



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

FILED

10/06/23

04:59 PM

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.	Rulemaking 22-07-005 (Issued July 14, 2022)	R2207005
---------------------------------------------------------------------------------------	------------------------------------------------	----------

OPENING BRIEF OF THE CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE

Shana Lazerow
Theo Caretto
Communities for a Better Environment
340 Marina Way
Richmond, CA 94801
Email: slazerow@cbeocal.org;
theodore@cbeocal.org
(510) 302-0430

*On Behalf of the California Environmental
Justice Alliance*

Dated: October 6, 2023

TABLE OF CONTENTS

I. INTRODUCTION 1

II. DISCUSSION 2

 a. Consistent with state and federal programs, the Commission should define low-income to include households up to 80% AMI..... 2

 b. The Commission should adopt a zero fixed charge for low-income households and graduate upper tiers based on state income tax 4

 c. The Commission should establish a five tier, progressive fixed charge to meet the State Legislature’s equity mandate 5

 d. CEJA’s progressive income graduated fixed charge can be implemented as envisioned by the Commission’s August 22 ruling..... 7

 e. Income-graduated fixed charges should be applicable to all residential rate schedules and support electrification and rooftop solar 9

 f. The Commission must select fixed charge cost components to achieve equitable distribution of fixed utility costs and rate stability..... 9

 g. Other proposals fail to protect low-income households, as required by AB 205 11

III. CONCLUSION..... 13

TABLE OF AUTHORITIES

California Bills

AB 205, 2022 Leg. Serv. (Cal. 2022).....1, 2, 4, 5, 6, 9, 10, 11, 12, 13

California Statutes

Cal. Pub. Util. Code § 739..... 1, 2, 3, 6, 9, 10, 11
Cal. Health & Saf. Code § 39713..... 3
Cal. Health & Saf. Code § 50093..... 3

California Regulations

Cal. Code Regs., tit. 25, § 6932..... 6

Commission Decisions

D.15-07-001..... 10
D.17-09-035..... 10
D.18-06-027..... 3
D.21-06-015..... 7
D.21-10-012..... 10
D.22-08-023..... 3, 12

Commission Rulings

R.22-07-005, Administrative Law Judge’s Ruling Addressing the Track A Procedural Schedule,
Opening Briefs Guidance, and Exhibits.....2, 5, 7

OPENING BRIEF OF THE CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE

Pursuant to Rule 13.12 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure, and the August 22, 2023, Administrative Law Judge’s Ruling Addressing the Track A Procedural Schedule, Opening Briefs Guidance, and Exhibits, the California Environmental Justice Alliance (“CEJA”) respectfully submits this Opening Brief.

I. INTRODUCTION

California’s residents are facing an energy emergency – rates are high and projected to continue rising fast, families are crushed by utility debt, and climate change is pushing our energy system to the limit when people most need affordable power to survive extreme weather. In response, AB 205 demands that the Commission step in so that low-income customers will realize lower bills without making any changes in usage. The AB 205 fixed charge will accomplish these bill reductions by shifting some of the system burden from low-income customers to high income customers – the charge must be income-graduated and it must result in lower bills. Fortunately, one of the Commission’s stated goals is to “[c]onsistently integrate equity and access considerations throughout CPUC regulatory activities.”¹ CEJA’s income graduated fixed charge proposal would support achievement of this goal as well as the AB 205 mandates.

CEJA’s proposal, and the State Legislature’s amendments to Public Resources Code section 739.9 are aligned in purpose. In opening testimony, CEJA discussed in detail the serious statewide concerns of California’s high utility rates. “Compared to SMUD’s price for electricity, SCE charges 2.1 times more, PG&E charges 2.2 times more, and SDG&E charges 2.7 times more. The large IOUs’ rates also continue to increase at a faster pace than SMUDs rates.”² Since the “majority of an electrical corporation’s revenue requirement” is recovered “by a volumetric

¹ Cal. Pub. Util. Comm’n, *Env’t & Social Justice Action Plan Version 2.0* at 74 (Apr. 7, 2022), available at <https://www.cpuc.ca.gov/news-and-updates/newsroom/environmental-and-social-justice-action-plan> [hereinafter “ESJ Action Plan 2.0”]. Advancing the Commission’s ESJ Action plan was one of the critical mandates of this proceeding’s OIR. R. 22-07-005 *Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates* at 7, 9 (Jul. 22, 2022).

² Ex. CEJA-001 at 5.

rate,” the ever-increasing revenue requirement causes inequities among customers.³ Nearly 1-in-5 customers of large IOUs statewide are in arrears.⁴

An IGFC can improve this troubling trend if it follows the Legislature’s mandate to “stabilize rates and equitably recover costs among residential customers,” or in other words “more fairly distribute the burden of supporting the electric system.”⁵ CEJA’s proposal accomplishes this goal most directly, through a *progressive* income-graduated tier structure that sets up strong protections for California’s most vulnerable customers, redistributes cost upwards from low- and moderate-income customers, and relies on existing data collected by state and local governments.

Pursuant to ALJ Wang’s August 22 ruling, CEJA focuses this brief on “the first version of IGFCs, which will reduce volumetric rates and rely on existing income verification processes used” for the CARE and FERA programs.⁶

II. DISCUSSION

a. Consistent with state and federal programs, the Commission should define low-income to include households up to 80% AMI

One of the most important questions in this phase of the proceeding is the definition of low-income. As described above, the Legislature recognized the need to protect low-income households from bill spikes under a fixed charge program. This protection must extend to all low-income households, not just a subset that happen to have applied for the CARE or FERA programs.

The Commission should adopt a definition of low-income in this proceeding that ensures all low-income households are protected. Although section 739.9 discusses the CARE program, it does not define low-income customer as synonymous with CARE customers, demonstrating

³ Energy, AB 205, 2022 Leg. Serv. § 61 (Cal. 2022) [hereinafter “AB 205”].

⁴ Exhibit CEJA-001 at 7-8.

⁵ AB 205 at § 14 (a).

⁶ R.22-07-005, *Administrative Law Judge’s Ruling Addressing the Track A Procedural Schedule, Opening Briefs Guidance, and Exhibits* at 4 (Aug. 22, 2023) [hereinafter “August 22 Ruling”] (“Parties should focus their briefs on issues necessary to authorize the first version of IGFCs, which will reduce volumetric rates and rely on existing income verification processes used by the Commission for the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance Program (FERA) programs.”).

that the definition of low-income in section 739.9 is distinct from the definition of CARE. Furthermore, in Rulemaking 18-07-006, the Commission has recognized that affordability concerns are impacted by location and not limited to customers that are eligible for the CARE program.⁷

The Commission has a precedent of relying on 80% of AMI or state median income to define low-income. Such a definition is used in the Self-Generation Incentive Program and the Commission's ESJ Action Plan 2.0⁸. Other Commission programs are also based on an 80% of AMI area or state median income threshold. For example, the Single-family Affordable Solar Homes (SASH) program requires applicants to have a household income that is 80% or below the area median income.⁹ When approving this threshold, the Commission recognized that a different income threshold than CARE and FERA was "appropriate to ensure that program resources are used to benefit households most in need of assistance."¹⁰ California energy programs also utilize the 80% median income threshold to determine eligibility. In particular, the Low-Income Weatherization Program requires that applicants meet the affordability requirements of at least 66% of households at or below 80% of the area median income.¹¹

Utilizing the 80-percent state or area median income threshold is also consistent with the definition in section 39713 of the Health and Safety Code, which defines "low-income households" as "those with household incomes at or below 80 percent of the statewide median income or with household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Section 50093." Pursuant to section 50093 of the Health and Safety Code, the Department of Housing and Community Development's list of state income limits defines "low-income" as the higher of 80-percent of area median family income or 80-percent of state non-

⁷ See, e.g., D.22-08-023, *Decision Implementing the Affordability Metrics*, p. 23 (Aug. 4, 2022) (recognizing that comparisons between county level data and CARE data do not always hold); see generally D.22-08-023 (setting forth affordability metrics based on location as well as income).

⁸ Ex. CEJA-03 at 2, fn. 25; ESJ Action Plan 2.0, app. C at 74.

⁹ Ex. CEJA-03 at 2, fn. 26.

¹⁰ See D.18-06-027, *Alternate Decision Adopting Alternatives to Promote Solar Distributed Generation in Disadvantaged Communities* at 30 (Jun. 21, 2018).

¹¹ Ex. CEJA-03 at 2-3, fn. 28.

metropolitan median family income.¹² The Department of Housing and Community Development further notes that these metrics are reflected in “most low-income limits.”¹³ The 80-percent median income threshold is also consistent with the definitions in Federal funding opportunities under the Inflation Reduction Act. For example, the Notice of Funding Opportunities for the \$27 billion Greenhouse Gas Reduction Fund (“GGRF”) use a low-income definition of:

- For Metropolitan Areas: (1) 80% Area Median Income (AMI) and (2) 200% of the Federal Poverty Level
- For Non-Metropolitan Areas: (1) 80% AMI; (2) 80% Statewide Non-Metropolitan Area AMI; and (3) 200% of the Federal Poverty Level”¹⁴

This alignment with the GGRF further demonstrates the importance of the Commission defining low-income in this proceeding to ensure that all customers are protected from unaffordable electricity rates.

b. The Commission should adopt a zero fixed charge for low-income households and graduate upper tiers based on state income tax

In addition to appropriately defining low-income households, the Commission should adopt a zero-fixed charge for low-income households. The dollar amount of each tier’s fixed charge is a product of the cost components that are included in the IGFC and then the allocation of cost by income tier. The fixed charge should follow the progressive structure of California personal income tax graduation, maintaining a zero charge for the low-income tier.¹⁵ The Legislature intended AB 205 to address the disparity between volumetric revenue recovery and inequitable electricity utility burden, requiring that fixed charges do not “over burden low-income customers.”¹⁶ Though the Commission has set 4-5% of income as an acceptable energy burden in prior decisions, even a \$1,000 monthly fixed charge equates to less than 1% of the total income of the customers with the lowest incomes of CEJA’s proposed top bracket. AB 205 insists

¹² *Id.* at 3, fn. 29.

¹³ *Id.*

¹⁴ *Id.* at 3, fn. 20.

¹⁵ Ex. CEJA-01 at 21-22; Ex. NRDC-TURN-01 at 38, Ex. SC-01E at 59.

¹⁶ Ex. CEJA-01 at 18.

the Commission grapple with this level of income disparity among utility customers, to “stabilize rates and equitably allocate and recover costs among residential customers.”¹⁷ CEJA’s proposal sets the lowest fixed charge to \$0 because “[s]etting a \$0 fixed charge for low-income ratepayers is the simplest way to ensure that AB 205’s IGFC mandate is met.”¹⁸ Without a zero charge for low-income customers, the Commission will find it necessary to implement new bill protections for millions of Californians. As Sierra Club expert John Wilson pointed out, minimized charges for low-income customers is equitable both from the standpoint of economic burden of energy and the actual marginal impact of low-income customers on the electricity grid.¹⁹

CEJA’s revised 5-tier IGFC proposal sets income levels informed by each tier’s share of income tax liability.²⁰ The fixed charge weighting tracks the progressiveness of the California income tax structure.²¹ Because the CEJA proposal defines several income brackets above the \$200K threshold used by other parties as the top bracket, the CEJA proposal contains the smallest regressivity within brackets of any proposal. An IGFC weighted in this way promotes the State’s broader equity objectives and reflects the level of progressivity the State has already deemed appropriate for funding costs of other services. CEJA refer the commission to Table 1R for specific IGFC graduation details.²²

c. The Commission should establish a five tier, progressive fixed charge to meet the State Legislature’s equity mandate

The Commission should establish five income tiers as CEJA proposed in reply testimony and reiterated in Track A comments. Pursuant to ALJ Wang’s August 22 ruling, CEJA focuses on “the first version of IGFCs, which will reduce volumetric rates and rely on existing income verification processes used” for the CARE and FERA programs.²³ Leveraging the existing CARE and FERA income verification processes, the Commission can establish a multi-tiered IGFC as AB 205 instructs. Had the Legislature wanted to amend the CARE and FERA programs

¹⁷ AB 205 §14(b)(1).

¹⁸ Ex. CEJA-02 at 5.

¹⁹ Ex. SC-01E at 28-31.

²⁰ Ex. CEJA-02 at 3.

²¹ *Id.* at 2-3.

²² *Id.* at 3 (Tab. 1R).

²³ August 22 Ruling at 4.

to constitute the fixed charge tiers, they would have done so. In AB 205, the Legislature chose to grant the Commission power to impose fixed charges on all rate structures, and mandated IGFCs for all default residential rates.²⁴

While CEJA's expert Tyson Siegele first proposed a robustly progressive IGFC with ten tiers, CEJA also offers an amended proposal that is easier to implement and could be implemented based on existing CARE and FERA income verification practices.²⁵

CEJA's proposal offers five income brackets:

- \$0-80% AMI²⁶
- 80% AMI-\$200k
- \$200k-\$500k
- \$500k-\$2 million
- above \$2 million.²⁷

CEJA's five tiers are essential to achieving an income graduation which both ensures the statutory mandate for savings for low-income customers,²⁸ and equitably allocates costs among residential customers as the Legislature explicitly intended.²⁹ A push to adopt a progressive IGFC out of the gate is the best option for meeting Section 739.9(e)'s implementation deadline in a manner that accomplishes AB 205's equity mandate. Most parties that filed opening testimony voiced support for a progressive fixed charge including CEJA, Sierra Club, NRDC/TURN, Cal Advocates, and the Joint IOUs.³⁰ If the Commission is to fairly redistribute the burden of supporting the electrical system and meeting California's climate goals through an income graduated fixed charge it must implement a fixed charge that distributes costs based on ability to pay with graduation across a broad range of income classes.³¹

²⁴ Cal. Pub. Util. Code § 739.9(e)(1).

²⁵ Ex. CEJA-01 at 22 (Tab. 8).

²⁶ CEJA urges the Commission to adopt the California Department of Housing and Community Development's definition of low income. HCD defines low-income, adjusted by area and family size, as approximately 80% of AMI or 80 percent of state non-metropolitan median family income. *See* Cal. Code Regs., tit. 25, § 6932; Ex. CEJA-02 at 5.

²⁷ Ex. CEJA-02 at 3.

²⁸ Cal. Pub. Util. Code § 739.9(e)(1).

²⁹ AB 205 at § 14(b)(1).

³⁰ Ex. CEJA-02 at 8-9.

³¹ AB 205 at §14(b); Ex. CEJA-01 at 10-11, 16-18.

d. CEJA's progressive income graduated fixed charge can be implemented as envisioned by the Commission's August 22 ruling

The August 22 ruling orders parties to focus on a “first version” IGFC that can be implemented using existing income verification processes used by the Commission for CARE and FERA programs.³² CEJA's proposal can be implemented using the income verification processes used by CARE and FERA. CARE and FERA collect and verify income through two main mechanisms (1) transfer of ratepayer information from another approved, means-tested programs, and (2) customer self-certification.³³ To support these mechanisms, the programs also filter and spot check customers. Customer filtering is accomplished through widely publicized eligibility guidelines which show income thresholds based on program (CARE or FERA) and household size.³⁴ Post-enrollment verification (PEV) is conducted on a small portion of customers each year. These customers are selected for spot-checking via a probability model, random sample, or when the customer encounters a situational PEV mandate.³⁵ The Joint IOUs allocated approximately \$30 million to CARE processing, certification, recertification and PEV for the 2021-26 period.³⁶ The Joint IOU's certification and PEV costs for FERA in the same period are nominal.³⁷

CEJA's income verification proposal closely mirrors CARE and FERA income verification practices and can be implemented with minor changes. CEJA urged the Commission to rely on self-certification and spot-checking, as follows:

- 1) Transfer of ratepayer information from other approved, means-tested programs and place customers in the appropriate, first tier.
- 2) Customer self-certification.

³² August 22 Ruling at 4.

³³ D.21-06-015, *Decision on Large Investor-Owned Utilities' and Marin Clean Energy's California Alternate Rates for Energy (CARE), Energy Savings Assistance (ESA), and Family Electric Rate Assistance (FERA) Program Applications for Program Years 2021-2026* at 6 (Jun. 3, 2021).

³⁴ *Id.* at 5-7.

³⁵ PEV is mandatory for customers who receive one-time ESA energy efficiency services or exceed 400% of baseline energy usage three times in a 12-month period. *Id.* at 473, 477.

³⁶ *Id.* at 76-78.

³⁷ *Id.* at 107-110.

- 3) Employ assessed property value at each service address as an income proxy to place customers who do not self-certify.
- 4) For multi-family housing, place customers who do not self-certify into a tier based on the median income of the census tract the dwelling is located in.
- 5) Spot-check customers with income data based on assessed property value.
- 6) Customer appeal process using self-certification.³⁸

This income data collection process scales up existing CARE practices to collect data from all customers and account for potential data gaps. Steps 1, 2, 5, and 6 all align with existing CARE and FERA practices. Self-certification is particularly effective under an equitable IGFC because most customers fall into the lowest income tiers and accurate self-certification would mean those customers would see a low or \$0 fixed charge in addition to lower volumetric rates.³⁹ Despite this, CEJA included steps 3 and 4 to address the expectation of unanswered self-certification requests from some customers.⁴⁰

The Commission *must* center equity as it rolls out IGFC's, ensuring that low-income customers are protected and informed about the ways their bills will change. Using familiar mechanisms is the best way to achieve this result. Other parties share CEJA's view. SEIA also advocates for existing CARE and FERA procedures, "taking advantage of existing customer trust and goodwill, self-verification, and limited spot-checks."⁴¹ And as CEJA and Sierra Club discussed in opening comments, an effective IGFC verification process should rely on self-attestation and spot checking for all income tiers.⁴² Once the first version implementation is complete, the Commission can its shift focus to improving spot checking, incorporating other

³⁸ Ex. CEJA-01 at 3, 23, 25, 26-27, 30; Ex. CEJA-02 at 3, 5-7.

³⁹ Ex. CEJA-02 at 5.

⁴⁰ Ex. CEJA-01 at 24 ("I prefer self-certification to the other possible forms of income verification. While there is a possibility that customers will not provide the IOUs any income information. Self-certification provides a low-cost way to obtain some customer income information," and at 26 "After self-certification, the Commission should require the IOUs to conduct an income verification process on all customers that did not submit a self-certification, with the use of publicly available data.").

⁴¹ Ex. CEJA-02 at 6.

⁴² Ex. CEJA-03 at 4-5 ("Because each [CEJA and Sierra Club's] proposal is progressive, the Commission may leverage self-attestation for all customers, focusing a majority of income verification resources on protecting low-income customers via outreach and categorical eligibility, and on cost effective spot checking to ensure high-income customers are placed into the proper tier.").

low-income program data into its system for tier assignment accuracy, and ensuring rate protections are working appropriately.⁴³

e. Income-graduated fixed charges should be applicable to all residential rate schedules and support electrification and rooftop solar

The Commission should establish IGFCs for all residential rates. CEJA's electrification proposal relies on this, and CEJA is concerned that if certain customers can opt out, then high-income customers will do so. The Commission is empowered by section 739.9(e)(1) to authorize fixed charges for any rate schedule and is instructed to ensure rates are income graduated such that they are affordable for low-income customers.⁴⁴ Implementing IGFCs only for default rates would permit high income customers to opt out of IGFCs limiting recovery from high tiers and harming equity.

CEJA's proposal maintains support for electrification and solar programs while supporting fixed charges for all rates. To avoid disincentivizing beneficial electrification, CEJA proposed an IGFC discount for electric-only customers which would phase out between 2030-2035.⁴⁵ The discount gives customers some ability to manage their bill during the transition to IGFCs and adjust to new bills. After the discounts phase out, low- and moderate-income customers will continue to pay a low or no IGFCs and high-income customers who are fully electrified will begin to support some, fair, portion of the operation and infrastructure costs that do not vary with electricity consumption.⁴⁶ Low-income customers, and indeed all customers regardless of tier, will still see incentives to adopt rooftop and community solar in order to reduce the volumetric portion of their bill.

f. The Commission must select fixed charge cost components to achieve equitable distribution of fixed utility costs and rate stability

The selection of income brackets and the weighting of the fixed charge by income bracket could have a larger effect on low-income customers than the cost components included

⁴³ CARE and FERA's self-certification and spot-checking system already vets the approximately 1-in-4 households in the State who qualify for those programs. *See* Ex. CEJA-02 at 15-17.

⁴⁴ Cal. Pub. Util. Code § 739.9(e)(1).

⁴⁵ Ex. CEJA-01 at 33-34.

⁴⁶ AB 205 at §14(a)(4); Ex. CEJA-02 at 14.

in the charge. Section 739.9(a) explains that a fixed charge is any “fixed customer charge, basic service fee, demand differentiated basic service fee, demand charge, or other charge not based on the volume of electricity consumed.” CEJA acknowledges that the cost of grid connection and certain non-bypassable charges may be a reasonable starting point for a fixed charge because they are stable and do not vary with electricity consumption.⁴⁷

The range of options laid out in statutory interpretation briefing, subsequent testimony, and comments give rise to an important policy decision. The Commission must strike a balance in recovering fixed charges. A large average fixed charge could result in strong customer aversion, and a disincentive for utilities to perform efficiently if they are able to secure a substantial portion of their revenue requirement at stable, fixed levels. A small average fixed charge will not significantly reduce volumetric rates, preventing the Commission from securing meaningful bill savings for low-income customers and equitably redistributing the fixed costs of maintaining the electric grid. Faced with these two bookends, the Commission must make a policy decision to adopt an IGFC that collects a reasonable portion of fixed costs of providing electrical service. The Legislature’s intent in asking the Commission to decide “is to do both of the following:

(1) ...help stabilize rates and equitably allocate and recover costs among residential customers.

(2) ...more fairly distribute the burden of supporting the electrical system and achieving California’s climate change goals.”⁴⁸

CEJA urges the Commission to adopt a fixed charge with equitable energy burden, and progressive graduation of income tiers in mind.⁴⁹ The Legislature clearly intended the costs

⁴⁷ D.17-09-035, *Decision Identifying Fixed Cost Categories to be Included in a Fixed Charge*, at 60 (Sept. 28, 2017); Ex. CEJA-02 at 10.

⁴⁸ AB 205 at §14(b).

⁴⁹ D.15-07-001, *Decision on Residential Rate Reform for Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company and Transition to Time-Of-Use Rates* at 266 (Jul. 3, 2015); D.21-10-012, *Decision Authorizing Percentage of Income Payment Plan Pilot Programs* at 41-42 (Oct. 7, 2021); Ex. CEJA-01 at 17-18.

recovered through fixed charges to be a product of balanced, equitable *income graduated* “charge[s] not based on the volume of electricity consumed.”⁵⁰

g. Other proposals fail to protect low-income households, as required by AB 205

Proposals from other parties which differentiate between CARE, FERA, and all other ratepayers, or do not differentiate between customers with incomes above \$200k, do not meet AB 205’s baseline equity requirements. The Joint IOU proposal seeks to “avoid placing a significant burden on other income brackets,”⁵¹ rather than addressing the existing areas of cost pressure which “[contribute] to potential inequities among customers” as the Legislature intended in this proceeding.⁵² This is not the proceeding to resolve all burdens on electricity customers, however necessary such a proceeding may be. At present, rates are rising to keep pace with California’s increasingly high IOU revenue requirements.⁵³

The Joint IOUs’ proposal splits ratepayers into four inequitable tiers:

- \$0-\$24,860
- \$24,860- \$49,720
- \$49,720-\$161,590
- Above \$161,590.⁵⁴

The Public Advocates Office’s proposal would effectively differentiate customers into 3 tiers, with no differentiation between customers who make more than \$100,000:

- \$0-\$50k
- \$50k-\$100k
- Above \$100k.⁵⁵

⁵⁰ Cal. Pub. Util. Code § 739.9(a); AB 205 at §14.

⁵¹ Ex. CEJA-02 at 12 (*Quoting* Opening Comments of The Joint IOUs in Response to Administrative Law Judge’s Ruling on Implementation Pathway for Income-Graduated Fixed Charges at 17-18 (Jul. 31, 2023)).

⁵² AB 205 at § 14(a)(1), (4).

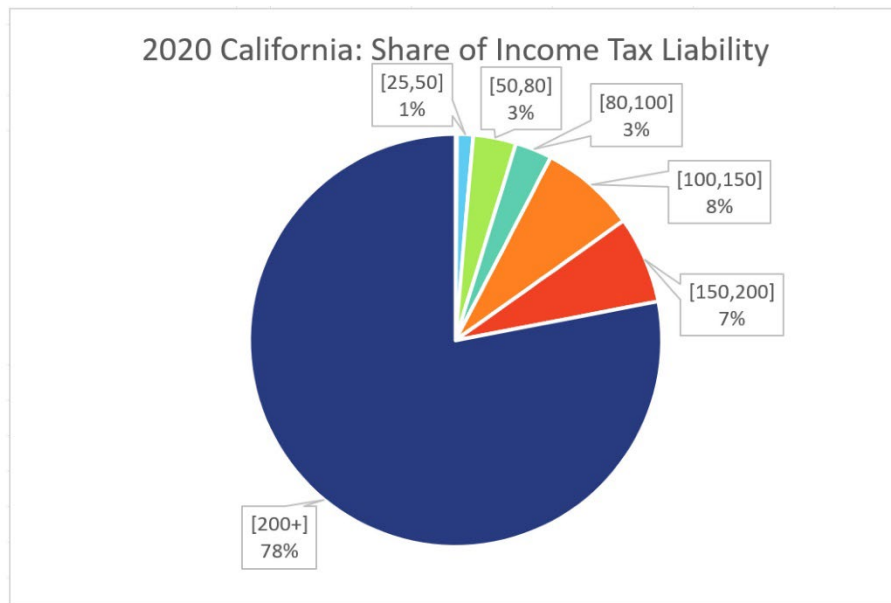
⁵³ *Id.* at § 14(a)(3); Ex. CEJA-01 at 4-6.

⁵⁴ Ex. Joint IOUs-01-E2 at 5 (Tab. I-1). All figures based on income limits for 3-person households.

⁵⁵ Ex. Cal Advocates-01E at 3 (The proposal also differentiates between CARE and Non-CARE customers at each tier level, though dividing low-income customers to form the tiers mimics an enhanced version of CARE and FERA and maintains the current system of providing limited benefits to low-income customer).

Given that the Legislature mandated the fixed charge “equitably allocate and recover costs among residential customers”,⁵⁶ tiers such as these, which treat customers who earn less than area median income as high-income would exacerbate rather than addressing inequities. Moreover, California already has a tried-and-true model for progressivity, which it uses in collecting income taxes. Customers who earn over \$100,000 account for 93% of income tax liability in California. Customers who earn over \$150,000 account for 85%. These proposals do not approach equitable allocation of costs, but rather focus all graduation on 10-15% of the whole. And as the Commission has previously recognized, affordability concerns are impacted by location and not limited to customers that are eligible for the CARE program.⁵⁷ This makes proposals that are limited to CARE status or fail to incorporate area median income considerations ineffective at best, and regressive at worst – piling the burden of the fixed charge on households who can least afford to pay it.

Figure 4: 2020 California income liability by income bracket displaying the top income bracket as: \$200k and over”⁵⁸



⁵⁶ AB 205 at §14(b)(1).

⁵⁷ See generally D.22-08-023.

⁵⁸ Ex. CEJA-01 at 13.

There is already a significant burden on California customers, focused most heavily on low-income customers in communities of color. A fixed charge that distributes costs based on ability to pay with graduation across a broad range of income classes is the most productive way for the commission to meet AB 205's equity mandate.⁵⁹ CEJA's proposal moves the State towards equity rather than preserving the existing inequitable cost distribution.

III. CONCLUSION

In summary, CEJA urges the Commission to define low-income customers as those with incomes up to 80 percent of statewide or area median income, whichever is higher. The initial version, and all subsequent versions, of the fixed charge must set a zero charge for these customers or else include individual bill protections for every low-income household. By following an income verification process very similar to the process used by CARE and FERA, CEJA's simplified, five-tier approach is an appropriate initial version to launch the IGFC. For a subsequent, more robust version of the IGFC, the E3 calculator should include income tiers above \$200,000 as the next version will need to adopt a more granular progressive structure in which the highest income households pay their fair share so the lowest income households can afford to keep their lights on. CEJA appreciates the opportunity to submit this Opening Brief.

⁵⁹ Ex. CEJA-01 at 10-11, 16-18.

Dated: October 6, 2023

Respectfully submitted,

/s/ Shana Lazerow _____

Shana Lazerow

Theo Caretto

Communities for a Better Environment

340 Marina Way

Richmond, CA 94801

Tel: (510) 302-0430

Email: slazerow@cbeocal.org

theodore@cbeocal.org

***On behalf of the California
Environmental Justice Alliance***