

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



Order Instituting Rulemaking to
Advance Demand Flexibility
Through Electric Rates.

Rulemaking 22-07-005
(Filed July 14, 2022)

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**JOINT MOTION FOR PUBLIC PARTICIPATION HEARINGS BY
CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL,
CALIFORNIA SOLAR & STORAGE ASSOCIATION,
CENTER FOR ENERGY EFFICIENCY AND RENEWABLE TECHNOLOGIES,
CLEAN COALITION,
SOLAR ENERGY INDUSTRIES ASSOCIATION, AND
UTILITY CONSUMERS' ACTION NETWORK**

July 13, 2023

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The California Efficiency + Demand Management Council (Council), California Solar & Storage Association (CALSSA), Center for Energy Efficiency and Renewable Technologies (CEERT), Clean Coalition, Solar Energy Industries Association (SEIA), and Utility Consumers' Action Network (UCAN), collectively, the "Joint Parties," respectfully and jointly move for the Commission to order and hold public participation hearings (PPHs) on issues being addressed in Track A of this proceeding. This Joint Motion is timely filed and served pursuant to Rules 1.8 and 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC or Commission).¹

**I.
BACKGROUND**

On July 14, 2022, the Commission issued Order Instituting Rulemaking (R.) 22-07-005 (OIR) for the purpose of "enabl[ing] widespread demand flexibility through electric rates."² To that end, the Commission stated that the OIR "will establish policies and modify electric rates to

¹ CALSSA is filing this joint motion on behalf of itself and the following parties, which have provided authorization for it to do so pursuant to Rule 1.8(d) of the Commission's Rules of Practice and Procedure: California Efficiency + Demand Management Council, Center for Energy Efficiency and Renewable Technologies, Clean Coalition, Solar Energy Industries Association, and Utility Consumers' Action Network.

² R.22-07-005 (OIR), at p. 6.

advance the following objectives: (a) enhance the reliability of California’s electric system; (b) make electric bills more affordable and equitable; (c) reduce the curtailment of renewable energy and greenhouse gas emissions associated with meeting the state’s future system load; (d) enable widespread electrification of buildings and transportation to meet the state’s climate goals; (e) reduce long-term system costs through more efficient pricing of electricity; and (f) enable participation in demand flexibility by both bundled and unbundled customers.”³

On November 2, 2022, an Assigned Commissioner’s Phase 1 Scoping Memo and Ruling (Scoping Memo) was issued that, while confirming the central purpose of the OIR focused on “demand flexibility policies,” determined that the proceeding would be organized into two phases, divided into further tracks, the first of which was to focus on fixed charge rates for residential customers. Specifically, Track A of Phase 1 was to “establish an income-graduated fixed charge for residential rates for all investor-owned electric utilities in accordance with Assembly Bill 205 (Stats. 2022, ch. 61) (AB 205) including small and multi-jurisdictional electric utilities.”⁴ The Scoping Memo identified an extensive list of issues that would be considered in Track A, including how the Commission should establish such a rate, how “residential rate components” should be adjusted to reflect those fixed charges, and how the rate was to be implemented consistent with the California Alternate Rate Energy (CARE) discount.⁵

As detailed in later Administrative Law Judge’s (ALJ’s) Rulings, the Scoping Memo was followed by these events:

- (1) A Workshop held on November 29, 2022, by the Commission’s Energy Division to “provide parties with sufficient information to develop their Track A proposals for an

³ OIR, at pp. 6-7.

⁴ Scoping Memo, at pp. 1-2.

⁵ *Id.*, at pp. 2-4.

income-graduated fixed charge that meets the requirements of AB 205 and is feasible to implement.”⁶

- (2) An ALJ’s Ruling issued on December 9, 2022, inviting parties to file briefs on “Track A questions of statutory interpretation.”
- (3) A motion filed by the Investor-Owned Utilities (IOUs) on December 9, 2022, for Commission approval of a memorandum account to record each IOU’s proportionate share of the total incremental costs to be incurred to pay for a third-party consultant (Energy + Environmental Economics (E3)) “to develop a fixed charge tool for this proceeding.” This motion was followed by responses that both opposed and supported the requested relief.
- (4) An ALJ’s Ruling issued on January 17, 2023, by which the parties were directed to conform their Track A testimony with an attached 14-page “staff guidance memo for Phase 1 Track A proposals.” That memo also included a proposal by Energy Division Staff for a new contract with E3 to incorporate a new scope of work relating to modifying the spreadsheet tool and associated consulting services, on which parties were allowed to comment.
- (5) Finally, on March 23, 2023, just prior to the due date of Track A opening testimony (extended to be served on April 7, 2023), with reply testimony due on June 2, 2023, a further ALJ’s Ruling was issued providing “additional guidance for Track A proposals.” That additional guidance was to require the Track A testimony to “conform” with additional staff guidance for Track A proposals related to how to use and present the results of the spreadsheet tool in testimony and certain requirements specific to small and multijurisdictional utilities.

The schedule adopted by the Scoping Memo for Track A has not been amended other than to extend the due dates of Track A testimony, as above. As a result, following the service of Track A opening and reply testimony, a Joint Case Management Statement is to be served by Pacific Gas and Electric Company (PG&E) on July 31, 2023; evidentiary hearings, if needed, are

⁶ ALJ’s Ruling of January 17, 2023, at p. 2 (January 17 ALJ’s Ruling).

to be held in late August; and opening and reply briefs are to be filed in August and possibly through October 2023, with the exact dates dependent on whether or not hearings are held. The June 19, 2023 ALJ's Ruling anticipates a proposed decision in the first quarter of 2024,⁷ with the applicable statute requiring a final decision by July 1, 2024.⁸

II. REQUESTED RELIEF

The Track A testimony served in this proceeding in April and June 2023 can be conservatively characterized as extensive and includes both individual and joint testimony by the IOUs, as well as testimony by small and multijurisdictional utilities and a broad scope of other parties, representing diverse ratepayer, economic, and environmental interests. This circumstance, along with the multiple ALJ rulings and staff guidance required to guide this testimony, bear out early concerns expressed by CALSSA, along with other parties, of “the complexity of the...discussion on residential fixed charges.”⁹ Further, from the Joint Parties’ perspective, implementation of Section 10 of AB 205 would be a “major undertaking” where that legislation “removes the \$10 cap on default residential fixed charges, requires that the default residential fixed charge be established on an income-graduated basis with no fewer than three income thresholds, removes the requirement that default residential rates have at least two usage tiers, and requires that the approved fixed charges do not unreasonably impair incentives for beneficial electrification and greenhouse gas reduction.”¹⁰

Clearly, the impact approving residential income-graduated fixed charges on those customers is and will be significant. In these circumstances, Joint Parties believe that residential

⁷ ALJ's Ruling on the Implementation Pathway for Income-Graduated Fixed Charges (June 19, 2023), at p. 3.

⁸ Public Utilities (PU) Code Section 739.9 (e)(1).

⁹ CALSSA Reply Comments on OIR, at p. 1.

¹⁰ *Id.*; also citing SDG&E Opening Comments on OIR, at p. 3.

customers should be advised of and have the opportunity to respond to these prospective changes.

For that reason, the Joint Parties move for the Commission to order and hold public participation hearings in each of the IOU's service territories, as well as in Northern and Southern California locations convenient to small and multi-jurisdictional utility service territories, scheduled for dates through the end of this year (2023). To that end, these PPHs should include no fewer than 3 PPHs to be held in each of the service territories of PG&E and Southern California Edison Company (SCE) and 2 PPHs to be held in San Diego Gas and Electric Company's (SDG&E's) service territory, with the location of each hearing chosen for its geographic, racial, and economic diversity to the extent possible.

At each PPH, along with the attendance of the Assigned Commissioner and Assigned ALJ, Energy Division Staff should be present to provide background information on the issues being addressed in Phase 1, Track A. That presentation should also include a summary of the parties' proposals on income-graduated fixed charges and the potential impact of the Commission's adoption of those proposals on electric customers and their rates.

III. GROUNDS FOR REQUESTED RELIEF

As described on its website, the Commission holds "Public Forums (also called Public Participation Hearings or PPHs) to give the public a chance to learn about and express their opinions on issues before the CPUC" and each PPH "is about a specific issue that is pending resolution at the CPUC, such as a utility's request to change the rates that customers pay."¹¹ Pursuant to Rule 13.1(b) of the Commission's Rules of Practice and Procedure, a "public participation hearing" may be set in a utility's application to increase its rates, but also PPHs

¹¹ See: <https://www.cpuc.ca.gov/proceedings-and-rulemaking/cpuc-public-participation-hearings>

have also been ordered in Commission rulemakings, including most recently an OIR related to the extension of a utility power plant’s operation “to give an opportunity for the public to communicate directly with the Commission regarding the potential extension.”¹²

In the case of a utility rate case, last spring the Commission held six PPHs in PG&E’s 2023 General Rate Case “to provide an opportunity for customers of Pacific Gas and Electric Company (PG&E) to offer their perspective and input to the CPUC about the company’s rate increase request.”¹³ This was in response to the company’s request to increase rates for all its electric and natural gas customers over four years, including an estimated increase by 18% in 2023. The bill increase for many customers under some of the income-graduated fixed charge proposals is far higher than 18%. Even if the average bill increase for some customer groups is less than 18%, some customers could see their annual bills increase by more than 200%.

Again, however, the holding of a PPH is not restricted to utility rate applications, but extends to rulemakings that also directly impact ratepayers and the public interest. As particularly pertinent to this OIR, the Commission directed and held PPHs in R.12-06-013, which examined and adopted “residential rate reforms” that addressed three “major rate components” (“tier consolidation, fixed charges, and TOU [time-of-use] periods”) and was “intended to make rates more understandable to customers and more cost-based, and to encourage residential customers to shift usage to times of day that support a cleaner more reliable grid.”¹⁴ As described in Decision (D.) 15-07-001 issued on these rate reforms in that proceeding, sixteen (16) PPHs were ordered and held throughout California “to obtain public input regarding the Commission’s rulemaking and the rate design proposals submitted by the

¹² R.23-01-007 (Diablo Canyon Extension) ALJ’s Ruling of May 17, 2023, at p. 1.

¹³ See <https://www.cpuc.ca.gov/news-and-updates/all-news/cpuc-to-hold-remote-public-forums-on-pge-rate-case-for-2023-2026>.

¹⁴ D.15-07-001, at pp. 2, 4.

IOU[s].”¹⁵ These PPHs were attended by a total of 870 people, with the Commission’s Public Advisor additionally receiving more than “twelve thousand letters and e-mail messages from IOU customers and community groups” and additional “numerous communications from civic leaders and elected officials.”¹⁶

As to that public participation, “[s]peakers and commenters were particularly opposed to the IOUs’ proposals for fixed charges and expressed concern regarding the impacts on low-income customers.”¹⁷ While the Commission concluded in D.15-07-001 that these public comments could not be accorded the “same weight as evidence presented in sworn testimony of witnesses subject to cross-examination,” the Commission also made clear:

“[W]e value the input and incorporate it into our deliberations. These comments provide valuable assistance in understanding the perspective of customers and others who are affected by our decisions.”¹⁸

In this case, proposals to reform “income-graduated fixed charges for residential rates” are both complex and wide-ranging, as evidenced alone by all of the guidance and tools with which they must comply. While some proposals are not lengthy, in total, there are more than 500 pages of Track A Opening Testimony, not including attachments, with seven volumes of Opening Testimony from the large IOUs alone. Further, the impact of these proposals will land squarely on “residential” ratepayers that have likely received little information about what might be coming in terms of revisions to their bills or rates.

The Commission should also consider that the changes to the Public Utilities Code that are relevant to this rulemaking were included in a budget trailer bill that was passed with no substantial public debate. AB 205 was an empty legislative vehicle until it was amended in the

¹⁵ D.15-07-001, at p. 23.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*, at p. 25.

Senate on June 26, 2022. It was rushed through the legislative process and sent to the Governor's desk three days later.

In these circumstances, it is incumbent upon the Commission to hold PPHs to avoid giving the impression that a major change to California electric rate structure is being pushed by utilities and the state government without providing opportunities for public input. The Commission has the authority and can do so by noticing residential customers of the potential addition of "income-graduated fixed charges for residential rates" and providing them an opportunity to be heard on that change in a publicly noticed PPH, especially where concerns regarding fixed charges have previously been raised by utility customers. As the Commission stated in D.15-07-001, although comment at a Public Participation Hearing is not given the same weight as record evidence, it is valuable and "incorporate[d] into our deliberations," especially coming from the very people who will be directly "affected" by any decision on the Track A proposals.

Finally, there is time to notice and hold such PPHs prior to the first quarter of 2024, when a Proposed Decision in Track A is expected. Again, these PPHs can certainly be held between now and the end of this year and should take place at locations within each affected Utility's service territories.

IV. CONCLUSION

Based on the grounds stated here, the Joint Parties move for the Commission to notice and hold Public Participation Hearings in the Phase 1, Track A, of this OIR and to do so before the issuance of any Proposed Decision in that track. The purpose of the PPHs will be to take public comment on the adoption of an income-graduated fixed charge for Utility residential customers, including all proposals, which have been made to date in Track A, on that issue.

Respectfully submitted on
Behalf of the Joint Parties,

July 13, 2023

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