BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates.

Rulemaking 22-07-005
(Filed July 14, 2022)

TRACK A REPLY BRIEF OF THE CALIFORNIA EFFICIENCY + DEMAND MANAGEMENT COUNCIL


I. BACKGROUND

The Council is a statewide trade association of non-utility businesses that provide energy efficiency, demand response, and data analytics services and products in California. Our member companies employ many thousands of Californians throughout the state. They include energy efficiency (“EE”), demand response (“DR”), and distributed energy resources (“DER”) service providers, implementation and evaluation experts, energy service companies, engineering and architecture firms, contractors, financing experts, workforce training entities, and energy efficient product manufacturers. The Council’s mission is to support appropriate EE, DR, and DER policies, programs, and technologies to create sustainable jobs, long-term economic growth, stable and reasonably priced energy infrastructure, and environmental improvement.

1 Additional information about the Council, including the organization’s current membership, Board of Directors, antitrust guidelines and code of ethics for its members, can be found at http://www.cedmc.org. The views expressed by the Council are not necessarily those of its individual members.
II. SUMMARY

The Income Graduated Fixed Charges ("IGFCs") must be reasonable to meet a myriad of compliance requirements and effectively incentivize efficient and responsive electrification in the long-term. As discussed below, only the Solar Energy Industry Association (SEIA) and the Clean Coalition put forward IGFC proposals that strike that balance. The narrative that conservation and energy efficiency are contradictory to decarbonizing or electrifying are based on misunderstandings at best or falsehoods at worst. Demand-side resources (including conservation, distributed energy resources, energy efficiency, demand response, demand flexibility, and distributed generation) must be appropriately valued to decarbonize the economy affordably, equitably, and reliably. Unreasonably high IGFCs undermine the value and the role of demand-side resources to Californians and the grid. IGFCs pose a significant shift in rate structure and public policy and must face substantial analysis and scrutiny; the Advice Letter process is therefore insufficient, and the Commission should initiate a rate design window application. This will also authorize just one opportunity for the general public to provide their input, which has been effectively denied thus far.

III. UNREASONABLY HIGH IGFCs IMPAIR DEMAND-SIDE RESOURCES

The Council agrees with the Clean Coalition’s general characterization of challenges revolving around IGFCs, including “…a Fixed Charge cannot be a silver bullet solution that solves the crisis of unaffordable electricity rates in California.” The Council is concerned the proposals that put forward the most extreme fixed charges in the nation inadequately consider the policy and economic impacts of those proposals. Advanced Energy United’s ("United") Rebuttal Testimony succinctly and accurately captures the potential impacts of “unreasonably high fixed charges” on demand flexibility in that they “would make it more difficult to establish a broader rate design that encourages demand flexibility, as customers would not be able to avoid the substantial fixed charge by shifting their demand.” United’s concern accurately encompasses other demand-side resources as well: “under an IGFC, the personal cost of energy

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2 Clean Coalition Opening Brief, at p. 5.
3 Id., at p. 4.
4 Rebuttal Testimony of Brian Turner on Behalf of Advanced Energy United, submitted in this proceeding on June 2, 2023 (Exhibit (Ex.) AEU-01), at p. 13, lines 4-6.
efficiency, conservation, and distributed generation becomes incrementally higher. Not only does the lower volumetric rate decrease the benefit of these technologies, but the personal cost includes the relatively higher burden of the IGFC.”

The Council shares SEIA’s concerns raised in their Opening Brief that proposals for high Fixed Charges lead to “(1) significantly increased usage during peak periods, thereby endangering grid reliability, (2) increases in long-term electric system costs; (3) increases in greenhouse gas emissions, and (4) a rate structure which is ineffective in promoting beneficial electrification.” The consequences of high fixed charges would place upward pressure on already ballooning energy costs and greater strain on an already taxed grid. This pushes the state towards a higher risk of noncompliance with key clean energy and climate statutory requirements and targets. Some of those statutory requirements and targets at risk under unreasonably high IGFCs include:

- **SB 350** (De León, 2015) Sec. 2(a) “The Legislature finds and declares that the Governor has called for a new set of objectives in clean energy, clean air, and pollution reduction for 2030 and beyond. Those objectives include the following:

  …

  “(2) To double the energy efficiency savings in electricity and natural gas final end uses of retail customers through energy efficiency and conservation.”

- **SB 846** (Dodd, 2022) Sec. 4(25302.7) “…a goal for load shifting to reduce net peak electrical demand…. The commission, in consultation with the Public Utilities Commission and the Independent System Operator, shall recommend policies to increase demand response and load shifting that do not increase greenhouse gas emissions or increase electric rates.”

- **SB 100** (De León, 2018) Sec. 5(454.53)(a) “It is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045.”

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5 Ex. AEU-01, at p. 12, lines 18-21.
6 SEIA Opening Brief, at p. 2.
7 Id.
The Council is concerned that high IGFCs impair the state’s ability to achieve its Load Shift Goal (as established in the Energy Commission’s Senate Bill 846 Load-Shift Goal Report) affordably and effectively by unnecessarily constraining price signals needed to incentivize load shifting. The Council believes the challenges in maintaining the affordability and reliability of California’s electric grid will severely harm the state’s ability to achieve the requirements laid out in SB 100. United, The Clean Coalition, California Energy Storage Alliance (CESA), and Solar Energy Industries Association raise the challenges of a high IGFC with maintaining electric reliability or affordability.

The Council also agrees with the Clean Coalition’s statement that “any proposal for a high Fixed Charge that makes it significantly more financially advantageous to consume more energy (and be less efficient) than to conserve energy, deploy energy efficiency measures, electrify, and shift energy usage to off peak hours would take the state in the wrong direction [emphasis added].” The Council believes the proposals that put forward unreasonably high IGFCs are likely to harm progress towards achieving key clean energy and climate policies, let alone risk compliance with AB 205 Sec. 10(739.9)(d).

The Joint IOU’s proposal put forward in their joint Opening Brief continues to offer what would be the nation’s highest fixed charges and would likely result in substantial consequences as noted above. The Council disagrees with the Joint Investor-Owned Utilities’ (“Joint IOUs”) framing of their proposals in their Opening Brief, that they:

…are not proposing average fixed charges that are so high as to reduce volumetric rates to the level of marginal costs, but rather are proposing fixed charges at a level that will strike an appropriate balance in terms of (i) aligning customer charge/rate categories with utility cost categories, (ii) reducing volumetric rates in order to facilitate electrification/decarbonization goals while allowing volumetric rates to

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8 CEC Senate Bill 846 Load-Shift Goal Report which can be found here: https://www.energy.ca.gov/publications/2023/senate-bill-846-load-shift-goal-report
9 Ex. AEU-01, at p. 14, lines 1-3.
13 Clean Coalition Opening Brief, at p. 2.
continue to incentivize conservation, and (iii) establishing a fixed charge that is fair and not overly burdensome to any customer groups.\textsuperscript{14}

The Clean Coalition captured a crucial perspective that underscores the challenges with leveraging a high IGFC as a key accelerant towards electrification:

-electrification cannot result in higher utility bills and must result in some level of savings to be financially feasible. Yet, under the [high Fixed Charge] proposals from the Joint IOUs, Cal Advocates, and NRDC/TURN, non-CARE customers transitioning from high-efficiency modern gas appliances see no savings. CARE customers see small returns when transitioning from low-efficiency gas appliances because the baseline bills are lowered by subsidies and no savings when transitioning away from high-efficiency gas appliances. Second, the cost of deploying electrification measures matters when considering the benefits of a Fixed Charge. Under the IOU and NRDC/TURN proposals, “Assuming a maximum 10-year simple payback for residential consumers to be willing to adopt, the turnkey cost (equipment plus installation) for whole home electrification would need to be less than $2,170, post all incentives, to break even. For existing homes, actual installed costs for the modeled electric appliances are likely to be in excess of $20,000.” Therefore, the Commission should not find any argument about a high Fixed Charge being necessary to enable electrification to be persuasive.”\textsuperscript{15}

The Council therefore agrees with the Clean Coalition that high IGFCs push the state in the wrong direction, and we urge the Commission to adopt either SEIA’s or the Clean Coalition’s IGFC proposals to comply with Assembly Bill (AB) 205, mitigate detrimental cost repercussions of high IGFCs, and maintain the viability of crucial demand-side resources in decarbonizing the economy affordably, equitably, and reliably.

\textbf{III. DEMAND-SIDE RESOURCES ARE NECESSARY, NOT CONTRADICTORY TO, ELECTRIFICATION}

The Council strongly opposes ongoing narratives that undermine key policies and mechanisms that have positioned the state to be a global leader in energy innovation. Those narratives generally revolve around a supposed contradiction between conservation or efficiency and decarbonizing or electrifying California’s economy. Of particular concern is the perspective shared by the joint IOUs as raised by SEIA: “There is nothing in the legislative history which supports the position of the Joint IOUs that the goals added through AB 205 [the prohibition against unreasonable impacts on electrification and GHG emission reductions] should be given

\textsuperscript{14} Joint IOUs Opening Brief, at p. 8.
\textsuperscript{15} Clean Coalition, at p. 6.
“greater priority” [over conservation and energy efficiency].”¹⁶ The Joint IOUs’ position is even further erroneous when taking into account the state’s longstanding prioritization of efficiency and conservation through the loading order.¹⁷ The value of efficiency, conservation, and demand-side resources in general (like demand flexibility) to mitigating on-peak demand remain demonstrable to this day and will only grow in importance as electrification rapidly increases electric loads, particularly at on-peak hours.

Rate structures and policies that appear to incentivize untethered rather than efficient and/or responsive electricity consumption, such as the high IGFC proposals, will not incentivize long-term affordable, equitable, and successful electrification. Though the Council strongly disagrees with Sierra Club’s unreasonably high IGFC proposal,¹⁸ the Council agrees in principle with the Sierra Club’s statement in their Opening Brief that “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.”¹⁹ As SEIA observes, “The on-peak period is when the least-efficient, most-polluting natural gas-fired power plants are on the margin and will be called on to produce.”

The Council urges the Commission to disregard any assertion or notion that conservation or efficiency are somehow contradictory to the state’s goals of decarbonization and electrification and ensure a holistic approach is taken into account when pursuing policies that impact clean energy or climate goals and requirements.

IV.
IGFCS MUST RECEIVE PUBLIC ANALYSIS AND INPUT

In their Opening Brief, the Clean Coalition argued that they do “not support implementation of something as consequential as the Fixed Charge to the Advice Letter

¹⁶ SEIA Opening Brief, at p. 10.
¹⁸ Sierra Club Opening Brief, at p. 15.
¹⁹ Id., at p. 36.
process.” IGFCs have received little public analysis and input since the passage of AB 205 beyond the constraints of the formal regulatory process. Over the 2023 summer, the Administrative Law Judge denied a Joint Party Motion for Public Participation Hearings as “too late in this proceeding to hold Public Participation Hearings” while the Joint IOUs protested the Motion as premature.21

The Council disagrees with both of those perspectives as well as Coalition of California Utility Employees (CUE),22 the Public Advocates Office (Cal Advocates),23 and the Joint IOUs24 in their asking to advance IGFCs through the Advice Letter process. The Council urges the Commission to provide the opportunity for open public analysis and input through the Rate Design Window Application Process rather than ushering IGFCs only through the rigid regulatory process with limited scrutiny via the Advice Letter process. We remain steadfast in our perspective even in the relatively brief time frame, provided by statute, that the Commission must authorize a fixed charge for default residential rates. Thorough analysis and scrutiny are crucial to mitigating unintended consequences and balancing compliance requirements through the final IGFCs regardless of if the Commission desires to initially pursue IGFC pilots.

V. CONCLUSION

The Council respectfully recommends that the Commission adopt the Council’s proposals.

Respectfully submitted,

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20 Clean Coalition Opening Brief, at p. 11.
21 ALJ Ruling Addressing Motion for Public Participation Hearings, issued in this proceeding on August 15, 2023, at p. 3.
22 CUE Opening Brief, at pp. 6-7.
24 Joint IOUs Opening Brief, at pp. viii-ix.