



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

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Order Instituting Rulemaking to
Advance Demand Flexibility Through
Electric Rates.

Rulemaking 22-07-005

JOINT CASE MANAGEMENT STATEMENT FOR TRACK A

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I. INTRODUCTION

Pursuant to the Assigned Commissioner’s Phase 1 Scoping Memo and Ruling (Scoping Memo)^{1/} Pacific Gas and Electric Company (PG&E) submits this Joint Case Management Statement for Track A (JCMS) on behalf of the parties to this proceeding.^{2/} On June 19, 2023, the Administrative Law Judge (ALJ) issued a Ruling on the Implementation Pathway for Income-Graduated Fixed Charges (June 19 Ruling) that changed the due date for this JCMS to July 31, 2023 from July 14, 2023.^{3/} On July 18, 2023 the assigned ALJ granted the Joint IOUs’ request to extend the date of the JCMS to August 11, 2023.

II. PROCEDURAL BACKGROUND

The Scoping Memo states that “Track A of Phase 1 may include contested, material issues of fact” and that the assigned ALJ would “determine whether evidentiary hearings are needed for Track A based on the joint case management statement.”^{4/} Accordingly, the Scoping Memo ordered the parties to “meet and confer to clarify and narrow contested facts and issues and explore the possibility of settlement or stipulations in lieu of evidentiary hearings for Track

^{1/} Assigned Commissioner’s Phase 1 Scoping Memo and Ruling, p. 8 (November 2, 2022).

^{2/} There are currently 75 parties to this proceeding. As discussed further below of these, 30 have either participated in one of the meet-and-confer calls and/or responded by email to the draft Case Management Statement PG&E sent to Meet and Confer parties for their review on August 4, 2023. See the lists of parties set forth in Section II of this document, below.

^{3/} ALJ Ruling on the Implementation Pathway for Income-Graduated Fixed Charges, p. 1.

^{4/} Scoping Memo at p. 7.

A.”^{5/} The Scoping Memo ordered PG&E to “coordinate with parties to serve a joint case management statement for Track A by July 14, 2023 with the following information:

- A list of stipulated facts;
- The status of any settlement negotiations;
- Either (i) a waiver of evidentiary hearings from all parties, or (ii) a list of parties requesting evidentiary hearings; and
- If requesting evidentiary hearings, the joint case management statement should include a list of disputed material facts, estimates of time needed for evidentiary hearings, and an explanation of the time estimates.”^{6/}

Pursuant to the Scoping Memo, PG&E served on all parties an invitation to an initial meet and confer, which was held via conference call on June 15, 2023, to allow parties to begin discussing the need for evidentiary hearings and developing the JCMS. The participants agreed that a second meet-and-confer conference call should be held. The following parties attended the initial meet and confer on June 15:

- 350 Bay Area
- Alexis K. Wodtke
- Bear Valley Electric Service, Inc. (Bear Valley)
- California Efficiency + Demand Management Council (The Council)
- Public Advocates Office at the California Public Utilities Commission (Cal Advocates)
- California Community Choice Association (CalCCA)
- California Environmental Justice Alliance (CEJA)
- California Manufacturers and Technology Association (CMTA)
- California Solar & Storage Association (CALSSA)

^{5/} *Id.* at p. 8.

^{6/} *Id.*

- Clean Coalition
- Coalition of California Utility Employees (CUE)
- Electrify America
- Joint IOUs (PG&E, SDG&E, SCE)
- GRID2.0
- Gridtractor Inc. (Gridtractor)
- Natural Resources Defense Council (NRDC)
- PacifiCorp d/b/a Pacific Power (PacifiCorp)
- Polaris
- Solar Energy Industries Association (SEIA)
- Sierra Club
- The Utility Reform Network (TURN)

As mentioned above, following the parties' initial meet and confer, the ALJ issued her June 19 Ruling regarding a potential Track A Proposed Decision in the first quarter of 2024, to include: (i) authorization of income-graduated fixed charges (IGFCs) for residential rates, (ii) directions for each IOU to file rate design window applications for approval of their respective first versions of the IGFC, (iii) guidelines for the design of the first version of the IGFC, (iv) interpretation of AB 205's requirement for IGFCs, (v) authorization of working groups, workshops, and/or funding for consultants to develop marketing, education, and outreach (ME&O) plans as well as income verification proposals for the next versions of IGFCs, and (vi) a timeline and procedure for developing future IGFCs. The ALJ's June 19 Ruling also extended the deadline for filing the JCMS to July 31, 2023. And, as mentioned above, the ALJ subsequently granted the Joint IOUs' request to further extend that JCMS deadline to August 11, 2023.

On July 26, 2023, PG&E served notice on all parties that a second meet-and-confer would take place by conference call. This second meet-and-confer was held on August 2, 2023, to continue discussing the items required to be addressed in the JCMS per the Scoping Memo,

among other procedural issues. The following parties attended the August 2, 2023, conference call:

- 350 Bay Area
- Alexis K. Wodtke
- Bear Valley
- The Council
- Cal Advocates
- CalCCA
- California Energy Storage Alliance (CESA)
- CEJA
- CMTA
- California Solar & Storage Association (CALSSA)
- Center for Accessible Technology (CforAT)
- Center for Energy Efficiency and Renewable Technologies (CEERT)
- CUE
- Joint IOUs
- Google Nest
- GRID2.0
- Gridtractor
- Leapfrog Power, Inc. (Leapfrog)
- Liberty Utilities (Calpeco Electric) LLC (Liberty)
- NRDC
- PacifiCorp
- Polaris
- SEIA
- Sierra Club
- TURN

On August 4, 2023, PG&E circulated a draft of this JCMS to parties that attended the Meet and Confers to allow parties to review and provide comments. The following parties submitted revisions and/or comments: 350 Bay Area, Alexis K. Wodtke, Bear Valley, Cal Advocates, CalCCA, CALSSA, CEJA, Clean Coalition, CMTA, the Council, Liberty, NRDC, PacifiCorp, SEIA, Sierra Club, and TURN. On August 10, 2023, PG&E sent a copy of the consolidated draft JCMS, seeking confirmation that PG&E had authority to file it on August 11, 2023 on behalf of parties' pursuant to the Scoping Memo and Rule 1.8 (d) of the Commission's Rules of Practice and Procedure. The following parties affirmatively responded to PG&E's email and expressly granted PG&E authority to file this JCMS on their behalf:

- 350 Bay Area
- Bear Valley
- Cal Advocates
- CalCCA
- CALSSA
- CEJA
- CESA
- CforAT
- Clean Coalition
- CMTA
- The Council
- CUE
- Google Nest
- Grid2.0
- Liberty
- NRDC
- PacifiCorp
- SCE

- SDG&E
- SEIA
- Sierra Club
- TURN

Alexis K. Wodtke does not provide PG&E authorization to file this JCMS on her behalf. Alexis K. Wodtke provided her revisions to the draft JCMS on August 8, 2023 but Ms. Reyes Lagunero at PG&E, who has been handling the JCMS with the parties did not receive it on that date. Therefore, Ms. Reyes Lagunero was unaware of Ms. Wodtke's revisions until she received Ms. Wodtke's message on August 10, 2023 at 1:39 PM, when other parties were finalizing and approving the document for filing. Consequently, there was insufficient time to vet Ms. Wodtke's major suggestions with the other parties. To accommodate for this situation, PG&E includes attached hereto as Appendix A, three documents that include Alexis K. Wodtke's August 8, 2023 proposed revisions to this JCMS, memorandum, and proposed stipulated facts. Neither PG&E nor any other party makes representations or takes any positions on the statements made by Alexis K. Wodtke in Appendix A, and parties reserve the right to address her statements and proposed stipulations of fact as may be appropriate at a later date.

Due to the large number of parties in this proceeding, if a party is unnamed above, then they did not provide PG&E with an email response by August 8, 2023 in time for it to be included in this filing. However, none of the remaining parties voiced any objection to PG&E filing this JCMS, in compliance with the Scoping Memo.

Sections III and IV include parties' positions in response to each JCMS topic required in the Scoping Memo, as well as other procedural issues to date.

Because this JCMS was required to be filed August 11, 2023, many parties expressed concern at the August 2 meet-and-confer that they may not have had an adequate opportunity to fully review or do discovery on all 20 sets of Opening Comments, filed in response to the ALJ's June 19 Ruling, including general concerns from some parties about whether the CPUC adopts a gradual glidepath approach for a first version IGFC. Indeed, it would be impossible, for purposes

of this JCMS filing to both propound and receive substantive responses to data requests seeking clarification of parties' assertions of material fact regarding their July 31, 2023, Opening Comments. Furthermore, at the August 2 meet-and-confer, many parties also expressed concern that the deadline for this August 11 JCMS means no one will have had the opportunity to even see any party's August 21 Reply Comments. Because the recent Opening Comments included new information regarding proposals for a first version IGFC and reply comments are pending, the parties have done their best to present the required JCMS information but reserve the right to modify their positions based on completion of review of the July 31 Opening and the upcoming August 21 Reply Comments.

As described below, the parties attending the August 2 meet-and-confer call all support a respectful request that the Commission notice and hold a Status Conference to discuss parties' procedural questions.^{7/} Following such Status Conference, parties are open to filing a subsequent Joint Case Management Statement that updates parties' positions on whether evidentiary hearings are required, the nature of contested issues of material fact (to streamline any such hearings), and the status of any settlement discussions.

III. MATTERS THE SCOPING MEMO REQUIRES THE JCMS TO ADDRESS

The Parties provide the following responses as to the four categories of information that the Scoping Memo requires to be provided in this JCMS.

A. List of Stipulated Facts

During the August 2, 2023 meet-and-confer PG&E stated that parties would have an opportunity to propose facts for stipulation. While preparing the JCMS, parties circulated proposed facts for stipulation that other parties ultimately disputed and are therefore not listed below. Therefore, the following is a proposed list of undisputed facts based on parties' initial assessment of the record to date but is subject to change based on parties' further review.

^{7/} TURN requests that a status conference not occur between August 24, 2023 and September 5, 2023 due to the unavailability of key staff.

1. Residential volumetric electricity rates in California have long been above the national average and are projected to continue growing over the next decade across the three large investor-owned utilities (IOU).
2. The California legislature passed AB 205 and the Governor signed that bill into law on June 30, 2022, and it was recorded by the Secretary of State on that same day as Chapter 61 of the Statutes of 2022, which amended Section 739.9 of the Public Utilities Code regarding fixed charges for residential customers.
3. The State of California has not conducted any income-graduated fixed charge pilots for electric residential rates.
4. Revenue and Taxation Code Section 19542 prohibits the Franchise Tax Board of California (FTB) from providing personal financial information without taxpayer authorization, and this restriction applies to confirmation of any self-reported income data from the taxpayer.
5. The FTB has a process for taxpayers to authorize disclosure of their data through submission of a form, but this authorization only allows for disclosure of the income of the individual taxpayer, not the entire household.
6. Without additional statutory authorization, the FTB would not be able to verify income information for taxpayers without their written consent.
7. Automatic verification of all customers' incomes through FTB data is not feasible without legislation, and FTB will not have data for all customers.
8. The small and multi-jurisdictional utilities (SMJUs)^{8/} have significantly fewer customers than the larger IOUs.
9. CARE-exempt charges include the CARE surcharge, the Wildfire Fund charge, the Self-Generation Incentive Program charge, and the Wildfire Hardening Fixed Recovery charge.

As mentioned above, during the August 2, 2023 meet and confer, PG&E mentioned that if a party provided a separate attachment regarding proposed facts not in the JCMS, PG&E could include it as-is. Also, as previously noted, PG&E did not have adequate time to incorporate and vet Alexis K. Wodtke's proposed Stipulations of Facts and major revisions to this JCMS with other parties in time to meet the filing date for this JCMS. Therefore, PG&E includes in

^{8/} The SMJUs include Bear Valley Electric Service, Inc., Liberty Utilities (CalPeco Electric) LLC, and PacifiCorp.

Appendix A, Alexis K. Wodtke's proposed Stipulations of Fact and revisions to the JCMS. Furthermore, neither PG&E nor any other party makes representations or takes any positions on the facts for stipulation proposed by Alexis K. Wodtke in Appendix A, and parties reserve the right to address her proposed stipulations of fact as may be appropriate at a later date.

B. Status of Settlement Negotiations.

As of the date of this JCMS, settlement negotiations among subsets of parties have been informal and minimal due to the press of other deadlines and the potential changed approaches outlined in the June 19 Ruling. The Joint IOUs initially met on an informal basis with certain parties in early spring 2023, prior to their submittal of Opening and Reply testimony. No formal notice of settlement conference has yet been served pursuant to Rule 12.1(b).

Parties anticipate that after the filing of Reply Comments responding to the June 19 Ruling, parties will be better able to continue to engage in good faith settlement negotiations pursuant to Rule 12.1. Given the large number of parties (75) and the breadth and novelty of the issues in Track A, it is possible that any settlement that might emerge may not include all parties or cover all contested issues. The parties would note that, pursuant to the CPUC's Rules of Practice and Procedure 12.1(a), a motion proposing a settlement may be filed up to 30 days after the last day of evidentiary hearings.

C. Party Positions on Whether Hearings are Required.

Parties' review and determination of whether evidentiary hearings are required is based on the testimony and comments submitted to date. Parties recognize the record may be incomplete since reply comments to the June 19 Ruling are pending. In addition, a status conference may clear up certain procedural ambiguities in this proceeding. Therefore, parties reserve the right to modify their position on whether evidentiary hearings are required based on completion of review of the opening and reply comments related to the June 19 Ruling and the outcome of any status conference. Notwithstanding the above, parties provide their best judgment of whether evidentiary hearings are required:

- Parties who currently believe evidentiary hearings are required:

- Cal Advocates
- CalCCA
- SEIA
- Sierra Club
- Parties who have no opinion or are still deciding whether there are material facts in dispute:
 - 350 Bay Area
 - Alexis K. Wodtke
 - Bear Valley
 - Clean Coalition
 - Grid2.0
 - PacifiCorp
- The following parties are not currently requesting evidentiary hearings, but if evidentiary hearings were scheduled, several of these parties indicated that they may participate:
 - CALSSA
 - CEERT
 - CEJA
 - CESA
 - CforAT
 - CMTA
 - The Council
 - CUE
 - GridTractor
 - Joint IOUs
 - Leap
 - Liberty

- NRDC
- Polaris
- Google Nest
- TURN

D. Disputed Material Facts, Estimates of Time Needed for Evidentiary Hearings, and Explanation of Time Estimates.

During the two meet-and-confer conference calls, and pursuant to the Scoping Memo, it was agreed that each party requesting evidentiary hearings would provide PG&E with a separate statement identifying what that Party currently views as the disputed material facts, as well as an estimate of time needed for that party to address those issues in hearings and an explanation of their time estimates. Accordingly, the full and complete statements of Cal Advocates,^{9/} CalCCA, SEIA, and Sierra Club are attached hereto as Appendix B. As those parties who are seeking hearings at this time, Cal Advocates, CalCCA, SEIA, and Sierra Club request that specific hearing dates be set no sooner than September 15. Although the Scoping Memo initially scheduled hearings, if needed, in late August 2023,^{10/} the June 19 Ruling allowed parties to respond to testimony regarding the implementation pathway for income-graduated fixed charges, including reply comments due on August 21, 2023.^{11/} Cal Advocates, CalCCA, SEIA, and Sierra Club may amend their request for hearings after reviewing final comments, due August 21, 2023. The mid-September date allows hearing participants adequate time to review each other's comments and prepare for hearings.

For purposes of this JCMS, neither PG&E nor any other party makes representations or takes any positions on the statements made by Cal Advocates, CalCCA, SEIA, and Sierra Club in Appendix B, at this time. Parties anticipate they will have the opportunity to substantively

^{9/} Cal Advocates' statement is entitled "Public Advocates Office Case Management Statement Comments Regarding Track A of Advance Demand Flexibility Through Electric Rates Rulemaking."

^{10/} Scoping Memo, p. 8.

^{11/} June 19 Ruling, p. 1.

comment on those statements, as necessary, at the appropriate time. Furthermore, since parties reserve the right to modify their positions on whether evidentiary hearings are required, parties also reserve the right to submit a list of disputed material facts, witnesses for cross-examination, and time estimates in an updated JCMS.

IV. REQUEST FOR STATUS CONFERENCE AND UPDATED JOINT CASE MANAGEMENT STATEMENT

During the August 2, 2023 meet and confer, the Joint IOUs and other parties expressed concern with (1) the procedural schedule, (2) the role of the June 19 Ruling on the Scoping Memo and proceeding, and (3) filing this JCMS prior to parties' respective Reply Comments to the June 19 Ruling. The Joint IOUs proposed, for discussion: (1) requesting a status conference with the ALJ, and (2) submitting an updated joint case management statement sufficiently after Reply Comments are filed and/or any status conference is held if the request were granted. Parties overwhelmingly supported this proposal, although two parties stated that they had no strong opinion. No parties opposed the proposal to request a status conference.

Therefore, due to the number of parties involved in this proceeding and the complexity of the issues, parties respectfully request the Commission notice and hold a three-hour status conference sometime in late August or early September. Below is a list of issues that parties proposed the assigned ALJ include for discussion in the status conference:

- How the June 19 Ruling and parties' Opening and Reply Comments on the June 19 Ruling impact the Track A schedule originally set forth in the November 2, 2022 Scoping Memo
 - A discussion about what might be the appropriate timing for any evidentiary hearings (if determined necessary) and to hear the ALJ's initial thoughts about evidentiary hearings based on this JCMS and Reply Comments.
 - What should be the focus of the Opening and Reply briefs and when should those briefs be due?
 - The Joint IOUs question whether briefs should address all Track A issues as set forth in the Scoping Memo, or should parties focus on the proposed first version of the IGFC, leaving other more complex versions for future ratemaking proceedings.
- Whether comments provided in response to the June 19 Ruling would be received into evidence as testimony, sponsored by a witness for each party, and be eligible to

be entered into the record, to facilitate potential cross-examination and citation in closing briefs?

- What other factual/evidentiary development is needed to give the Commission and the ALJ what they need to approve the first version of IGFC?
- Whether it is anticipated that evidentiary hearings, if any, will be held in-person or virtual?

The Joint IOUs also propose the following question, to which SEIA, Clean Coalition, and Alexis K. Wodtke oppose:

- Whether the Track A schedule set forth in the Scoping Memo can allow for the first version of IGFC (determined in a Decision expected in the second quarter of 2024) to be implemented via Advice Letters, without the filing of Rate Design Window applications?

The Joint IOUs believe this question is necessary to address some parties' confusion regarding the June 19 Ruling and the Scoping Memo. SEIA strongly objects to including this question in a status conference because they believe it is not an appropriate topic for a status conference and should be addressed in a Commission decision. The issue of whether Rate Design Window Applications are necessary following the issuance of a decision in Track A is currently a subject in dispute among the parties, as reflected in Opening Comments on the June 19 Ruling. Clean Coalition and Alexis K. Wodtke also object to including the question about implementation via Advice Letter in the status conference.

CALSSA also proposes the following question:

- Whether Public Participation Hearings will be held, and if so, what will be the scope and schedule.

The Joint IOUs do not oppose including this question as in scope for a status conference but note that a decision on the Joint Motion for Public Participation Hearings^{12/} is currently pending.

Following a status conference, several parties indicated an interest in being able to submit an updated JCMS. Such an update could include an updated status of settlement discussions, any

^{12/} 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) Joint Motion for Public Participation Hearings (July 13, 2023).

APPENDIX A

MEMORANDUM

To: Mr. Silicani and Ms. Reyes Lagunero
From: Alexis K. Wodtke
Subj.: Changes to JCMS and Proposed Stipulated Facts
Date: August 7, 2023

I am attaching a “red-lined” copy of the Draft Joint Case Management Statement (JCMS) you emailed me on August 4, 2024. I made the changes in Google Docs because I do not have access to Microsoft 365 and converted it to PDF. The changes are in black but highlighted in pink (the new black). I am also attaching a list of Stipulated Facts I believe should be included in the JCMS.

This Memo is written in response to your request that parties explain any changes they propose be made to the JMCS. I can’t remember if we agreed to a process by which parties can explain the reasons they can not sign on to the Joint Case Management Statement. If not, I would like this Memo to be filed with the JCMS if I don’t sign on to the JCMS.

I have added a preface to the “List of Stipulated Facts” to capture our agreement that all proposed Stipulations of Fact would be included with the filing of the JCMS. The Preface reads as follows:

Preface. PG&E stated during the August 2, 2023, Meet and Confer meeting that each party would be given an opportunity to propose stipulated facts and if those facts were not included in the List of Stipulated Facts which has been made a part of this Joint Case Management Statement, parties’ proposals would be filed as appendices to the JCMS. This promise was made in response to parties’ concerns about PG&E’s ability to exclude certain stipulated facts which it did not deem relevant. Consequently, this List of Stipulated Facts is not comprehensive and additional stipulated facts may be added to this list if the ALJ considers them relevant and they are not disputed.

Strikeouts of language in the JCMS were made in many cases because, as you may remember, I did not agree with SCE’s claim that the only issues to be addressed in the Joint Case Management Statement were issues raised prior to issuance of the Scoping Memo.¹ The ALJ’s denial of my Motion to Dismiss on the same day we met to discuss the JCMS may indicate this issue is still alive, although the JCMS appears to address new issues. I think the problem could be resolved by referring to Rule 13.9 Duty to Meet and Confer, rather than to the Scoping Memo. Nevertheless, I have made changes to Scoping Memo references in the Draft JCMS so there is no misunderstanding as to what issues are covered by the Case Management Statement.

¹ Reasons more fully explained in my ‘Motion for Commission Ruling Allowing A Residential Customer Of Pg&E To Participate’ filed June 19, 2023.

At page 3: Since I was not a party to the proceeding when the Scoping Memo was issued, I cannot be said to have “participated” in a discussion of issues which SCE said could not be included in the JCMS. I have substituted the word “attended”

At page 5: For the same reasons, my “participation” in the August 3 Teams Call was not limited to “discussing the items required to be addressed in the JCMS per the Scoping Memo.” In fact, I think we all agreed that issues presented in Comments filed in response to the ALJ’s June 19, 2023, Ruling (e.g., gradual glidepath approach) would be covered by the JCMS.

Because of the inclusion of the word “participate” in these instances, and on page 7, I cannot “support this JCMS” (p. 7) without assurances the language will be changed before the JCMS is filed. I have discussed later in this Memo, the problem I have with including this issue (what is covered in the CJMS) as a topic discussed with the ALJ which is for “procedural question.”

On page 3, I have proposed an amendment to the paragraph beginning with “Pursuant to the Scoping Memo, PG&E served on all parties an invitation to an initial meet and confer,” by adding to the prefatory statement the words “schedule included in the” Scoping Memo to make clear it is only the date for filing a JCMS which is referenced in that sentence.

On page 5, I struck the phrase “to continue discussing the items required to be addressed in the JCMS per the Scoping Memo, among other procedural issues.” Again, I am objecting to limitation of the issues to those raised prior to issuance of the Scoping Memo.

For the same reasons, I changed the word “participated” on page 5 as follows: The following parties ~~participated on~~ were on the Microsoft “Teams” the “

On page 6, I struck through the language “~~parties affirmatively responded to PG&E’s email and expressly granted PG&E authority to file this JCMS on their behalf~~” to make clear that the grant of authority has not yet been given.

On page 9, I have changed the Title of the Section, and language in the section, to “information that Rule 13.9 incorporated in the Scoping Memo requires” to make clear that matters in the JCMS are not limited to matters that would have been known at the time of the Scoping Memo.

Stipulated Facts:

1. I struck the word “volumetric” from Fact #1 because I am not aware of any evidence that supports the statement “Residential volumetric electricity rates in California have long been above the national average and are projected to continue growing at a rapid pace over the next decade across the three large investor-owned utilities (IOU).” This is an apples and oranges comparison and would need evidence comparing the total amount charged in other states including both fixed charges and volumetric rates.

2. This is an opinion, not a fact. Additionally, the statement does not specify what kind of rate you are talking about. Raising fixed charges, according to the Joint Utilities, will contribute positively to the state's electrification policy goals. High fixed rates, along with lower volumetric rates, will deter conservation and decarbonization (more properly called greenhouse gas emissions), two other state policy goals.
3. I would like you to add the following to Fact #3 to ensure the legislative history of AB 205 is complete: "AB 205 was introduced in the Assembly on January 28, 2021, and passed with only 18 words: "It is the intent of the Legislature to enact statutory changes related to the Budget Act of 2021." No words were added to AB 205 in the Senate until four days before the 2021-2022 Legislative session ended. On June 26, 2022, a 21,627 word amendment was made to the bill, which then included amendments to five different California Codes, including the Public Utilities Code. On June 29, 2023, both houses of the Legislature approved the amendment and the bill was signed by the Governor on June 30."
4. I am not able to find the Fact #4 "finding" by the legislature to this effect. It is not in the Legislative Counsel's Digest or in findings specified in AB 205.
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB205. If there is such a finding, it should be quoted and referenced, so I can agree to it as a fact..
5. I have rewritten Fact #5 so it states a fact. If there is, in fact, a "goal of implementing higher fixed charges," a quotation of that goal and the source of the quotation should be stated so I can agree to it as a fact.
6. I am unable to find Rev. & Tax Code section 19452. There is a Rev. & Tax Code 19542 but it creates "a misdemeanor for the Franchise Tax Board or any member thereof, . . . who in the course of their employment or duty has or had access to returns, reports, or documents required to be filed under this part, to disclose or make known in any manner information as to the amount of income or any particulars, including the business affairs of a corporation, set forth or disclosed therein." There may be other sections of the Rev. & Tax Code which say the other things in Fact # 6 but I don't know what they are and cannot, therefore, agree with the statement. The statutes on which you rely should be cited, along with the pertinent words of each cited section. Paraphrasing runs the risk of raising an objection to the words chosen to describe the contents of the statute.
7. There should be citations to the applicable sections along with pertinent words from each cited section for reasons stated with regard to Fact # 6.
8. There should be citations to the applicable sections along with pertinent words from each cited section for reasons stated with regard to Fact # 6.

9. If there is evidence showing “[m]any low-income households do not file tax returns,” it should be referenced. If there is evidence showing FTB tax data can not be used to verify the income levels of customers in lower income brackets because low-income households fail to file tax returns, the evidence should be referenced. Otherwise I am unable to agree that the statement is an undisputed fact.
10. The feasibility of automatic verification of customers’ income is an opinion which the Commission is being asked to decide. If there is an indisputable fact that supports a finding to that effect, it should be referenced. Evidence that the FTB will not have data for all customers should be referenced. Otherwise I am unable to agree that the statement is an undisputed fact.
11. I struck the phrase “and will require explicit consideration when evaluating different proposals because: a) I don’t understand it; and b.) it is an opinion not a fact. I changed may to will because “may be” is a guess whereas “will be” is a fact.
12. I changed may to will because “may be” is a guess whereas “will be” is a fact.
13. I will leave it to other parties to decide whether this is an undisputed fact.
14. I will leave it to other parties to decide whether this is an undisputed fact.

The change on page 12 is to demonstrate that there is a reason why we haven’t decided whether there are material facts in dispute.

I made the change on page 14 because the statement is inaccurate. We discussed “the role of the June 19, 2023, ruling on the Scoping Memo and proceeding” at the previous meet and confer (June 15, 2023), not on August 2, 2023. In addition, I was not aware that this was still an issue. In fact, the draft JCMS implies that issues raised since the Scoping Memo are now on the table for inclusion in the JCMS:

Because the recent Opening Comments included new information regarding proposals for a first version IGFC and reply comments are pending, the parties have done their best to present the required JCMS information but reserve the right to modify their positions based on completion of review of the July 31 Opening and the upcoming August 21 Reply Comments.

There is no justification for bringing this issue up at the Status Conference. If you do not delete the phrase I struck through on page 14, I am opposed to the proposal to request a status conference and the statement, “No parties opposed the proposal to request a status conference,” should be changed accordingly.

The other change on page 14, the addition of the words “on that ruling,” is meant to clarify which Opening and Closing Comments we are talking about.

I have deleted the paragraph on page 15 because the question is a legal one and should be fully briefed and decided in writing, not during a discussion at a Status Conference. Some of the issues presented by the issue referenced in the JCMS are:

- There has been no lawful litigation, i.e., litigation in which customers affected by the rate change have been allowed to address issues relevant to the approval of the first version of IGFCs. In order to have “re-litigation”, there must first be litigation
- Customers of the Joint Utilities are not bound by any ruling made in this proceeding because they did not participate in the proceeding. A ruling on the question of whether the first version of IGFCs complies with California statutes will not be binding on residential customers and those customers cannot be precluded from raising issues about the reasonableness of fixed charges because they are not part of this proceeding.
- Residential customers have due process rights to be notified and heard before the utility can charge them pursuant to a new or changed rate.
- As stated in Section “I.” of my Opening Comments on the June 19 Ruling, that Ruling does not explicitly state that residential customers will be notified and allowed to participate in this proceeding before fixed charges are authorized. If residential customers do not participate in this proceeding, first version IGFCs are unlawful
- The June 19 Ruling says the Proposed Decision will include “Directions for each IOU to file a rate design window application for approval of the first version of IGFCs” No rules regarding a Rate Design Window application exist and there is no guarantee that in a Rate Design Window application, customers will be given notice of such a proceeding at a meaningful time, or be allowed a meaningful opportunity to be heard on the issue of whether an IGFC is reasonable.
- The filing of an Advice Letter implementing IGFCs does not satisfy the requirements of the Advice Letter procedure. “The advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial nor to raise important policy questions. The advice letter process does not provide for an evidentiary hearing; a matter that requires an evidentiary hearing may be considered only in a formal proceeding.” GO 96(b), sec. 5. The “Advice Letter” referenced in the Draft JCMS involves a controversial and policy matter.

If you have any questions about the proposed changes to the JCMS, please ask.

cc. James Whelen

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Advance Demand Flexibility Through
Electric Rates.

Rulemaking 22-07-005

JOINT CASE MANAGEMENT STATEMENT FOR TRACK A

I. INTRODUCTION

Pursuant to the Assigned Commissioner’s Phase 1 Scoping Memo and Ruling (Scoping Memo),¹ Pacific Gas & Electric Company (PG&E) submits this Joint Case Management Statement for Track A on behalf of the parties to this proceeding.² On June 19, 2023, the Administrative Law Judge (ALJ) issued a Ruling on the Implementation Pathway for Income-Graduated Fixed Charges (June 19 Ruling) that changed the due date for this Joint Case Management Statement to July 31, 2023 from July 14, 2023.³ On July 18, 2023 the assigned ALJ granted the Joint IOUs’ request to extend the date of the Joint Case Management Statement (JCMS) to August 11, 2023.

II. PROCEDURAL BACKGROUND

The Scoping Memo states that “Track A of Phase 1 may include contested, material issues of fact” and that the assigned ALJ would “determine whether evidentiary hearings are needed for Track A based on the joint case management statement.”⁴ Accordingly, the Scoping

¹ Assigned Commissioner’s Phase 1 Scoping Memo and Ruling, p. 8 (November 2, 2022).

² There are currently 75 parties to this proceeding. As discussed further below of these, ___ have either participated in one of the meet-and-confer calls and/or responded by email to the draft Case Management Statement PG&E served on all parties for their review on August 4, 2023. See the lists of parties set forth in Section II of this document, below.

³ ALJ Ruling on the Implementation Pathway for Income-Graduated Fixed Charges, p. 1.

⁴ Scoping Memo at p. 7.

Memo ordered the parties to “meet and confer to clarify and narrow contested facts and issues and explore the possibility of settlement or stipulations in lieu of evidentiary hearings for Track A.”⁵ The Scoping Memo ordered PG&E to “coordinate with parties to serve a joint case management statement for Track A by July 14, 2023 with the following information:

- o A list of stipulated facts;
- o The status of any settlement negotiations;
- o Either (i) a waiver of evidentiary hearings from all parties, or (ii) a list of parties requesting evidentiary hearings; and
- o If requesting evidentiary hearings, the joint case management statement should include a list of disputed material facts, estimates of time needed for evidentiary hearings, and an explanation of the time estimates.”⁶

Pursuant to the schedule included in the Scoping Memo, PG&E served on all parties an invitation to an initial meet and confer, which was held via conference call on June 15, 2023, to allow parties to begin discussing the need for evidentiary hearings and developing the JCMS. The participants agreed that a second meet-and-confer conference call should be held. The following parties participated attended in the initial meet and confer on June 15:

- Alexis K. Wodtke
- Bear Valley Electric Service
- CA Efficiency & Demand Management Council (The Council)
- Public Advocates Office at the CPUC (Cal Advocates)
- California Community Choice Association (CalCCA)

⁵ *Id.* at p. 8.

⁶ *Id.*

- California Energy Storage Alliance (CESA)
- California Environmental Justice Alliance (CEJA)
- California Manufacturers and Technology Association (CMTA)
- California Solar & Storage Association (CALSSA)
- Clean Coalition
- Clean Power SF
- Coalition of California Utility Employees (CUE)
- Electrify America
- Joint IOUs (PG&E, SDG&E, SCE)
- Google Nest
- GRID2.0
- Gridtractor Inc. (Gridtractor)
- Natural Resources Defense Council (NRDC)
- PacifiCorp d/b/a Pacific Power (PacifiCorp)
- Polaris
- Solar Energy Industries Association (SEIA)
- Sierra Club
- The Utility Reform Network (TURN)

As mentioned above, following the parties' initial meet and confer, the ALJ issued her June 19 Ruling regarding a potential Track A Proposed Decision in the first quarter of 2024, to include: (i) authorization of IGFCs for residential rates, (ii) directions for each IOU to file rate design window applications for approval of their respective first versions of the IGFC, (iii) guidelines for the design of the first version of the IGFC, (iv) interpretation of AB 205's

requirement for IGFCs, (v) authorization of working groups, workshops, and/or funding for consultants to develop marketing, education, and outreach (ME&O) plans as well as income verification proposals for the next versions of IGFCs, and (vi) a timeline and procedure for developing future IGFCs. The ALJ's June 19 Ruling also extended the deadline for filing the JCMS to July 31, 2023. And, as mentioned above, the ALJ subsequently granted the Joint IOUs' request to further extend that JCMS deadline to August 11, 2023.

On July 26, 2023, PG&E served notice on all parties that a second meet-and-confer would take place by conference call. This second meet-and-confer was held on August 3, 2023, ~~to continue discussing the items required to be addressed in the JCMS per the Scoping Memo, among other procedural issues.~~ The following parties ~~participated on~~ were on the Microsoft "Teams" the August 3, 2023, conference call:

- 350 Bay Area
- Alexis K. Wodtke
- Bear Valley Electric Service
- The Council
- Cal Advocates
- CalCCA
- California Energy Storage Alliance (CESA)
- CEJA
- CMTA
- California Solar & Storage Association (CALSSA)
- Center for Accessible Technology (CforAT)

- Center for Energy Efficiency and Renewable Technologies (CEERT)
- CUE
- Joint IOUs
- Google Nest
- GRID2.0
- Gridtractor
- Leapfrog Power, Inc. (Leapfrog)
- Liberty Utilities (Calpeco Electric) LLC (Liberty)
- NRDC
- PacifiCorp
- Polaris
- SEIA
- Sierra Club
- TURN

On August 4, 2023, PG&E circulated a draft of this Joint Case Management Conference Statement to the service list to allow all parties to review and provide comments. The following parties submitted revisions and/or comments: [PLACEHOLDER] On August 10, 2023, PG&E sent a copy of the final consolidated draft JCMS, seeking confirmation that PG&E had authority to file it on August 11 on behalf of parties' pursuant to ~~the Scoping Memo and~~ Rule 1.8 (d) of the Commission's Rules of Practice and Procedure. **[TOTAL NUMBER A]** ~~parties affirmatively responded to PG&E's email and expressly granted PG&E authority to file this JCMS on their behalf.~~⁷ Due to the large number of parties in this proceeding, if a party is unnamed above, then

⁷ Insert list of party respondents

they did not provide PG&E with an email response on the August 7, 2023 draft in time for it to be included in this filing. However, none of the remaining [NUMBER B = 72 minus subtract NUMBER A] parties voiced any objection to PG&E filing this JCMS, in compliance with the Scoping Memo.

Sections III and IV include parties' positions in response to each JCMS topic required in Scoping Memo, as well as other procedural issues to date.

Because this JCMS was required to be filed August 11, 2023, many parties expressed concern at the August 2 meet-and-confer that they may not have had an adequate opportunity to fully review or do discovery on all 17 sets of Opening Comments, filed in response to the ALJ's June 19 Ruling, including specifics about their proposed first step IGFC if the CPUC adopts a gradual glidepath approach. Indeed, it would be impossible, for purposes of this JCMS filing to both propound and receive substantive responses to data requests seeking clarification of parties' assertions of material fact regarding their July 31, 2023, Opening Comments. Furthermore, at the August 2, 2023, meet-and-confer, many parties also expressed concern that the deadline for this August 11 JCMS means no one will have had the opportunity to even see any party's August 21 Reply Comments. Because the recent Opening Comments included new information regarding proposals for a first version IGFC and reply comments are pending, the parties have done their best to present the required JCMS information but reserve the right to modify their positions based on completion of review of the July 31 Opening and the upcoming August 21 Reply Comments.

As described below, the parties participating on in the August 2 meet-and-confer call all support this JCMS including a respectful request that the Commission notice and hold a Status Conference by the end of August or early September to discuss parties' procedural questions.

Following such Status Conference, parties are open to filing a subsequent Joint Case Management Conference Statement that updates parties' positions on whether evidentiary hearings are required, the nature of contested issues of material fact (to streamline any such hearings), as well as to report on the status of any settlement discussions.

III. MATTERS RULE 13.9, INCORPORATED IN THE SCOPING MEMO, REQUIRES THE JCMS TO ADDRESS

The Parties provide the following responses as to the four categories of information that Rule 13.9 incorporated in the Scoping Memo requires to be provided in this Joint Case Management Statement.

A. List of Stipulated Facts

Preface. PG&E stated during the August 2, 2023, Meet and Confer meeting that each party would be given an opportunity to propose stipulated facts and if those facts were not included in the List of Stipulated Facts which has been made a part of this Joint Case Management Statement, parties' proposals would be filed as appendices to the JCMS. This promise was made in response to parties' concerns about PG&E's ability to exclude certain stipulated facts which it did not deem relevant. Consequently, this List of Stipulated Facts is not comprehensive and additional stipulated facts may be added to this list if the ALJ considers them relevant and they are not disputed.

The following is a proposed set of undisputed facts based on parties' initial assessment of the record to date, but is subject to change based on parties' further review.

1. Residential ~~volumetric~~ electricity rates in California have long been above the national average and are projected to continue growing at a rapid pace over the next decade across the three large investor-owned utilities (IOU).

2. ~~Rising rates threaten to undermine the state's policy goals around electrification and decarbonization, in addition to exacerbating affordability issues.~~

3. AB 205 was introduced in the Assembly on January 28, 2021, and passed with only 18 words: "It is the intent of the Legislature to enact statutory changes related to the Budget Act of 2021." No words were added to AB 205 in the Senate until four days before the 2021-2022 Legislative session ended. On June 26, 2022, a 21,627 word amendment was made to the bill, which then included amendments to five different California Codes, including the Public Utilities Code. On June 29, 2023, both houses of the Legislature approved the amendment and the bill was signed by the Governor on June 30, 2022.

The California legislature passed AB 205 and the Governor signed that bill into law on June 30, 2022, and it was recorded by the Secretary of State on that same day as Chapter 61 of the Statutes of 2022, which amended Section 739.9 of the Public Utilities Code regarding fixed charges for residential customers.

4. ~~In approving AB 205, the California legislature found that: (a) many electric costs which are currently recovered on a volumetric basis do not actually depend on the amount of electricity consumed by individual electric customers, and (b) that this mismatch between cost causation and retail rates is leading to rate volatility and inequities among customers.~~

5. ~~A goal of implementing higher~~ In order to remain revenue neutral, an increase in fixed charges is to reduce volumetric rates by shifting recovery of non-volumetric costs from the usage-based rate component.

6. Revenue and Taxation Code Section 19452 ~~prohibits~~ of the Franchise Tax Board of California (FTB) from providing personal financial information without taxpayer authorization, and this restriction applies to confirmation of any self-reported income data from the taxpayer.

7. ~~The FTB has a process for taxpayers to authorize disclosure of their data through submission of a form, but this authorization only allows for disclosure of the income of the individual taxpayer, not the entire household.~~

8. ~~Without statutory authorization, the FTB would not be able to verify income information for taxpayers without their written consent.~~

9. ~~Many low-income households do not file tax returns, which limits the usefulness of FTB tax data for verifying the income levels of customers in lower income brackets.~~

10. ~~Automatic verification of all customers' incomes through FTB data is not feasible without legislation, and FTB will not have data for all customers.~~

11. Implementation of income-graduated fixed charges will be complex and costly to effectively implement AB 205 requirements. ~~Administrative costs may will be significant and will require explicit consideration when evaluating different proposals.~~

12. The time required to adjust billing systems, establish new income verification processes, and educate customers about the forthcoming changes ~~may will~~ be considerable.

13. IOU implementation cost categories for a fixed charge pursuant to AB 205 will include: (a) IT billing modifications, (b) Staffing needs for various income verification/self-attestation designs, (c) third-party administrator costs, and (d) Marketing, education, and outreach.

14. CARE-exempt charges include the CARE surcharge, the Wildfire Fund charge, the Self-Generation Incentive Program charge, and the Wildfire Hardening Fixed Recovery charge.

Status of Settlement NegotiationsAs of the date of this JCMS, settlement negotiations among subsets of parties have been informal and minimal due to the press of other deadlines and the potential changed approaches outlined in the ALJ June 19, 2023, Ruling. The Joint IOUs initially met on an informal basis with certain parties in early spring 2023, prior to their submittal of Opening and Reply testimony. No formal notice of settlement conference has yet been served pursuant to Rule 12.1(b).

Parties anticipate that after the filing of Reply Comments responding to the June 19, 2023 Ruling, parties will be better able to continue to engage in good faith settlement negotiations

pursuant to CPUC Rule 12.6. Given the large number of parties (72) and the breadth and novelty of the issues in Track A, it is possible that any settlement that might emerge may not include all parties or cover all contested issues. The parties would note that, pursuant to the CPUC's Rules of Practice and Procedure 12.1(a), a motion proposing a settlement may be filed up to 30 days after the last day of evidentiary hearings.

B. Party Positions on Whether Hearings are Required

Parties' review and determination of whether evidentiary hearings are required is based on the testimony and comments submitted to date. Parties recognize the record may be incomplete since reply comments to the June 19, 2023 Ruling are pending. In addition, a status conference may clear up certain procedural ambiguities in this proceeding. Therefore, parties reserve the right to modify their position on whether evidentiary hearings are required based on completion of review of the opening and reply comments related to the June 19, 2023 Ruling and the outcome of any status conference. Notwithstanding above, parties provide their best judgment of whether evidentiary hearings are required:

- Parties who currently believe evidentiary hearings are required:
 - Cal Advocates
 - SEIA
 - Sierra Club
- Parties who have no opinion or are still waiting to read Reply Comments responding to the June 19 ruling before deciding whether there are material facts in dispute:
 - 350 Bay Area
 - Alexis Wodtke

- o Bear Valley Electric
- o CESA
- o CMTA
- o Grid2.0
- o PacifiCorp
- While the following parties do not currently believe evidentiary hearings are required, if evidentiary hearings were scheduled, several of these parties indicated that they expect to participate:
 - o CalCCA
 - o CALSSA
 - o CEERT
 - o CEJA
 - o CforAT
 - o The Council
 - o CUE
 - o GridTractor
 - o Joint IOUs
 - o Leap
 - o Liberty
 - o NRDC
 - o Polaris
 - o Google Nest
 - o TURN

C. Disputed Material Facts, Estimates of Time Needed for Evidentiary Hearings, and Explanation of Time Estimates

During the two meet-and-confer conference calls, and pursuant to the Scoping Memo, it was agreed that each party requesting evidentiary hearings would provide PG&E with a separate statement identifying what that Party currently views as the disputed material facts, as well as an estimate of time needed for that party to address those issues in hearings and an explanation of their time estimates. Accordingly, the full and complete statements of CalAdvocates, SEIA, and Sierra Club are attached hereto as Appendix A.

For purposes of this JCMS, neither PG&E nor any other party makes representations or takes any positions on the statements made by CalAdvocates, SEIA, and Sierra Club in Appendix A, at this time. Parties anticipate they will have the opportunity to substantively comment on those statements at the appropriate time.

IV. REQUEST FOR STATUS CONFERENCE AND UPDATED JOINT CASE MANAGEMENT STATEMENT

During the August 2, 2023 meet and confer, the Joint IOUs and other parties expressed concern with (1) the procedural schedule, (2) the role of the June 19, 2023 on the Scoping Memo and proceeding, and (3) filing this joint case management statement prior to parties' respective Reply Comments. The Joint IOUs proposed, for discussion: (1) requesting a status conference with the ALJ, and (2) an updated joint case management statement enough after Reply Comments and/or any status conference if the request were granted. Parties overwhelmingly supported this proposal, although two parties stated that they had no strong opinion. No parties opposed the proposal to request a status conference.

Therefore, due to the number of parties involved in this proceeding and the complexity of the issues, parties respectfully request the Commission notice and hold a three-hour status conference sometime in late August or early September. Below is a list/Appendix B includes a list of issues that parties identified for discussion in the status conference.

- How the June 19 ALJ Ruling and parties' Opening and Reply Comments on that Ruling impact the Track A schedule originally set forth in the November 2, 2022 Scoping Memo
 - A discussion about what might be the appropriate timing for any evidentiary hearings (if determined necessary) and to hear the ALJ's initial thoughts about evidentiary hearings based on this JCMS and Reply Comments;
 - ~~Whether the Track A schedule set forth in Scoping Memo can allow for first version of IGFC in a Proposed Decision to be issued early 2024 via Advice Letters (as several parties including TURN have suggested), without re-litigating such issues through Rate Design Window applications after the issuance of a final decision in Q2 2024?~~
 - What should be the focus of the Opening and Reply briefs and when should those briefs be due? (I.e. should briefs address all Track A issues as set forth in the Scoping Memo, or should parties focus on the proposed Initial Versions of the IGFC, leaving other more complex versions for future ratemaking proceedings)
- Whether comments provided in response to the June 19 Ruling would be received into evidence as testimony and be eligible to be entered into the record, to facilitate citation in closing briefs?
- What other factual/evidentiary development is needed to give the Commission and the

ALJ what they need to approve the first version of IGFC?

Following the Status Conference, several parties indicated an interest in being able to submit an updated JCMS. Such an update could include an updated status of settlement discussions, any changes to parties' positions regarding whether evidentiary hearings are required, and parties' revised list of disputed material facts. Ideally, the updated JCMS could be filed and served after the status conference but before the scheduled start of evidentiary hearings, to (1) be responsive to any directives stemming from the status conference, (2) allow time for parties to begin to engage in good faith settlement discussions, and (3) if possible, limit the scope of the issues for hearings.

However, if parties' request herein for a Status Conference is not granted, then parties reserve the right to work together to file and serve an updated Joint Case Management Statement no sooner than two weeks after the August 21, 2023 deadline for filing Reply Comments, as well as before any scheduled evidentiary hearings begin.

V. CONCLUSION

The Parties appreciate this opportunity to submit this Joint Case Management Statement.

Respectfully Submitted,

JENNIFER C. REYES LAGUNERO

By: /s/ Jennifer C. Reyes Lagunero
 JENNIFER C. REYES LAGUNERO

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Dated: August 11, 2023

Attorneys for
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DRAFT

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Advance Demand Flexibility Through Rates	Rulemaking 22-07-005
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**STIPULATIONS OF FACT PROPOSED BY ALEXIS K. WODTKE
FOR USE IN PG&E'S CASE MANAGEMENT STATEMENT**

1. Regulation is an exercise of the police power of the state, over an industry that is “affected with the public interest.” Its need arises primarily from the monopoly characteristics of the industry, and its general objective is to ensure the provision of safe, adequate, and reliable service at prices (or revenues) that are sufficient, but no more than sufficient, to compensate the regulated firm for the costs (including returns on investment) that it incurs to fulfill its obligation to serve.
2. Section 2 of Article 12 of the California Constitution states: “Subject to statute and due process, the commission may establish its own procedures.”
3. The Public Advocate's Office (also known as Cal Advocates) was created in 1984 and is charged with helping ensure Californians are represented at the California Public Utilities Commission.¹
4. The Commission initiated a rulemaking (R.22-07-005) in which it said it will “modify electric rates” to advance certain stated objectives, including reduc[ing] long-term system costs through more efficient pricing of electricity.²
5. PG&E has not formally notified residential customers of the actions undertaken in this proceeding to change their rates and collect fixed charges.
6. Notice that the Commission planned 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)” was first provided to residential customers by means of newspaper articles on or about April 12, 2023.³

¹ <https://www.publicadvocates.cpuc.ca.gov/about>

² “Order Instituting Rulemaking To Advance Demand Flexibility Through Electric Rates” (R.22-07-005 July 22, 2023) at 1, 6)

³ Assigned Commissioner's Phase 1 Scoping Memo And Ruling (November 2, 2022) at 2; “PG&E Monthly Bills Could Jump For Many Customers Due To New State Law. Customer Monthly Bills Will Include A Fixed Charge Based On Income” (April 10, 2023)

<https://www.mercurynews.com/2023/04/12/pge-month-bill-jump-electric-gas-price-consumer-utility-income-economy/>; S. Shelley “California's Absurd Energy Policies” (L.A. Daily News April 22, 2023).

<https://www.dailynews.com/2023/04/22/californias-absurd-energy-policies/>;

<https://www.sandiegouniontribune.com/business/story/2023-04-10/a-fixed-monthly-charge-is-coming-to-your-electric-bill-will-it-make-ca-rates-more-affordable> (April 13, 2023);

<https://www.sfchronicle.com/bayarea/article/pge-utility-electricity-bills-restructure-plan-17895445.php>

7. Over 460 Public Comments posted on the Commission's web site for R.22-07-005 oppose, with very few exceptions, the proposal to charge residential customers for electricity on the basis of their income.
8. Residential customers have not been given an opportunity to file a protest in this proceeding and present evidence related to the Public Advocate Office's proposal to "[d]efault all non-CARE/FERA customers to the highest adopted tier [to] make it more likely that customers eligible for a lower tier will opt to income verify."⁴
9. The Public Advocate Office's proposal to "[d]efault all non-CARE/FERA customers to the highest adopted tier [to] make it more likely that customers eligible for a lower tier will opt to income verify"⁵ violates Commission Ratemaking Principle No. 1 by denying them access to "enough electricity to ensure that their essential needs are met at an affordable cost."
10. The Public Advocate Office's proposal to "[d]efault all non-CARE/FERA customers to the highest adopted tier [to] make it more likely that customers eligible for a lower tier will opt to income verify" would eviscerate residential customers' right to keep income information private.
11. The Commission's Administrative Law Judge has held PG&E's failure to notify residential customers in accordance with Public Utilities Code section 454(a) and Cal. Code Regs. Tit. 20, §3.2 is reasonable.⁶
12. The Commission's Administrative Law Judge has not yet ruled on Briefs filed in response to the "Administrative Law Judge's Ruling Requesting Track A Briefs On Statutory Interpretation" issued December 9, 2022.
13. The Commission has recently adopted rate design "principles" in D.23-04-040. That decision speaks for itself.
14. The Commission adopted an updated Distributed Energy Resources Action Plan (DER Action Plan 2.0) in April 2022, which includes a plan for real-time pricing rates.
15. The Commission has never conducted a rulemaking proceeding establishing rules for consideration of rates outside the general structure of a General Rate case, e.g., a "rate design window application".
16. There are no rules governing a "rate design window application" to inform the public of such factors as when notice to affected customers is to be provided, the category of the proceeding, the type of evidence to be considered, the kind of hearing to be held to evaluate the evidence, or other procedural requirements.
17. Merriam Webster defines "principle" as "a comprehensive and fundamental law, doctrine, or assumption."
18. In D.23-04-040, the Commission said about its rate design principles, "We recognize the continued importance of conserving energy during high cost and high-GHG emissions hours. . . . "[W]e will replace the reference to "energy efficiency" with "economically efficient use of energy" to encourage conservation of energy during high-cost periods in addition to energy efficiency."⁷

⁴ PAO 7/31 Comments at 30

⁵ PAO 7/31 Comments at 30

⁶ Administrative Law Judge's Ruling To Deny Motion To Dismiss (Aug. 2, 2023) at 3.

⁷ D.23-04-040 at 14.

19. Rates designed in this proceeding (R.22-07-005) should be designed with reference to the Rate Design Principles approved in D.23-04-040.⁸
20. Rates designed in this proceeding (R.22-07-005) must be made in compliance with all applicable Public Utility Code statutes.
21. California Public Utilities Code section 479.6 states: “The commission shall establish rates using cost allocation principles that fairly and reasonably assign to different customer classes the costs of providing service to those customer classes, consistent with the policies of affordability and conservation.”
22. Proposals by parties in R.22-07-005 for income-graduated fixed charges and attendant volumetric rates are not based on the cost of serving residential customers.
23. The Energy Division proposal, CalFUSE, fails to take into account the role income -graduated fixed charges will play in “develop[ing] a universal approach to flexible demand and DER (Distributed Energy Resources).
24. The Energy Division proposal, CalFUSE, states demand response is a critical resource in integrated resource planning (IRP).⁹
25. The Energy Division proposal, CalFUSE, recommends that “the CPUC establish an ambitious policy vision: To achieve widespread customer adoption of low-cost, advanced flexible demand and DER management and compensation solutions across the state (and beyond) via a unified, universally accessible, dynamic economic signal.”¹⁰
26. The Energy Division proposal, CalFUSE, describes a “comprehensive policy roadmap, the centerpiece of which is a unified, universally accessible, dynamic, economic retail electricity price signal”¹¹.
27. The new [rate design] principles “have incorporated continued conservation during high demand periods into the goal of “economically efficient use of energy.”¹²

⁸ PAO 7/31 Comments at 14: “The IGFCs adopted by the Commission should follow the Electric Rate Design Principles. No parties opposed doing so and some parties used the principles to support their own proposals.; Council 7/31 Comments at 6: “The Council reiterates the value of ensuring the income graduated fixed charge is structured under the recently updated Electric Rate Design Principles”; 350BA 7/31 Comments at 12: 350BA believes that each of the Electric Rate Design Principles are relevant, as discussed below. While there are many potentially competing goals and principles, it is incumbent upon the Commission to seek to achieve each goal through the alternatives which have the least contrary effect on other goals.

⁹ CPUC Energy Division, Advanced Strategies for Demand Flexibility Management and Customer DER Compensation” at 1
<https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/demand-response/demand-response-workshops/advanced-der---demand-flexibility-management/ed-white-paper---advanced-strategies-for-demand-flexibility-management.pdf> This white paper was referenced in the Commission’s ““Order Instituting Rulemaking To Advance Demand Flexibility Through Electric Rates” (R.22-07-005 July 22, 2023) at 6.

¹⁰ *Id.* at 2

¹¹ *Id.* at 3.

¹² SEIA 7/31 Comments at 7

28. There will be significant bill increases for ratepayers in the top income tiers, particularly for middle- and upper-income customers in cooler coastal climate zones where electric use is lower, if certain IGFC proposals are adopted.¹³
29. The ALJ's June 19, 2023 Ruling on Implementing IGFCs "speaks for itself".
30. Household income data is not currently available for use in assigning residential customers into income brackets.¹⁴In order to make customers "aware," and then further "informed,"¹⁵ the Joint Utilities must first find out what customers know and think about income-graduated fixed charges.
31. Residential customers have not been given an opportunity to file a protest in this proceeding and present evidence and opinions in this proceeding related to potential "directives from the final decision in this proceeding establishing the basic framework for the Future Version IGFC".¹⁶
32. Residential customers have not been given an opportunity to file a protest in this proceeding and present evidence for inclusion in the record of this proceeding concerning the design of IGFCs for all the utilities.¹⁷
33. Residential customers have not been given an opportunity to file a protest in this proceeding or to present evidence related to a finding about what cost categories ("category-eligibility issues") can be included in IGFCs.
34. The issue of what cost categories can be included in IGFCs has not been litigated in a proceeding initiated pursuant to an application, with notice to residential customers and an opportunity for them to protest and be heard on that issue.
35. Any decision issued in this proceeding which addresses the issue of what cost categories can be included in IGFCs is not binding on any residential customer because residential customers were not given an opportunity to be heard on that issue.¹⁸
36. The issue of what cost categories can be included in the IGFC will need to be relitigated in the future when an application proposing implementation of new and changed rates (the IGFC) is made to the Commission in accordance with Public Utilities Code section 454(a).¹⁹
37. Rule 14.6 of the Commission's Rules of Practice & Procedure explicitly state , "A rate increase is not an unforeseen emergency situation" which would allow the Commission to "reduce or waive the period for public review and comment on proposed decisions . . .and their alternates."
38. The creation of a process for identifying income of residential customers will be costly, particularly if a third party administrator is hired to develop income data.

¹³ SEIA 7/31 Comments at 16

¹⁴ JIOU 7/31 Comments at 4

¹⁵ JIOU 7/31 Comments at 6

¹⁶ JIOU 7/31 Comments at 12.

¹⁷ PAO 7/31 Comments at 3

¹⁸ *Res judicata* applies only if "the party against whom the doctrine is being asserted was a party or in privity with a party to the prior proceeding." *Boeken v. Philip Morris USA, Inc.*, 48 Cal.4th 788, 797 (Cal. 2010).

<https://www.courts.ca.gov/opinions/archive/S218597.PDF>

¹⁹ JIOU 7/31Comments at 22, 30, 35; PAO 7/13 Comments at 3.

39. The Commission has been asked to authorize charges to customers to cover the cost incurred by entities obtaining customer income data.
40. The cost which will be imposed on residential customers to obtain customer income data will add to the already high costs of electricity in California.
41. In recent years, [California's] residential ratepayers invested billions in the largest installation of advance metering infrastructure (AMI) in the country.²⁰
42. The purpose of installing advanced metering infrastructure was to "allow for more accurate allocation of costs and for energy rates to more fairly reflect the cost of service."²¹
43. Bills of residential customers which are figured on the basis of what they earn do not "more fairly reflect the cost of service."
44. The U.S. and California Constitution' protect residential customers' right to privacy.
45. "The process of assigning all of California's residential electric customers to income categories is unprecedented."²²
46. "The process of assigning all of California's residential electric customers to income categories . . . requires capabilities and processes that are best administered by a state agency."²³
47. "The process of assigning all of California's residential electric customers to income categories is "far beyond prior utility experience and capabilities."²⁴
48. Any entity which collects private data concerning individual household income is subject to breaches of its system and the release of personal and private customer data.
49. Rules of California state agencies prohibit the release of individual citizens' private information without their consent.²⁵
50. It is unlikely that "a broader data source, such as Franchise Tax Board data," will become available in the future.²⁶
51. No party has yet been able to offer a definitive proposal for the collection of income data from customers other than CARE and FERA recipients

²⁰ D.15-07-001 at 1.

²¹ *Id.*

²² JIOU Opening Testimony at 2:5-10

²³ *Id.*

²⁴ *Id.*

²⁵ The Franchise Tax Board <https://www.ftb.ca.gov/your-rights/privacy/index.html>; Procedures Manual, Map 2. <https://www.ftb.ca.gov/tax-pros/procedures/manual-of-audit-procedures/chapter-2.pdf>; DSS: <https://www.cdss.ca.gov/ord/entres/getinfo/pdf/1cfcman.pdf>; Census Bureau: <https://www.census.gov/content/dam/Census/library/factsheets/2021/protecting-the-confidentiality-of-the-2020-census-redirecting-data.pdf>; CPUC D.11-07-056 July 28, 2011 <https://www.cpuc.ca.gov/about-cpuc/privacy-policy>

²⁶ PAO 7/31 Comments at 5

52. Payroll data is not a good indicator of household income because it leaves significant gaps for customers whose income is not based on reported payroll wages.²⁷
53. Data retention systems of Equifax, one of the three largest consumer credit reporting agencies in the United States, have been breached and in one such breach, the sensitive personal data of 148 million Americans was compromised.²⁸
54. Income-Graduated Fixed Charges deleteriously affect the distributed energy resource managers' efforts to coordinate the development of distributed energy resources which will mitigate the increasing rate of electric service costs.²⁹
55. More detailed discussions concerning how to adjust off-peak rates more specifically (e.g., reduce the off-peak period only) are best addressed in each IOU's GRC2s. Marginal costs, load shapes, avoided costs, price differentials, bill impacts and cost shifting analyses are typically conducted in respective GRC2s.³⁰
56. IGFCs "must be accompanied by other rate design changes – such as larger TOU differentials in default TOU rates – if all of the goals set forth in the statute are to be achieved."³¹
57. Existing TOU rates do not reflect the actual mix of demand and energy resources which are now supplying residential customers with electricity.
58. Time of Use rates must be redesigned to reflect anticipated increases in customer usage during peak and off-peak periods attributable to beneficial electrification.
59. In D.20-12-005 (Dec. 3, 2020) the Commission determined what were "reasonable" costs from which to set rates charged PG&E customers. Data it reviewed in that case is at least four years old.
60. Volumetric rates in existing residential rate structures were approved by the Commission in D.20-12-005.
61. The Commission has not yet determined, in Application 21-06-021, whether to grant PG&E's request for a 2023 TY revenue requirement of \$15.819 billion for its gas and electric distribution, gas transmission and storage, and electric generation programs. "This represents an approximately 29.5% increase over the 2022 adopted revenue requirement of \$12.214 billion."³²
62. The record does not show the extent to which PG&E is collecting more or less revenue than the revenue requirement(s) found reasonable in D.20-12-005
63. There is no planned reconciliation, in this proceeding, of the costs considered in setting the IGFC with costs found reasonable in D.20-12-005.

²⁷ JIOU 7/31 Comments at 56

²⁸ The personal data included credit card numbers, names, home addresses, phone numbers, dates of birth, social security numbers, and driver's license numbers. Electronic Privacy Information Center, *Equifax Data Breach*, <https://archive.epic.org/privacy/data-breach/equifax/>

²⁹ CE+DM Council 7/31 Comments at 3

³⁰ PAO 7/31 Comments at 7

³¹ SEIA 7/31 Comments at 6; PAO 7/31 Comments at 6; 350 7/31 Comments at 6

³² Application 21-06-021, Order Extending Statutory Deadline (7/19/2023) at 1-2.

64. There is no planned review of the combined effects of changes made to rates in this proceeding and changes made to rates in the Joint Utilities' General Rate Cases, Phase II.
65. There is no evidence in the record to support findings that:
- a. "This restructuring of residential rates will not result in any change to the amount of revenue that electric utilities collect." ³³
 - b. Lower volumetric rates encourage customers to install beneficial electrification technologies.
 - c. Volumetric rate levels the Joint Utilities propose, after the collection of proposed fixed costs, will "ensure that building electrification measures can provide bill savings for the average customer relative to the status quo rate structure".³⁴
 - d. The percent of a low-income customer's income they can afford to pay for electricity.
 - e. "higher average IGFCs targeted to medium and high-income customers," will "substantially improve[] the financial incentives for electrification adoption"³⁵
66. Reducing the price of electricity encourages use of a greater amount of electricity, all other things being equal.
67. It will be more difficult for customers paying a fixed charge to reduce their bills by reducing usage.
68. Increased electric rates reduce the amount of money available in a household's budget to be spent on electrification investments.³⁶
69. A customer who responds to rates designed to encourage beneficial electrification by replacing gas use with electric use will purchase less gas from the gas utility supplying service.
70. A gas utility may be unable to collect revenue sufficient to cover its costs if beneficial electrification is achieved through the reduction in gas use..
71. The Commission may be asked to require electric and/or gas customers to pay the amount necessary to compensate a gas utility for losses resulting from beneficial electrification.
72. Each of the utilities filing Joint Testimony is a private corporation.
73. The California Public Utilities Commission has given each of the Joint IOUs the opportunity to earn enough revenue to cover costs in their General Rate Cases, unless unforeseeable events make it necessary to change rates.
74. General Order 96B Section 5.1 (Matters Appropriate to Advice Letters) states "The advice letter process provides a quick and simplified review of the types of utility requests that are expected neither to be controversial

³³ ALJ June 19 Ruling at 2.

³⁴ JIOU 7/31 Comments at 15

³⁵ PAO 7/31 Comment at 4-5

³⁶ JIOU Opening Testimony at 10:8-12

nor to raise important policy questions. The advice letter process does not provide for an evidentiary hearing; a matter that requires an evidentiary hearing may be considered only in a formal proceeding”..

75. Privately owned electric utilities are expected to “maximize efficiency within an organization, increase the organization’s productivity, increase profits while reducing costs, and ensure the production and delivery of high-quality products or services that suit consumers’ needs.”³⁷
76. The Securities and Exchange Commission defines investment risk as the degree of uncertainty and/or potential financial loss inherent in an investment decision. In general, as investment risks rise, investors seek higher returns to compensate themselves for taking such risks.³⁸
77. Establishment of a Fixed Charge will benefit utility shareholders because it reduces the risk that a utility may not recover all of its fixed costs through rates.
78. The Joint Utilities’ risk of not fully recovering their fixed costs is reduced by collecting revenue through a fixed charge.
79. If fixed charges are authorized in this proceeding, the authorized cost of attracting investment (ROE) awarded in pending and future GRCs of each of the Joint IOUS should be reduced to reflect the increased safety of an investment in the utility.
80. If a large amount of a utility’s costs are collected through a fixed charge, It will be more difficult for customers to reduce their bills by reducing usage
81. California’s residential electric rates are consistently among the highest in the continental United States, more than 67% the national average.³⁹
82. The Commission authorizes public utilities to discount some rates and create special rates for some customers at the expense of other customers, e.g.,
 - a. Community Solar Green Tariff Program,
 - b. CARE customers,
 - c. Medical customers,
 - d. Bioenergy Market Adjusting Tariff schedule (E-BioMAT)
 - e. Qualif Nonprof Grp-Liv & Qualif Agri Empl Housing Facils
 - f. Economic Development Rate for qualified customers locating, expanding, or retaining load on PG&E’s electric transmission and/or distribution system, or to customers who would otherwise cease operations,
 - g. Service To Company Employees

³⁷ Quotation from “Operations Management: Maximizing Production Efficiency in Any Organization,” <https://www.sweetprocess.com/operations-management/#ch1>

³⁸ SEC , Investor.gov <https://www.investor.gov/introduction-investing/investing-basics/what-risk#:~:text=In%20finance%2C%20risk%20refers%20to,themselves%20for%20taking%20such%20risks.>

³⁹ Public Advocates Office, 2022 Annual Electric Rates Report (Feb.24, 2023) <https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/reports/230224-public-advocates-office-2022-electric-rates-report.pdf>

- h. Enhanced Community Renewables Program (bill credit from PG&E reflective of the customer's subscription to an ECR solar facility)
- i. Energy Financing Line Item Charge (EFLIC) PILOT which finances the installation of energy efficiency improvements
- j. Energy Rate Adjustments for Commercial customers – bill credit from PG&E reflective of the customer's subscription to an ECR solar facility
- k. Service For Qualified Food Banks authorized by The Emergency Food Assistance Program in California.
- l. Family Electric Rate Assistance for customers with income at 250% of federal poverty guidelines, and have three or more persons residing full time in their household for that household to receive benefit of Schedule E-FERA.
- m. Green Tariff Program
- n. Percentage of Income Payment Plan Pilot: The purpose of the PIPP pilot is to test whether a PIPP program can (i) reduce the number of low-income households at risk of disconnection, (ii) encourage participation in energy saving and energy management programs, (iii) increase access to essential levels of energy service, and (iv) control PIPP program costs.
- o. Residential Smartrate Program
- p. Scheduled Load Reduction Program

83. The legislative purpose in enacting AB 205 is to lower the average monthly bill of low income customers by increasing the monthly bills of higher income customers.

84. The Commission could lower the average monthly bill of Joint IOUs customers by ordering utilities, in a general rate case, to reduce rates by disapproving recovery of losses incurred through poor management practices.

85. The Legislature could lower the average monthly bill of Joint IOU's low-income customers by providing additional subsidies from the General Fund.

86. Taxes also fund programs and services that benefit only certain citizens, such as health, welfare, and social services; job training; schools; and parks⁴⁰

87. The cost of social programs administered by the State is spread evenly among all citizens of the state

88. The cost of lowering the average monthly bill of a utility's low-income customers, pursuant to AB205, is an additional charge on all other residential customers of the utility.

89. The cost of lowering the average monthly bill of a utility's low-income customers pursuant to AB205, a social benefit, should be spread to all customers of the utility, not just residential customers.

⁴⁰ IRS Publication: https://apps.irs.gov/app/understandingTaxes/teacher/whys_thm01_les01.jsp#Purpose

APPENDIX B

SOLAR ENERGY INDUSTRIES ASSOCIATION

The Solar Energy Industries Association (“SEIA”) request hearings be convened in Track A of Phase 1 of Rulemaking 22-07-005. In accord with the November 2, 2022, Scoping Memo in this proceeding, SEIA provides the following information in support of its request for hearing:

A. Disputed Material Facts

The following is a list of disputed material facts based on the record of this proceeding as of August 11, 2023. SEIA reserves the right to modify this list based on future submissions in this proceeding.

1. The current Investor-Owned Utilities’ volumetric rates are not above social marginal costs.
2. High Income Graduated Fixed Charges (“IGFCs”) will result in a significant increase in peak demand.
3. High IFGCs are not necessary to promote beneficial electrification.
4. High IGFCs will slow customer adoption of load reducing Distributed Energy Resources.
5. High IGFCs do not meet the requirements of PU Code Section 739.9(d)(2) that such charges will not unreasonably impair incentives for conservation, energy efficiency, beneficial electrification and greenhouse gas emissions reductions.
6. The only costs that are eligible for recovery under a fixed charge are marginal customer access costs.
7. High IFGCs will undermine the balances struck in D. 22-12-056 to ensure the sustainable growth of customer-sited distributed generation as required by statute.
8. High IGFCs will pose a serious risk of grid defection.
9. California’s electric resource supply / demand balance indicates the continued need for conservation and energy efficiency.

B. Time Needed for Evidentiary Hearings

SEIA is unable to state how many parties will participate in hearings if they are convened nor how much time those parties will need for cross examination. Based *solely* on SEIA’s own

need to cross examine witnesses from several parties regarding the disputed material facts listed above, plus accounting for parties desire to cross examine the SEIA witness, SEIA estimates that three days of hearing will be necessary. This time estimate will increase dependent on the number of parties who determine to actively participate in hearings and their cross-examination needs.

SIERRA CLUB

Sierra Club provides this attachment in support of evidentiary hearings in order to comply with requirements laid out in the November 2, 2022 Assigned Commissioner's Phase 1 Scoping Memo and Ruling.

Disputed Material Facts

- Definition of low-income
- Which costs vary based on consumption
- Electrification benefits from lower volumetric rates
- Appropriate geographic scope for defining income tiers
- Whether high fixed charges lead to grid defection
- The degree to which fixed charges harm distributed energy resource adoption
- The degree to which lower volumetric rates harm rooftop solar adoption
- Reliability of income self-attestation
- Reliability of credit rating information for income verification
- Whether service line drops are an appropriate and viable proxy for customer size
- The availability of data on multi-family housing

Sierra Club Cross Examination Estimates

Please note that these estimates 1) are simply estimates, which may change during hearings or after Sierra Club evaluates comments on IGFC implementation, and 2) only include estimated cross examination times that Sierra Club anticipates conducting. Sierra Club is not able to speculate how many days of hearings will be necessary for all parties. Sierra Club additionally reserves the right to cross additional witnesses or waive cross on witnesses listed below.

- Joint IOUs
 - Backstrom – 30 minutes
 - Morien/Thomas/Kerrigan – 60 minutes
 - Alvarez/Coughlan/Fischlein – 30 minutes
 - Kane/McCutchan Molnar – 30 minutes
 - **Explanation:** Sierra Club intends to cross examine Joint IOU witnesses on the Joint IOU proposal's impacts on low-income customers, geography of income tiering, default income tier, income verification, impacts on distributed energy resources, administrative costs, and cost components, among other disputed issues.
- California Public Advocates Office
 - Marquez – 30 minutes

- Chau/Nichols – 45 minutes
- **Explanation:** Sierra Club intends to cross examine PAO witnesses on the PAO proposal's impacts on low-income customers, default income tier, income verification, impacts on distributed energy resources, and cost components, among other disputed issues.

PUBLIC ADVOCATES OFFICE

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates.

Rulemaking 22-07-005

**PUBLIC ADVOCATES OFFICE COMPLETE STATEMENT OF ISSUES IN
HEARINGS AND AN EXPLANATION OF TIME ESTIMATES (APPENDIX B)**

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August 11, 2023

I. INTRODUCTION:

Pursuant to the Assigned Commissioner’s Phase 1 Scoping Memo and Ruling (Scoping Memo) issued on November 2, 2022, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) provides these separate comments on the Joint Case Management Statement. As indicated in the Joint Case Management Statement, Cal Advocates requests evidentiary hearings be held in this matter. These comments supplement address two areas.

First, in compliance with the Scoping Memo, Cal Advocates includes the list of disputed material facts, estimates of time needed for evidentiary hearings, and estimates of Cal Advocates’ cross examination of each party with whom Cal Advocates identifies a disputed material fact, and an explanation of estimates of time needed for evidentiary hearings, and its cross-examination estimates.¹

Second, the Scoping Memo also states that if an evidentiary hearing is needed, it would be in late August, 2023.² Because of the need for hearings, and the fact that additional reply comments are now allowed as late as August 21, 2023, Cal Advocates also respectfully requests that the evidentiary hearing be held in September.

II. DISPUTED MATERIAL FACTS, ESTIMATES OF TIME NEEDED FOR CROSS EXAMINATION, AND EXPLANATION OF THE TIME ESTIMATES

The Scoping Memo requires parties to include a list of disputed material facts. Cal Advocates identifies several at this time.

A. Disputed Material Fact Number 1: Impacts of Income Graduated Fixed Charges

Cal Advocates disputes the impacts of income graduated fixed charges with the Solar Energy Industries Association (SEIA). For this reason, Cal Advocates requests two hours to cross-examine SEIA witnesses.

B. Disputed Material Fact Number 2: Which Fixed Costs Can Be Included in Fixed Charges

¹ See Scoping Memo, p. 8. Cal Advocates observes that the Scoping Memo requires “estimates of time needed for evidentiary hearings”.

² Scoping Memo, p. 8.

Cal Advocates disputes certain points from the Small and Multi-Jurisdictional Utilities about which costs can be included in fixed charges. For this reason, Cal Advocates requests two hours to cross examine SMJU witnesses.

C. Request for Specific Hearing Dates in Mid-September or Later

The Scoping Memo requires parties to include estimates of time needed for evidentiary hearings.³ Based on its current understanding that there are three parties who have identified a need for hearings, Cal Advocates estimates hearings could take between one and three days.⁴

Because Cal Advocates has identified specific disputed material facts, and reserved cross-examination time of certain parties, Cal Advocates respectfully requests that the Administrative Law Judge identify specific dates for hearings no earlier than mid-September. While the Scoping Memo set evidentiary hearings, if needed, in late August, 2023, the Administrative Law Judge issued a Ruling in June, 2023, that invited parties to make opening comments by July 21, 2023, and reply comments by August 11, 2023 regarding the implementation pathway for income-graduated fixed charges.⁵ The ALJ later granted a request of the Joint IOUs to postpone the deadlines of these comments, making Opening Comments due July 31, 2023, a Joint Case Management Statement due August 11, 2023, and Reply Comments due August 21, 2023.⁶ The Ruling invited parties' opening comments to respond to reply testimonies.⁷

Given the above extensions for filing comments and replies, parties will need additional time to review and prepare for hearing.

III. CONCLUSION

Cal Advocates appreciates the opportunity to provide these comments as part of the Joint Case Management Statement.

Respectfully submitted,

/s/ Darryl Gruen

³ Scoping Memo, p. 8.

⁴ Public Advocates Office does not have the benefit of cross-examination estimates from the other parties who believe hearings are needed, so this is a very rough estimate with limited information.

⁵ Administrative Law Judge's Ruling on the Implementation Pathway for Income-Graduated Fixed Charges (June 19, Ruling), June 19, 2023, p. 1.

⁶ Email Ruling of the ALJ, dated July 18, 2023.

⁷ June 19 Ruling, p. 1.

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August 11, 2022

CALIFORNIA COMMUNITY CHOICE ASSOCIATION

APPENDIX B

Statement of California Community Choice Association

The following provides the Statement of California Community Choice Association (CalCCA) on the need for Evidentiary Hearings in Track A of the Demand Flexibility rulemaking, R.22-07-005, regarding the income-graduated fixed charge (IGFC). This Statement is submitted based on information provided by parties thus far in the proceeding. CalCCA reserves the right to modify or amend this Statement based on further review of party testimony, further party submissions with respect to this or any other Case Management Statement(s), party comments, responses to data requests, and/or settlement discussions between parties to this proceeding.

1. Disputed material facts:
 - a) *What categories or subcategories of investor-owned utility (IOU) costs are eligible to be included within the income graduated fixed charge (IGFC) as required by AB 205?*
 - b) *Whether the power charge indifference adjustment (PCIA) or competitive transition charge (CTC), or subcategories of those charges, should be included within the categories of costs eligible to be recovered under the IGFC?*
 - c) *If the PCIA or CTC are eligible to be recovered under the IGFC, whether they should be included within the costs to be recovered under the IGFC?*
2. Estimate of time needed for CalCCA to address these disputed material facts in evidentiary hearings:
 - a) CalCCA estimates approximately 1-2 hours total will be necessary to address these disputed material facts in evidentiary hearings.
3. Explanation of time estimates:
 - a) CalCCA expects at this time that approximately three witnesses will be called to address the disputed issues of facts set forth above.