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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 ON THE IMPLEMENTATION PATHWAY FOR INCOME-GRADUATED FIXED CHARGES

This ruling requests comments on the implementation pathway for income-graduated fixed charges (IGFCs) by July 21, 2023, and replies by August 11, 2023.

Parties may also respond to new proposals and information provided in reply testimonies in comments due on July 21, 2023.¹

This ruling also extends the deadline for the Joint Case Management Statement to July 31, 2023.

1. Introduction

On June 30, 2022, Governor Newsom approved Assembly Bill (AB) 205, Stats. 2022, ch. 61. AB 205 amended Section 739.9 of the Public Utilities Code to require the California Public Utilities Commission (Commission) to “authorize a fixed charge for default residential rates” by July 1, 2024. AB 205 required the electric fixed charge to 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

¹ Parties’ Track A reply testimonies are currently available on the Commission’s web page for this rulemaking: <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs/demand-response-dr/demand-flexibility-rulemaking>.

any changes in usage.” AB 205 also authorized the Commission to approve fixed charges for any residential rate schedule.

This restructuring of residential rates will not result in any change to the amount of revenue that electric utilities collect. It will shift a portion of utility revenue collection from volumetric rates to a fixed charge in a manner that reduces average monthly bills for low-income customers.

On November 2, 2022, the assigned Commissioner issued a scoping memo and ruling to establish the issues and schedule for Phase 1 of this proceeding. The scoping memo determined that Track A of this proceeding would consider, among other issues, how to establish IGFCs for residential rates for all investor-owned electric utilities in accordance with AB 205 and Section 739.9.

In Track A opening testimony, parties proposed a broad range of visions for how to design IGFCs to achieve the Legislative intent of AB 205. Some of these proposals acknowledged that a transition to IGFCs will require a gradual approach to implementation.

The Commission must consider how to manage the transition to this new residential rate structure. As the Commission recently decided in this proceeding, “[t]ransitions to new rate structures should (i) include customer education and outreach that enhances customer understanding and acceptance of new rates, and (ii) minimize or appropriately consider the bill impacts associated with such transitions.”²

During the previous decade, the Commission implemented the transition to default residential time-of-use (TOU) rates. In Decision (D.) 15-07-001, the Commission established a schedule for rate reform activities with deadlines

² Electric Rate Design Principle 10, adopted in D.23-04-040.

beginning in 2015 and ending in 2020. D.15-07-001 provided guidance for TOU rate design window applications and authorized working groups and consultants to propose and evaluate marketing, education, and outreach (ME&O) plans, pilots, studies, progress reports, and workshops.

I plan to issue a proposed decision in the first quarter of 2024 to establish a pathway for implementing IGFCs over several years. A gradual approach will allow the Commission to gain experience from the first version of IGFCs and conduct research and solicit stakeholder input before providing design guidance for the next version of IGFCs.

The proposed decision in the first quarter of 2024 will include:

- Authorization of IGFCs for residential rates;
- Directions for each IOU to file a rate design window application for approval of the first version of IGFCs;
- Guidelines for the design of the first version of IGFCs;
- Interpretation of AB 205 requirements for IGFCs;
- Authorization of working groups, workshops, and/or funding for consultants to develop ME&O plans for the first version of IGFCs and modifications to income-verification proposals for the next version of IGFCs; and
- A timeline and procedure for developing and considering future IGFCs.

I expect that the earliest that the first version of IGFCs could be implemented in rates is the end of 2026. This estimate is based on the following assumptions: the rate design window applications will be resolved in the first quarter of 2026; the ME&O plans will be approved in the second quarter of 2026; the utilities' billing systems will be prepared to implement the first version of IGFCs in the fourth quarter of 2026; and the first version of IGFCs will leverage proven processes from existing low- and moderate-income assistance programs

from California or other states to enable customers to self-attest and/or consent to verify their incomes to receive a lower fixed charge.

2. Questions for Party Comments

Please answer the following questions about how to design the first version of IGFCs and establish a pathway for implementing and improving IGFCs.³ Parties' responses should not rely upon changes to statutory requirements or other legislative actions.

1. Section 739.9(d)(2) requires any approved fixed charges to “[n]ot unreasonably impair incentives for conservation, energy efficiency, and beneficial electrification and greenhouse gas emissions reduction.”
 - a. How should the Commission address this requirement for IGFCs in the context of state policy goals of encouraging strategic electrification and improved grid utilization?
 - b. How should the Commission incentivize beneficial electrification and greenhouse gas emissions reductions during off-peak periods while meeting general conservation and efficiency goals? For example, should IGFC reductions from volumetric rates be applied to reduce rates during off-peak periods while maintaining existing peak period rates at the current level to continue to incentivize conservation and energy efficiency during peak periods?
2. AB 205 does not specify how much an IGFC should reduce bills for low-income customers to comply with Section 739.9(e)(1).
 - a. What policies or principles should the Commission consider when determining how much the first version of IGFCs should reduce bills for low-income customers?

³ If you previously answered one or more of these questions in testimony, please provide a brief summary of your proposal in your comments.

- b. Should the first version of IGFCs differentiate between low-income and very low-income customers?
 - c. What are the legal, policy, and/or operational justifications for your proposal?
3. Should the Commission adopt a definition of moderate-income customer for IGFC design purposes? If so:
 - a. Please provide the source of your proposed definition.⁴
 - b. Should the first version of IGFCs be designed to impact the average monthly bill of moderate-income customers (in each baseline territory) in a particular way?
 - c. What are the legal, policy, and/or operational justifications for your proposal?
4. Do you recommend a cap on how much the first version of IGFCs may increase the average monthly bills of higher-income customers (in each baseline territory)? If so, what would be a reasonable amount? What are the legal and/or policy justifications for your proposal?
5. What types of fixed costs should be eligible to be included in any given IGFC (Eligible Fixed Costs)? Please explain why specific types of costs should (or should not) be categorized as Eligible Fixed Costs based on legal or policy justifications.
6. Are there certain Eligible Fixed Costs that should be excluded from recovery through the first version of IGFCs? Would it be reasonable to simply recover a portion of Eligible Fixed Costs through the first version of IGFCs without specifying which costs are recovered?
7. Section 739.9(d)(1) requires any approved fixed charges to “[r]easonably reflect an appropriate portion of the different costs of serving small and large customers.” How should the Commission address this requirement? Please cite

⁴ For example, the California Air Resources Board’s Clean Vehicle Rebate Project provides low- and moderate-income incentives for applicants with incomes up to 400 percent of the federal poverty level.

previous Commission decisions and operational issues with identifying small customers.

- a. Should the Commission include in the IGFCs a demand-differentiated charge similar to what has been authorized by the Hawaii Public Utilities Commission for future Hawaii TOU rates where certain customer-specific costs are collected on the basis of non-coincident peak demand?⁵
- b. Several parties proposed to apply a different fixed charge to multi-family customers, either by identifying multi-family customers or using a shared service drop as a proxy for these customers. For utilities that do not already identify multi-family customers, what would be the additional cost of identifying multi-family customers? In the alternative, is a shared service drop a reasonable proxy for identifying multi-family customers?
- c. Should the Commission include some other approach to differentiating the fixed charge based on customer size? This could include some other parameter or a combination of parameters to measure customer size. An example of this would be the approach used by Burbank Water and Power, which adds a residential “service size charge” to a fixed residential “customer service charge”, with the “service size charge” differentiated based on customer size as follows: small

⁵ See Hawaii Public Utilities Commission Docket No. 2019-0323: Instituting a Proceeding to Investigate Distributed Energy Resource Policies Pertaining to the Hawaiian Electric Companies, Decision and Order No. 38680, October 31, 2022, pp. 37-49. In this Order, the Hawaii Public Utilities Commission adopted a rate design that includes both a fixed customer charge and a size-based grid access charge (GAC) for Hawaii’s future residential TOU rates. The GAC, proposed by the DER parties involved in the proceeding, aims to recover customer-specific distribution costs on the basis of a customer's historic bidirectional non-coincident peak (NCP) demand. This approach was adopted to fairly allocate costs between larger and smaller customers, leveraging IOU data that is easily available from AMI meters. Additionally, the GAC differentiates between single-family and multi-family residential customers to further facilitate equity as several multi-family customers may be served by the same shared grid connection equipment.

defined as a service location with two or more meters per service drop (typically multifamily residential); medium defined as a service location with one meter per service drop and does not meet the definition of large (typically single-family residential); and large defined as a service location with a panel size greater than 200A.⁶

- d. If the IGFC is differentiated based on customer size or an individual customer's demand, are there customer-specific Eligible Fixed Costs or other factors that should be used to determine the magnitude of the size-based differentiation?
8. How should the Commission apply the Electric Rate Design Principles to the design of the first version of IGFCs?
9. Should the Commission eliminate a minimum bill for residential customers when implementing the first version of IGFCs?
10. What proven income verification processes and best practices from existing low- and moderate-income assistance programs in California or other jurisdictions should be leveraged for the first version of IGFCs?
 - a. Should the Commission borrow elements of income-verification processes from low- or moderate-income programs administered by other California state agencies or other jurisdictions for the first version of IGFCs? If so, please describe the state program, income eligibility requirements, and income verification process.
 - b. Should the Commission establish categorical eligibility for income verification based on low- and moderate-income programs administered by other California agencies or federal agencies? (For example, the income

⁶ See Burbank Water and Power Residential Service electric rate: <https://www.burbankwaterandpower.com/electric/rates-and-charges>

eligibility of around 96 percent of California LifeLine participants is verified through proof of participation in a low-income assistance program administered by another California agency.)

- c. If the Commission establishes categorical eligibility, what list of programs should the Commission approve for categorical eligibility for (a) a low-income customer tier, or (b) a moderate-income customer tier? Please either provide a list of programs or refer to the categorical eligibility rules of low- or moderate-income programs.
 - d. Should the Commission authorize the use of data sharing agreements with other California agencies to verify participation in low- or moderate-income programs?
 - e. To the extent that you propose a new income verification process for the first version of IGFCs that has not been implemented by a California state agency, has your proposed approach been implemented or tested by another state or local jurisdiction? If so, please provide information about where your proposed approach has been implemented or tested, including any available evaluation reports. If not, please explain why existing income verification processes are not sufficient for the first version of IGFCs.
11. Should the Commission adopt a different design for the first version of IGFCs for certain non-default rates, such as electrification rates (e.g., PG&E's E-ELEC rate, SCE's TOU-D-PRIME rate, and SDG&E's TOU-ELEC rate)? If the first version of IGFCs are the same for all rates, will this approach impact the ability of electrification rates to incentivize electrification compared with default rates?
12. Should the Commission authorize utilities to conduct a request for proposals to hire a third-party administrator (selected by Energy Division staff) for income verification for the first version of IGFCs for all of the IOUs, including or excluding the small and multi-jurisdictional utilities

- (SMJUs)? If so, when should the third-party administrator be hired? Should the Commission direct the selected third-party administrator to conduct any tests, participate in working groups, or do other work prior to the implementation of the first version of IGFCs?
13. How should the income-verification processes for the first version of IGFCs be designed to reduce administrative costs and implementation problems?
- a. If the Commission establishes a tier for moderate-income customers, how should the Commission verify incomes for these customers? Should income verification (and reverification) for moderate-income customers be similar to the process for CARE/FERA customers, California LifeLine, or another state program?
 - b. Several parties argued that defaulting all non-CARE/FERA customers to the highest tier would result in placing a large portion of customers in the wrong tier. Other parties argued that defaulting customers to a lower tier would also result in placing a large portion of customers in the wrong tier and would not motivate higher income customers to consent to income verification. What solutions could mitigate the harms associated with defaulting all non-CARE/FERA customers the highest tier? For example, should non-CARE/FERA customers be defaulted to the highest income tier at least several months before a fixed charge is applied to their bill so that they have an opportunity to appeal their assignment? Should IGFC customer education start at least six months prior to implementation of the first version of IGFCs?
14. How should the costs of income verification be recovered for the first version of IGFCs? To the extent that income verification overlaps with CARE and FERA eligibility, how should the Commission identify which income verification costs are additional to CARE/FERA and should be considered IGFC costs?

15. Should the Commission establish one or more working groups and/or authorize funding for contractors for the following purposes?
 - a. Should a working group develop reporting requirements and an evaluation plan for the first version of IGFCs for consideration in this proceeding? Or should reporting requirements and evaluation plans be developed in each utility's rate design window application proceeding?
 - b. Should the Commission establish a working group and authorize funding for a third-party contractor to develop an ME&O proposal for consideration in this proceeding? If so, what should be the scope of work for the working group and contractor? When should the proposal be due?
 - c. Should the Commission establish a working group and authorize funding for a third-party contractor to develop income verification proposals for future versions of IGFCs? If so, what should be the scope of work for the working group and/or contractor (*e.g.* identify and propose to test new methods for verifying incomes of higher-income customers and streamlined approaches for verifying low incomes)? When should the proposal be due?
 - d. Should the Commission establish a working group to discuss IGFC implementation issues and recommend improvements?
 - e. How much funding should be allocated for third-party contractors, and how should the costs be recovered?
16. When should the utilities file the rate design window applications for the first version of IGFCs (*i.e.* how many months after the upcoming Track A decision)?
17. When and how should the Commission consider data and reports from the first version of IGFCs and recommendations for improving the implementation of the first version of IGFCs?

- a. What process(es) should the Commission establish to enable rapid resolutions of implementation problems?
 - b. When should the Commission evaluate the outcomes of the first version of IGFCs?
18. How should the Commission address under- or over-collections for the first version of IGFCs?
- a. Should under-/over-collections be addressed through existing processes, such as through balancing accounts? Or should the Commission authorize a new expedited process?
 - b. If a new process is authorized to address under-/over-collections, what should be the trigger for initiating this process?
 - c. What rate adjustment(s) should be used to address revenue imbalances? Examples: adjustments to total revenue collected through fixed charges, income thresholds, income-based differentiation of IGFCs, volumetric rates.
19. The SMJUs argued that the more complex aspects of parties' IGFC proposals should not apply to SMJUs, who have far fewer California customers than the large IOUs.
- a. Should the Commission adopt directions for the first version of IGFCs for all IOUs, with specific modifications for SMJUs? If so, what specific modifications would you recommend for SMJUs?
 - b. Should the Commission adopt directions for the first version of the SMJUs' IGFCs based on one of the SMJUs' proposals? If so, which of the SMJUs' proposals do you support?

IT IS SO RULED.

Dated June 19, 2023, at San Francisco, California.

/s/ STEPHANIE WANG

Stephanie Wang
Administrative Law Judge