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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)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
SCOPING MEMO AND RULING FOR PHASE THREE**

Summary

Pursuant to Rule 7.3 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling sets forth the scope and procedural schedule for Phase Three of this proceeding, following the prehearing conference (PHC) held on August 24, 2015. In Phase Three of this proceeding, the Commission will consider: (1) interpretation of Public Utilities Code Section 745 conditions that must be met for implementation of default time-of-use rates; (2) potential changes to the California Alternative Rates for Energy (CARE) program under Assembly Bill 327; and (3) requirements for supporting information for the 2018 residential rate design window (RDW) applications and general time-of-use (TOU) pilot implementation issues.

1. Background

On July 3, 2015, the Commission issued its Decision on Residential Rate Reform for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) and Transition to Time of Use Rates, Decision (D). 15-07-001. D.15-07-001 addressed the second phase of the Rulemaking (R.) 12-06-013 and directed PG&E, SCE and SDG&E, collectively known as the IOUs, to file Advice Letters implementing the adopted residential rate design changes. D.15-07-001 set the course for residential rate reform over the next several years including the development of pilot TOU rates in preparation for default TOU to begin in 2019, and permitting the IOUs to file new requests for a fixed monthly charge after certain conditions have been met. D.15-07-001 set a schedule of next steps, including workshops, the TOU pilot and study design working group, and Marketing Education and Outreach (MEO) working group. D.15-07-001 also stated that a third phase of this proceeding would be opened to (1) examine specific legal issues related to default TOU rates, (2) determine what information and supporting documentation should be included in the Residential RDW application in order for parties to evaluate the proposed rate changes, (3) consider the restructuring of the CARE rate under AB 327, and (4) consider how the Family Electric Rate Assistance (FERA) program could be modified to help large households conserve.

On August 11, 2015, the Administrative Law Judges (ALJs) issued a ruling confirming the prehearing conference (PHC) set for August 24, 2015, inviting prehearing conference statements, and providing guidance on the issues to be addressed in Phase Three, including whether or not a new rulemaking should be

opened in lieu of a third phase of R.12-06-013. The parties filed PHC statements on August 18, 2015. The PHC was held on August 24, 2015.

2. Phase Three Scope of Issues

In establishing the scope of issues for Phase Three, we are guided by the goals of this proceeding as articulated in D.15-07-001, the PHC statements and the discussion at the PHC. We are also guided by the need to act expeditiously to address issues necessary for the design and evaluation of the TOU pilots ordered in D.15-07-001, including the interpretation and definition of the Pub. Util. Code § 745 requirements. We seek to keep the implementation schedule set forth in D.15-07-001 moving expeditiously, while acknowledging the limited resources and abilities of many parties to participate in multiple proceedings and address multiple issues simultaneously.

Accordingly, we decline to open a successor rulemaking at this time, and instead move forward and identify the issues and preliminary schedule for Phase Three of R.12-06-013. With this ruling, we seek to prioritize the issues based on the need to address issues related to the TOU pilot design, implementation, and evaluation, followed by the CARE restructuring review.

Therefore, the scope of Phase Three currently includes: (1) interpretation of Public Utilities Code Section 745 conditions that must be met for implementation of default TOU rates; (2) potential changes to the CARE program under Assembly Bill 327; and, (3) requirements for supporting information for the 2018 residential rate design window applications and general TOU pilot implementation issues. Implicitly included within each of the issues listed above is the need to ensure customer access to sufficient amounts of electricity to maintain public safety and health.

After reviewing the PHC statements and comments at the PHC, we conclude that review of the Commission's FERA program should not be included in the Phase Three schedule at this time. FERA is just one of many Commission programs that will be impacted by the new residential rate design adopted in D.15-07-001; we cannot consider all of them in this rulemaking. Options for FERA review will remain in the scope of this proceeding for the limited purpose of scheduling a discussion of the appropriate forum for consideration of FERA along with the initial workshop on CARE review. As suggested by the parties, direct incentives for FERA customers appear more appropriately suited for the IOUs' next consolidated energy efficiency proceedings.

Our review of Pub. Util. Code § 745 requirements should be performed before considering default TOU rates. We must define, for example, "economically vulnerable customers." Parties therefore agree that interpretation of Pub. Util. Code § 745 conditions regarding default TOU rates is a critical path issue. Consistent with D.15-07-001, the parties suggest that the Commission's interpretation of Pub. Util. Code § 745 requirements can be addressed without testimony or evidentiary hearing. Defining Pub. Util. Code § 745 requirements will enable the IOUs to continue gathering supporting information and documentation for their 2018 RDW applications. Discussion of this issue has already begun as part of the TOU Pilot Working Group workshops. The workshop is expected to be followed by a workshop report on which the parties can comment. We are persuaded that the first procedural step on the Section 745 definitions should wait until the TOU Working Group submits its draft summary report, currently anticipated in mid-November. The initial work of the parties to develop consensus definitions/interpretations will assist in narrowing the scope

of our work to define Pub. Util. Code § 745 requirements. Since Pub. Util. Code § 745 definitions are necessary for TOU pilot design and measurement, we also set a schedule for briefing Pub. Util. Code § 745 requirements and definitions. As ordered in D15-07-001, the IOUs shall file Tier 3 Advice Letters by the end of the year 2015 describing their proposed pilot design.

3. Schedule

D.15-07-001 ordered numerous working groups and workshops. These working groups and workshops are included in the preliminary schedule for Phase Three of this proceeding set forth below. The schedule will be revised if there are factual issues requiring written testimony or evidentiary hearing. The schedule will be updated following the CARE review workshop.

Event	Date
TOU Pilot and Study Design Working Group Meetings	Ongoing (Working Group Draft Report anticipated in November, 2015) Tier 3 ALs filed by end of year.
Quarterly (February 1, May 1, August 1, and November 1)	IOUs file quarterly PRRR and host workshop to report on TOU pilot design, opt-in tariff studies, and status of Residential RDW application materials.
Semi-annually (May, November)	Progress on Residential Rate Reform (PRRR) workshop to present reports and provide opportunity for questions and for parties to meet collaboratively.
Annually (November, beginning with November 17, 2015)	Residential Electric Rate Summit
Long-term MEO Working Group Meetings	Ongoing (Super User Energy [SUE]) Surcharge AL due October 16, 2015.
CARE Restructuring Scope Workshop	First Quarter 2016

Fixed Charge Workshop	See Separate ruling in A.15-04-012 and A.14-06-014.
Opening Briefs on Pub. Util. Code § 745 issues	December 23, 2015
Reply Briefs on Pub. Util. Code § 745 issues	January 6, 2016
Proposed Decision on Pub. Util. Code § 745 issues	February, 2016

For any workshops in this proceeding, notices of such workshops will be posted on the Commission’s Daily Calendar to inform the public that a decision-maker or an advisor may be present at those meetings or workshops. Parties should check the Daily Calendar regularly for such notices.

The assigned Commissioner or assigned ALJ may modify the schedule as necessary to promote the efficient and fair resolution of this proceeding. In any event, it is anticipated that this proceeding will be resolved within 18 months of the date of this scoping ruling, pursuant to the requirements of Public Utilities Code Section 1701.5.

4. Small and Multi-Jurisdictional Utilities

The August 11, 2015 ALJ Ruling questioned whether it is appropriate to include the Bear Valley Electric Service (BVES), Liberty Utilities (CalPeco Electric) LLC (Liberty Utilities), and Pacific Power (PacifiCorp), collectively, the California Association of Small and Multi-Jurisdictional Utilities (CASMU) as respondents to Phase Three of this Rulemaking. D.15-07-001 dismissed Bear Valley Electric Service, California Pacific Electric Company, and PacifiCorp as respondents from Phases One and Two of this proceeding and found that they should not have any of the obligations of a respondent in Phase 1 or 2. However,

D.15-07-001 retained these utilities as respondents in Phase Three in the event that the proceeding addresses CARE issues that will impact the CASMU.

The CASMU notes that although AB 327 requires certain changes in the CARE program, those requirements are generally related to the reductions in the CARE discount set forth in Pub. Util. Code § 739.1 (c)(1), which is not applicable to the CASMU. Pub. Util. Code § 739.1 9(c)(1) is only applicable to an “electrical corporation with 100,000 or more customer accounts in California,” a requirement that none of the CASMU utilities meet. And, although AB 327 authorizes other changes in the CARE program, CASMU maintains that these changes should not be implemented for the CASMU utilities’ CARE programs.

Consistent with our recent decision in the CASMU CARE applications, D.14-05-004, in which the Commission found it reasonable to exempt the small and multi-jurisdictional utilities from many of the more complex requirements of the CARE program, we find that it is not in the public interest to require the CASMU utilities to participate as respondents in Phase Three of this proceeding at this time. The CASMU utilities’ CARE programs necessarily reflect those utilities’ service territories and populations and therefore differ from the CARE programs of the larger electric utilities. If the Commission adopts changes to the larger utilities’ CARE programs that it desires to consider for the CASMU utilities in the future, those changes should be considered in the CASMU utilities’ CARE program applications. It is a more efficient use of the parties’ and the Commission’s time to focus potential CARE restructuring efforts on the larger utilities at this time.

5. Coordination with Implementation Advice Letter Process

D.15-07-001 ordered the IOUs to file a series of implementation Advice Letters beginning within 60 days after issuance. We expect these Advice Letters

to contain sufficient detailed information to permit the Energy Division to expeditiously approve them. However, in the event that additional guidance is necessary, the schedule for Phase Three may be amended.

6. Categorization, Designation of Presiding Officers, Need for Hearings, and *Ex Parte* Communications

There is no change to the category of this proceeding as ratesetting, as defined in Rule 1.3(e). Although no parties have requested evidentiary hearings on any of the issues, it is too early in the course of Phase Three to conclude that no hearings will be needed. We conclude that hearings may be necessary. In a ratesetting proceeding, the *ex parte* rules as set forth in Rules 8.1, 8.2, 8.3, 8.5 and Public Utilities Code Section 1701.3(c) apply, until such time as a final determination is made regarding the need for hearing.

Commissioner Michael Picker is the assigned Commissioner for this proceeding. ALJ Julie M. Halligan is the presiding officer for this proceeding.

7. Motions for Party Status

Requests for party status must be made by motion, in accordance with Rule 1.4. Parties should note that maintenance of party status requires active participation in the proceeding, e.g., submitting formal filings, participating in workshops, etc. The assigned ALJ may remove party status if a party is not actively participating in the proceeding. Parties removed from party status will be placed in the Information Only category.

8. Filing, Service, and Service List

All formally filed documents in this proceeding must be filed with the Commission's Docket Office and served on the service list for this proceeding. The current official service list for this proceeding is maintained by the Commission's Process Office and posted on the Commission's web page,

www.cpuc.ca.gov. All persons on the service list are responsible for ensuring that the correct information is contained on the service list, and notifying the Process Office of corrections or changes, in accordance with Rule 1.9(f). Persons listed as Information Only are entitled only to e-mail service of documents; if e-mail service to a person listed as Information Only fails, the serving party is not required to re-serve the document. (Rules 1.9(f) and 1.10(d).) Repeated failure of e-mail service due to inaccurate or outdated e-mail addresses may lead to a person listed as Information Only being removed from the service list.

Parties who provide an email address for the official service list may serve documents by email in accordance with Rule 1.10 (and must nevertheless serve a paper copy of all documents (excluding certificates of service and associated service lists) on the assigned Commissioner and assigned ALJ, pursuant to Rule 1.10(e) and are deemed to consent to email service by other parties. If no e-mail address was provided, service should be made by United States mail.

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or who has questions about the electronic filing procedures should contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

IT IS RULED that:

1. The Scope of issues and schedule for Phase Three of this proceeding set forth above are hereby adopted.
2. Bear Valley Electric Company, California Pacific Electric Company LLC, and Pacificorp are dismissed as respondents from Phase Three of this proceeding.

3. The duration of this proceeding is 18 months from the date of this amended scoping memo.
4. The categorization of this proceeding remains ratesetting.
5. Rule 8.2(c) and Rule 8.3 apply with respect to *ex parte* communications.
6. Hearings may be needed.

Dated October 15, 2015, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner

/s/ JULIE M. HALLIGAN

Julie M. Halligan
Administrative Law Judge