



FILED

12/09/22

02:22 PM

R2207005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.

Rulemaking 22-07-005

ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING TRACK A BRIEFS ON STATUTORY INTERPRETATION

This ruling invites parties to file opening briefs on questions of statutory interpretation by January 16, 2023 and reply briefs by February 6, 2023.

On November 2, 2022, the assigned Commissioner issued a scoping memo and ruling that established the issues in scope and schedule for Phase 1 of this proceeding. Track A of Phase 1 of this proceeding will (i) establish an income-graduated fixed charge for residential rates for all investor-owned electric utilities in accordance with Assembly Bill (AB) 205, Stats. 2022, ch. 61, and (ii) implement the requirements of AB 205 to adjust the average effective discount for California Alternate Rates for Energy (CARE) so that it does not reflect any charges for which CARE customers are exempted, discounts to fixed charges or other rates paid by non-CARE customers, or bill savings resulting from participation in other programs.

On November 29, 2022, the Commission's Energy Division held a workshop to provide parties with sufficient information to develop their Track A proposals for an income-graduated fixed charge that meets the requirements of AB 205 and is feasible to implement. The workshop participants discussed how

to interpret the AB 205 amendments to Sections 381, 739.1, and 739.9 of the Public Utilities (Pub. Util.) Code.¹

AB 205 amended Section 739.9 to read:

- (a) "Fixed charge" means any fixed customer charge, basic service fee, demand differentiated basic service fee, demand charge, or other charge not based on the volume of electricity consumed.
- (b) Increases to electrical rates and charges in rate design proceedings, including any reduction in the California Alternate Rates for Energy (CARE) discount, shall be reasonable and subject to a reasonable phase-in schedule relative to the rates and charges in effect before January 1, 2014.
- (c) Consistent with the requirements of Section 739, the commission may modify the seasonal definitions and applicable percentage of average consumption for one or more climatic zones.
- (d) The commission may adopt new, or expand existing, fixed charges for the purpose of collecting a reasonable portion of the fixed costs of providing electrical service to residential customers. The commission shall ensure that any approved charges do all of the following:
 - (1) Reasonably reflect an appropriate portion of the different costs of serving small and large customers.
 - (2) Not unreasonably impair incentives for conservation, energy efficiency, and beneficial electrification and greenhouse gas emissions reduction.
 - (3) Are set at levels that do not overburden low-income customers.
- (e) (1) For the purposes of this section and Section 739.1, the commission may authorize fixed charges for any rate schedule applicable to a residential customer account. The

¹ All references to a statutory Section in this ruling refer to the Pub. Util. Code.

fixed charge shall be established on an income-graduated basis with no fewer than three income thresholds so that a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage. The commission shall, no later than July 1, 2024, authorize a fixed charge for default residential rates.

- (2) For purposes of this subdivision, “income-graduated” means that low-income customers pay a smaller fixed charge than high-income customers.
- (f) Notwithstanding the requirements of subdivision (d) of Section 739 and Section 739.7, the commission shall not apply the composite tier method to the treatment of any revenues resulting from any fixed charge adopted pursuant to this section.

This ruling invites parties to file briefs on the following questions of statutory interpretation to inform parties’ Track A proposals in testimony. Parties should answer each statutory interpretation question below from both a legal perspective and a public policy perspective.

- 1. Section 739.9(a) defines a “fixed charge” as “any fixed customer charge, basic service fee, demand differentiated basic service fee, demand charge, or other charge not based on the volume of electricity consumed.”

Section 739.9(e)(1) provides “For the purposes of this section and Section 739.1, the commission may authorize fixed charges for any rate schedule applicable to a residential customer account. The fixed charge shall be established on an income-graduated basis with no fewer than three income thresholds so that a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage. The commission shall, no later than July 1, 2024, authorize a fixed charge for default residential rates.”

- a. Does “no fewer than three income thresholds” mean a minimum of three or four tiers of fixed charge levels?

- b. What types of current or potential residential charges and service fees should be considered a “fixed charge” subject to the income-graduation requirements of Section 739.9(e)?
 - c. What types of residential charges and service fees should not be considered a “fixed charge” and therefore should not be subject to the requirements of Section 739.9(e)?
 - d. Section 739.9(e)(1) provides that the Commission may authorize “fixed charges” for any residential rate, and that “[t]he fixed charge shall be established on an income-graduated basis with no fewer than three income thresholds so that a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage.” Do you agree that the statute permits the Commission to authorize a bundle of fixed charges for a residential rate (e.g. one rate with both a basic service fee and a demand-differentiated service charge) that, collectively, comply with the requirement for income graduation with no fewer than three income thresholds so that a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage?
 - e. How should “a low-income ratepayer in each baseline territory” be defined in the context of this paragraph?
2. Section 739.9(e)(2) states “For purposes of this subdivision, ‘income-graduated’ means that low-income customers pay a smaller fixed charge than high-income customers.”
- How should “customers” be defined in the context of this paragraph? Should the Commission define a customer as a household, and if so, how should the Commission define a household?
3. Section 739.9(f) states “Notwithstanding the requirements of subdivision (d) of Section 739 and Section 739.7, the commission shall not apply the composite tier method to

the treatment of any revenues resulting from any fixed charge adopted pursuant to this Section.”

This Section was amended to prohibit the use of the composite tier method, which is the concept of including the fixed charge amount as part of the Tier 1 rate for purposes of calculating the tier differential. Do you have any comments about interpreting Section 739.9(f)?

4. Section 381(a) states “To ensure that the funding for the programs described in subdivision (b) and Section 382 are not commingled with other revenues, the commission shall require each electrical corporation to identify a separate rate component to collect the revenues used to fund these programs. The rate component shall be a nonbypassable element of the local distribution service.”

This section was amended to remove the requirement that nonbypassable charges (NBCs) are collected on the basis of usage. Are there any remaining statutory restrictions for specific NBCs (e.g. wildfire charges) that would prevent recovery through a fixed charge?

5. Section 739.1(a)(1) states “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 not reflect any charges for which CARE customers are exempted, discounts to fixed charges or other rates paid by non-CARE customers, or bill savings resulting from participation in other programs, including the medical baseline allowance pursuant to subdivision (c) of Section 739. The average effective CARE discount shall be calculated as a weighted average of the CARE discounts provided to individual customers.” Note that CARE-exempt charges include the CARE surcharge, Wildfire Fund charge, the Self Generation Incentive Program, and the Wildfire Hardening Fixed Recovery Charge.
 - a. Does the statute prevent recovery of CARE-exempt charges through a fixed charge?

- b. If CARE-exempt charges are recovered through a fixed charge, should the CARE discount be applied as a line-item discount to the entirety of the bill (fixed and volumetric components) after the CARE-exempt charges are subtracted from the fixed charge?
6. Do you have any other comments about interpreting AB 205 statutory requirements?

IT IS SO RULED.

Dated December 9, 2022, at San Francisco, California.

/s/ STEPHANIE WANG

Stephanie Wang
Administrative Law Judge