residential customers, including low-income residential customers."[4]

As noted by ORA, the Commission intended the Climate Credit to "largely preserve the overall demand for goods and services" despite the increased costs of goods and services as a result of the Cap-and-Trade program.[5]

A. **The Commission's choice of on-bill credits to ease administrative distribution does not change the character of the Climate Credit for CARE rate calculations.**

The Commission's reasoning for returning the Climate Credit through an on-bill process was purely to ease administrative concerns and to reduce the risk consumers would not receive the full value of the credit.[6] The Commission was worried about the administrative costs of returning the Climate Credit off-bill, such as a check or bank deposit, because both SDG&E and PG&E presented evidence of the potentially excessive costs associated with doing so.[7] While the Commission expressly stated its preference to return the Climate Credit off-bill, it was recognized that an on bill approach would save in administrative and overhead expenses, thus preserving more of the funds for the residential ratepayers. [8] The Commission stated:

"we share the concern of DRA 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 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's bills through a check or some other form of off-bill rebate."[9]

Although the Commission decided to return the Climate Credit through electric bills, the Commission left open the possibility of returning the Credit off-bill. The Commission stated:

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[4] D. 12-12-033, Conclusion of Law 37 at p. 196. Emphasis added.
[5] ORA brief at pg. 3 citing D.12-12-033, p. 180, Finding of Fact 114
[6] D. 12-12-033 at 122.
[7] D. 12-12-033 at 121.
[8] D. 12-12-033 at 121.
[9] D. 12-12-033 at 120.

> "if at a later date, it is found that an off-bill approach achieves substantially greater customer understanding of the Cap-and-Trade program or administrative costs can be substantially reduced, we may reconsider whether an off-bill return is appropriate."[10]

Had the funds been returned to the residential customers through an off-bill process, a check for example, there would not be a Climate Credit, but a Climate payment. In this situation, the CARE rates and utility revenues collected would be the same as if the Climate Credit had not been issued.

Of the parties that hold similar views to UCAN, perhaps Greenlining and the Center for Accessible technology say it best when they note that:

> "Although the California Climate Credit belongs to the ratepayer, the ratepayer may never actually possess the credit, as the Commission found it administratively expedient to simply use it to pay the customer's bill. Thus, the utility receives a full payment of the total billed amount, part of it paid by the customer's California Climate Credit, and part of it paid by the customer once the customer sends in their payment."[11]

Just because the Commission chose an on-bill method of payment to the ratepayer does not change the character of the Climate Credit into being a "charge not paid by Care Customers." The Climate credit is money that belongs to the residential rate payer to be used to pay that customer's bill.

CONCLUSION

For the foregoing reasons, UCAN asks that the issue of the California Climate credit be deferred to Phase 1, and in the alternative, that the Commission find that the Climate Credit be excluded from the CARE rate calculation.

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[10] D. 12-12-033 at 122-123.
[11] Greenling/CfAT joint brief at pg 19.

Respectfully submitted,

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