BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.	Rulemaking 22-07-005 (Issued July 14, 2022)

SIERRA CLUB TRACK A OPENING BRIEF

Nihal Shrinath
Rose Monahan
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
Telephone: (415) 977-5627
Email: nihal.shrinath@sierraclub.org

On Behalf of Sierra Club

Dated: October 6, 2023

TABLE OF CONTENTS

TABLE OF AUTHORITIES

LIST OF FIGURES

LIST OF TABLES

SUMMARY OF RECOMMENDATIONS

Sierra Club recommends that the California Public Utilities Commission:

1. Limit eligible costs in income-graduated fixed charges ("IGFC") to non-bypassable charges and distribution costs that do not vary with electricity consumption;
2. Adopt Sierra Club's proposed progressive five-tier IGFC, including a $0 fixed charge for the lowest income tier, for all residential rates;
3. Adopt a simple and low cost income verification process for the first version IGFCs that relies upon self-attestation procedures used in the California Alternate Rates for Energy ("CARE") and Family Electric Rate Assistance ("FERA") programs;
4. Direct the investor-owned utilities ("IOUs") to provide comprehensive information and notice of the IGFC to customers prior to implementation;
5. Direct the IOUs to collect data during implementation of the first version IGFC that can be used for a second version IGFC;
6. Commence a Phase II of this proceeding that examines data collected during Phase I and develops a second version IGFC.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.	Rulemaking 22-07-005 (Issued July 14, 2022)

SIERRA CLUB TRACK A OPENING BRIEF

Pursuant to Rule 13.12 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure and the August 22, 2023 ALJ's Ruling Addressing the Track A Procedural Schedule, Opening Brief Guidance, and Exhibits ("ALJ's August 22 Ruling"), Sierra Club respectfully submits this Opening Brief.

I. Introduction

In July 2022, the California State Legislature passed Assembly Bill ("AB") 205,[1] authorizing an income-graduated fixed charge with the express intent of 1) promoting climate-friendly policies such as electrification and 2) more fairly distributing electric system costs through rates.[2] Responses on both ends of the extreme have been loud, hyperbolic, and based in theory, rather than in response to AB 205 or the realities of the current rate structure. Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), and Southern California Edison Company ("SCE") (collectively, the "Joint IOUs") jumped on the opportunity to entrench their control over the electric system by proposing an alarmingly high fixed charge that included obviously non-fixed costs and was not progressive, going so far as to

[1] AB 205, 2022 Leg. Serv. (Cal. 2022) [hereinafter "AB 205"].
[2] *See* AB 205 § 14(b)(2).

deny the legislature's intent that an IGFC reduce bills for low-income ratepayers. The Joint IOUs rested their proposals on the purported primacy of promoting electrification.[3]

Perhaps in response to the Joint IOUs disingenuous proposal, opponents from the solar industry rallied against the IGFC, mischaracterizing it as a utility "tax."[4] The Solar Energy Industries Association ("SEIA") rang the alarm bells on the demise of energy efficiency and rooftop solar if anything but a minimally viable IGFC was presented.[5] Their proposal neither delivers bill relief for low-income Californians nor reduces volumetric rates in any meaningful way.

In stark contrast, Sierra Club has been steadfast in proposing an IGFC that does not require the Commission to choose between affordability, electrification, and energy efficiency/rooftop solar. This enables the Commission to realize the promise of an IGFC in providing immediate bill relief and a reduction in volumetric rates, while also maintaining a strong volumetric incentive to reduce and shift load, allowing room for other policies to more sustainably reduce system costs.

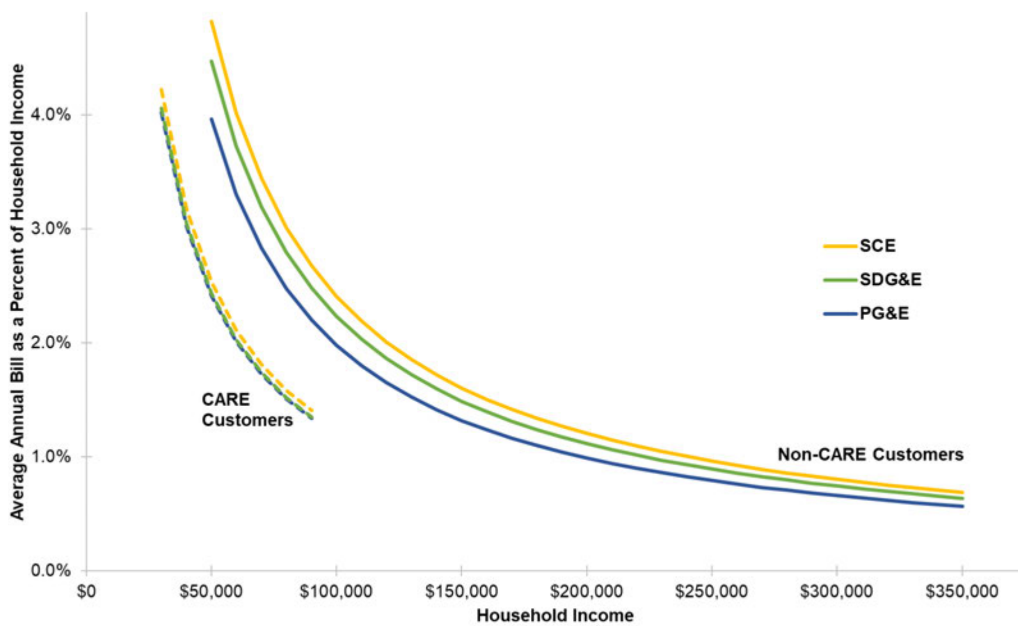
There is no dispute that the current utility rate structure is by nature regressive. Low-income customers pay a higher percentage of their income towards rates than higher-income customers,[6] and although higher-income customers consume more electricity, on average, they

---

[3] Opening Comments of the Joint IOUs in Resp. to Admin. Law Judge's Ruling on Implementation Pathway for Income-Graduated Fixed Charges at 13-14 [hereinafter "Joint IOUs Opening Comments on IGFC Implementation Pathways"].
[4] *See* Opening Comments of the Solar Energy Indus. Ass'n on the Implementation Pathway for Income-Graduated Fixed Charges at 3; Comments of Alexis K. Wodtke on the IGFC Implementation Pathway at 19-20.
[5] *See* Ex. SEIA-01, Prepared Direct Test. of R. Thomas Beach on Behalf of the Solar Energy Indus. Ass'n at 24, 33 [hereinafter "Ex. SEIA-01"].
[6] *See, e.g.,* Ex. NRDC-TURN-04, Factual Excerpts from Reply Comments of the Nat. Res. Def. Council and The Util. Reform Network on Admin. Law Judge's Ruling on the Implementation Pathway for Income-Graduated Fixed Charges at 4.

do not pay more for putting more strain on the grid.[7] Energy bills in SDG&E and PG&E territories have risen above $300, and electricity rates have outpaced inflation over the past decade.[8] Nearly 25 percent of California households are energy insecure, with an even higher share of energy-insecure households in communities of color.[9] CARE provides some discount to low-income customers who qualify, but it does not fundamentally change the fact that low-income households spend significantly more on essential services such as electricity, as shown in Figure 1 below.[10]

Figure 1: Regressivity of Current Electric Bills



The current volumetric rate structure also does not differentiate between the types of service line drops that customers receive, compounding the regressivity of electric rates (not displayed in Figure 1 above). Customers who live in single-family homes pay the same rate per

[7] *See* Ex. SC-01E, Errata Direct Test. of John D. Wilson on Behalf of Sierra Club at 30 [hereinafter "Ex. SC-01E"].
[8] *Id.* at 28-9.
[9] *Id.*
[10] Ex. SC-01E at 30.

kilowatt-hour ("kWh") as customers who live in apartment buildings with multiple units serviced by one line, even though there are significant grid savings from multi-unit service drops.[11] Low-income Californians are more likely to live in smaller homes or multi-family housing complexes where economies of scale mean they should probably be paying less per kWh for their energy use.

Given the state's affordability crisis, the status quo is a patently unfair distribution of electric system costs, not only for low-income customers, but also for middle-income customers, who shoulder more of a burden for paying for electricity than high-income ratepayers. And this structure stands in stark contrast to the California income tax, which accounts for income in collecting revenues and providing services for Californians.

At the same time, California is well behind in reaching its own 2030 and 2045 emissions reduction mandates, which it cannot meet without accelerated electrification. Over ten percent of California's greenhouse gas ("GHG") emissions are generated by the combustion of fossil gas in buildings.[12] In its Building Decarbonization Assessment, the California Energy Commission ("CEC") found that "aggressive electrification," which assumes 100 percent electrification in new construction, 90 percent replacement on burnout and 70 percent early retirement starting in 2020, is necessary to reduce the direct emissions from buildings in line with California's 2045 carbon-neutrality goal.[13] To that end, California Air Resources Board ("CARB") has committed

---

[11] Ex. SC-02E, Errata Reply Test. of John D. Wilson on Behalf of Sierra Club at 32:19-33:2 [hereinafter "Ex. SC-02E"].
[12] Michael Kenney et al., *Final Comm'n Report, Cal. Bldg. Decarbonization Assessment*, Cal. Energy Comm'n at 33 (Aug. 13, 2021), *available at* https://www.energy.ca.gov/publications/2021/california-building-decarbonization-assessment.
[13] *Id.* at 14–15, 44–46.

to developing a rule requiring all newly-installed space and water heating equipment to be zero-GHG emitting by 2030.[14]

While electrification of space and water heating will provide bill savings over time because electric heat pumps are much more efficient than gas-fired appliances, those potential savings are threatened by rising electric rates. Gas customers already face societal and financial barriers to electrification and now, rising electric rates threaten fuel-switching when it is most needed. Without the right price incentives for switching to electric appliances, low-income customers in particular will face the burden of increasingly higher bills in order to pay for an aging gas system with fewer fellow customers to share the costs. With up to 88 percent of customers still receiving gas service,[15] stemming rising electric rates is an urgent matter. As of April 2023, when Sierra Club's submitted Opening Testimony, bundled electric service was between 35 to 51 ¢/kWh for electricity, much higher than in most other jurisdictions.[16] While electric rates are rising, it is additionally concerning that volumetric rates overstate the marginal cost of electricity, by including much more than the true cost of consumption.

AB 205 addresses both of these issues—affordability and electrification economics—by requiring: a more fair distribution of utility costs across customers,[17] that low income customers pay less with the same level of usage,[18] that volumetric rates are reduced to encourage electrification,[19] and that incentives for other California goals, such as conservation and energy

[14] Cal. Air Res. Bd., *2022 State Strategy for the State Implementation Plan* at 102-103 (Sept. 22, 2022), *available at* https://ww2.arb.ca.gov/sites/default/files/2022-08/2022_State_SIP_Strategy.pdf.
[15] Ex. CEJA-01, Prepared Track A Opening Test. of Tyson Siegele on Behalf of the Cal. Env't Just. All. in R.23-07-005, The Order Instituting Rulemaking to Advance Demand Flexibility Through Elec. Rates at 32 [hereinafter "Ex. CEJA-01"].
[16] Ex. SC-01E at 20.
[17] AB 205 § 14(b)(2).
[18] AB 205 § 10 (e)(1).
[19] AB 205 § 10 (d)(2).

efficiency, are not unreasonably impaired.[20] Although an IGFC is not a "silver bullet" to addressing the inequities in utility service or encouraging electrification, it is one tool in the Commission's toolbox. Sierra Club's proposal, which uses a narrow scope of eligible costs to build a progressive fixed charge across five income tiers, meets the spirit and intent of AB 205 and is best suited to advance equity *and* electrification goals.

II. The Commission Should Limit Recoverable Costs through a Fixed Charge to Select Non-Bypassable Generation-Related Charges and Distribution Costs that Do Not Vary with Consumption.

In specifying which costs may be included in an IGFC, AB 205 directs the Commission to only include charges that "do not vary with electricity consumption."[21] This language limits the universe of potential "fixed charges" that can ultimately be included in an IGFC to a smaller sub-category of "fixed charges" than those included in California Public Utilities Code Section 739.9(a). Section 739.9(a) defines a "fixed charge" as one that is "not based on the volume of electricity consumed[,]" listing such examples as a fixed customer charge, basic service fee, and demand charge.[22] This indicates that when the legislature passed AB 205, it envisioned a smaller set of fixed charges included in an IGFC than those listed in Section 739.9(a).

As explained below, limiting eligible costs to those that do not vary with electricity consumption means that most generation costs, some distribution costs, and all transmission costs must be excluded. Sierra Club's proposal, explained in detail in Section III, includes all eligible costs, with the exception of the Power Charge Indifference Adjustment ("PCIA").

[20] AB 205 § 10.
[21] AB 205 § 14(a)(4).
[22] Cal. Pub. Util. Code § 739.9(a).

A. The majority of generation costs must be excluded from the IGFC.

Most generation costs, including the marginal energy cost, the marginal generation capacity cost, non-marginal generation, and the New System Generation/Local Generation Charge, reflect costs that vary based on the volume of electricity consumed and thus should be excluded from the IGFC.[23] The New System Generation/Local Generation Charge, for instance, includes costs to procure capacity to ensure reliability, which varies from customer to customer and as each customer's requirements vary over time.[24] Thus, as with marginal energy costs, marginal generation capacity costs, and non-marginal generation, it is a cost that varies based on consumption. Most parties agree that these costs are ineligible for the IGFC.[25]

However, four non-bypassable charges are related to historical, embedded generation costs and no longer vary based on the volume of energy consumed. These include: PCIA, Nuclear Decommissioning, Competition Transition Charge ("CTC"), and PG&E's Energy Cost Recovery Amount. These historical generation-related cost components include stranded costs that became disconnected from the economics of generation supply during the various phases of California's energy market restructuring.[26] All of these non-bypassable charges are thus eligible for inclusion in an IGFC, and Sierra Club recommends that they be included, with the exception of the PCIA. Although the PCIA charge does not vary with electricity consumption, it is linked to market capacity costs and is therefore viewed as highly volatile and unpredictable.[27] The Commission should continue to recover volatile costs like the PCIA through volumetric rates.

---

[23] Ex. SC-01E at 8:19-23.
[24] Ex. SC-01E at 9:2-4.
[25] Ex. SC-02E at 9, Table 1 (noting that California Public Advocates Office, the Joint IOUs, NRDC/TURN, and SEIA all largely agree with Sierra Club that the majority of generation costs are ineligible for the IGFC, with the exception of NRDC/TURN, who find that non-marginal generation costs are eligible but should be excluded).
[26] Ex. SC-01E at 9:21-23.
[27] Ex. SC-01E at 10:9-11.

B. All transmission costs must be excluded from the IGFC.

All parties agree that transmission costs, which are Federal Energy Regulatory Commission ("FERC") jurisdictional and vary with electricity consumption, are ineligible for an IGFC.[28]

C. Certain distribution costs must be excluded from the IGFC.

Like ineligible generation costs, demand-related distribution costs, including most marginal and non-marginal distribution costs, should be excluded from the IGFC because they vary with electricity consumption. Nevertheless, consistent with Decision ("D.") 17-09-035, the Commission should find that *customer-specific* distribution costs qualify as fixed costs. Additionally, the Commission should include distribution-related non-bypassable charges in the IGFC because they likewise do not vary with electricity consumption.

In D.17-09-035, the Commission found that "fixed costs" include customer-specific costs that "do not vary with usage in kWh or kW[,]"[29] and identified residential customer-specific costs as billing, customer inquiry, and establishing meters, service drops, and final line transformers.[30] AB 205 does not direct the Commission to modify this definition of customer-specific costs, and it also aligns with how the Fixed Charge Tool defined "marginal customer access costs" ("MCACs"). Specifically, the Fixed Charge Tool defined MCACs as representing:

> . . . the incremental costs of connecting an additional (i.e., marginal) customer to the grid that are not driven by volumetric energy usage or demand. The two costs components of MCAC are: 1) the marginal customer equipment costs (MCEC) consisting of final line transformer, service line drop, and meter costs, and 2) the ongoing and variable Revenue Cycle Service (RCS) costs associated with keeping customers connected to the grid, such as customer billing, meter reading, and credit and collections.

---

[28] Ex. SC-02E at 9, Table 1.
[29] Decision Identifying Fixed Cost Categories to be Included in A Fixed Charge, D.17-09-035 at 15 (Sept. 28, 2017).
[30] *Id.* at 33.

As none of these costs vary with electricity consumption, the Commission should continue to use its definition of "customer-specific" MCACs from D.17-09-035 for the IGFC.

Non-marginal customer access costs ("NMCACs") should similarly be recovered through the IGFC because customer access-related non-marginal distribution costs do not vary with electricity consumption. Because the Joint IOUs did not calculate a revenue requirement for or forecast non-marginal customer access costs, Sierra Club witness John Wilson recommended a methodology to calculate these costs as a portion of total non-marginal distribution costs,[31] relying upon actual, historical customer access costs reported on FERC Form 1.[32] Using this information, Mr. Wilson calculated a non-marginal customer access cost factor for each utility, which resulted in a non-marginal customer access cost factor of 19.93 percent for PG&E, 45.79 percent for SCE, and 39.84 percent for SDG&E.[33] Absent the Joint IOUs coming forward with more detailed information on NMCACs, this proportion of non-marginal distribution costs are appropriate for recovery in the IGFC, with the exclusion of remaining non-marginal distribution costs.

Notably, the Joint IOUs and California Public Advocates Office ("Cal Advocates") proposals would allow for recovery of *all* non-marginal distribution costs through the IGFC, with the Joint IOUs claiming that these costs are not driven by customer usage.[34] But as Mr. Wilson explained, "[w]hile it may be true that many of these costs vary more with demand than with

[31] Ex. SC-01E at 12:10-29.
[32] *Id.* at 12:3-5.
[33] *Id.* at 13:22-23.
[34] Ex. Joint IOUs-01-E2, Joint Test. of S. Cal. Edison Co., Pac. Gas and Elec. Co., and San Diego Gas & Elec. Co. (the Joint IOUs) Describing Income-Graduated Fixed Charge Proposals at 39 [hereinafter "Ex. Joint IOUs-01-E2"]; *see also* Ex. Cal Advocates-01-E, Errata on Prepared Test. on Rulemaking to Advance Demand Flexibility Through Elec. Rates – Income Graduated Fixed Charge Rate Design (Clean Version) at 8-9 [hereinafter "Ex. Cal Advocates-01E"].

volume, demand is a measure of usage."[35] Inclusion of all non-marginal distribution costs in a fixed charge is a dangerous proposition for ratepayers. It would provide an opportunity for utilities to increase their average fixed charge substantially in future rate cases by incentivizing them to overspend on distribution infrastructure.[36] As concerning, customers would no longer be able to control their energy use to opt out of marginal distribution costs with energy efficiency measures or distributed generation.

D. Most non-bypassable charges can be included in the IGFC.

There are seven distribution-related non-bypassable charges that do not vary with electricity consumption: Wildfire Fund Charge, Securitized Wildfire Capital Costs, Recovery Bond Charge/Recovery Bond Credit, Wildfire Hardening Charge, Public Purpose Program Charge, California Energy Commission Fee, and Public Utilities Commission Reimbursement Fee Charge. Because these, like the generation-related non-bypassable charges, are not tied to electricity consumption, each should be included in the IGFC.

The Joint IOUs have argued that certain of these non-bypassable charges, including the Wildfire Fund Charge, Wildfire Hardening Charge, securitized Fixed Recovery Charges, and Recovery Bond Charge/Credit have either statutory or contractual restrictions that do not allow these costs to be recovered in a fixed charge.[37] Should the Commission agree with the Joint IOUs interpretation, Cal Advocates presented a workable solution in which a portion of distribution costs would be collected through the IGFC in an amount equal to these non-bypassable charges.[38]

---

[35] Ex. SC-02E at 11:26-12:2.
[36] *Id.* at 13:10-14.
[37] *See, e.g.,* Joint IOUs Opening Comments on IGFC Implementation Pathways at 33.
[38] Ex. SC-02E at 18:10-19 (citing Ex. Cal Advocates-01-E at 11).

E. The Commission should deem Sierra Club's proposed list of eligible costs the ceiling for inclusion in an IGFC.

As discussed above, Sierra Club's list of eligible costs is tied to the statutory language in AB 205, which only permits those costs that do not vary with electricity consumption to be included in a fixed charge. Tethering eligible costs to the statutory language is both legally required and aligned with the Commission's Rate Design Principles. As Mr. Wilson explained, inclusion of costs that vary based on consumption would violate Rate Design Principle 3, which states that "rates should be based on cost causation."[39] Accordingly, the Commission should consider Sierra Club's list of eligible costs as the ceiling for costs that may be included in the IGFC. Sierra Club recommends inclusion of *all* these eligible costs (with the exception of the PCIA due to its volatility), because this will help to ensure that the IGFC strikes an appropriate balance between incentivizing electrification, energy efficiency and conservation, distributed resources, and equity, which is discussed further below.

Clearly defining the universe of eligible costs for an IGFC is also important to avoid abuse of the IGFC. Some parties have proposed fixed charges that are similar in *size* to Sierra Club's proposal but are not tethered to AB 205's statutory language or any particular ratemaking principles.[40] While initial adoption of these proposals may not result in immediate harm to customers, they could over time enshrine an IGFC ripe for abuse, as the scope of eligible costs would be unclear and could be easily inflated.

---

[39] Ex. SC-01E at 7:11-14.

[40] *See, e.g.,* Ex. NRDC/TURN-01, Opening Test. of Mohit Chhabra and Sylvie Ashford, Sponsored by the Nat. Res. Def. Council and the Util. Reform Network Addressing Options for an Income-Graduated Fixed Charge at 20, Table 3 (assigning varying levels of non-marginal charges to PG&E, SCE, and SDG&E's IGFC in order to establish a uniform average fixed charge across the large IOUs).

III. The Commission Should Adopt Sierra Club's Five-Tier Proposal that Appropriately Balances Electrification, Affordability, and Energy Efficiency State Policy Goals.

Using the fixed-charge eligible costs identified in Section II, Sierra Club offers the Commission a no-regrets opportunity to immediately reduce bills for the majority of Californians and reduce volumetric rates enough to make electrification more financially attractive. As discussed below, Sierra Club's proposal is uniquely positioned to achieve California's multifaceted goals. Specifically, Sierra Club proposes a first version IGFC that reduces volumetric rates between 15-18 percent on average across the three large IOUs (excluding time-of-use and CARE rates), with an average fixed charge ranging between $28.48 and $36.65.

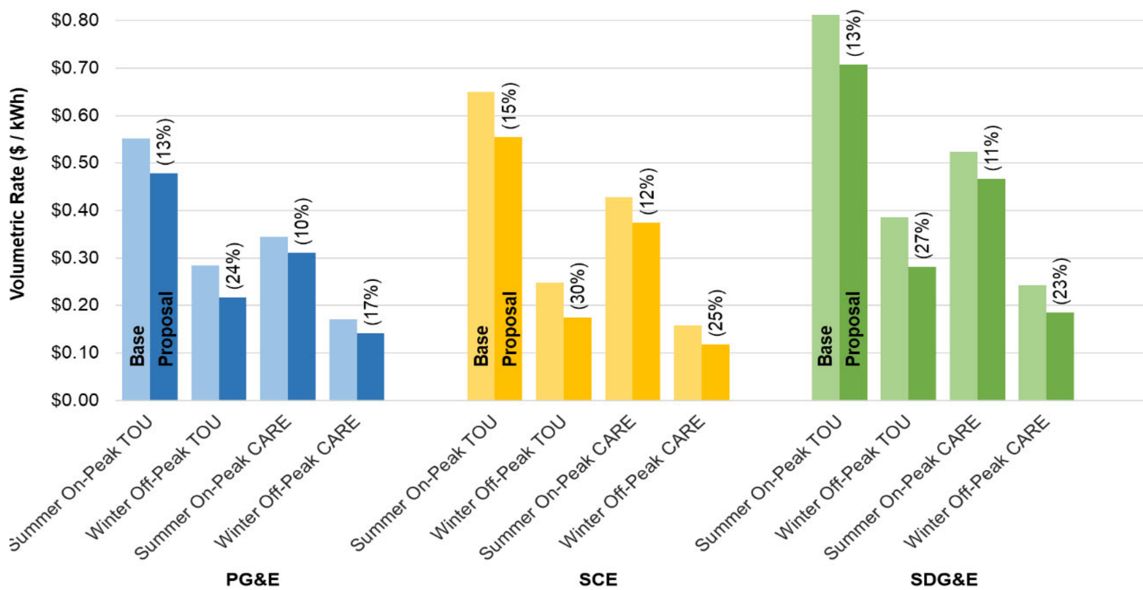
Table 1: Average Fixed Charge and Volumetric Rates by Utility[41]

Revenue Requirement	**PG&E**	**SCE**	**SDG&E**
Current Average Volumetric Rate	35 ¢/kWh	41 ¢/kWh	51 ¢/kWh
IGFC Proposal			
Average per Customer Charge	**$ 28.48**	**$ 36.65**	**$ 36.44**
Average Volumetric Rate	**30 ¢/kWh**	**34 ¢/kWh**	**42 ¢/kWh**

Reductions in volumetric rates would send strong price signals for electrification during grid beneficial periods and for low-income customers.

[41] Ex. SC-01E at 26, Table 4.

Figure 2: Summer On-Peak and Winter Off-Peak Volumetric Rates, Current vs IGFC Proposal for Electrification Rates[42]



In order to maintain a relatively low average fixed charge while also providing significant bill savings for low- and moderate-income customers, Sierra Club's proposal spreads fixed charge costs over five tiers, defined by area median income ("AMI").[43] Notably, Sierra Club supports the Administrative Law Judge's direction for simple income verification[44] that uses established information and methods, by relying on existing CARE/FERA enrollment status to form its lowest income tier and self-attestation for higher income tiers (discussed in Section VII). Sierra Club also has augmented its original proposal to, along with California Environmental Justice Alliance ("CEJA"), include in the lowest income tier (a.k.a. the CARE/FERA tier)

[42] *Id.* at 49, Figure 3.
[43] Ex. SC-01E at 32.
[44] *See* Admin. Law Judge's Ruling Addressing the Track A Procedural Schedule, Opening Brs. Guidance, and Exs. (Aug. 22, 2023).

customers who qualify for any California or local income-based benefits program, including for example, CalFRESH and Medi-Cal.[45]

Table 2: Proposed IGFC Tiers[46]

Tier	Definition
CARE/FERA	Customers enrolled in CARE/FERA programs
Below Average Income	Households with less than 80% AMI
Moderate Income	Households with less than 125% AMI
High Income	Households with less than 200% AMI
Upper Income	Households above 200% AMI

Sierra Club has, uniquely, provided a rubric by which the Joint IOUs can implement progressive fixed charges across income tiers, by proposing that income tiers are determined both by a progressive weighting and by a progressive inclusion of fixed costs.[47] The low-income tier will include no fixed costs. The second lowest tier, which should catch any low-income customers who, for one reason or another, are not enrolled in income-based benefits programs, will include only MCACs and non-bypassable public purpose and regulatory charges. The inclusion of MCACs for this second tier is consistent with D.17-09-035, which enabled the fixed charge recovery of customer-specific costs such as billing and service drops, discussed above.[48] The remaining top three proposed tiers would then fund remaining revenue requirement between three income tiers pegged to AMI, with a progressive weighting determining the per-customer fixed charge. Sierra Club expert John Wilson accounted for the fact that the Joint IOUs would

[45] Sierra Club and Cal. Env't Just. All. Comments on Implementation Pathways for Income-Graduated Fixed Charges at 38-40 [hereinafter "Sierra Club & CEJA Opening Comments on IGFC Implementation Pathways"].
[46] Ex. SC-01E at 32, Table 5.
[47] *See* Ex. SC-01E at 40-42.
[48] Ex. SC-01E at 40.

have to estimate the number of customers within each tier in order to put forward a first version IGFC and again provided a roadmap for using these estimates to create a first version IGFC.[49] The below table reflects estimated fixed charges from Sierra Club's proposal.[50]

Table 3: Proposed Income-Graduated Fixed Charges for Standard Rates[51]

IGFC Tiers	PG&E	SCE	SDG&E
CARE/FERA Customers	$ 0.00	$ 0.00	$ 0.00
Below Average Income (BAI)	$ 7.59	$ 7.89	$ 11.35
Moderate Income (MI)	$ 15.08	$ 19.71	$ 22.69
High Income (HI)	$ 45.23	$ 70.97	$ 62.40
Upper Income (UI)	$ 94.22	$ 189.26	$ 136.14
Average Charge per Customer	$ 28.48	$ 36.65	$ 36.44

Notably, for the majority of customers, fixed charges remain low, with no customer in the bottom three tiers paying more than $25. Compared to average monthly bills occasionally north of $300 in PG&E and SDG&E territory, this fixed charge should not stand out on customer bills. And as detailed below, the bottom three tiers would each see bill savings from the same volumetric consumption through the implementation of Sierra Club's fixed charge.

Sierra Club's proposal is unique in that it provides a roadmap, with modeled charges and impacts, to progressively collect revenues for fixed costs. The Commission should find the results fair. The proposal does not attempt to redistribute rates for all charges, it only does so for 15-18 percent of rates, and does so aggressively in order to create actual bill reductions for low and moderate-income customers.

[49] Ex. SC-01E at 40-41.
[50] Ex. SC-01E at 44, Table 9.
[51] Ex. SC-01E at 44, Table 9.

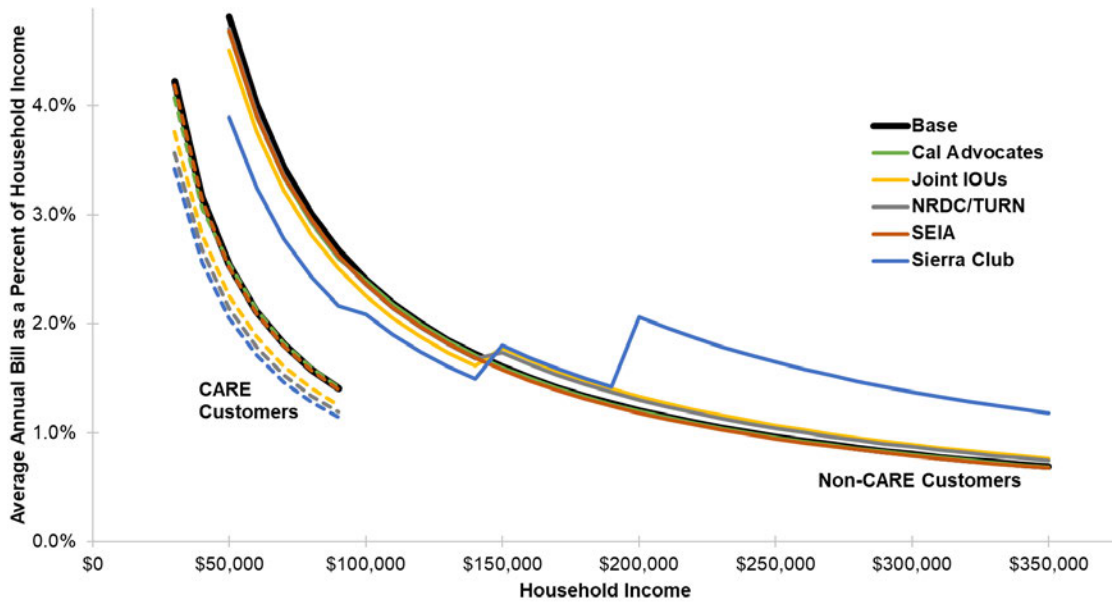
Table 4: Percent of Household Income Represented by Proposed Income-Graduated Fixed Charges[52]

IGFC Tiers	Representative Annual Income	PG&E	SCE	SDG&E
CARE/FERA Customers	$ 50,000	0.00 %	0.00 %	0.00 %
Below Average Income (BAI)	$ 75,000	0.12 %	0.13 %	0.18 %
Moderate Income (MI)	$125,000	0.14 %	0.19 %	0.22 %
High Income (HI)	$175,000	0.31 %	0.49 %	0.43 %
Upper Income (UI)	$225,000	0.50 %	1.01 %	0.73 %

Table 4 shows how an IGFC would work with five progressively graduated income tiers. The five tiers are not simply a feature of the proposal but are key to enabling the low- and moderate-income tiers to contribute less than 0.2 percent of their incomes to fixed charges, while high- and upper-income tiers shoulder more of the burden. Even with a very progressive graduation, *an IGFC does not make electric rates progressive overall*. Volumetric rates are still regressive and would represent over 80 percent of revenue requirement under Sierra Club's proposal. The below chart illustrates the impact of the IGFC on rate progressivity and also shows that Sierra Club's proposal is uniquely progressive in more fairly distributing electric system costs, as required by AB 205.

[52] Ex. SC-01E at 45, Table 10.

Figure 3: Progressivity of Proposed IGFC on Bills Relative to Households Income (SCE Inland Non-NEM TOU-D-4-9 Customers [53]



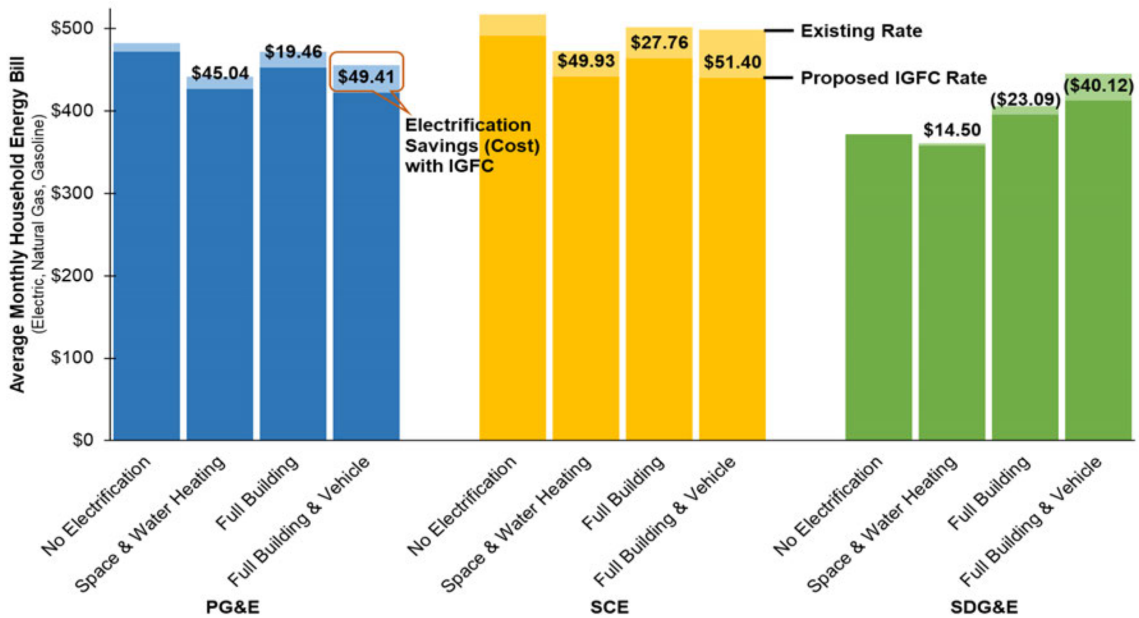
A. Sierra Club's proposal creates meaningful bill savings for customers who electrify.

Sierra Club's proposal results in more favorable electrification scenarios for customers, with bill savings particularly acute for low- and moderate-income customers. Sierra Club modeled IGFC impacts on moderate-income tier (third tier) customers and found additional monthly savings between $14-$33, $31-$58, and $3-$33 for customers in PG&E, SCE, and SDG&E territory, respectively, when moving from current electrification rates to Sierra Club's proposed IGFC.[54] These shifts result in more favorable electrification economics for customers who do electrify. With Sierra Club's proposed IGFC, compared to no electrification, the average customer in PG&E and SCE territory would see bill savings from three modeled electrification scenarios: Space & Water Heating, Full Building, and Full Building & Vehicle, including over

[53] Ex. SC-02E at 6, Figure 2.
[54] Ex. SC-01E at 53.

$600 in annual savings after space and water heater electrification in SCE territory.[55] While the IGFC would make the economics of electrification more favorable in SDG&E territory, only space and water heating electrification would result in lower bills post-electrification.

Figure 4: Average Monthly Household Energy Bills Under Four Electrification Scenarios, Current Rates vs Proposed IGFC, with Net Savings (Costs) on IGFC Rate[56]

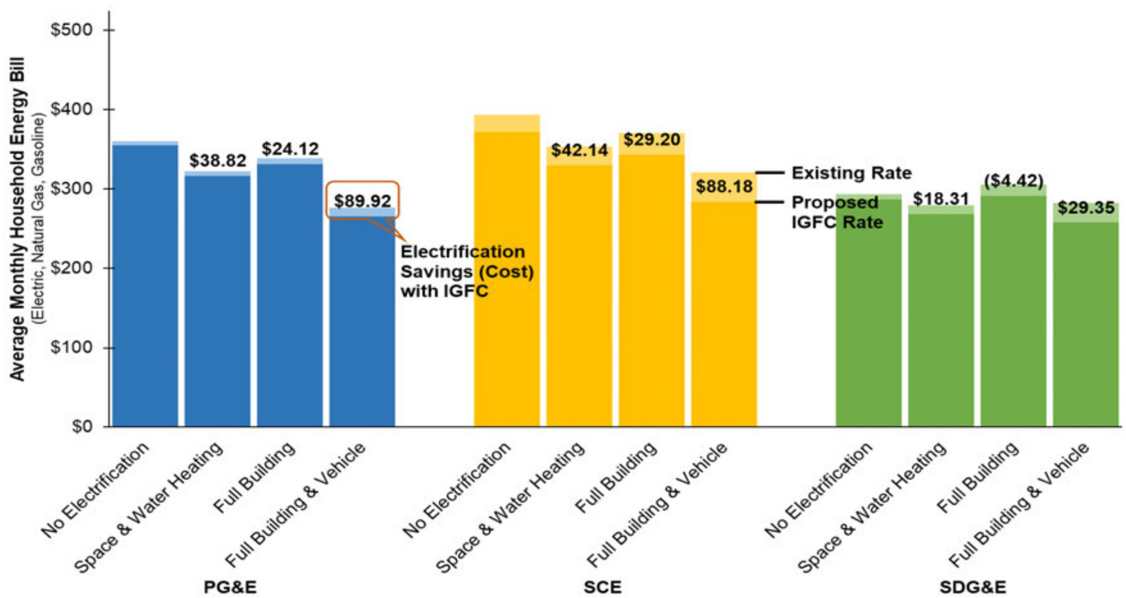


The impacts of a progressive IGFC on CARE customers' bills post-electrification–shown in Figure 5 below–cannot be understated. The average CARE customer in each territory would experience significant bill savings for full building and vehicle electrification, nearly $90 per month in PG&E and SCE territory and $29 per month in electrification-unfriendly SDG&E territory. [57] Under Sierra Club's IGFC regime, the state can more comfortably promote electrification policies, knowing that the most vulnerable customers should see positive bill impacts from electrification. Such assurances, however, are only possible with a progressively

[55] *Id.*
[56] Ex. SC-01E at 54, Figure 6.
[57] Ex. SC-01E at 54.

graduated fixed charge with enough income tiers to allow for that graduation. Under other proposals, some low-income customers pay a fixed charge[58] and others propose splitting up some low-income customers so that they pay an even higher charge.[59] Still others decline to provide any relief for rising volumetric rates by proposing a minimalist fixed charge that has virtually no impact on electrification.[60]

Figure 5: Average Monthly CARE Customer Household Energy Bills Under Four Electrification Scenarios, Current Rates vs Proposed IGFC, with Net Savings (Costs) on IGFC Rate[61]

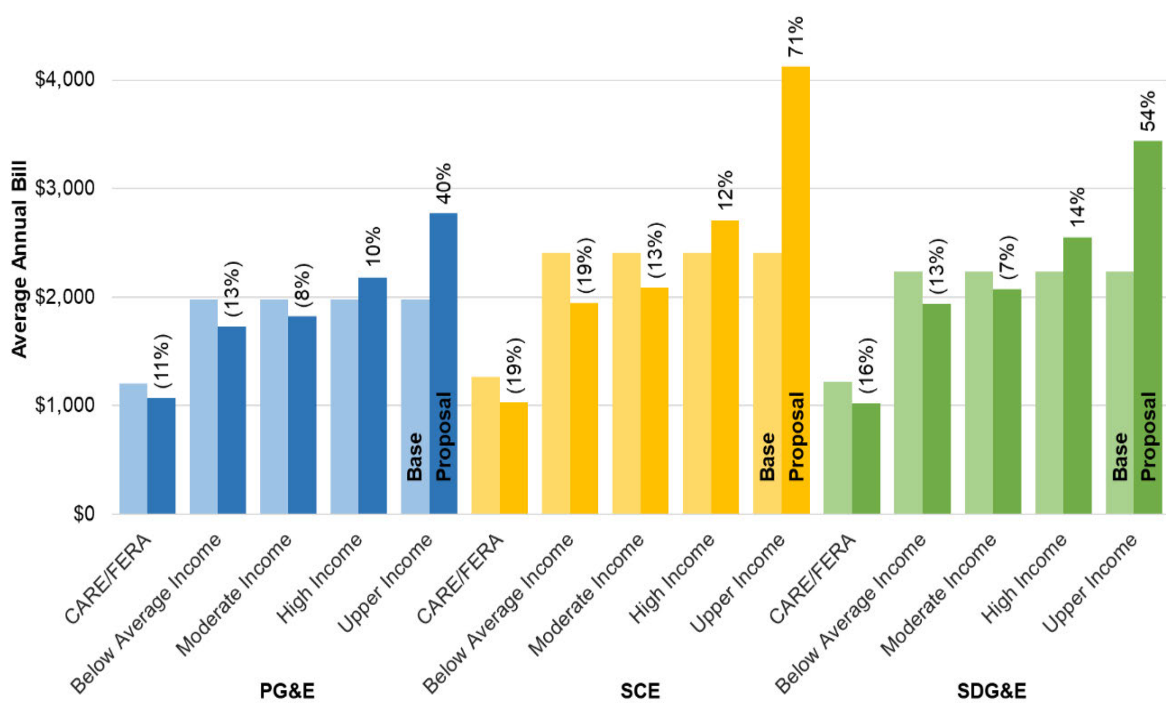


[58] *See* Ex. Joint IOUs-04, Supplemental Test. of S. Cal. Edison Co., Pac. Gas and Elec. Co., and San Diego Gas & Elec. Co. Addressing Income-Graduated Fixed Charge Proposals at 7, Table 1 [hereinafter "Ex. Joint IOUs-4"].
[59] *See id*; *see also* Cal Advocates-01E at 12-15 (placing customers with annual incomes up to $50,000 in the lowest income bracket and customers with annual incomes between $50,000 and $100,000 in a moderate-income bracket, without regard to location or cost of living).
[60] *See* Ex. SC-02E at 7 (noting that SEIA's proposal "offered little economic incentive for electrification").
[61] Ex. SC-01E at 54, Figure 7.

B. Sierra Club's proposal creates bill relief for low- and moderate-income Californians.

By assigning a more equitable share of fixed costs to higher-income customers, and by separating moderate-income customers from high-income customers, Sierra Club's first version IGFC is able to deliver immediate and significant bill relief for low-income customers. In SCE territory, for example, CARE/FERA customers and households earning below 80 percent of AMI would see, on average, 19 percent discounts in their bills once the IGFC is implemented. And across each IOU territory, no households earning less than 125 percent of AMI, would see any bill increases from implementation of the IGFC. Of course, even customers who would see some bill increases could take advantage of the beneficial electrification incentives inherent in the IGFC's lower volumetric rates and opt into lower bills by accelerating electrification.

Figure 6: Bill Impacts of Proposed IGFC by Utility and Tier[62]

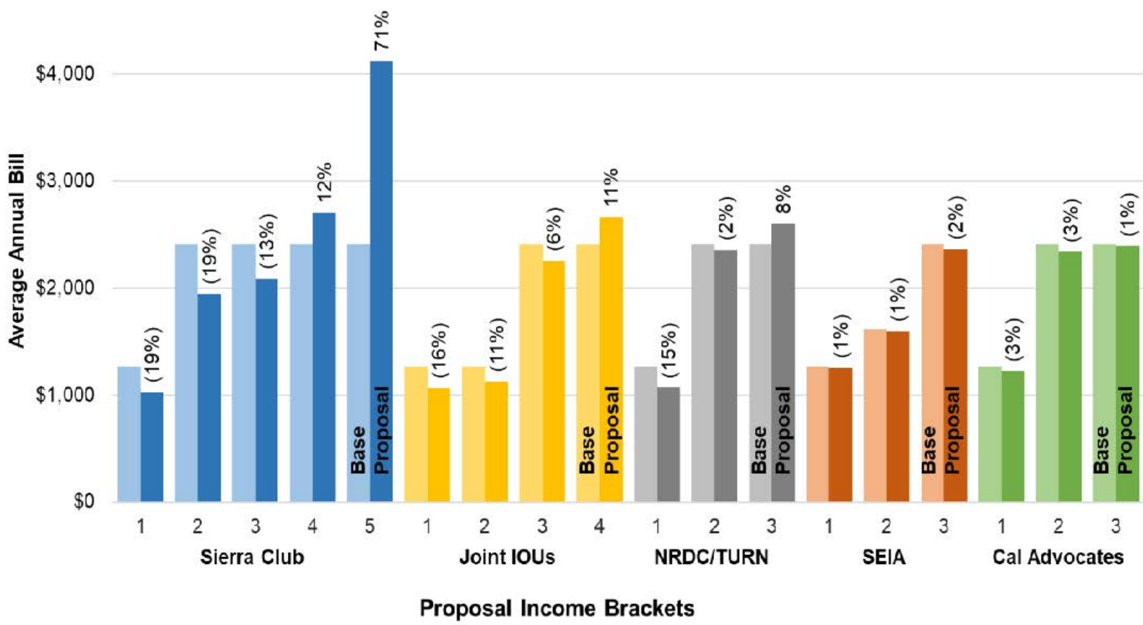


[62] Ex. SC-01E at 51, Figure 4.

Figure 7 below shows the uniqueness of Sierra Club's proposal in concentrating bill savings in low- and moderate-income households. For the chosen scenario, three of five tiers in Sierra Club's IGFC, including the moderate-income tier, see bill reductions greater than 10 percent. By contrast, moderate-income customers in the Joint IOUs, Natural Resources Defense Council ("NRDC")/The Utility Reform Network ("TURN"), SEIA, and Cal Advocates proposals see 6 percent, 2 percent, 1 percent, and 3 percent reductions in bills, respectively.[63] These findings are particularly alarming when considering that the Joint IOUs originally proposed a much larger overall fixed charge than Sierra Club, and NRDC/TURN and Cal Advocates proposed slightly higher and slightly lower fixed charges, respectively. Tier design has major impacts on the effects of an IGFC on electrification and on immediate bill relief, and the Commission should be careful in choosing the right design that optimizes electrification and affordability benefits.

[63] Ex. SC-02E at 6.

Figure 7: Bill Impacts of IGFC Proposals by Bracket (SCE Inland Non-NEM TOU-D-4-9 Customers) [64]



C. Sierra Club's proposal accounts for geographic variations in cost of living in assigning tiers.

Sierra Club, along with CEJA, presented considerable evidence supporting the use of AMI to demarcate income tiers, showing why tiers that vary by geography are important for ensuring equitable implementation of an IGFC. To date, no party, including the Joint IOUs, has raised a single issue with AMI, but nevertheless opting to use statewide income tiers pegged to Federal Poverty Level ("FPL").

AMI data is currently utilized and vetted by the Department of Housing and Urban Development ("HUD") for its various housing programs, is updated annually by county and metropolitan statistical area, and captures relative income by geography more accurately than FPL. Data shows that median income varies widely by county. For example, 80 percent of AMI,

[64] Ex. SC-02E at 6, Figure 1.

the lower threshold for Sierra Club's moderate-income tier, varies from $56,133 to $134,267 for three-person households across HUD geographies in California.[65]

FPL, on the other hand, is geographically static. The Joint IOUs originally proposed a moderate-income tier for all customers who do not qualify for CARE or FERA up to 650 percent of FPL. For a three person household, this would include in the moderate-income tier all households making between $49,720 and $161,590 per year.[66] Clearly, the spending power differences between these two households is significant and does not support imposing the same fixed charge on both. Moreover, a customer's spending power depends on where that customer lives in the state. Placing families of three making approximately $100,000 a year in a moderate- or high-income tier in a county with a low cost of living may be reasonable, but that same family would be more likely to qualify as low-income in high-cost counties in California.[67] And, of course, the Joint IOUs now propose to eliminate the moderate-income tier, instead opting for two low-income tiers (CARE customers earning less than 100 percent FPL and all other CARE and FERA customers) with all other customers paying the same fixed charge. The Joint IOUs' moderate-income tier and use of FPL is not only inflexible in responding to California's diverse geography and economy, it is also severely inequitable.

---

[65] Ex. SC-02E at 25-26.

[66] U.S. Dep't of Health and Human Servs., Off. of the Assistant Sec'y for Plan. and Evaluation, *Poverty Guidelines for 2023*,, *available at* https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines; Ex. PG&E-01, Pac Gas and Elec. Co., Elec. Rates Demand Flexibility Rulemaking, Errata Test. (Clean Version), PG&E-Specific Implementation of Income Graduated Fixed Charge at 26; *see also* Ex. Joint IOUs-04 at 7.

[67] *See* Sierra Club & CEJA Opening Comments on IGFC Implementation Pathways at 13 ("The Joint IOUs' proposal, would, for example, assign families earning just above a living wage in the most expensive counties in California a fixed charge of $51-73 per month, more than three times the proposed fixed charge in Sierra Club's proposal. Even if those families qualified for CARE or FERA, they would still pay a fixed charge of $20-$34 a month.")

IV. The Commission Should Adopt a Progressive Fixed Charge for All Residential Rates.

A. Rates would be unjust if certain customers were able to evade an IGFC by opting into non-default residential rates.

The Commission should avoid scenarios that lead to inequities across default and non-default rates, without strong policy reasons for those reasons. For example, it is acceptable for a boutique electric vehicle ("EV") rate to provide bill savings to EV customers if that is consistent with the state's policy goals on transportation electrification.[68] All customers should receive an IGFC and existing fixed charges and volumetric rates in non-default rates should incorporate the IGFC as detailed below.

B. Electrification rates can be adjusted in the interim by adding the distribution share of existing fixed charges to the IGFC charges, while volumetric rates are adjusted proportionally downwards.

Mr. Wilson attempted to calculate the share of distribution costs currently included in electrification rate fixed charges (Table 5).[69]

Table 5: Distribution Portion of Current Electrification Rates

Current Average Monthly Charges	PG&E	SCE	SDG&E
Non-CARE Customers			
Minimum Bill	$ 10.59	$ 10.52	$ 11.56
Customer Charge	$ 14.98	$ 13.32	$ 16.21
Distribution Portion	$ 4.39	$ 2.80	$ 4.65
CARE Customers			
Minimum Bill	$ 6.89	$ 7.10	$ 7.63
Customer Charge	$ 9.74	$ 8.99	$ 10.70
Distribution Portion	$ 2.85	$ 1.89	$ 3.07

In order to maintain a differential between default rates and the electrification rates, we recommend that the Commission ask the Joint IOUs to identify distribution costs in existing

[68] *See* Decision Adopting Elec. Rate Design Principles and Demand Flexibility Design Principles, D.23-04-040 at 19 (Apr. 27, 2023) [hereinafter "D.23-04-040] ("Rates should be technology-neutral and avoid cross-subsidies, unless the cross-subsidies appropriately support explicit state policy goals.").
[69] Ex. SC-01E at 47-48, Table 11.

fixed charges and add those costs to the established IGFCs.[70] Volumetric rates can then be proportionally adjusted downwards for customers enrolled in electrification rates. This solution will provide an important bridge to electrification rate cases, maintaining an incentive for customers who wish to take advantage of time-of-use rates and switch away from gas appliances.

Table 6: Proposed Income-Graduated Fixed Charges for Electrification Rates

IGFC Tiers	**PG&E**	**SCE**	**SDG&E**
CARE/FERA Customers	$ 2.85	$ 1.89	$ 3.07
Below Average Income (BAI)	$ 11.98	$ 10.68	$ 15.86
Moderate Income (MI)	$ 19.47	$ 22.51	$ 21.47
High Income (HI)	$ 49.62	$ 73.77	$ 55.09
Upper Income (UI)	$ 98.61	$ 192.05	$ 127.95
Average Charge per Customer	$ 32.87	$ 39.45	$ 35.59

V. Sierra Club's Proposed IGFC Accomplishes the Legislature's Intent in Passing AB 205.

A. Sierra Club's proposed IGFC "more fairly" distributes rates, as required by AB 205, by incorporating meaningful progressivity

AB 205 is peppered with language that demonstrates that a more equitable distribution of costs is a primary, rather than ancillary purpose of a California IGFC. The first finding in Section 14 of AB 205 (the section relevant to the IGFC) states that electric customers are facing two areas of increasing cost pressures: 1) growing transmission and distribution costs, and 2) "equitable recovery of utility fixed costs."[71] The fourth and last finding in Section 14 demonstrates that "equity" in AB 205 is related to equity among ratepaying customers: "[t]he disparity between volumetric revenue recovery and fixed costs that do not vary with electricity consumption also contributes to potential inequities among customers."[72] Further language states that it is the intent of the legislature to establish a reasonable fixed charge, to, among other

[70] *See* Ex. SC-01E at 47-48.
[71] AB 205 § 14.
[72] AB 205 § 14(a)(4).

purposes, “equitably allocate and recover costs among residential customers.”[73] The legislature’s intent is clarified still further, to “ensure that the fixed charges are established to *more fairly distribute* the burden of supporting the electric system and achieving California’s climate change goals through the fixed charge” [emphasis added].[74]

Some parties, including the Joint IOUs, have argued that promoting electrification should be the primary goal of a fixed charge, but the plain text of AB 205 does not bear out these assertions. Electrification is not placed in a privileged position to other climate change policies, such as energy conservation and distributed generation. And AB 205 similarly gives climate change and affordability goals equal weight. It places the importance of “more fair rate distribution”–i.e. equity between ratepayers–at the same level as the goal of emissions reduction. The question then follows, what changes to rates would more fairly distribute electric system costs?

AB 205 leaves little ambiguity as to what a more fair distribution would entail: greater progressivity, as included in Sierra Club’s proposal. On its face, “more fairly distribute” is an acknowledgment that the current distribution of rates is less fair than it should be. Indeed, the current distribution is unfair because it is entirely based on volumetric consumption, which, as noted above, has regressive impacts on lower-income ratepayers.

Delving deeper reveals a strong equity purpose behind AB 205. First, AB 205 requires that “the fixed charge be established on an income-graduated basis.” Second, AB 205 requires an IGFC to have “no fewer than 3 income thresholds.” And last, those tiers must be structured such that “low-income ratepayers in each baseline territory would realize a lower average monthly bill

[73] AB 205 § 14(b)(1).
[74] AB 205 § 14(b)(2).

without making any changes in usage." This structure validates an intent for a progressive, or redistributive, IGFC. By requiring no fewer than three income-graduated tiers, AB 205 sets up an IGFC that reduces bills for lower-income customers by collecting more from higher income customers.

i. Only a progressively-graduated fixed charge would fairly distribute electric system costs.

Sierra Club's five-tier structure maximizes the benefits of a fixed charge for electrification and affordability while maintaining a conservation incentive. Sierra Club's proposal is only able to balance those goals by drawing fixed charge revenues heavily from the highest tier, which is only possible with a very progressive graduation. If the Commission decides to authorize fewer tiers, it is imperative that it retain a progressive tier structure, which will result in bill savings for low-income and moderate-income households. There should be no circumstances in which low-income households would pay more under an IGFC than they would have under current rates. Low-income households that fall into a moderate-income tier, should not be harmed by a utility implementing an IGFC. Mathematically, moderate-income tiers can only see bill savings from an IGFC with a progressive graduation, in which customers in higher-income tiers pay not only a higher charge, but a higher percentage of their income on the fixed charge than lower and moderate-income customers. Less progressive graduations between income tiers will not be worth the cost of implementing an IGFC, because low- and moderate-income customers will not see significant bill savings and many customers will see negligible savings from electrification, because their savings will be blunted by a high fixed charge.

ii. If the Commission does not adopt Sierra Club's proposed five income tiers, it must adopt at least one moderate-income tier to ensure that an IGFC results in a "more fair" distribution of electric system costs in rates.

AB 205 did not simply call for an expansion of the CARE and FERA programs;[75] yet, parties that propose three tiers, two of which include CARE and FERA customers and the third of which is the rest of customers, are asking the Commission to do exactly that. As Sierra Club, CEJA, and the Center for Accessible Technology recognized in Opening Comments on Implementation, an equitable implementation of Section 739.9's language calls for at least three income tiers and also requires differentiating moderate- and high-income tiers.[76]

AB 205 indicates that an IGFC should provide bill relief for a broader swath of customers than just CARE customers. While the legislature ensured that low-income customers would be protected from bill hikes through prescriptive language that all "low-income ratepayer[s] in each baseline territory would realize a lower average monthly bill without making any changes in usage,"[77] its affordability lens goes beyond low-income customers. AB 205 asks for a more fair distribution of rates and no fewer than three income tiers. The implication is that in order to lower bills for low-income and other customers, at least three tiers are needed, so that fixed charges can be assigned to higher-income tiers and lower volumetric rates can lower bills for lower-income tiers. The mathematical reality is that more tiers enables more progressivity,[78] which means that higher charges can be concentrated in one or more higher-income tiers. More

[75] *See* Sierra Club and Cal. Env't Just. All. Reply Comments on Implementation Pathways for Income-Graduated Fixed Charges at 6 [hereinafter "Sierra Club & CEJA Reply Comments on IGFC Implementation Pathways"].
[76] Sierra Club & CEJA Opening Comments on IGFC Implementation Pathways at 5, 10-11; Ctr. for Accessible Tech.'s Comments on Admin. Law Judge's Ruling on the Implementation Pathway for Income-Graduated Fixed Charges at 3.
[77] Cal. Pub. Util. Code § 739.9(e)(1).
[78] *See* Opening Br. of Sierra Club and the Cal. Env't Just. All. at 6 (hereinafter "Sierra Club & CEJA Opening Br.").

tiers, including at least a moderate-income tier, also ensure that lower or moderate-income households do not get improperly placed into high-income tiers, where their monthly bills will rise through a high fixed charge.

iii. The Commission cannot fairly distribute fixed costs without separating moderate- and high-income households.

A first version IGFC that raises rates for all non-CARE customers—as proposed by a number of parties—by placing them in the highest income tier would not solve the affordability issues that AB 205 is intended to address. Under such a regime, for nearly three-fourths of all customers (non-CARE customers) bills would increase with an IGFC, blunting any electrification incentive for most households.[79] A highest income tier that lumped in households just above the CARE threshold with households earning millions a year would also contradict the spirit of AB 205. Higher monthly bills for moderate-income households would not "more fairly distribute the burden of supporting the electric system."[80]

A high-income tier that includes all non-CARE customers would likely lead to low-income customers that do not qualify for or are not signed up for CARE or FERA seeing higher monthly bills under an IGFC. As Sierra Club and CEJA noted in Opening Comments on Implementation, California has many low-income households that do not necessarily qualify as low-income under CARE, either because of administrative burden or because cost of living is so high in California that many moderate-income families find themselves burdened by utility bills. As a result, proposals that use CARE as a proxy for low-income "set the threshold for low-income so low that millions of poor Californians would be forcibly placed in a moderate-income tier despite qualifying for what the California Department of Housing and Urban Development

[79] Ex. CEJA-01 at 9:3 ("CARE customers make up 25% of all utility customers. . .").
[80] *See* AB 205 § 14(b)(2).

has defined as Low Income, Very Low Income, Extremely Low Income, or Acutely Low Income."[81]

iv. State policy goals support a moderate-income tier that achieves bill savings through an IGFC.

AB 205 presents two goals, 1) lower bills for Californians impacted by higher electric rates, and 2) lower volumetric rates to better reward and incent electrification,[82] each of which are furthered if moderate-income customers see lower overall bills from an IGFC. Moderate-income customers pay a higher percentage of their income on electric bills than high-income customers, and are thus more impacted by high bills and in more acute need of bill relief. And from an electrification standpoint, it is sensible to concentrate the gains from lower volumetric rates in low- and moderate-income tiers because high-income customers have access to capital and the ability to electrify without the promise of immediate bill savings. Low- and moderate-income customers on other hand require greater financial incentives to electrify and should not be harmed in the clean energy transition

Finally, California state policy on affordability favors a moderate-income tier, which will address rising rates for all burdened ratepayers. In Track 2 of this proceeding, this Commission decided to update Electric Rate Design Principle 1 to change it from "Low-income and medical baseline customers" to "All residential customers (including low-income customers and those who receive a medical baseline or discount) should have access to enough electricity to ensure" essential needs at an affordable cost.[83] The decision states that the change is in part based on principles from the Commission's Affordability Rulemaking (18-07-006), where the

[81] Sierra Club & CEJA Opening Comments on IGFC Implementation Pathways at 10 (internal quotation marks omitted).
[82] Sierra Club & CEJA Opening Br. at 1-3.
[83] D. 23-04-040 at 10.

Commission has considered mitigations addressing increasing electric rates for low- *and* moderate-income customers.

B. Sierra Club's proposed IGFC ensures that *all* low-income customers experience bill savings with the same level of consumption, as required by AB 205.

AB 205 requires that the fixed charge be set "so that low-income ratepayers in each baseline territory would realize a lower average monthly bill without making any changes in usage."[84] A plain reading indicates that given the same consumption, a low-income customer would experience lower bills with an IGFC compared to without one. In order to accomplish this objective, Sierra Club's proposal 1) places all CARE and FERA customers into the lowest income tier and 2) assigns that tier a $0 fixed charge. Both steps are necessary to ensure that low-income customers experience bill savings with the same level of consumption.

i. AB 205 requires bill reductions for all low-income customers, not simply the "average" low-income customer.

Throughout this proceeding, the Joint IOUs have attempted to rewrite the low-income bill requirement as "AB 205's requirement that average CARE customer bills decrease in every IOU baseline territory."[85] Their contention has scant legal basis. For one, AB 205 refers to low-income customers, not CARE customers. Second, "average low-income/CARE customer" is neither stated nor implied in AB 205's short and clear low-income bill reduction mandate.

The Joint IOUs nevertheless repeatedly imply that AB 205 allows for some low-income customers to see bill increases from IGFC implementation, so long as the *average* of all low-income/CARE monthly bills across baseline territories is lower than the same *average* before the IGFC. They state: "to be AB 205 compliant, the CPUC must merely meet the legislature's

[84] AB 205 § 10.
[85] Joint IOUs Opening Comments on Implementation Pathways at 6.

requirement that it make *some (non-zero)* [emphasis in original] reduction to the *average* low-income customers' bills [emphasis added]."[86] This misreading of AB 205 further empowers the Joint IOUs to divide CARE customers into tiers, with the higher tier potentially experiencing higher bills for the same usage through an IGFC.[87] AB 205 requires that fixed charges "are set at levels that do not overburden low-income customers."[88] With clear intent for the IGFC to redistribute the burden of electricity rates *and* with separate protections for low-income ratepayers, it is concerning that the Joint IOUs put forth proposals that could raise bills on some low-income customers. It would be counterproductive to subject potentially half of low-income customers to bill hikes through a policy expressly designed to provide bill relief. To leave them vulnerable to higher bills because they earn between 100 percent and 200 percent of the FPL,[89] as proposed by the Joint IOUs, would be unjust. And as Sierra Club and CEJA have raised repeatedly, splitting up CARE customers into more than one tier would add extra costs to a rate design meant to *reduce* costs.

To the extent that there is any ambiguity (and there is not), California courts often look to legislative history to deduce the statutory meaning.[90] The legislative history of AB 205 shows that the bill was understood to require bill reductions for all low-income customers, rather than for the *average* low-income customer, as contended by the Joint IOUs. The Senate and Assembly Floor Analyses presented to legislators before votes on AB 205 read identically as follows:

> *Public Utilities Fixed Charge.* Repeals the existing $10 fixed charge cap for residential investor owned utility customers. Authorizes the Public Utilities Commission (PUC)to use fixed charges for any rate schedule for residential customers, as specified. The bill requires the fixed charge to be established on an income-graduated basis with no fewer

---

[86] *Id.* at 18.
[87] *Id*. at 19.
[88] AB 205 § 10.
[89] *See* Joint IOUs Opening Comments on Implementation Pathways at 49.
[90] *See e.g. Kaufman & Broad Cmtys., Inc. v. Performance Plastering, Inc*., 133 Cal.App.4th 26 (Cal. App. 3d Dist. 2005)

> than three income thresholds, such that a low-income ratepayer would realize lower average monthly bill without making any chances in usage, as specified.[91]

The last sentence is unequivocal: splitting low-income customers into tiers, one of which would see higher bills given the same consumption would directly contravene the purpose and text of AB 205.

ii. A zero-dollar fixed charge for the lowest-income tier is necessary to ensure bill reductions.

In order to comply with AB 205, the lowest IGFC tier *must* be $0, as in Sierra Club's proposal. If the charge is non-zero, customers who consume very little electricity per month could see higher bills for the same consumption because they have to pay a new fixed charge.[92] Parties with non-zero fixed charges for the lowest income tier have not explained how their proposals satisfy the Section 739(e)(1) requirement that any income-graduated fixed charge that is introduced should result in a "lower average monthly bill without making changes in usage."

Even if AB 205 did not require a $0 lowest tier fixed charge, sound policy justifies implementing one, including minimizing administrative costs. Through numerous rounds of testimony and comments, no party has justified the administration costs of implementing a non-zero fixed charge for the lowest income tier.

C. Sierra Club's proposed IGFC will reduce volumetric rates and reduce bills for low- and moderate-income customers, while maintaining incentives for conservation, energy efficiency, and distributed resources that support systemic cost reductions.

AB 205 and the Commission's Electric Rate Design Principles call for a balance between equity, electrification, energy efficiency, and local generation that optimizes existing grid infrastructure.[93] While a higher fixed charge can support a larger reduction in volumetric rates,

---

[91] AB 205 Senate and Assembly Floor Analyses (June 2022), *available at* https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml?bill_id=202120220AB205.
[92] Ex. SC-01E at 39.
[93] *See* Ex. SC-01E at 18:18-20.

setting the fixed charge too high could undermine equity, conservation, energy efficiency, and adoption of distributed resources like rooftop solar. Energy efficiency, conservation, and distributed energy generation incentives are important because they can produce sustainable reductions in system costs. Load reduction from energy efficient appliances results in reductions in marginal generation, transmission, and distribution costs. Load-shifting, through EV and battery charging, has the potential to flatten demand and even more fundamentally reduce the need for expensive generation, transmission, and distribution resources that support meeting peak demand.[94]

Accordingly, the Commission should strive to set an IGFC that strikes an appropriate balance: one that is high enough to reduce volumetric rates and build in progressivity to assist low-income ratepayers but not so high as to unreasonably disincentivize conservation, energy efficiency, or adoption of distributed resources.[95] Notably, decreased incentives for conservation, energy efficiency, and demand flexibility could impair incentives for electrification as well, by limiting customers' ability to manage their bills.

While there is no exact IGFC that can perfectly balance each of these goals, limiting the IGFC to only those costs that are eligible, as described above in Section II and as done in Sierra Club's proposal, results in an IGFC that is high enough to reduce the volumetric rate by a meaningful amount—in the range of 15 and 18 percent[96]—enough to encourage electrification[97]

---

[94] *See* Ex. SC-01E at 7 ("Demand-related distribution infrastructure, including poles, wires, transformers, and related facilities are being upgraded to accommodate increased loads related to electric vehicle charging.")
[95] *See id.* at 18:18-21:10 (discussing state goals and policy, including beneficial electrification, conservation and energy efficiency, and distributed resources, that the Commission must balance when establishing an IGFC).
[96] *Id.* at 19:6.
[97] *See id.* at 56:13-14 (estimating that reducing volumetric rates by 15-18 percent would increase electricity demand by around 2 percent in the short-run).

while not unreasonably disincentivizing conservation, energy efficiency, and distributed resources.

A 15 to 18 percent reduction in electric rates is not likely to unreasonably impair incentives for conservation, energy efficiency, and distributed resources, because, as Cal Advocates notes in Opening Testimony, "[b]etween January 2009 and January 2023 . . . residential average rates for PG&E, SCE, and SDG&E have increased by 95%, 107%, and 137% respectively, with no sign of slowing down . . .".[98] This means that even after reducing volumetric rates by 15 to 18 percent, California customers would still pay higher volumetric rates than in many other areas of the country.[99]

D. AB 205 is clear that care-exempt charges should be subtracted from the fixed charge prior to calculating and applying the care discount.

AB 205 states that: "[t]he average effective [CARE] discount . . . shall not reflect any charges for which CARE customers are exempted, discounts to <u>fixed</u> charges or other rates paid by non-CARE customers, or bill savings resulting from participation in other programs . . .".[100] It follows that the CARE discount should not reflect charges that CARE customers do not pay; to ensure this, CARE-exempt charges must be removed from CARE customer bills.

Further, under Section 739.1(c)(3), "[t]he entire [CARE] discount shall be provided in the form of a reduction *in the overall bill* for the eligible CARE customer."[101] It follows that the CARE discount must then apply to the entirety of the bill, including both volumetric and fixed charges. The legislature was express in ensuring that the CARE discount would not be diluted by a fixed charge.

---

[98] Ex. Cal Advocates-01E at 3:7-10.
[99] Ex. SC-01E at 20:20-21.
[100] Pub. Util. Code § 739.1(c)(1) (emphasis in original).
[101] Pub. Util. Code § 739.1(c)(3) (emphasis added).

Sierra Club's proposal to put all CARE customers in a $0 lowest income tier renders this question moot. CARE discounts would apply, as normal, to the entire bill, which would remain solely volumetric rates for CARE customers under the Sierra Club IGFC.

VI. The Commission Must be Clear-Eyed that an IGFC Will Not Reduce Electric Costs Overall and Should Not be Relied Upon as a Panacea for Affordability and Electrification Goals.

An IGFC shifts around, rather than reduces, costs. It can provide needed bill relief for low- and moderate-income ratepayers and it can also lead to bill savings for customers who electrify and significantly increase their volumetric consumption. But it will serve as a momentary hurdle to rising costs if more fundamental changes are not made to the structure of electric rates. Fixed costs can continue to rise if the Commission and legislature do not act decisively on controlling wildfire costs.[102] And even with fixed costs separated out, volumetric rates will increase at current rates if current policies persist. Without strong policies to encourage load-shifting and the reduction of peak demand, a 20 percent reduction in volumetric rates through an IGFC can be wiped out in just a couple of years. Without strong policies that reward and encourage distributed energy generation, it will be very difficult to contain rising distribution costs, further increasing volumetric rates.

Focusing exclusively on a fixed charge, at the expense of other rate design opportunities, will ultimately be counterproductive if the charge is not set in balance with meeting other state priorities. In the case of load-shifting, for example, if the Commission set a charge that is too high, it would impair the incentive for customers to shift usage away from peak hours using electric vehicles, batteries, and heat pump water heaters, leading to unmitigated rising peak demand and rising rates that continue to discourage fuel-switching.

---

[102] *See* Sierra Club & CEJA Reply Comments on IGFC Implementation Pathways at 3.

Accordingly, Sierra Club urges the Commission to not merely authorize any viable IGFC but to carefully consider what an IGFC can achieve and how.

VII. The Commission Should Deploy a Simple, Low-Cost Combination of CARE/FERA Participation and Self-Attestation to Verify Income for the IGFC.

Although AB 205 does not dictate how the Commission should verify income in order to ensure that "low-income customers pay a smaller fixed charge than high-income customers,"[103] the ALJ's August 22 Ruling stated that "the first version of IGFCs . . . [will] rely on existing income verification processes used by the Commission for the [CARE and FERA] programs."[104] In the future, additional income verification methods may be required, such as relying on a credit rating agency to provide information for income verification;[105] however, current income verification processes for CARE and FERA, along with self-attestation, should be sufficient to implement a first version IGFC.

Both the CARE and FERA programs conduct income verification in two ways: (1) self-attestation with the potential for a future spot check to ensure eligibility; and (2) categorical eligibility by taking part in another public assistance program, including Low Income Home Energy Assistance Program; Women, Infants, and Children; CalFresh/Supplemental Nutrition Assistance Program; and CalWorks; among others.[106] Self-attestation requires periodic renewals and the IOUs' websites include information on how to apply as well as answers to frequently asked questions.

The Commission can leverage the CARE and FERA income verification processes for both current participants and customers with higher incomes. First, the Commission should

---

[103] Pub. Util. Code § 739.9(e)(2).
[104] Admin. Law Judge's Ruling Addressing the Track A Procedural Schedule, Opening Brs. Guidance, and Exs. at 4 (Aug. 22, 2023).
[105] *See, e.g.,* Ex. SC-02E at 3:23-28.
[106] Ex. Joint IOUs-01-E2 at 58:19-22 (describing CARE program).

establish categorical eligibility for the lowest income tier for all customers currently enrolled in either CARE or FERA. Participation in these programs is a good proxy for income and itself is used for categorical eligibility for other assistance programs, such as the water utility affordability Customer Assistance Program, in which 90 percent of participants are identified through CARE data.[107] Sierra Club and CEJA have additionally proposed that customers who qualify for other income-based benefits programs that serve households earning under 80 percent of AMI (example programs enumerated in Opening Comments) should be categorically eligible for the CARE/FERA tier.[108] The lowest tier should serve as a catch-all for low-income customers, including customers who qualify for similar programs to CARE and FERA. Placing CARE and FERA customers into the lowest fixed charge tier will also reduce the number of customers inappropriately placed in higher income tiers, and because these programs are already being implemented, there should be no incremental costs for an IGFC.

Second, for remaining, higher income customers, the Commission can rely on the same self-attestation processes used in CARE and FERA to identify customer income and assign customers to appropriate income tiers. Self-attestation removes barriers to income verification and has proven to be effective for the CARE and FERA programs, which cover approximately 1 in 4 ratepayers. Moreover, under Sierra Club's proposal, the majority of customers will be incentivized to self-attest because of the savings they will see. As noted above, nearly all low- and moderate-income customers under Sierra Club's proposal would see lower average bills, except for those in Sierra Club's proposed two high income tiers. Sierra Club reads the ALJ's August 22 Ruling to allow for self-attestation that requires more than a simple income data entry. Requiring submission of proof of income for tier assignment should provide more reliable

[107] Sierra Club & CEJA Opening Comments on IGFC Implementation Pathways at 29-30.
[108] *Id.* at 30.

income self-reporting, and in a second version IGFC, Sierra Club encourages the Commission to implement low burden spot checks.

To assign customers to income tiers, the IOUs can create an enrollment form, similar to those used for CARE and FERA enrollment, for all customers to provide income information for assignment in the appropriate income tier. Available evidence suggests that individuals are unlikely to intentionally or significantly underreport income,[109] and the enrollment form can request that individuals provide proof of income, which logically should guard against incidences of fraud. And although spot checking is not currently available for all utility customers, and verification of self-reported income will presumably not be possible during the first version IGFC, the self-attestation form can include a warning that future processes might include spot checks or other forms of income verification, to deter obvious fraud. For an initial IGFC, this should provide sufficient information to place customers into appropriate income tiers and further provide data that can be analyzed for future iterations of the IGFC.

Finally, for customers that fail to respond to a request for self-attestation, the Commission can default those customers into a moderate-income tier that is close to the average fixed charge for the utility. This will likely require that the Commission establish a special "default" bracket for non-responsive customers, as, for example, under Sierra Club's proposal, the average fixed charge for each utility falls between Sierra Club's proposed "Moderate Income" and "High Income" tiers. The default bracket can be increased after a period of time (e.g., a year to 18 months) until reaching the highest approved IGFC level. This should incentivize non-responsive customers to provide income verification, particularly when those customers would otherwise qualify for a lower-income tier. For high-income customers who

[109] Ex. SC-02E at 36, Table 4.

would not qualify for a lower-income tier, increasing the default bracket until it reaches the highest approved IGFC level will ensure that those customers are placed in the appropriate tier and pay their fair share. As Mr. Wilson noted, "[a]long with appropriate notifications, [increasing the default bracket over a period of time] will balance the adverse impact of an incorrect bracket assignment with the importance of obtaining full revenue recovery."[110] Customers defaulted into a moderate-income tier should have the opportunity to provide the IOUs with proof of actual income to support placement into a different income tier. Once the utilities have more precise data on income, as collected through self-attestation, they can adjust the income tiers through an advice letter process to ensure appropriate revenue collection.

VIII. Customers Should be Provided Comprehensive Information and Substantial Notice Before IGFC Implementation.

Customers should be given substantial lead time and multiple opportunities to self-attest for income tier assignment. In the months leading up to implementation, utilities should remind customers on a monthly basis that they need to self-report income in order to be assigned into an appropriate income tier for the IGFC. Customers should be notified that they may default into a higher bracket than they would otherwise qualify for if they don't respond. If they are to be automatically assigned to a tier due to CARE/FERA participation, the utilities should communicate that frequently as well.

Sierra Club suggests that the utilities use texts and phone calls, as they currently do for back pay bills, in order to prompt the highest number of customers possible to self-report income for the purpose of paying an income-based fixed charge. Additionally, the utilities should

[110] Ex. SC-02E at 40:9-11.

repeatedly prompt customers on the utility website, including on the payment portal, both before and after initial implementation.

For the sake of efficiency and cost containment, each utility should administer its own marketing, education, and outreach ("ME&O") plans, subject to detailed guidance from this Commission. The Commission should avoid ballooning implementation costs by designating consultants for ME&O and should only conduct a working group if it is limited in scope and limited in commitment hours.

IX. The Joint IOUs Should Use the First Version of the IGFC in Order to Collect Data that Informs the Next Phase of this Proceeding.

The ALJ's August Ruling identifies a number of issues that will not be addressed in the first version of the IGFC, including differentiating between large and small customers, appropriate income tiers and income verification processes for future IGFCs, and third-party administrator of income verification.[111] All of these issues can be addressed after the Commission collects information through implementation of the first IGFC. The Commission should direct the IOUs to collect certain relevant information during initial implementation.

Specifically, the IOUs should collect and aggregate income information by geography and make such data available through quarterly reports that are appropriately aggregated and de-identified. Incomes should be segregated into the first version IGFC approved tiers as well as more granular tiers, particularly for high-income customers, in order to inform whether additional or modified income tiers would be practicable in the future. As CEJA's testimony explained, a highest income tier that lumps together all customers earning over $200,000, which would include, for example, customers earning millions of dollars per year, would be quite

[111] Admin. Law Judge's Ruling Addressing the Track A Procedural Schedule, Opening Brs. Guidance, and Exs. at 7 (Aug. 22, 2023).

regressive.[112] Data collection will also help to inform whether self-attestation is resulting in expected income distribution across the state and whether additional forms of income verification, such as expanded spot checking or other measures, should be implemented.

To inform cost-related discounts and surcharges, the Joint IOUs should verify data reflecting the service drop for each residential customer account. Service drops could be used as a proxy for small and large customer differentiation in future versions of the IGFC, as required by AB 205. There are meaningful cost differences between a dedicated service drop for a single-family customer and a shared service drop in a multi-family building.[113] Using the service drop as a proxy for large and small customers would also allow the utilities to avoid identifying specific housing type, which may not indicate total costs of serving that structure, since some multi-family units may have dedicated service drops and a few single-family units may have multiple meters on a shared service drop.[114] Finally, the electric utilities should collect information on whether their customers are connected to the gas system, which would help to inform whether a discount to the fixed charge would be appropriate for customers that electrify in future versions of the IGFC.[115]

X. A Second Phase of this Proceeding, which Will Determine Second Versions of the IGFC, Should Commence Concurrent with Implementation of the First Version of the IGFC.

In order to ensure that the first version IGFC can be quickly and efficiently improved upon, the Commission should initiate a Phase II of this proceeding that runs concurrently with Phase I. This phase of the proceeding can address the issues excluded from the first version

[112] Ex. CEJA-01 at 15:4-16.
[113] Ex. SC-02E at 32:19-33:2.
[114] Ex. SC-02E at 31:19-22.
[115] Ex. SC-02E at 7:16-8:10 (discussing CEJA's proposed gas-disconnection proposal and additional information that would be needed).

IGFC as well as additional questions, noted below. Additionally, Phase II should establish a mechanism that allows the IOUs to reconcile revenue shortfalls or surpluses through adjustments to fixed charges or volumetric rates.

Phase II of this proceeding should endeavor to answer several questions, including:

1. How the fixed charge should be appropriately apportioned amongst large and small customers;
2. What forms of additional income verification, beyond self-attestation, should be implemented;
3. Whether additional income tiers, including a super high-income tier, should be adopted; and
4. Whether customers who fully electrify their homes should be granted a discount on their fixed charge.

Answering these questions will be important before implementing a second version of an IGFC. As a result, Sierra Club does not recommend that the Commission adopt a specific deadline for a second version. Instead, a second version should be implemented when these questions are sufficiently explored and answered.

XI. Conclusion

The IGFC authorized by the Commission through this proceeding will be first-of-its-kind, not only in California but also across the country: no utility, in any state, collects any portion of its costs from customers based on their ability to pay. By shifting a modest portion of customers' electricity bills into a progressively structured fixed charge, the Commission has an opportunity to make a just, clean energy transition far more attainable by making electrification more enticing to the most vulnerable ratepayers. The Commission should realize this vision by rejecting proposals, like the Joint IOUs', that would saddle nearly three-fourths of ratepayers with $50-plus fixed charges, just as it should reject proposals that would do little, if anything, to alleviate energy burden and encourage electrification.

Sierra Club's proposal for a progressive income-based fixed charge will meaningfully reduce electric rates and provide immediate bill relief; it is a proposal that is measured in its inclusion of only fixed costs in a fixed charge. In sum, it is the proposal best suited to achieve AB 205's equity and electrification goals, and Sierra Club urges its adoption.

Dated: October 6, 2023

Respectfully submitted,

/s/ Nihal Shrinath

Nihal Shrinath
Rose Monahan
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
Telephone: (415) 977-5566
Email: nihal.shrinath@sierraclub.org

On Behalf of Sierra Club