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

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.	Rulemaking 22-07-005

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

Anna Valdberg James Whooley Attorney for SOUTHERN CALIFORNIA EDISON COMPANY 2244 Walnut Grove Avenue Post Office Box 800 Rosemead, CA 91770 Telephone: (626) 302-1991 Email: James.Whooley@sce.com	Gail L. Slocum Jennifer Reyes Lagunero Attorneys for PACIFIC GAS AND ELECTRIC COMPANY 77 Beale Street San Francisco, CA 94105 Telephone: (415) 515-2892 Email: Gail.Slocum@pge.com	Rebecca Hansson Roger Cerda Attorneys for SAN DIEGO GAS AND ELECTRIC COMPANY 8330 Century Park Court, CP32D San Diego, CA 92123-1530 Telephone: (858) 654-8278 Email: rhansson@sdge.com rcerda@sdge.com

Date: November 3, 2023

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

Table of Contents

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

List Of Tables

Section	Page

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

List Of Figures

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

Table of Authorities

Section	Page

Statutes

Legislation

Case Law

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

Table of Authorities

SUMMARY OF RECOMMENDATIONS

This Reply Brief of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) (collectively, the Joint Investor-Owned Utilities or Joint IOUs) includes the following recommendations.

1. The Joint IOUs incorporate by reference the Summary of Recommendations in their Opening Brief.[1]

2. The Fixed Charge (FC) to be authorized in the Commission's Track A Decision should support the affordability and electrification goals underlying Assembly Bill (AB) 205 by setting average fixed charges at the levels proposed by the IOUs: $42 for PG&E, $41 for SCE, and $60 for SDG&E. A higher average fixed charge with greater income differentials than those proposed by other parties is necessary to address these goals. Moreover, the Commission should implement an appropriate annual adjustment formula to ensure that over time the FC remains consistent with AB 205's goals.

3. The Commission should reject comparisons of the Joint IOUs' proposed FC dollar amounts to those of different utilities, such as the Sacramento Municipal Utility District (SMUD). The IOUs have different marginal costs and revenue requirements than SMUD, as well as different customer bases, climate zones, grid infrastructure, and regulatory obligations, among other distinctions. Using the adopted SMUD fixed charge level would prevent the IOUs from collecting a sufficient portion of their fixed costs and would not sufficiently reduce volumetric rates to incentivize electrification. Moreover, calculations herein show that the Joint IOUs' proposed average fixed charges are consistent with the 23% of residential revenue requirement recovered by SMUD's fixed charge. From the perspective of fixed charge relative to revenue requirement, analogies to SMUD's fixed charge actually support the Joint IOUs' proposal.

4. Public Utilities Code § 739.9(e)(1) (as amended by AB 205) provides that the Commission may authorize fixed charges for residential rates, and that "[t]he fixed charge shall be established on an income-graduated basis with no fewer than three income thresholds so that a low-

---

[1] Track A Opening Brief of PG&E, SCE, and SDG&E (Joint IOUs' Opening Brief), filed 10/6/23, pp. viii-ix.

income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage." Consistent with this provision, the Commission should reject any fixed charge proposal that does not provide meaningful savings for low-income customers, such as the proposal of the Solar Energy Industries Association (SEIA) that would provide approximately $1-2 per month bill reduction for CARE customers.

5. The Commission should reject unfounded legal arguments that would limit or bar implementation of the fixed charge. The Commission has broad Constitutional powers to fix rates, including the long-standing power to establish fixed charges. The arguments of parties such as SEIA and Alexis Wodtke that the Commission lacks statutory or Constitutional authority in relation to the fixed charge should be rejected. In addition, the Commission should reject arguments that liken the fixed charge to an income tax, because it is clearly a rate component based on marginal cost.

6. The Commission should reject First Version proposals that go beyond the guidance in the August 22, 2023 Ruling. A First Version FC is necessary to comply with the July 1, 2024 deadline set by AB 205 for the Commission to authorize a fixed charge. Proposals for fixed charges with more than three tiers contradict the Commission's guidance that the First Version FC will rely on CARE and FERA income verification processes, and ignore the significant unresolved challenges raised by the prospect of attempting to perform income verification on non-CARE and non-FERA customer households. Proposals to use metrics for defining "low-income" other than the Federal Poverty Level (such as Area Median Income) are inconsistent with AB 205 and not practically feasible.

7. The Commission should approve the proposals of the Joint IOUs and TURN/NRDC to approve higher fixed charges for electrification rates, in order to incentivize the adoption of beneficial electrification technologies. Any proposal to exempt or provide credits related to Net Billing Tariff (NBT) and/or other solar customers from a fixed charge should be rejected.

8. The Commission should approve an FC for implementation, via a Tier 2 Advice Letter (AL), as soon as 2025 for SCE and SDG&E, and as soon as possible for PG&E dependent on completion of its new billing system. The goals of low-income bill relief and electrification require

prompt action and implementation. Party arguments against utilizing the Tier 2 Advice Letter process lack merit.

9. The Commission should approve the Joint IOUs' proposals for individual, rather than statewide, ME&O campaigns. The IOUs' recent experience with implementing time-of-use rates demonstrated that statewide ME&O is less effective and more expensive and subject to unnecessary delay. Because the parties generally agree on pre-implementation ME&O topics and the Joint IOUs intend to coordinate for consistency in themes and messaging, a statewide process is not necessary.

10. The Commission should approve Public Purpose Program (PPP) cost recovery of implementation costs via a balancing account, rather than a memorandum account or other review process. The Joint IOUs have set forth efficient proposals for which they are seeking revenue requirement recovery. Because the Commission can scrutinize the reasonableness of the costs requested in this proceeding, and because the costs are being sought on a prospective basis, a balancing account is reasonable and appropriate and will avoid the need to recover from customers additional interest costs.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Advance Demand Flexibility Through Electric Rates.	Rulemaking 22-07-005

TRACK A REPLY BRIEF OF PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND SAN DIEGO GAS & ELECTRIC COMPANY

I.

INTRODUCTION

Pursuant to Rule 13.12 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC), the Phase 1 Scoping Memo issued November 2, 2022 (Scoping Memo), and the Administrative Law Judge's (ALJ) Ruling issued August 22, 2023 (August 22, 2023 Ruling), Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) (collectively, the Joint Investor-Owned Utilities or Joint IOUs) submit this Reply Brief in response to Opening Briefs filed October 6, 2023 addressing issues scoped for Phase 1, Track A of this proceeding relating to the residential fixed charge (FC).[2] The following parties filed and served Opening Briefs: Alexis K. Wodtke; Bear Valley Electric Service, Inc., Liberty Utilities LLC, and PacifiCorp, filing jointly as the California Small and Multi-Jurisdictional Utilities (CASMU); California Community Choice Association (CalCCA); California Environmental Justice Alliance (CEJA); Center for Accessible Technology (CforAT); Clean Coalition (Clean Coalition); Coalition of California Utility Employees (CUE); PearlX Infrastructure LLC (PearlX); Public Advocates Office (Cal Advocates); Sierra Club; Solar Energy Industries Association (SEIA);

[2] Given the broad scope of issues raised by the parties' Opening Briefs, the Joint IOUs cannot respond to every issue here; silence on a particular issue should not be construed as agreement.

The Utility Reform Network and Natural Resources Defense Council (TURN/NRDC), filing jointly; and the Utility Consumers' Action Network (UCAN).

In this Reply Brief, the Joint IOUs identify areas of agreement across multiple parties as reflected in Opening Briefs and provide an updated summary of the parties' current First Version FC proposals (*see* Tables II-1 to -4). This Reply also identifies proposals in certain Opening Briefs that lack factual foundation, are legally deficient under Assembly Bill (AB) 205, and/or are not consistent with the Commission's guidance that the First Version FC will utilize income verification processes from the California Alternate Rates for Energy (CARE) and Family Electric Rate Assistance (FERA) programs. The Joint IOUs also discuss what steps the Commission should take toward consideration of later version FCs. The Joint IOUs respectfully recommend that the Commission's Track A decision, required by July 1, 2024, include adequate direction to allow implementation through Fall 2024 Advice Letters. This approach will avoid wasteful re-litigation by leveraging the existing evidentiary record, achieve AB 205's primary policy goals, and avoid unnecessary delays in delivering bill savings to low-income customers and volumetric rate reductions for all customers, which will in turn incent more widespread adoption of electrification technologies to support decarbonization.

II.

JOINT IOUS' RESPONSES TO SPECIFIC ISSUES AND ARGUMENTS

A. Legal Requirements Under Assembly Bill 205

The Joint IOUs incorporate by reference the briefs the Joint IOUs filed on January 23 and February 13, 2023 addressing the legal requirements set by AB 205. In this section, we address several legal arguments presented in other parties' Opening Briefs. Legal arguments related to other subject areas are addressed in sections pertaining to those subject areas.

1. There Is No Basis to Dismiss Track A of This Proceeding

The Joint IOUs continue to disagree with Ms. Wodtke's assertion that this proceeding must be dismissed due to alleged procedural defects. Ms. Wodtke argues that dismissal is required and residential customers cannot be bound by the Commission's Track A decision because PG&E did not provide constitutionally adequate notice and failed to comply with Cal. Pub. Util. Code §§ 454(a) and 729.5 and Commission Rule 3.2(d)-(e).[3] She also argues that Track A must be dismissed because the August 22, 2023 Ruling deviated from the Scoping Memo.[4] These arguments lack merit.

First, the assigned ALJ already considered and rejected these notice arguments in denying Ms. Wodtke's prior motion to dismiss, ruling that Section 454(a) does not apply because "Track A proposals are not utility applications to change rates."[5] Like Section 454(a), Rule 3.2 applies to a utility "application to increase any rate of charge,"[6] which is not at issue for the revenue-neutral statutory rate design compliance required in this proceeding. The ALJ also found that the notice the Commission provided satisfied statutory and due process requirements, as evidenced by the participation of more than 70 parties "representing a broad range of stakeholder interests" and over 500 public comments shared with the Commission through the public participation portal and via voicemail and email.[7] Since the ALJ's ruling, those numbers have only increased.[8]

Ms. Wodtke's contention that "affected customers have not been given an opportunity to participate"[9] in this proceeding is factually incorrect and reflects an incorrect assumption that

---

[3] Wodtke Opening Brief, pp. 2-5.

[4] Wodtke Opening Brief, p. 8.

[5] Administrative Law Judge's Ruling to Deny Motion to Dismiss (Aug. 2, 2023), p. 4.

[6] Rules of Practice and Procedure, Rule 3.2(d).

[7] Administrative Law Judge's Ruling to Deny Motion to Dismiss (Aug. 2, 2023), pp. 5-6.

[8] *See* Administrative Law Judge's Ruling Addressing Motion for Public Participation Hearings (Aug. 15, 2023), p. 4; see also https://apps.cpuc.ca.gov/apex/f?p=401:65:(public comments on R.22-07-005 docket).

[9] Wodtke Opening Brief, p. 33.

customers do not have a voice if they are not individually made parties to the proceeding. However, there is no requirement that every single affected customer individually be made a party. Rather, many parties to the proceeding have expertise in representing residential interests, including TURN, UCAN, Cal Advocates, CforAT, and Sierra Club, among others. Members of the public can participate through the public portal, and hundreds of people have taken the opportunity to share their views. Ms. Wodtke herself became a party on April 28, 2023 and has been actively involved since then. Moreover, she presents no evidence of any person who wanted to be a party and who was denied that opportunity. The Commission has provided adequate notice of this proceeding and ample opportunity for residential customers to be heard.

Nor is dismissal warranted by Cal. Pub. Util. Code § 729.5. That statute provides: "A Public utility . . . shall not change a group of customers from one rate schedule to another rate schedule, if the change would result in an increase of more than 10 percent in the rate charged to the affected customers, without first notifying customers of the change. Upon the request of an affected customer, the commission *may* hold a hearing on the change."[10] The statute does not require any particular form of notice, much less a hearing, and no party disputes that customers should be made aware of the FC before it appears on their bills.

Ms. Wodtke also argues that Track A should be dismissed because the "[i]ssues that the ALJ's August 22, 2023, ruling raises are not the same as issues presented in the Scoping Memo," insofar as that ruling "splits the proceeding into two parts even though the Scoping Memo envisioned all IGFC rates would be considered together."[11] Ms. Wodtke cites *Southern California Edison Co. v. Public Utilities Commission*, 140 Cal.App.4th 1085, 1106 (2006), for the proposition that "when the Commission entertains new issues not identified in the Scoping Memo, it violates its own rules."[12] That case has no application here. The August 22, 2023 Ruling does not direct the parties to brief "new issues," but rather *narrows* the issues to be

[10] Cal. Pub. Util. Code § 729.5 (emphasis added).

[11] Wodtke Opening Brief, pp. 7-8 (emphasis in original).

[12] Wodtke Opening Brief, p. 8.

decided in Track A. Accordingly, there is no risk of parties being prejudiced by "failing to respond to the merits of proposals that were not encompassed in the scoping memo," as in the cited case.[13] To the contrary, the Commission gave parties an opportunity to respond to the specific issues identified in the August 22, 2023 Ruling, and extended the deadline for Opening Briefs to ensure they had adequate time to do so.[14] Notably absent from Ms. Wodtke's Opening Brief is any assertion or evidence that she was prejudiced by the August 22, 2023 Ruling. The Commission should reaffirm the ALJ's prior Ruling rejecting Ms. Wodtke's arguments for dismissal of this proceeding.

2. <u>The First Version Fixed Charge Is A Rate Component With A Low-Income Discount, Not An "Income Tax"</u>

Certain parties incorrectly liken the FC to an income tax. For example, Ms. Wodtke states that "the Commission's fixing of rates does not include the power to tax."[15] CEJA does not label the FC an income tax but asserts that "[t]he fixed charge should follow the progressive structure of California personal income tax graduation."[16] CforAT similarly suggests that the FC should follow the model of a "progressive" tax, asserting that "the IGFC is . . . to ensure that high-income households provide appropriate levels of support for various costs assessed through energy bills" and that "the legislative intent of AB 205" is to "establish a more progressive

---

13 *Southern California Edison v. Public Utilities Commission,* 140 Cal.App.4th 1085, 1106 (2006) ("the prevailing wage proposal was beyond the scope of issues identified in the scoping memo, the PUC violated its own rules by considering the new issue, and three business days was insufficient time for the parties to respond to the new proposals. We therefore conclude that the PUC failed to proceed in the manner required by law . . . and that the failure was prejudicial."); *see also Bullseye Telecom, Inc. v. California Public Utilities Com*., 66 Cal.App.5th 301, 327 (2021) (rejecting argument that Commission erred by departing from the scoping memo because the Commission "did *not* resolve issues not encompassed by the Scoping Memo, and petitioners had adequate opportunity to present evidence on the issues addressed" in the decision).

14 August 22, 2023 Ruling, p. 1.

15 Wodtke Opening Brief, p. 21.

16 CEJA Opening Brief, p. 4.

mechanism within utility bills . . ."[17] Sierra Club likewise advocates for a First Version FC that is "progressive" and brings about "equity."[18]

Contrary to these arguments, the August 22, 2023 Ruling provided that the First Version FC will rely on existing CARE/FERA income verification processes and data, such that the FC will essentially fall within the discount structure of the CARE and FERA programs, which are longstanding low-income programs mandated by statute for Commission implementation through revenue-neutral rate-setting. Just as these revenue-neutral programs are not an income tax (as they are not designed to "raise revenue"), neither is the First Version FC. Comparisons of the FC to an income tax are misplaced given the Commission's broad constitutional powers to fix rates in a manner consistent with statutory requirements, and in a framework that establishes a "standard" tier and "discounted" tiers based on CARE/FERA eligibility.[19] Ms. Wodtke's arguments, in particular, lack foundation and are inconsistent with longstanding Commission actions under CARE/FERA, which are the basis for the First Version FC.

3. SEIA's Narrow Definition Of "Fixed Charge" Is Not Consistent With AB 205

The Joint IOUs agree with SEIA that the fixed charge must comply with the statutory definition in Cal. Pub. Util. Code § 739.9,[20] but disagree with SEIA's narrow definition and application of what constitutes a "fixed charge." SEIA conflates "fixed charge" with "fixed costs," and then narrowly defines what a "fixed cost" is based on Decision (D.) 15-07-001.[21] Specifically, SEIA argues that a "fixed cost"

> (a) limits the universe of charges that qualify as a fixed charge to those that are not based on usage and apply by virtue of (1) the existence of a customer account,

---

[17] CforAT Opening Brief, p. 2.

[18] Sierra Club Opening Brief, p. 6.

[19] Compare with *Estate of Claeyssens*, 161 Cal.App.4th 465 (2008) (held: probate court user fee that was graduated based on value of estate was in substance an ad valorem tax that violated California Constitution).

[20] SEIA Opening Brief, p. 6.

[21] SEIA Opening Brief, pp. 7-8.

> or (2) the maximum possible demand that could be provided to the customer (not the customer's individual maximum demand).[22]

However, SEIA's description, based on D.15-07-001, is incomplete because, in that same decision, the Commission also found the evidence in the Residential Rate Reform (default TOU) proceeding to be "insufficient to determine precisely which costs are fixed, and among the universe of those fixed costs, which should be collected through a fixed charge." As stated in the Joint IOU's January 2023 Statutory Interpretation Opening Brief:

> Section 739.9(a) provides a starting point by defining a "fixed charge" as 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.[23]

Thus, the statutory definition of a "fixed charge" is broader than that presented by SEIA. Indeed, SEIA's interpretation is narrower than the other major active parties in this proceeding, such as TURN/NRDC, Cal Advocates, Sierra Club, and CEJA. For example, in their Opening Brief on Statutory Construction, TURN/NRDC state:

> The AB 205 changes to §381 eliminated the previous requirement that certain public purpose program costs…be collected 'on the basis of usage.' The very specific deletion of this requirement should be understood to permit the Commission to allow these [non-bypassable charges] to be collected from customers through a fixed charge.[24]

Similarly, Cal Advocates' updated proposal for a First Version FC reflects amounts "large enough to provide a beneficial volumetric rate reduction which will provide measurable benefits for electrification."[25] Cal Advocates' fixed charges for their First Version FC "are designed to collect the same marginal customer access costs, [Public Purpose Programs] PPP, and wildfire charges consistent with Cal Advocates' original proposal."[26]

Sierra Club and CEJA also have a broader statutory interpretation of what can be included in a fixed charge pursuant to AB 205, such as "public purpose programs, nuclear

---

[22] SEIA Opening Brief, pp. 6-7, referring to D.15-07-001, p. 8.

[23] Joint IOUs Opening Brief on Statutory Construction, p. 11.

[24] *Id*. at p. 6.

[25] Cal Advocates Opening Brief, p. 19.

[26] *Id.*

decommissioning, competition transition charges, wildfire fund charge, and the wildfire hardening charge."[27] The statute is clear that a charge is fixed if it recovers costs that do not change based on the pertinent measure of electric power consumed from the utility grid.[28]

Therefore, the Commission should disregard SEIA's narrow definition of the term "fixed charge" as inconsistent with AB 205. *See also* Section II.C.2 for further discussion.

4. **<u>The Commission's Decision By July 1, 2024 Should Make Meaningful Progress On A First Version FC</u>**

The First Version FC should be both practically feasible and effective enough to make meaningful progress toward the Legislature's stated goals of supporting electrification and addressing low-income affordability concerns. The Joint IOUs' proposed average charges (of $41, $42, and $60 per month by SCE, PG&E, and SDG&E, respectively) would support these goals. The First Version FC should be implemented with a recognition of the possibility that it may remain in place for longer than anticipated as obstacles relating to income verification of non-CARE/FERA customers are given full consideration; the decision on First Version FCs should be designed to advance electrification and affordability efforts in the interim. The Commission should not set the First Version FCs too low on the assumption that there will be rapid development and implementation of a second version. At the same time, the Commission should include an annual adjustment for the First Version FCs because, without it, the Commission runs the risk of diluting (and thus undercutting) the legislative goals of AB 205.

Specifically, as discussed below, the Commission should allow the First Version FCs to vary with revenue requirement changes as volumetric components do today. This will better ensure that the benefits of the First Version FC are not eroded if all other rates increase. In addition, regardless of the average fixed charge level for the First Version, the Commission should adopt an annual adjustment formula for increasing the initial FC dollar amounts – least to

---

27 Sierra Club/CEJA Opening Brief on Statutory Construction, p. 6.

28 *See* Joint IOUs Opening Brief on Statutory Construction, pp. 11-13.

reflect CPI. It should also establish a timeline and forum for considering moving the average FC closer to the full universe of fixed cost components, regardless of the outcome of consideration of broader income verification for a Second Version.

B. Compliance With The August 22, 2023 Ruling

The ALJ's August 22, 2023 Ruling instructed parties' Track A Opening Briefs to "focus … on issues necessary to authorize the [First Version FC], which will reduce volumetric rates and rely on existing income verification processes used [in] the ...CARE and ...FERA programs."[29] In a subsequent e-mail clarification, the assigned ALJ stated that she would permit parties to present their First Version FC proposals in Opening Briefs.[30] Upon review of Opening Briefs, not all parties complied with these directives. For instance, Sierra Club and CEJA proposed more than three income tiers and/or income verification beyond existing CARE/FERA mechanisms.[31] Plainly, not only does a five-tiered proposal directly contradict the Ruling's clear direction, it could be seen as trying to supplant the Ruling's stated process that was intended to address practical obstacles through a simplified First Version. The Commission should defer consideration of these non-compliant proposals with more than three tiers to be part of a future Second Version FC process. *See* Section II.D.2 for more detail.

1. Requests To Define "Low-Income" Based on Area Median Income Are Inconsistent With AB 205 And The August 22, 2023 Ruling

The Commission should not define "low-income" by reference to Area Median Income (AMI), as suggested by some parties, because doing so is inconsistent with both AB 205 and the definition used by the CARE and FERA programs, which the Commission has ordered will be

---

29 August 22, 2023 Ruling, p. 4.

30 Email *Ruling Clarifying ALJ Ruling on Track A Briefs, Opening Briefs, and Exhibits* (Aug. 24, 2023).

31 Sierra Club Opening Brief, pp. 12-16. CEJA Opening Brief, p. 6. CEJA's original proposal was for ten income tiers, but their new proposal for a First Version FC is for five income tiers.

utilized for income verification for purposes of the first version.[32] The approaches of CEJA[33] and Sierra Club,[34] both of which propose an income tax-like five bracket structure that utilizes AMI metrics conflicts with Cal. Pub. Util. Code § 739.1(a), which effectively defines the term "low-income" in stating that "[t]he Commission shall continue a program of assistance to ***low-income*** electric and gas customers ***with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels***…."[35] Moreover, the Commission recently denied proposals to change income eligibility requirements for Energy Saving Assistance programs from FPL to AMI since "these requirements are based in statute which cannot be modified in a Commission decision."[36] The Joint IOUs do not use AMI for existing CARE/FERA income verification processes, pursuant to the above-referenced statutory provision and the Commission's many decisions regarding income qualified programs. Therefore, the Commission should reject Sierra Club and CEJA's respective First Version FC proposals as non-compliant with the statute and the ALJ's August 22, 2023 Ruling.

The Joint IOUs recognize that CforAT acknowledges the reasonableness of using FPL versus AMI for a First Version FC, but "urges the Commission to remain open to other options for subsequent iterations of the IGFC…[including] options that use AMI."[37] While the Joint IOUs welcome exploring options for subsequent versions of the fixed charge and recognize anticipated future program changes, the Joint IOUs caveat the same conditions may still exist that prevent using AMI for income verification. To the extent there are criteria that affect income eligibility requirements not impacted by statute, then the income qualified programs proceeding remains the proper venue. *See* Section II.D.1 for further discussion.

---

[32] August 22, 2023 Ruling, p. 4.

[33] CEJA Opening Brief, p. 6.

[34] Sierra Club Opening Brief, p. 14, Table 2.

[35] Cal. Pub. Util. Code § 739.1(a) (emphasis added).

[36] D.21-06-015, p. 142. The income eligibility for the ESA program is similar to CARE 200 percent FPL.

[37] CforAT Opening Brief, p. 5.

2. The First Version Fixed Charge Complies With The Statutory Requirement To Reasonably Reflect Costs Of Serving Small and Large Customers

SEIA argues that the August 22, 2023 Ruling errs in deferring consideration of the requirements of Cal. Pub. Util. Code § 739.9(d)(1), under which the Commission is to "ensure that any approved [fixed] charges . . . [r]easonably reflect an appropriate portion of the different costs of serving small and large customers."[38] However, deferring consideration of nuanced approaches to addressing this provision does not preclude the Commission from finding that adoption of any First Version FC will "reasonably reflect" differences in the costs of serving small and large customers. Indeed, although the Joint IOUs noted in our Opening Testimony that a residential demand charge may have merit in accurately assessing and differentiating costs as among customers of different sizes, the income differentiation inherent in any graduated fixed charge can (and should) be deemed to be a reasonable proxy for the differing costs of serving customers of different sizes.[39] As discussed in the Joint IOUs' Opening Brief, there is Commission precedent for finding correlations between home size and electric demand and home size and income.[40] Statistically, customers with larger homes will tend to have greater demand and to be assigned to the non-discounted (i.e., non-CARE/FERA) income bracket. For purposes of a First Version FC, the Commission can and should find this proxy sufficient to satisfy Section 739.9(d)(1).

SEIA further suggests that its proposal—for a FC limited strictly to marginal customer access costs—would comply with this section of the statute and that other proposals with higher fixed charges would not.[41] The Joint IOUs do not disagree that SEIA's proposal, although

---

38 *See* SEIA Opening Brief, p. 8; August 22, 2023 Ruling, p. 7.

39 Exhibit Joint IOUs-01-E2, p. 52.

40 *See* D.15-07-001, p. 64 ("we find that there is some correlation between income and usage and between household size and usage (but that neither measure can be used to accurately predict usage in every case). The evidence shows a general trend, on average, toward higher usage for larger households and higher usage for higher income customers."); *Id.* p. 313, Finding of Fact (FOF) 53.

41 SEIA Opening Brief, p. 9.

flawed for significant reasons, could comply with Section 739.9(d)(1), but note only that SEIA's interpretation of this requirement is unnecessarily narrow. SEIA implies that "marginal customer access costs" is the only fixed cost category that reflects the costs of serving residential customers.[42] The statute is not as prescriptive as SEIA contends and does not preclude consideration of other fixed costs as reasonable reflections of the costs to serve small versus large customers. Accordingly, SEIA's argument in this regard should be rejected and the Commission should defer consideration of more nuanced new, data-intensive approaches to customer size differentiation to subsequent proceedings, as contemplated by the August 22, 2023 Ruling.

C. Rate Design

1. Average Fixed Charge

Certain parties argue that the average fixed charge should be set at a relatively low level, claiming that AB 205 directed that fixed charges may be adopted for the purpose of collecting a reasonable portion of fixed costs, and that only a very small fixed charge is reasonable.[43] The Joint IOUs continue to support their First Version FC proposal, as it recovers a reasonable portion of fixed costs, provides a meaningful reduction in bills for lower income customers, and goes the furthest in lowering volumetric rates, which will best incentivize electrification. Proposals including those from SEIA, Clean Coalition and CEJA provide minor, if not, immaterial, reductions to the bills of low-income customers. For example, SEIA concedes that under its proposal, "[t]here would be small rate reductions (generally less than 2%) for many CARE and FERA customers."[44] The tables below present a comparison of Opening Brief proposals, including: bracket definitions, average fixed charges, volumetric rates and rate reduction, and each bracket's proposed fixed charge.

---

42 *Id.*

43 *See* SEIA Opening Brief, pp. 4-5; UCAN Opening Brief, p. 4.

44 Exhibit SEIA-01, p. ii.

Table II-1
Comparison of Proposed Bracket Definitions for First Version Fixed Charges

Bracket Definitions	IOU	CalPA	TURN/NRDC	SEIA	Clean Coalition	Sierra Club	CEJA
Bracket 1	<100% FPL CARE	<100% FPL CARE	CARE	CARE	CARE	CARE/FERA	$0-80% AMI
Bracket 2	All other CARE FERA	All Other CARE FERA	FERA	FERA	FERA	< 80% AMI	80% AMI-$200k
Bracket 3	Non-CARE/FERA	Non-CARE/FERA	Non-CARE/FERA	All Other	All Other	< 125% AMI	$200k-$500k
Bracket 4	N/A	N/A	N/A	N/A	N/A	< 200% AMI	$500k-$2 million
Bracket 5	N/A	N/A	N/A	N/A	N/A	> 200% AMI	above $2 million

Table II-2
Comparison of First Version Fixed Charge Proposals: PG&E[45]

PG&E - First Version Proposals							
	PG&E	CalPA	TURN/NRDC	SEIA	Clean Coalition	Sierra Club	CEJA
Average Fixed Charge	$42	$23	$23	$8	$10	$28	$7
Average Volumetric rate (c/kWh)	24.6	29.2	29.1	32.5	32.0	28.8	31.9
Volumetric Rate Reduction (%)	-29%	-15%	-15%	-5%	-7%	-16%	-7%
Bracket 1 Charge	$13	$4	$5	$3	$0	$0	$0
Bracket 2 Charge	$26	$7	$5	$8	$5	$8	
Bracket 3 Charge	$51	$30	$36	$10	$13	$15	
Bracket 4 Charge	N/A	N/A	N/A	N/A	N/A	$45	
Bracket 5 Charge	N/A	N/A	N/A	N/A	N/A	$94	

Table II-3
Comparison of First Version Fixed Charge Proposals: SDG&E[46]

SDG&E - First Version Proposals							
	SDG&E	CalPA	TURN/NRDC	SEIA	Clean Coalition	Sierra Club	CEJA
Average Fixed Charge	$60	$26	$23	$11	$10	$36	$11
Average Volumetric rate	31.8	42.3	42.6	45.8	46.2	40.1	46.5
Volumetric Rate Reduction (%)	-35%	-14%	-13%	-7%	-6%	-18%	-5%
Bracket 1 Charge	$24	$4	$5	$6	$0	$0	
Bracket 2 Charge	$34	$7	$5	$11	$5	$11	
Bracket 3 Charge	$73	$32	$30	$14	$19	$23	
Bracket 4 Charge	N/A	N/A	N/A	N/A	N/A	$62	
Bracket 5 Charge	N/A	N/A	N/A	N/A	N/A	$136	

45 CEJA does not provide specific fixed charge proposals for each bracket.

46 *Id.*

Table II-4
Comparison of First Version Fixed Charge Proposals: SCE[47]

SCE - First Version Proposals							
	SCE	**CalPA**	**TURN/NRDC**	**SEIA**	**Clean Coalition**	**Sierra Club**	**CEJA**
Average Fixed Charge	$41	$25	$24	$8	$10	$37	$7
Average Volumetric rate	26.1	29.8	30.1	33.3	33.0	27.8	32.7
Volumetric Rate Reduction (%)	-26%	-15%	-15%	-5%	-6%	-21%	-7%
Bracket 1 Charge	$10	$4	$5	$3	$0	$0	$0
Bracket 2 Charge	$15	$7	$5	$8	$5	$8	
Bracket 3 Charge	$51	$31	$30	$10	$14	$20	
Bracket 4 Charge	N/A	N/A	N/A	N/A	N/A	$71	
Bracket 5 Charge	N/A	N/A	N/A	N/A	N/A	$189	

SEIA asserts that First Version FC levels that are higher than what it proposes will result in higher rates over time.[48] This is incorrect. Rates should be cost-based and based on cost-causation, as stated in the Commission's updated Rate Design Principles (RDPs).[49] Recovering fixed costs through a separate fixed charge encourages economically efficient behavior - another goal of the updated RDPs.[50] By SEIA's logic, *any* decrease from today's volumetric rates would result in increases in load and cause reliability issues.[51] Following this logic, volumetric rate increases would (somehow) improve grid reliability, and the Commission should be encouraging these increases to improve reliability. The Commission should give no weight to SEIA's assertions that are neither fact-based nor logical.

a) <u>Comparisons To SMUD Fixed Charge Are Flawed Unless Appropriate Adjustments Are Made</u>

Cal Advocates' Opening Brief proposes a new First Version FC with an average fixed charge that is lower than its original proposal. Cal Advocates notes that its new average FC ($23-$26) is similar to Sacramento Municipal Utility District's (SMUD) residential fixed charge

[47] *Id.*
[48] SEIA Opening Brief, p. 16.
[49] D.23-04-040.
[50] *Id.*
[51] SEIA Opening Brief, p. 21.

level, which is currently $23.50 per month.[52] TURN/NRDC also propose a First Version that is tied to the fixed charge level currently in place for SMUD residential customers.[53] However, SMUD's current FC of $23.50 per month reflects SMUD's revenue requirements and costs of operation, which are different from those of the IOUs, including differences in revenue requirements, non-bypassable costs and fixed wildfire costs, which should all be accounted for. To overlook these significant differences would constitute error in that it would not collect a reasonable portion of the Joint IOUs' fixed costs relative to SMUD's levels, nor would it lower volumetric rates enough to adequately incentivize electrification. As described through Table II-5, below, when appropriately adjusted, the average fixed charge levels for the Joint IOUs that would be analogous to the SMUD fixed charge are $42, $43, and $49 per month for PG&E, SCE and SDG&E, respectively.

There is nothing to support the need for average IOU fixed charges to be exactly equal to SMUD's current level, or for that matter equal across all IOUs, because each has varying marginal costs, revenue requirements, customer bases, climate zones, and grid infrastructure, among other differences. In fact, TURN/NRDC acknowledge that a $23.50 per month FC would result in a smaller percentage (~15%) of the IOUs' respective residential revenue requirements being recovered through a fixed charge, when compared to the percentage it constitutes of SMUD's fixed costs.[54] As shown by Cal Advocates, SMUD's fixed charge recovers approximately 23% of its residential revenue requirement.[55] In order to recover an equivalent percentage of each IOU's revenue requirement, the average fixed charge would need to be proportionately higher than $23.50 per month.

The Joint IOUs present below, in Table II-5, recalculations to make necessary adjustments to provide an equivalent comparison to SMUD for each of the Joint IOUs. It is not

---

52 Cal Advocates Opening Brief, p. 20.

53 TURN/NRDC Opening Brief, p. 23.

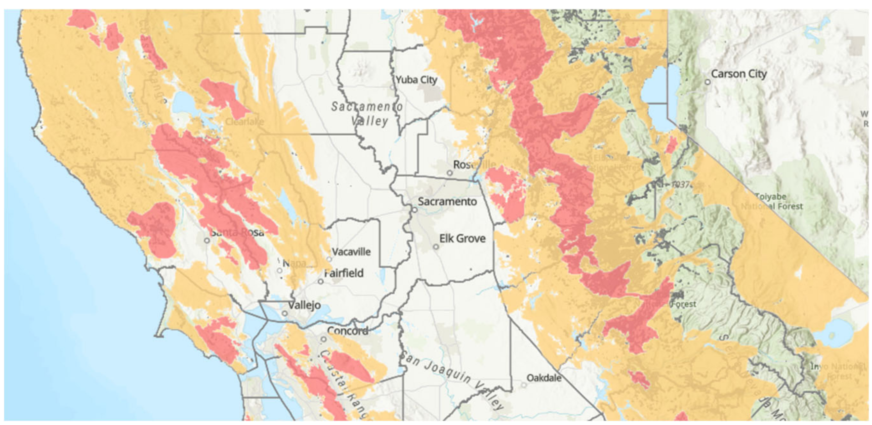
54 TURN/NRDC Opening Brief, p. 3.

55 Cal Advocates Opening Brief, p. 20.

surprising that the dollar level of fixed charges for the Joint IOUs results in a different average FC than SMUD's. Indeed, the record shows that the Joint IOUs' fixed costs are sufficiently different from SMUD's as to warrant a higher average fixed charge than SMUD's $23.50 per month level, given the foundational rate design principle that rates should be based on each IOUs' actual costs.

There are numerous, substantial differences between SMUD and the Joint IOUs that undergird and explain the differences in residential revenue requirements, including costs to be recovered through a fixed charge. First, SMUD has a relatively small service territory that, for the most part, is not located within high fire threat districts (HFTD); therefore, SMUD has not had to undertake the same type of wildfire hardening efforts as the Joint IOUs. The publicly-sourced maps, below, show that the majority of SMUD's service territory is located outside HFTDs.[56]

Figure II-1
Commission High Fire Threat District Map[57]

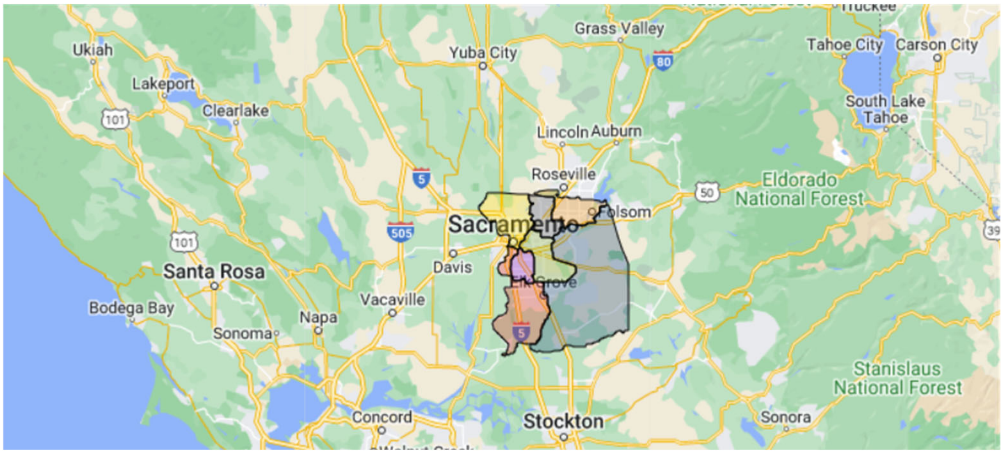


---

[56] The information presented herein about SMUD comes from publicly available sources including Commission HFTD Maps and official reports by SMUD, a sister governmental agency. It is appropriate for the Commission to take official notice of such facts pursuant to Rule 13.9 of the Commission's Rules of Practice and Procedure.

[57] CPUC High Fire Threat District Map, *available at* https://www.arcgis.com/apps/webappviewer/index.html?id=5bdb921d747a46929d9f00dbdb6d0fa2.

Figure II-2
SMUD Service Territory Map[58]



In contrast, the Joint IOUs' service territories encompass large areas of HFTDs, requiring continued investments in wildfire hardening to provide safe and reliable service. Because of these investments, the distribution costs of the Joint IOUs are relatively higher than SMUD's. Therefore, a Joint IOU $23.50 per month average fixed charge that recovers only distribution costs will not cover an equivalent portion of each of the Joint IOU's revenue requirements.

Secondly, SMUD does not have the same public policy obligations and requirements as the Joint IOUs, including relatively large low-income CARE program subsidies and budgets, recovered through the Public Purpose Programs (PPP) charge, and other required nonbypassable charges. Therefore, incremental to any fixed charge that is a percentage of distribution revenue requirement, the Commission should also include the nonbypassable charges proposed by the Joint IOUs, which many parties agree could or should be included in the fixed charge.[59]

The unique characteristics that differentiate SMUD from other utilities are also present among the Joint IOUs, highlighting the need for discrete, IOU-specific fixed charge treatment. Each IOU has its own unique service territory, underlying costs, and rate structure, and require

[58] SMUD: Our service area, *available at* https://www.smud.org/en/Corporate/About-us/SMUDs-Territory-Map.

[59] *See* Cal Advocates Opening Brief, p. 19, TURN/NRDC Opening Brief, pp. 12-13, Sierra Club Opening Brief, p. 10.

different fixed charges that result in volumetric rates that support affordability and electrification adoption, while incenting cost-based load flexibility.

Table II-5
Illustrative Joint IOU Fixed Charges Using SMUD Methodology

Utility	23% of Revenue Requirement	NBCs	Total
PG&E	$31	$11	$42
SDG&E	$36	$13	$49
SCE	$34	$9	$43

b) <u>Differentials In First Version FC Levels Must be Gradual Across Three Thresholds</u>

Setting aside the issue of the overall magnitude of the fixed charge across all customers, recommendations in parties' Opening Briefs also vary by the degree of discount provided to low-income categories. For the most part, these variations are due to differing policy judgments on how to balance providing increased discounts to low-income customers against increasing bills for non-low-income customers. This section, therefore, focuses on proposals with legal or practical infirmities.

TURN/NRDC's First Version FC charge of $5 for the CARE and FERA tiers appears not to comply with AB 205's intent of progressivity within its "no fewer than three" required income thresholds. TURN/NRDC proposes three tiers for the First Version FC to be: "CARE, FERA, and all other residential customers."[60] However, for default Time of Use rates, TURN/NRDC propose the fixed charge for both brackets to be $5 because they believe that slight differences between the charges do not appear to be useful.[61]

---

[60] TURN/NRDC Opening Brief, p. 19.
[61] TURN/NRDC Opening Brief, p. 25.

For purposes of the First Version FC, TURN/NRDC propose that the income tiers be as simple as possible to limit implementation delays and costs. Because TURN/NRDC propose a low fixed charge amount ($5) for both CARE and FERA customers, there is little added benefit to further differentiating these customers into additional tiers.[62] Cal. Public Util. Code § 739.9 (as amended by AB 205) requires that "[t]he fixed charge shall be established on an income-graduated basis with no fewer than three income thresholds…."[63] While TURN/NRDC's First Version is labelled as having three income thresholds, by setting the fixed charge the same ($5) for both its first and second tiers, TURN/NRDC's First Version FC actually results in only two tiers: CARE/FERA customers at $5 and everyone else at approximately $30. While TURN/NRDC's electrification tariffs are $10 for CARE/FERA tiers, and a fixed charge of $40 for everyone else, the lack of actual graduation between their brackets 1 and 2 remains.

Furthermore, TURN/NRDC's speculate that the Joint IOUs' proposal for different fixed charges between Tier 1 CARE and Tier 2 CARE/FERA customers does not appear to be useful "given the minor impacts on the bills and the inability to obtain significant revenues from the small class of FERA customers under any fixed charge level."[64] This is unsubstantiated. TURN/NRDC itself stated that the phrase "no fewer than three income levels" is intended to mean that the statute (1) "would require a minimum of three tiers of fixed level charges," and "requires the Commission to adopt at least three tiers of fixed charge levels."[65] To minimize the risk of any legal challenges to the adopted fixed charges, the Commission should therefore reflect at least some nominal difference in fixed charge levels between the first two income CARE/FERA-based low-income brackets.

It is notable that Cal Advocates' Opening Brief encourages the Commission to adopt the Joint IOUs' First Version FC structure, with three brackets: <100% FPL CARE customers, all

---

[62] TURN/NRDC Opening Brief, p. 22.

[63] Cal. Pub. Util. Code § 739.9(1).

[64] TURN/NRDC Opening Brief, p. 25.

[65] TURN/NRC Opening Brief on Statutory Construction, p. 2.

other CARE/FERA customers, and all remaining customers.[66] Although Cal Advocates' fixed charge values differ from the Joint IOUs' First Version FCs, Cal Advocates correctly includes a different fixed charge level for Bracket 1 ($4) versus Bracket 2 ($7), so that it is "progressive and guarantee[s] that the average CARE and FERA customer in every climate zone will see bill savings…"[67] While we disagree on Cal Advocates' recommended dollar values, the Joint IOUs generally support this type of structure within the First Version proposal as being compliant with AB 205's intent for the fixed charge for each income bracket to gradually increase.

Therefore, the Commission should reject TURN/NRDC's attempt to seek two levels with the same $5 fixed charge (or two with a $10 FC for electrification rates) for both their Tier 1 CARE and Tier 2 FERA tiers, because this does not comport with AB 205's intent that there be at least three income thresholds with different, progressive FC amounts. Instead, the Commission should insist on at least a nominal difference between the First Version FCs as between the first two tiers, to result in First Version FCs that truly have three different levels of fixed charges.

c) Contrary to SEIA's Argument, Conservation Price Signals Are Balanced In the Joint IOUs' Proposal

SEIA mischaracterizes the Joint IOUs' position regarding energy efficiency and conservation by asserting that "the IOUs are erroneously arguing that it is no longer important to conserve energy or employ energy efficient programs, because all energy on the system will be carbon free in 22 years."[68] To the contrary, the Joint IOUs have requested that the Commission strike a just and reasonable balance[69] between, on the one hand, AB 205's requirements to support beneficial electrification and GHG reduction, and on the other, the statute's previous sole focus on energy efficiency and conservation at all times of the day. The transition from older,

---

66 CalAdvocates Opening Brief, p. 19.

67 *Id.*, p. 22.

68 SEIA Opening Brief, p. 10.

69 Exhibit Joint IOUs-04, p. 13.

GHG emitting technologies towards transportation and building electrification, including heating and other activities will, of course, lead to higher electricity usage. As discussed in the Joint IOUs' Comments to the June 19, 2023 Ruling, the success of this transition is dependent on affordable cost-based electricity pricing[70] to encourage the adoption of new technologies. Furthermore, the transition to clean low-GHG technologies constitutes a significant step in the direction of improving energy efficiency overall with new electrification technologies reflecting significantly higher energy conversion efficiencies.[71] In establishing updated Rate Design Principle 4 (D.23-04-040), the Commission also recognized the shift in how energy efficiency and conservation can contribute to California's clean energy goals and the fact that energy efficiency and conservation are not in conflict with those goals. As stated in D.23-04-040:

> We recognize the continued importance of conserving energy during high cost and high-GHG emissions hours. However, the Commission's strategies for reducing GHG emissions have shifted from a focus on conserving electricity at all times to reducing usage during certain hours, and electrifying buildings and transportation rather than reducing overall electricity consumed.[72]

Reflecting this shift in perspective, the Joint IOUs have requested that the Commission prioritize the newly added goals of beneficial electrification and GHG reduction over the now dated goals of conservation at all times. The Joint IOUs' position is consistent with Rate Design Principle (RDP) 4[73] and the Commission's shift in strategy regarding energy efficiency and conservation.

---

[70] *Id.*, p. 14.

[71] *Id.*, p. 20.

[72] D.23-04-040, p. 14.

[73] Rate Design Principle 4: Rates should encourage economically efficient (i) use of energy, (ii) reduction of GHG emissions, and (iii) electrification.

d) TOU Price Differentials Are Not Part Of Track A

SEIA and Sierra Club advocate for increases to the differentials of peak- to off-peak ratios, requesting revenues from fixed charges be first applied to off-peak rates.[74] However, modifications to TOU differentials should not be approved in this phase of the proceeding. Nowhere does the Scoping Memo's list of issues within scope for Track A include any broader rate design changes other than those necessary to "establish an income graduated fixed charge for residential rates..."[75] Track A's focus is and always has been limited to separating fixed from volumetric charges; indeed, the November 2, 2022 Scoping Memo put into Track B (for expedited action) the more general subject of updating Rate Design Principles, and also tagged for Track B rate designs to comply with the CEC's amended Load Management Standards. As the Joint IOUs have stated in previous comments, price signals and differentials beyond those listed in Tracks A and B remain aspects of rate design that should continue to be addressed in General Rate Case Phase 2's and RDW proceedings where price differentials and options compared to evidence of true marginal cost price signals are reviewed. Then the Commission can determine what, if anything, should be done to move toward or depart from IOU-specific marginal costs, balanced with desired policy goals.

Deferring such consideration is also necessary as evidenced by the lack of appropriate modeling tools to create a comprehensive record on the matter of TOU differentials. SEIA confirmed as much, acknowledging the lack of ability to model off-peak reductions and resulting impacts with the current E3 Public Tool.[76] Thus, deciding on differentials at this stage in the proceeding with little evidence would be premature and inconsistent with the Commission's established processes, such as under the Rate Case Plan.

The Commission does not need to adopt SEIA's or Sierra Club's proposals to increase TOU differentials by reducing volumetric rates in only the off-peak periods. As pointed out

---

[74] SEIA Opening Brief, pp. 19-20; Sierra Club Opening Brief, p. 36.

[75] November 2, 2022 Scoping Memo, pp. 2-4.

[76] *See* SEIA Opening Brief, pp. 49, 59-60.

many times by the Joint IOUs and shown by the summer peak-to-super off-peak ratios in the table below, removing some of the fixed costs from volumetric rates will *increase* the price differentials for time-of-use periods, contrary to SEIA's claims:

Table II-6
Comparison of SDG&E and SEIA Proposed Differentials[77]

	SDG&E TOU-DR1 Status Quo	SEIA errata	SDG&E 1st Version
Summer: on Peak	$0.85	$0.82	$0.65
Summer: Off Peak	$0.54	$0.51	$0.34
Summer: Super Off-Peak	$0.37	$0.34	$0.17
Winter: On-Peak	$0.65	$0.58	$0.45
Winter: Off-Peak	$0.57	$0.50	$0.37
Winter: Super Off-Peak	$0.55	$0.47	$0.34
Baseline Credit	($0.12)	($0.09)	($0.08)
Summer: On-to-Super Off Differential	2.3	2.4	3.8
Winter: On-to-Super Off Differential	1.2	1.2	1.3

e) <u>All Residential Rates Must Be Subject To The New Fixed Charge To Prevent Incentivizing Customers To Switch Rates In Order To Avoid The Charge</u>

The First Version FC should apply to all residential rates, not just default rates, with limited exceptions, as detailed in the Joint IOUs' Opening Brief.[78] SEIA's claim that increasing fixed charges on current electrification rates would not produce additional electrification has little to no foundation, and SEIA itself does not dispute evidence the Joint IOUs have cited

[77] Exhibit Joint IOUs-04, p. 41.

[78] Joint IOUs Opening Brief, pp. 10-11.

indicating that demand for EVs increases as electric rates decrease.[79] The Joint IOUs argue that moving all customers to electrification-type rates, and reducing volumetric rates, will improve adoption of electrification, which SEIA does not dispute.[80] However, SEIA then argues that if all customers were on electrification rates, no more action would be required, despite the fact that parity would not exist with today's electrification rates and there would be a greater incentive to electrify if all customers had the same price signals.

Further, per AB 205, the fixed charge is intended to recover a reasonable portion of the fixed costs of providing electrical service to residential customers. These costs are independent of the customer's usage or rate schedule and should be allocated fairly and transparently across all customers. Thus, electrification rate fixed charges must be increased commensurately as default fixed charges are implemented. Applying the higher fixed charge only to default rates would shift the burden to default rate customers, who are likely to be less affluent and less able to invest in distributed energy resources.

The Joint IOUs agree with TURN/NRDC's proposal[81] that the Commission should approve higher fixed charges for electrification rates to provide greater incentive to adopt critical electrification technologies. Sierra Club similarly supports higher electrification rate fixed charges, suggesting the electrification rate fixed charges add "the distribution share of existing fixed charges to the IGFC charges[.]"[82] However, Sierra Club incorrectly suggests that only the difference between minimum bills and electrification rate fixed charges represent the distribution portion of those fixed charges. Existing electrification rate fixed charges solely collect distribution costs, so by Sierra's proposal the updated electrification rate fixed charges would be approximately $15 higher than the default rate fixed charges.

---

[79] SEIA Opening Brief, p. 21.

[80] *Id*., p. 45.

[81] NRDC/TURN Opening Brief, p. 29.

[82] Sierra Club Opening Brief, pp. 24-25.

f) **Ongoing Adjustments To Fixed Charges**

Proposals to set each IOU's First Version FC at a given amount and have it remain unchanged should be rejected.[83] This would unnecessarily prevent fixed charge rate design from being updated to reflect changes in revenue requirements, increases in the cost of living, potential future costs, or changes in policy, and would create even more complex and contentious processes for rate changes. As previously stated by the Joint IOUs, revenue requirement changes from imbalances or revenue requirement changes should be treated as they are today.[84] For example, the PPP revenue requirement for each IOU changes at least on an annual basis. The Commission should adopt policy that recovers the entire PPP revenue requirement in the First Version FC, rather than a set dollar amount, as the latter would require any changes to revenue requirements to be collected (or returned) to customers in a volumetric PPP rate. Additionally, imbalances resulting from deviations in the IOUs' forecasts of the number of residential customer accounts that will fall into each income bracket (the over- or under-collections) should be true up at least annually, with over-collections applied to reduce the next year's fixed charge revenue requirement, and under-collections applied to increase the subsequent year's fixed charge revenue requirement.[85]

The Joint IOUs agree with TURN/NRDC and Cal Advocates that a process should be adopted to make adjustments to the fixed charge going forward on an annual basis.[86] <u>This is especially important to ensure that any revenue requirement increases are not allocated solely to volumetric rates</u>. To do so risks diluting policy benefits from the lower volumetric rate made possible by separating out fixed costs into a Fixed Charge. The Joint IOUs have faced increased costs to run the grid in the past few years, and studies show that more infrastructure investments

---

[83] SEIA Opening Brief, p. 65.

[84] Joint IOUs Opening Brief, p. 14.

[85] *Id*., pp. 14-15.

[86] *See*, TURN Opening Brief, pp. 26-27. Cal Advocates Opening Brief, p. 19.

will be needed to support electrification.[87] A nominal static fixed charge that reduces volumetric rates by only a few percent from current rates will do little to support electrification and may not even reduce volumetric rates from current 2023 levels, if afterwards in the ensuing years revenue requirements and rates have increased. As previously discussed by the Joint IOUs, it is important that volumetric charge reductions resulting from separating out a First Version Fixed Charge be meaningful enough for customers to notice and know that their prior level of volumetric charge has decreased due to the First Version FC. Otherwise, customers may simply view the fixed charge as additive and punitive, reducing their likelihood of accepting the fixed charge or any future steps along the Commission's envisioned gradual pathway for AB 205 compliance.[88]

2. Cost Categories Available For Recovery Through The Fixed Charge

While SEIA correctly interprets the statutory language of Section 739.9(a) and (d) allowing for recovery of fixed costs through fixed charges, SEIA's characterization of fixed costs and the makeup of costs within the EPMC scalar is incorrect. SEIA's suggestion that marginal customer access costs (MCACs) are the only fixed costs embedded in rates[89] ignores the statutory premise of SEIA's own argument. TURN/NRDC also have disputed SEIA's position, stating that "SEIA's assertion that only MCAC are fixed is based on faulty economics and an incomplete understanding of which costs are marginal to consumption both in the short and long run."[90]

---

87 *See generally*, Kevala, Inc., *Electrification Impacts Study Part I: Bottom-Up Load Forecasting and System-Level Electrification Impacts Cost Estimates* (May 9, 2023), *available at* https://assets-global.website-files.com/62a236e9692c48cff36898da/6462917ab8a790b6b85f5fbb_CPUC%20Kevala%20EIS%20Part%201.pdf , and Public Advocates Office, *Distribution Grid Electrification Model Study and Report* (Aug. 2023), *available at* https://www.publicadvocates.cpuc.ca.gov/-/media/cal-advocates-website/files/reports/230824-public-advocates-distribution-grid-electrification-model-study-and-report.pdf .

88 Exhibit Joint IOUs-03-E1, p. 36.

89 SEIA Opening Brief, p. 26.

90 Exhibit NRDC-TURN-04, p. 19.

Section 739(a) defines a fixed charge as a charge that is "not based on the volume of electricity consumed." Section 739.9(d) states that the Commission may adopt a new fixed charge for "the purpose of collecting a reasonable portion of the fixed costs of providing electrical service." The Joint IOUs agree that in interpreting these two code sections, it is reasonable to conclude that fixed costs (i.e., costs that do not vary based on the volume of electricity consumed) are appropriately collected through a new fixed charge adopted for the purpose of serving the goals of AB 205. What SEIA gets wrong, in its overly simplistic description of marginal cost rate design, is that fixed costs exist throughout a utility's many categories of revenue requirements. One example is costs associated with vegetation management for wildfire mitigation. Such costs clearly do not vary based on the volume of electricity consumed and neither do they represent a marginal cost of service associated with new customers or new distribution capacity. Additionally, the benefits of mitigating wildfire risk through tree trimming extend to all customers regardless of whether they receive all of their electricity from the utility or serve some portion of their load with a DER resources. Thus, vegetation management represents a fixed cost consistent with Sections 739.9, subdivisions (a) and (d), and is appropriately recovered through a fixed charge. Other examples of fixed costs include the CARE surcharge, energy efficiency programs, grants for energy research, wildfire hardening, and nuclear decommissioning. This list is not exhaustive. However, it illustrates the types of fixed costs contained in rates that are above the determined marginal cost levels or recovered through other non-marginal cost-based rate elements.

SEIA's characterization of the Joint IOUs' inclusion of non-marginal fixed costs in the fixed charge reflects a misunderstanding of the purpose of the EPMC scalar.[91] Marginal cost rate design is based on the determination of key drivers of costs associated with customer growth and expansion of distribution and generation capacity, and generation energy procurement. By definition, marginal costs are costs that are directly tied to marginal increases in each of the

[91] SEIA Opening Brief, p. 29.

functional services provided. While the concept is to account for the entirety of marginal costs attributed to each function, the methodology in fact only considers key drivers of costs and in some cases represents generic facilities configurations. These assumptions allow for a simplified approach and recognize that the EPMC scalar serves the purpose of recovering costs with similar attributes as the underlying marginal costs. For example, SCE's residential MCAC assumes an overhead configuration when most new construction is built with underground facilities. The use of an overhead configuration to determine MCAC leaves other fixed connection costs such as underground secondary structures unaccounted for in the direct determination of MCAC. However, these types of costs are recovered in the marginal distribution grid costs or through the EPMC scalar. Many costs, including those listed by SEIA, are not considered in the direct marginal costs determination but rather represent costs associated with programs and services that also do not change directly with changes in consumption.

An analogy can be drawn with a 30-year fixed rate residential mortgage. It is true that the amount borrowed for the mortgage is in part a function of the size of the home, however the monthly mortgage payment represents a fixed cost to the homeowner. The monthly mortgage payment does not vary based on how the homeowner uses the house. If we look at three scenarios of time spent in the home versus time spent in a traditional office work environment, we can see the connection to the Joint IOUs' interpretation of how non-marginal costs should be treated in a fixed charge. In the first scenario, the homeowner uses the home at a pre-pandemic level, meaning there is an eight- to-twelve-hour period each day when the residents are at their offices and the home is vacant. In the second scenario, the home is used at a pandemic level, meaning the residents may be at home almost all day, including weekends. Finally, in a third scenario, the residents work in a hybrid environment, heading to their offices only two days per week. In each of these scenarios, the residents are using – in a sense consuming – the space within their home at different intensity levels. But despite this variance in the usage of the home, the mortgage payment remains fixed at the same amount each month. Variable costs such as household consumables and utilities will vary in each scenario, but the mortgage payment will not.

The non-marginal costs recovered through the EPMC scalar highlighted by SEIA as "not fixed" are like the mortgage payments in our example. Demand response programs have budgets that are established on a five-year basis and thus represent a fixed cost. SEIA's rebuttal testimony also refers to two balancing accounts that track: (1) the amount of incentives paid to demand response program participants and (2) the amount of surcharge collected to pay for the incentives.[92] Under a perfect forecast, these two accounts net out to zero and are intended to track payments relative to the established five-year budget. Another demand response-related line item includes administrative costs, which also do not vary based on the volume of energy consumed. The EV programs from the same SEIA reference are for EV infrastructure projects similar to the MCAC favored by SEIA. For example, the distribution facilities provided through SCE's Charge Ready programs are for basic infrastructure required to connect vehicles to the grid. Even by SEIA's overly narrow definition of "fixed cost," these EV-related costs, as well as demand response program costs, should be considered fixed and included in the non-marginal distribution cost category of fixed charges.

SEIA also fails to recognize that the Joint IOUs' First Version FC recovers in rates only a *portion* of the universe of costs that qualify as fixed costs. The intent is to introduce a First Version FCs that provides a meaningful reduction in the volumetric rate, while also improving affordability for more vulnerable populations. As new tools (i.e., size differentiation, TOU rate design, and TPA income verification for subdividing non-CARE/FERA customers into multiple brackets) are introduced in future FCs that help further distribute cost recovery, there will likewise be the potential for increasing the amount of non-marginal distribution costs included in future fixed charges.

---

[92] Exhibit SEIA-02, pp. 54-55.

SEIA's argument regarding wildfire hardening costs also lacks merit. SEIA argues that wildfire costs are a function of the amount of energy flowing on the grid: "…the need for these programs is due to power actually flowing through the wires and customers using power in their homes."[93] SEIA goes on to claim that "[w]ildfires do not happen unless customers are using electricity, power is flowing, and the wires are energized."[94] The implication is that customers with BTM solar systems self-supply electricity most of the time and therefore should not pay fixed wildfire costs in the periods they are self-supplying. SEIA's argument falls short on many levels. First, the grid exists beyond the real property of an individual's home and its service connection. The grid extends across communities, into forests, and into other mixed-use areas. During normal operations, the grid is always energized. That is why electricity as an energy source is so ubiquitous. The grid is also "energized" when BTM solar customers export energy. In this case, the energy flowing on the wires comes from the solar system and onto the grid. It is naïve to think wires are not energized during periods of solar production or that electricity from solar resources is somehow less "energized" and thus not a concern from a wildfire perspective. Second, costs associated with wildfire mitigation are fixed even based on SEIA's definition of a fixed costs. The costs associated with weather stations, replacement of wooden poles with fire resistant poles, replacement of standard conductor with covered conductor, and vegetation management, for example, clearly do not vary based on the volume of electricity consumed. Finally, all customers benefit from wildfire mitigation efforts. Customers in moderate to high wildfire risk areas benefit directly through more reliable service and a reduction of the risk of a catastrophic ignition, while all customers benefit from lower overall costs to the utility. SEIA's argument regarding non-marginal distribution cost recovery through the fixed charge should be rejected.

---

93 SEIA Opening Brief, p. 30.

94 *Id.*

a) Marginal Cost Analysis Supports Fixed Charges

As demonstrated by the IOUs, current volumetric residential rates are far higher than marginal costs as estimated by Commission approved methodologies.[95] This finding supports introduction of fixed charges sufficient to reduce volumetric rates towards marginal cost levels. SEIA incorrectly portrays the IOU position as relying on the social marginal costs estimated by the Next10 studies and goes on to criticize that research as being outdated.[96] The IOUs agree with many of the conceptual frameworks in the Next10 Research, but only have relied upon Commission-approved marginal costs as developed in the IOUs' respective GRC Phase 2 cases and the Commission's Avoided Cost Calculator (which in turn relies on GRC Phase 2 marginal costs). SEIA's "social marginal costs" analysis attempts to apply a societal cost test framework to rate design, despite previous Commission decisions narrowly limiting the use of societal cost test frameworks for assessment in the IRP proceeding.[97] Despite this directive SEIA put forward similar analysis in R.20-08-020, which was rejected by the Commission in its primary decision in that case.[98] As SEIA admits, "the Commission has never adopted 'social marginal costs,'" and makes no new argument for why the Commission should in this proceeding over any of the others where SEIA's arguments were rejected.[99] The Commission should base its decision in this case on previously accepted marginal cost values and reject SEIA's analysis as beyond the scope of this proceeding.

---

[95] Exhibit Joint IOUs-01-E2, pp. 34-36.

[96] SEIA Opening Brief, pp. 34-35.

[97] D.19-05-019, pp. 65-66, Ordering Paragraphs 1, 2 and 4.

[98] D.22-12-056, pp. 67-71 and p. 207, FOF 5 and 6.

[99] SEIA Opening Brief, p. 36.

3. <u>Calculation of AB 205's Required Exemption of Fixed Charges From The CARE Discount Must Make Sense As Policy, Which TURN/NRDC's New Proposal Does Not</u>

AB 205 requires changes to how the CARE discount is currently calculated, both because the statute changes how rate exemptions impact the overall CARE discount and requires that as a result of the income-graduated fixed charge a low-income ratepayer in each baseline territory would realize a lower average monthly bill without making any changes in usage. TURN/NRDC's Opening Brief presents a "revised" approach to calculating the CARE exclusion that differs from what TURN/NRDC had consistently presented earlier.[100] TURN/NRDC claim this approach "further ensures that the amount of the overall CARE discount budget is unaffected by the portion of total costs collected via fixed or volumetric rates."[101] The Joint IOUs generally agree with the policy objective that implementation of the fixed charge should not effectively reallocate existing low-income support away from non-residential customers towards non-CARE residential customers. However, the specifics of TURN/NRDC's new proposal are inconsistent with the law, and the Commission should instead adopt the methodology described by the Joint IOUs in our Opening Brief, which is consistent with how the Public Tool modeled party proposals in this proceeding.

---

[100] TURN/NRDC Opening Brief, pp. 39-41.

[101] *Id.* at p. 40.

Table II-7
***TURN/NRDC Proposed "Order of Operations" for Billing CARE Customers*[102]**

#	Step	Volumetric Charges	Fixed Charges	Total Bill	Incremental Discount
1	Total Non-CARE Bill	$150.00	$30.00	$180.00	
2	Apply 35% CARE Discount	$97.50	$19.50	$117.00	($63.00)
3	Remove Exempt NBCs	$90.00	$19.50	$109.50	($7.50)
4	Apply $25 Fixed Charge Discount	$90.00	($5.50)	$84.50	($25.00)

TURN/NRDC's new methodology, as summarized in Table II-7 above, does not comply with AB 205. Applying the CARE discount to the total bill, and then removing non-discounted exempted charges, clearly violates the directive that: "The average effective discount determined by the commission shall not reflect any charges for which CARE customers are exempted."[103] TURN/NRDC's revised method would mean that a CARE customer's bill would first be reduced by 35% of the exempt charges in Step 1, and then by 100% of the exempt charges in Step 2. This would have the unintuitive result that reductions in the exempt rate components would actually *increase* CARE bills, as they are receiving a greater than 100% discount on these charges. Further, applying the entire fixed charge discount after applying the CARE discount violates the general requirement that "[t]he average effective CARE discount shall not be less than 30 percent or more than 35 percent of the revenues that would have been produced for the same billed usage by non-CARE customers."[104] While AB 205 does then say "[t]he average effective discount determined by the commission shall not reflect…discounts to fixed charges or other rates paid by non-CARE customers,"[105] this narrow language is correctly interpreted to ensure that the fixed charge discounts provided to non-CARE customers do not reduce the discounts received by CARE customers. Further, this method also has unintuitive results: a zero-usage CARE customer could actually have a negative bill under TURN/NRDC's proposal, due to

[102] Values are illustrative, but approximately based on TURN/NRDC proposal of a $30 non-CARE and $5 CARE fixed charge.

[103] Cal. Pub. Util. Code § 739.1(c)(1).

[104] *Id.*

[105] *Id.*

the $30 fixed charge first being discounted by 35% (to $19.50) and then receiving a $25 discount (to -$5.50). TURN/NRDC's revised approach is also incompatible with the reality that large numbers of residential customers no longer take bundled service. Currently, the CARE discount is provided through distribution rates so as to maintain neutrality. However, this methodology would have the effect of more than zeroing out delivery charges for unbundled CARE customers, resulting in bundled CARE customers potentially receiving higher discounts. In contrast, the Joint IOUs' proposed methodology conforms with the statute by using the following sequence of calculations:

Table II-8
Joint IOUs' Proposed "Order of Operations" for Billing CARE Customers

#	Step	Volumetric Charges	Fixed Charges	Total Bill	Incremental Discount
1	Total Non-CARE Bill	$150.00	$30.00	$180.00	
2	Remove Exempt NBCs	$142.50	$30.00	$172.50	($7.50)
3	Apply 35% CARE Discount	$92.63	$19.50	$112.13	($60.38)
4	Apply Residual Fixed Charge Discount	$92.63	$5.00	$97.63	($14.50)

Under this approach, the increased discount on exempt NBCs is effectively funded by reducing the billing determinant for exempt charges, resulting in the NBC rates increasing for all non-CARE residential and all non-residential customers. The explicit CARE discount will be paid for by the CARE surcharge portion of the PPP, as it is today. The residual fixed charge discount is then funded by non-CARE residential customers. While this will not result in the CARE surcharge being identical to what it would have been under the pre-AB 205 regime, this is unavoidable given the scope of changes required by AB 205.

Ms. Wodtke also makes unfounded arguments about the interplay between the CARE program and the fixed charge. Specifically, Ms. Wodtke argues that under Cal. Pub. Util. Code §§ 739.1 and 731.1(4), "lawful tiers in CARE customers' fixed charges cannot be set until the tiers for residential customers not participating in the CARE program are known."[106] As an

[106] Wodtke Opening Brief, p. 12.

initial matter, the provision Ms. Wodtke cites for the proposition that "section 731.1(4) sets a cap on rates in Tiers 1-3 of CARE rates"[107] is from a prior version of Section 739.1,[108] and was eliminated from state law a decade ago by AB 327. Moreover, this contention misunderstands how the rate design process functions; all rates are set based on forecasts of billing determinants according to Commission-approved rate design methodologies. AB 205 sets forth clear rules for how the CARE program is to be adjusted going forward. Ms. Wodtke also argues incorrectly that Cal. Pub. Util. Code § 731(d) prohibits using CARE/FERA enrollment data for the Fixed Charge without customer consent.[109] That statute provides: "Before sharing data, an electrical corporation or gas corporation shall receive consent from its low-income applicants to use already-obtained application information to begin the enrollment process for other low-income electric or gas utility customer assistance programs."[110] The First Version FC is a rate component with a discount feature for customers who have demonstrated eligibility through CARE/FERA enrollment, not a new customer assistance "program."

4. <u>SEIA/Clean Coalition's Elasticity Analysis And Ms. Wodtke's Reliance on The Flagstaff Report Lack Merit</u>

SEIA asserts that "[h]igh fixed charges with associated across-the-board reductions in volumetric rates will not encourage customer behaviors that improve electric system reliability."[111] However, SEIA purports to support this assertion by reference to elasticity data that has not been subject to scrutiny or validation and is not part of the officially adopted E3 Public Tool. As the Joint IOUs showed in Reply Comments, the "Flagstaff Report" is unvetted and appears to rest on flawed assumptions, including its failure to use actual customer data as approved in the E3 Public Tool -- which should be a basic tenet of factual evidence included in

---

[107] *Id.*

[108] *See* Cal. Pub. Util. Code § 739.1(b)(4), effective January 1, 2013 to December 31, 2013.

[109] Wodtke Opening Brief, p. 9.

[110] Cal. Pub. Util. Code § 731(d).

[111] SEIA Opening Brief, p. 19.

any model. Its results are also outdated in that it does not analyze the parties' First Version FC proposals.[112]

The Flagstaff Report's rate design analysis is fatally flawed in that it: (1) uses modeled load profiles based on an extremely limited data set from the Residential Appliance Saturation Study (RASS); (2) only explores a single climate zone for each IOU territory; (3) uses rates that are revenue-neutral to a "typical customer" (rather than revenue neutral to the class, as is the Commission-adopted standard for revenue allocation and rates); and (4) uses Mid- and Off-peak rates that exclude non-bypassable charges and appear to be below marginal costs.

The Flagstaff Report's inclusion of conclusions based on flawed modeling underscores why the Commission instructed parties to use the E3 Public Tool's vetted common set of basic assumptions and proposal architecture, to ensure comparability. While parties were welcome to supplement proposals with alternative calculations and data sets, the Staff Guidance Memo, attached to the March 23, 2023 Ruling, stated that parties "…need to provide the outputs described here using an 'unmodified' version of the tool… ."[113] when corrected, would likely alter its results.

D. Income Verification

1. Proposals For Income Verification Should Conform With The August 22, 2023 Ruling

In her August 22, 2023 Ruling, the ALJ directed that briefs on the First Version FC must "rely on existing income verification processes used by the Commission for the [CARE] and [FERA] programs."[114] Despite that guidance, several parties' Opening Briefs included proposals

---

[112] The Flagstaff Report was originally submitted as an attachment to the Clean Coalition's June 2, 2023 Rebuttal Testimony (Exhibit CLC-01), and has not been updated since that time to reflect the Joint IOUs' and other parties' significantly revised proposals for First Version FC levels.

[113] *See Administrative Law Judge's Ruling Providing Additional Guidance for Track A Proposals* (Mar. 23, 2023), Staff Guidance Memo on Using the E3 Fixed Charge Tool to Prepare Opening Testimony Attachment, p. 3.

[114] August 22, 2023 Ruling, p. 4.

that would extend the low-income FC to additional categories of customers by: expanding the definition of FERA,[115] expanding the income verification process for FERA,[116] broadening the low-income definition to include customers not enrolled in CARE/FERA,[117] using different methodologies besides CARE/FERA,[118] or greatly expanding the CARE/FERA process to all residential customers.[119] Each of these non-conforming proposals contradicts the Ruling's guidance to utilize existing CARE/FERA processes.[120] Below, the Joint IOUs discuss how each of these expansions would result in incremental or new processes that could conflict with CARE/FERA processes, require a third-party administrator, or run afoul of existing credit laws.

a) Any Changes To The Definition Of "Low Income" Should Be Handled in the Income Qualified Programs (IQP) Proceeding

In Opening Briefs, several parties propose to expand eligibility for the lowest bracket of the fixed charge beyond the definitions and eligibility used by the CARE/FERA programs. The Joint IOUs discuss each of these proposals below but stress, as a general matter, that the Commission should align categorical eligibility for the FC with categorical eligibility for CARE,[121] and reject any proposed changes to the definition of low-income in this proceeding. The Commission should instead address those proposals in the IQP proceeding. Different categorical eligibility standards for CARE/FERA versus the Fixed Charge would unnecessarily complicate the administration of billing the fixed charge and be confusing for customers.

TURN/NRDC propose expanding the low-income definition to include customers living in "deed restricted" affordable housing.[122] They propose this not only because rent for these

---

[115] SEIA Opening Brief, p. 4.

[116] Sierra Club Opening Brief, pp. 37-38. TURN/NRDC Opening Brief, p. 27.

[117] CforAT Opening Brief, p. 6.

[118] CEJA Opening Brief, p. 6; TURN/NRDC Opening Brief, p. 20.

[119] CEJA Opening Brief, pp 7-8; Sierra Club Opening Brief, pp. 37-40.

[120] August 22, 2023 Ruling, p. 4.

[121] Exhibit Joint IOUs-04, pp. 22-23.

[122] TURN/NRDC Opening Brief, p. 20.

units is determined by subtracting expected utility costs, but based on their claim that placing all households on a low-income FC would result in uniformity, while only providing some tenants with a low-income FC and others with a moderate-income FC would result in developers anticipating higher utility costs for some units[123] TURN/NRDC's assumption is incorrect. In fact, deed restricted housing allows for tenants to earn up to 80% of AMI; thus, some deed restricted housing tenants are eligible for CARE/FERA, while others are not. As a result, the inconsistency pointed out by TURN/NRDC would not be introduced by a residential fixed charge but in fact exists today. Adoption of a First Version FC that is aligned with CARE/FERA (as proposed by the Joint IOUs), would not affect the situation because the result would continue to be that some tenants would be enrolled in CARE, with the associated discounted energy rate and FC, while others not enrolled in CARE would receive the standard energy rate and FC.[124] If TURN/NRDC wish to address this inconsistency by proposing that all customers who live in deed restricted housing should be CARE-eligible, then the Commission's IQP proceeding is the right venue to do so, not this proceeding. Finally, implementing TURN/NRDC's proposal would not rely on the existing CARE/FERA process, as required by the August 22, 2023 Ruling.[125] Instead, it would result in a new incremental process through which IOUs would need to acquire access to a data source such as the California Housing Partnership's "Preservation Clearinghouse" suggested by TURN/NRDC,[126] and then use that data to update their billing systems so the FC could be based on deed restricted addresses. The Commission should not adopt TURN/NRDC's proposal to add customers living in deed-restricted housing because doing so will not alleviate the complexities for housing providers to calculate tenant energy costs and because it will result in incremental IOU processes and data beyond what is currently used for CARE/FERA.

---

[123] Exhibit NRDC-TURN-02, pp. 21-22.

[124] Exhibit Joint IOUs-04 p. 53.

[125] August 22, 2023 Ruling, p. 4.

[126] Exhibit NRDC/TURN-02 p. 22.

SEIA proposes to expand the low-income definition by applying the FERA FC tier to households of one or two persons with incomes from $36,621 to $46,060 – households that are currently ineligible for FERA (which only applies to households of three or more people).[127] While the Joint IOUs have income data for a portion of customers enrolled in the CARE/FERA programs and intend to collect more,[128] they do not currently have income data for customers who are not eligible for either CARE or FERA. Gathering such new information would require a new incremental process. As noted in our discussion of deed restricted housing above, the Joint IOUs must firmly reiterate that modifications to the CARE and FERA programs themselves should not be considered in this proceeding but should remain exclusively within the scope of the Commission's IQP proceeding.[129]

b) <u>Customers Who Are Eligible for, but not Enrolled in, CARE/FERA Should Receive the Standard First Version Fixed Charge</u>

In its Opening Brief, CforAT proposes to expand the low-income definition to include customers who are eligible for CARE and FERA but not enrolled.[130] While CforAT's proposal is well-meaning, changing the eligibility criteria from those actually enrolled in CARE/FERA could create customer confusion, as most programs require enrollment in CARE/FERA in order to participate or receive a discount. Additionally, it is likely not possible to implement this proposal because the data on which the Joint IOUs rely to determine a customer's propensity for CARE/FERA eligibility is not compliant with Federal Credit Reporting Act (FCRA) privacy requirements. While IOUs can legally use this data to market to customers and encourage them to enroll in CARE and other programs for which the IOUs suspect they may be eligible, they

[127] SEIA Opening Brief, p. 4, fn. 6.

[128] Exhibit Joint IOUs-04, pp. 25-26.

[129] *Id.*, p. 53.

[130] CforAT Opening Brief, p. 6.

cannot take actions that result in harm[131] to some customers based on products that are not compliant with the FCRA.[132] The Joint IOUs explored developing a data model using publicly available sources but found those sources to be unreliable predictors of an individual household's income because they typically report at the census tract level.[133] The Joint IOUs see value in making sure that all low-income customers, not just those who are CARE enrolled, receive the appropriate FC and recommend this issue be revisited when discussing potentially expanded income verification processes, data sources, and bracket levels for a next version FC. In the interim, the Joint IOUs will continue to encourage all eligible customers to enroll in CARE and FERA, so that they can be accurately placed into the appropriate fixed charge bracket. Indeed, when such customers receive pre-launch notifications reflecting their assignment to the standard FC income bracket, they may take such action.

c) **Utilizing AMI And Collecting Self-Attestation Income Information Would Require A New Process And A Third-Party Administrator**

As discussed above, CEJA and Sierra Club propose that the Joint IOUs utilize Area Median Income (AMI) to bracket customers and gather self-attested income information from all customers, which clearly conflicts with the guidance to "rely on existing income verification processes used by the Commission for the [CARE] and [FERA] programs."[134] CEJA mentions that the Commission has a precedent of using "AMI or state median income to define low-income,"[135] citing as examples the Self-Generation Incentive Program (SGIP) and Single-family Affordable Solar Homes (SASH) programs. However, many of these programs are not administered by the IOUs, and are much smaller in scale (i.e., in the thousands of customers)

---

131 For example, receiving a list of customers and their likely income levels and then assigning some to a lower income bracket's FC but others to the standard FC could be considered harmful to the customers assigned to the standard IGFC bracket; this would be a violation of the FCRA.

132 Exhibit Joint IOUs-01-E2, p. 68.

133 *Id*., pp. 73-74.

134 August 22, 2023 Ruling, p. 4.

135 CEJA Opening Brief, p. 3.

compared to the millions of residential customers that would need a new AMI process if AMI were adopted for FC purposes here. Additionally, while the FC will require an ongoing verification of income eligibility, SGIP and SASH are one-time applications to provide customers with funding for home improvements and only require verification of income for a single point in time. Therefore, the income verification processes used for programs such as SASH and SGIP cannot be readily adapted for use in assigning FCs. The type of AMI-based structure CEJA/Sierra Club wish to see would require the Joint IOUs to implement a brand-new process, designed at a much larger scale than SGIP and SASH. This strays far afield from the August 22, 2023 Ruling's call to keep the First Version FC simple and based on existing CARE/FERA processes.

CEJA incorrectly claims its approach "closely mirrors CARE and FERA income verification processes,"[136] and then describes a multi-step process which includes transfer of ratepayer information from other categorical programs, added customer self-certification, and efforts to utilize assessed property values,[137] which is beyond what the CARE/FERA programs do today. While there is some sharing of information to allow categorical enrollment in CARE/FERA for certain other programs, the information other programs transfer does not include income data. Also, although CARE/FERA does rely on self-attested income from applicants, the methods used to obtain self-certified income information from low-income customers cannot be readily applied to residential customers at moderate- and high-income levels. For example, Joint IOUs work with CBOs and propensity models to send the CARE/FERA application to customers believed likely to be eligible for CARE/FERA, thus maximizing the effectiveness of outreach efforts and controlling costs. Because it is unlikely that those same tactics would be effective in obtaining self-certified income information from moderate- and higher-income customers, new relationships and methods would have to be developed to target these added millions of non-CARE/FERA customers. Furthermore, in

---

[136] *Id.*, pp. 7-8.

[137] *Id.*

contrast to low-income customers, where providing their household income data results in CARE/FERA program enrollment and a lower FC, there is no incentive for non-CARE/FERA customers to provide any self-attested income data at all, because doing so would not reduce their FC level. Finally, as discussed in the Joint IOUs' Opening Testimony,[138] collecting stated income directly is likely to result in a large number of non-responses from customers even when the benefit of providing that information is significant.

Sierra Club advocates for a combination of CARE/FERA participation and other self-attestation, which they describe as a "simple, low-cost" option.[139] The Joint IOUs strongly disagree with this assessment because the record shows that expansion of self-attestation to all residential customers would triple the IOUs' current CARE/FERA activities – a process that does not scale easily or cheaply and took decades to develop. As early as our Opening Testimony, the Joint IOUs considered – but rejected – a potential self-certification approach to FCs[140] owing to the adverse customer impacts and immense operational costs, estimated to reach up to $25-$30 million each time the attestation is refreshed[141] – and that is before any additional verification costs are considered. While incremental customer self-attestation from moderate- and upper-income customers might prove to be viable, in some limited form, for a future version of the FC, such work should be conducted by a third-party administrator as one of several data sources used to determine customer household income. Because moderate- and upper-income customer income self-attestation would be incremental to the CARE/FERA processes and likely require a TPA, CEJA's, and Sierra Club's proposals should be rejected.

For customers not providing their income through self-attestation, CEJA continues to propose newly using assessed property value as an income proxy,[142] even as it ignores valid

---

[138] Exhibit Joint IOUs-01-E2, pp. 72-73.

[139] Sierra Club Opening Brief, p. 37.

[140] Exhibit Joint IOUs-01-E2, p. 68.

[141] *Id*. p. 72.

[142] CEJA Opening Brief, p. 8.

issues raised by multiple parties, including: the Joint IOUs,[143] UCAN,[144] and Cal Advocates.[145] In addition to the many ways others have shown in testimony that property value is an inaccurate income proxy, CEJA's proposed home value income proxy would also represent a new, untested administrative process that is not even remotely similar to current CARE/FERA income verification methods, and thus fails to conform with the August 22, 2023 Ruling's parameters. CEJA's continued request to use home property values as a proxy for income in the First Version FC lacks the necessary record support to be adopted.

2. <u>Non-Low Income Customers Should Be Assigned to a Single Bracket for the First Version FC</u>

The ALJ's August 22, 2023 Ruling's guidance for Opening Briefs calls on parties to focus on a First Version FC "which will […] rely on existing income verification processes used by the Commission for the [CARE] and [FERA] programs."[146] Most parties' Opening Brief proposals were consistent with that Ruling.[147] However, CEJA and Sierra Club proposed an FC with five brackets, including several brackets that would differentiate moderate- from high-income customers.[148] As discussed above, Sierra/CEJA's income verification proposals do not conform with the August 22, 2023 Ruling because they fail to leverage existing CARE/FERA income verification processes. Additionally, because the CARE/FERA process only collects data from program participants,[149] there is no method by which the CARE/FERA verification processes can be used to differentiate non-CARE/FERA program participants. The Joint IOUs

---

[143] Exhibit Joint IOUs-03-E1, pp. 76 – 77.

[144] Exhibit UCAN-01, p. 20, lines 4-6.

[145] Exhibit Cal Advocates-04, p. 6, lines 11-13.

[146] August 22, 2023 Ruling, p. 4.

[147] SEIA Opening Brief, pp. 41 - 42; CASMU Opening Brief, pp. 11 – 13; TURN/NRDC Opening Brief, pp. 9 – 10; UCAN Opening Brief, pp. 3 – 4; Clean Coalition Opening Brief. pp. 7 – 8; and, Cal Advocates Opening Brief, pp. 18–22.

[148] Sierra Club Opening Brief, pp. 12–17; CEJA Opening Brief, pp. 5-6.

[149] Exhibit Joint IOUs-01-E2, p. 69.

do not possess the means to easily and cost effectively obtain income information for moderate- and high-income customers.[150] While income information collected by the CARE/FERA programs may be used to differentiate the participants in those programs into the first two FC brackets -- either along program enrollment lines, or based on a percentage of FPL -- there is no question that non-CARE/FERA customers must be placed into a single bracket for the First Version FCs to comply with the August 22, 2023 Ruling's call to start simply, using existing CARE/FERA income verification processes.

E. Process And Timing For First Version Implementation

1. The Joint IOUs Have Sufficient Data To Implement Their Proposed First Version Income Brackets

TURN/NRDC criticize the Joint IOUs' First Version FC approach as lacking sufficient data needed to implement a very low-income bracket.[151] The Joint IOUs' First Version FC proposal provides a very low FC to customers who are enrolled in CARE and have household income <100% of FPL, with the second FC level applied to all remaining CARE/FERA enrolled customers, while the third bracket would encompass all non-CARE/FERA customers.[152] The Joint IOUs will accomplish this by using self-attested income data collected as part of CARE/FERA recertifications to identify customers who are eligible for the lowest FC bracket (<100% FPL). Although, as of July 2023, PG&E's, SDG&E's, and SCE's stated income data levels are 8%, 46%, and 64% respectively,[153] the Joint IOUs have proposed to update CARE/FERA applications to encourage submission of additional self-certified household income data in advance of implementing the FC. Thus, these numbers will improve, to encompass a

---

[150] *Id.*, pp. 68, 71.

[151] TURN/NRDC Opening Brief, pp. 21-22.

[152] Joint IOUs Opening Brief, p. 4.

[153] Exhibit NRDC-TURN-4, Attachment 5. In their Opening Brief, TURN/NRDC appear to have misread the data regarding the percentage of CARE/FERA customers who have provided income data to the IOUs.

wider number of initial enrollees in the lowest bracket.[154] With approval upon a Decision in Q2 2024, SDG&E and SCE plan to initiate a campaign to solicit income information for the remaining customers within CARE. Together with the existing information of nearly 50% for SDG&E and over 60% for SCE, these IOUs anticipate having sufficient data to create a meaningfully large group of customers in the 0-100% of FPL group. Although PG&E was beginning at 8%, it has recently updated its CARE application and recertification form to collect household income information. Concerted efforts to use these updated forms to collect self-reported income information will certainly increase this number substantially, as will follow up with non-respondents, so that PG&E reaches levels at or near SCE's and SDG&E's by the time PG&E implements its First Version FC – currently expected in 2028, or sooner if possible (as discussed below).

2. Appropriate Timeframe

The Fixed Charge should be implemented as soon as is possible for each IOU to get started on the path of addressing the combined goals of reducing volumetric rates to support electrification and providing bill relief to low-income households. The Joint IOUs' proposed First Version FC structure aims to support expedited implementation, such as through reliance on existing income verification processes for CARE/FERA, as ordered in the August 22, 2023 Ruling.[155] Combined with completion of the procedural milestones described in the Joint IOUs' Opening Brief, this simpler income assignment and verification approach would allow SCE and SDG&E to implement a First Version FC in 2025.[156]

PG&E's timeline for implementation is constrained by its billing modernization project, which would push First Version FC implementation to early 2028, assuming PG&E's current estimates for the timing of standing up its new billing system hold.[157] PG&E acknowledges the

---

[154] Exhibit Joint IOUs-04, pp. 16, 17, 25- 26; Joint IOUs Opening Brief, pp. 22-23, 39, 45.

[155] August 22, 2023 Ruling, p. 4.

[156] Joint IOUs Opening Brief, pp. 43 – 45.

[157] *Id.*, pp. 46 – 47.

concerns expressed by TURN/NRDC about the delay for implementing an electric fixed charge in PG&E's service area.[158] PG&E recognizes the benefits of achieving the affordability and electrification policy objectives facilitated by a First Version FC and seeks to implement a Fixed Charge as soon as possible. PG&E must, however, balance these benefits with the competing priorities of (1) completing projects that are currently in PG&E's rate implementation pipeline, and (2) standing up a new more efficient, flexible, and supported billing system. PG&E will continue to explore pathways to implementing its First Version FC sooner, while considering regulatory and operational risks associated with delaying other rate implementation projects as well as PG&E's billing system modernization project. PG&E asks that the Commission remain open to an accelerated timeline if PG&E can find an expedited implementation path for the First Version FC.

At the same time, the longer implementation timeframe for PG&E should not prevent SCE and SDG&E from moving ahead with their implementations. SEIA advocates for delaying the implementation timeframe for all Joint IOUs to accord with PG&E's timeline, assuming PG&E's billing system upgrade requires a later implementation.[159] There is no benefit to SCE and SDG&E delaying their implementations to wait for PG&E. In fact, there is ample precedent for the Joint IOUs not rolling out major initiatives at the same time. For example, given the differences in rate levels and tier structures at the time, the IOUs collapsed residential tiered rates on different schedules.[160] The Time-of-Use Default[161] was implemented at different times by each IOU, even though it required customers to learn new behaviors to avoid peak time pricing and there was statewide marketing coordination.[162] Furthermore, the Net Billing Tariff[163] is also

[158] TURN/NRDC Opening Brief, p. 33.
[159] SEIA Opening Brief, pp. 61-62.
[160] D.15-07-001.
[161] A.17-11-011 et al.
[162] R.12-06-013.
[163] D.22-12-056, pp. 198-199.

being implemented at different times by each of the Joint IOUs due to operational considerations.[164]

Setting aside the issue of timeline alignment among the Joint IOUs, the speed of implementation for the First Version FCs for SCE and SDG&E is highly dependent on what the Track A decision may require for statewide ME&O coordination and regulatory filings. Several parties have proposed additional regulatory filings or Working Group processes that would prevent the implementation of the FC in the timeframe proposed by SCE and SDG&E. In particular, two parties, while aligned with the Joint IOUs on an expedited implementation timeline, also proposed regulatory activities that would necessarily push out that timeline: Cal Advocates seeks a full ME&O decision,[165] and TURN/NRDC suggest a Tier 3 Advice Letter.[166] Because neither party provided realistic timelines for any such filings, their showings are inferior to that of the Joint IOUs, which entailed carefully crafted, step-by-step timelines that should be adopted. *See also* related discussion in Section II.F.4, below.

3. **<u>The First Version IGFC Should Be Implemented Through Tier 2 Advice Letters, Not Rate Design Window Applications</u>**

Question 4a of the August 22, 2023 Ruling asked whether the Commission should provide enough direction in the Track A decision for utilities to file advice letters, rather than rate design window (RDW) applications, to implement the First Version FCs.[167]

In Opening Briefs, the Joint IOUs, Cal Advocates, TURN/NRDC, CUE, and CASMUs all answered this question in the affirmative, advocating for implementation of the First Version FC by way of advice letters.[168] The Joint IOUs noted that the ample record already developed in

---

[164] R.20-08-020.

[165] Cal Advocates Opening Brief, p. 14.

[166] TURN Opening Brief, pp. 46-47.

[167] August 22, 2023 Ruling, p. 6.

[168] Joint IOUs Opening Brief, pp. 51-54; Cal Advocates' Opening Brief pp. 12-13; TURN/NRDC Opening Brief, pp. 46-47; CUE Opening Brief, p. 6; SMJUs' Opening Brief p. 34.

this proceeding will allow the Commission's Track A decision to provide guidance in ten specific areas, and in so doing approve the essential components of the First Version FC, which then can be efficiently implemented by way of advice letters submitted to Energy Division.[169] Implementation via advice letters is also feasible insofar as the First Version FC will utilize existing CARE/FERA income verification processes and data. Assuming the Track A decision addresses the substantive points the Joint IOUs have identified, an RDW application process would be a formalistic exercise that inefficiently relitigates already-resolved issues.

However, a number of parties – including SEIA, Clean Coalition, CforAT, and UCAN – argue that the Commission should order implementation of the First Version FC by way of RDWs,[170] based on the following contentions: (i) the fulsome process and longer timeframe of an RDW application is necessary for practical reasons, such as to properly allocate FC revenue to the volumetric components of different residential rate schedules and to minimize unexpected adverse bill impacts,[171] (ii) an RDW application process is needed to allow for sufficient transparency and opportunity for public input,[172] and (iii) an RDW application process is legally required. On this latter point, SEIA argues that using advice letters "would turn this proceeding into a rate application subject to the customer notice requirements,"[173] while CforAT argues that, because Public Utilities Code Section 451 requires the Commission to determine the reasonableness of rates, and advice letters are only intended for staff to resolve technical matters, the "fundamental[] change" presented by the FC must be addressed through a formal Commission decision.[174] In addition, Ms. Wodtke asserts that "implementation of the first

---

[169] Joint IOUs Opening Brief, pp. 52-53 (listing ten points that can be addressed and resolved in the Track A decision based on record evidence).

[170] SEIA Opening Brief, pp. 56-61; Clean Coalition Opening Brief, pp. 11-12; CforAT Opening Brief, pp. 11-13; UCAN Opening Brief, p. 10.

[171] SEIA Opening Brief, pp. 59-61; Clean Coalition Opening Brief, pp. 11-12; UCAN Opening Brief, p. 10.

[172] Clean Coalition Opening Brief, pp. 11-12; UCAN Opening Brief, p. 10.

[173] SEIA Opening Brief, p. 61.

[174] CforAT Opening Brief, p. 12.

version of IGFCs cannot be achieved through either a [RDW] application or an advice letter," because "[General Order] 96-B says advice letters are only to be used for non-controversial matters and not resolution of policy questions" and RDW applications are only intended "'to request changes that were not addressed in the last GRC [General Rate Case].'"[175]

These arguments provide no basis for the Commission to refrain from providing enough direction in the Track A decision for the IOUs to file Tier 2 advice letters to implement the First Version FCs, consistent with the provisions of AB 205.

As for practical issues relating to adjusting volumetric rates and managing bill impacts, each of the Joint IOUs can efficiently refine its volumetric rate impacts depending on guidance from the Track A Decision on First Version FC levels. Moreover, the Track A decision can order the Joint IOUs to specifically address any such practical issues in their advice letters, thus providing an additional check by Energy Division on any practical implementation issues before the First Version FC takes effect.

As for transparency and public input, the Commission, as of August 15, 2023, has already considered and denied a motion to hold public participation hearings, noting that "[t]he Commission has already received over 565 public comments with concerns about how income-graduated fixed charges will impact residential customers," including comments on the docket card of this proceeding and comments submitted by voicemail or email.[176] Moreover, the Track A decision will be preceded by a Proposed Decision that will allow for an additional period of public reaction and comment. Furthermore, as part of the Commission's process for considering any future iteration of the income-graduated fixed charge, there will be additional opportunities for public input.

As to legality, SEIA's argument that implementation via advice letters would make this a rate application proceeding subject to notice requirements is unsupported and illogical. As SEIA

---

[175] Alexis Wodtke Opening Brief, pp. 33-34 (*citing* D.15-07-001, p. 210).

[176] *Administrative Law Judge's Ruling Addressing Motion for Public Participation Hearings* (Aug. 15, 2023), p. 4.

concedes, the Commission already has held that "[t]he Joint IOUs' Track A proposals are responses to a ruling designed to assist the Commission in the discharge of its statutory obligations and are therefore not utility applications to change rates that are subject to the notice requirements of Section 454(a)."[177] This ruling did not hinge on the process question of whether the First Version FC is to be implemented by way of RDW applications or advice letters.

CforAT's argument that implementation of the First Version FC through a Tier 2 advice letter "would constitute legal error"[178] (and similar arguments made by other parties) also lacks merit. The requirement of Cal. Pub. Util. Code § 451 that charges be "just and reasonable"[179] will be satisfied by the combination of AB 205 (by which the California Legislature deemed a residential FC to be warranted) and the Commission's Track A decision, through which the Commission will fulfill its obligation under AB 205 to authorize an income-graduated fixed charge. Nothing in Section 451 requires the Commission to engage in a redundant process whereby it issues a Track A decision authorizing the key components of and parameters for the first version of the income-graduated fixed charge, and then must issue subsequent decisions on RDW applications to authorize implementation of that same charge. Implementation by way of Tier 2 advice letters would be consistent with Commission General Order (GO) 96-B, Industry Rule 5.2, which provides that matters appropriate to a Tier 2 advice letter include (among others):

> (1) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter but that the Utility has not used previously for this purpose. . . .
>
> (2) A tariff change that is consistent with authority the Commission previously has granted to the Utility submitting the advice letter, such as a rate change within

[177] *Administrative Law Judge's Ruling to Deny Motion to Dismiss* (Aug. 2, 2023), p. 4.

[178] CforAT Opening Brief, p. 12.

[179] *See* Cal. Pub. Util. Code § 451 ("[a]ll charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable").

> a price floor and ceiling previously approved by the Commission for that Utility.[180]

For these subsections of Industry Rule 5.2, the prerequisite of prior Commission approval of an index, formula, tariff change, and/or price floor and ceiling would be met by a fulsome Track A decision that addresses all of the matters identified as necessary to pave the way for efficient implementation of the First Version FC, including the Joint IOUs' list of ten key items.[181] Moreover, the Commission created the RDW proceeding as a path through which a utility can propose revisions to its GRC-adopted rate design, which revisions the Commission may approve if the utility provides, *inter alia,* a "[f]ull justification for the revisions," "[a]n explanation why the revision should be considered prior to the next GRC;" and "[a] reconciliation with the latest adopted revenue requirement and class allocations."[182] As noted, the Commission already has held that the Joint IOUs' FC proposals "are responses to a ruling designed to assist the Commission in the discharge of its statutory obligations and are therefore not utility applications to change rates that are subject to the notice requirements of Section 454(a)."[183] In other words, the Joint IOUs are not proposing voluntary revisions to their GRC-adopted rate designs but responding to a subsequent legislative directive to the Commission. Accordingly, an RDW application is not a fitting procedural path here.

The Joint IOUs acknowledge that the June 19, 2023 Ruling referenced the timeframe and RDW application process prescribed by D.15-07-001 for establishing and implementing TOU rates.[184] However, the issues before the Commission in that rulemaking were far more complex and time-consuming than the relatively straightforward task of authorizing the First Version FC, which only requires that the Commission: (i) comply with the basic mandate of AB 205, (ii) address the discrete set of substantive issues (such as eligible cost categories) the Joint IOUs

---

[180] GO 96-B, Section 5.2 (Matters Appropriate to Tier 2 (Effective After Staff Approval)), subsections (1)-(2) of (7).

[181] Joint IOUs Opening Brief, pp. 52-53.

[182] D.15-08-040, pp. 14-15 (*citing* D.89-01-040).

[183] *Administrative Law Judge's Ruling to Deny Motion to Dismiss* (Aug. 2, 2023), p. 4.

[184] June 19, 2023 Ruling, p. 3.

have identified, and (iii) make discretionary decisions regarding the income levels to be associated with each FC bracket and the fixed charge amount to be paid by customers in each bracket.[185] Notably, D.15-07-001 ordered the IOUs to include with their RDW applications supporting testimony and extensive documentation,[186] whereas in the instant proceeding, all testimony and documentation needed to support the First Version FC already has been served and admitted into evidence, including the Public Tool results the Commission made available to model volumetric rate and customer bill impacts. Assuming the Track A decision covers the essential elements of the First Version FC, the remaining administrative details of each IOU's implementation of its respective first version proposal can be addressed through Tier 2 advice letters, subject to review and approval by ED staff.

For these reasons, the arguments of the parties against implementation of the first version of the income-graduated fixed charge through Tier 2 advice letters lack merit, and the Commission should order implementation through Tier 2 advice letters as the most efficient and appropriate procedural path.[187]

---

185 Compare with D.15-07-001, pp. 301-302 (specifying that each IOU must file RDW application including default TOU proposal, tiered opt-in rate, and at discretion of IOU, other optional residential rates, with testimony to support the proposed rate change, and supporting documentation, including bill impact studies (income/usage, GHG reduction, cost savings), statutory requirements, rate design to maximize customer acceptance, load response studies, and alternative tariffs relating to multiple TOU periods, matinee pricing, and seasonally differentiated TOU periods for advance customers).

186 *Id.*

187 The Joint IOUs also disagree with TURN's recommendation that the First Version FC be implemented through Tier 3 advice letters (TURN Opening Brief, p. 47), as the more involved process associated with Tier 3 advice letters will not be necessary assuming the Track A decision covers the substantive points the Joint IOUs have identified as necessary to authorize the essential contours of the first version income-graduated fixed charge.

a) **SEIA Incorrectly Asserts That An RDW Process Can Be Completed In Time To Implement The First Version FC By The Anticipated 2026 Start Date**

The Joint IOUs disagree with SEIA's assertion that an RDW filed by Q1 2025 would align with the Commission's estimated implementation date for the end of 2026,[188] as it will likely take 18 months for a consolidated RDW process to see a final decision, and thus likely push out First Version FC implementation to 2027.[189] As an example, the consolidated 2018 Rate Design Window applications,[190] which were filed December 20, 2017, received a final decision Addressing Residential Default Time-of-Use Rate Design Proposals over 18 months after applications were filed.[191] Furthermore, a decision addressing the Proposed Fixed Charge for Residential Customers needed more time and was issued over two years[192] after applications were initially filed.

If, nonetheless, the Commission were to require RDW proceedings before approving a First Version FC, it is reasonable to assume a final Commission decision in such RDWs could take up to 18 months after filing. Given that implementation would then take a minimum of 12 months after a final RDW decision, customers likely wouldn't see a First Version FC from any IOU until mid-2027. See below for a realistic timeline should the Commission decide to leverage a follow-on RDW process to approve the First Version FC Rate Design, assuming a Q1 2025 RDW application filing by the IOUs:

---

188 SEIA Opening Brief, pp. 61-62.

189 CPUC Rule of Practice and Procedure 2.1(c) require a "proposed schedule [for Applications Generally] shall be consistent with the proposed category, including a deadline for resolving the proceeding within…18 months or less (ratesetting or quasi-legislative proceeding) . . . ."

190 A.17-12-011, A.17-12-012, and A.17-12-013.

191 D.19-07-004.

192 D.20-03-003.

Table II-9
Procedural Milestone
Assuming Q1 2025 RDW Application Filing

Procedural Milestone Assuming Q1 2025 RDW Application Filing	Date
All IOUs File Separate RDW Applications for First Version FC Rate Design	January 2025
Final Decision in Consolidated RDW Application	July 2026
First Version FC Implementation (SCE & SDGE)	July 2027

Additionally, even if the Commission were to adopt TURN/NRDC's recommendation for the IOUs to file any such RDW applications 90 days after a final decision, the First Version FCs would still not be likely implementable by any IOU until early 2027:

Table II-10
Procedural Milestone
Assuming RDW Application Filing 90 Days

Procedural Milestone Assuming RDW Application Filing 90 Days After R.22-07-005 Final Decision	Date
R.22-07-005 Final Decision*	June 2024
All IOUs File Separate RDW Applications for First Version FC Rate Design	September 2024
Final Decision in Consolidated RDW Application	March 2026
First Version FC Implementation (SCE & SDGE)	March 2027
*ALJ Wang's August 22, 2023, Ruling provided a revised schedule indicating a Proposed Decision in March or April 2024 with a Final Decision at least 30 days after a Proposed Decision.	

Given the more realistic timelines above, the Joint IOUs restate our recommendation that it is reasonable and appropriate for the Commission to carry out its directives for a First Version FC by approving compliant First Version FC rate calculations through the Commission's advice letter approval process. This approach allows the policy goals of the Legislature to begin to be implemented as soon as possible after the Commission's Track A Final Decision, which is the culmination of 15 months' worth of detailed testimony and legal briefing in a proceeding that began almost two years before the Legislature's July 1, 2024 deadline.

b) **Ms. Wodtke's Argument For Delaying Or Abandoning The First Version FC Is Not Consistent With AB 205**

Ms. Wodtke incorrectly asserts that "IGFCs are not required by AB 205" and proposes the Commission should delay adopting a fixed charge or exercise its discretion to reject the fixed charge altogether.[193] Based on a misreading of Cal. Pub. Util. Code § 739.9(e)(1) as permissive rather than mandatory, Ms. Wodtke recommends the Commission: (1) "should not implement any rates based on customers' income"; (2) "should consider alternative solutions" to the fixed charge, including simply finding that taxpayers should subsidize any benefits provided to low-income customers; and (3) should consider whether the fixed charge "will, in fact, achieve the state and the Commission's goals[.]"[194] Ms. Wodtke also asserts that the Commission has improperly foreordained the result of this proceeding by indicating that it *will* adopt a fixed charge, despite these issues of concern, including an allegation of apparent conflicts with other statutes and Commission precedent.[195] Even if these matters were properly before the Commission,[196] the Joint IOUs respectfully disagree with Ms. Wodtke's reading of the applicable statute, which is mandatory, not permissive. Further, even if the Commission did have discretion here, there is no conflict between Section 739.9(e)(1) and the various other statutes that Ms. Wodtke identifies.[197]

---

[193] Wodtke Opening Brief, p. 15.

[194] Wodtke Opening Brief, p. 8.

[195] *Id.* at pp. 10-11. For example, Ms. Wodtke states" The Commission has discretion, under AB 205, not to impose income-based rates and it should explain why it is doing so, particularly given the fact statutes and its own Rate Design Principles require cost-of-service ratemaking." *Id.*, p. 11. Separate and apart from the legislative mandate of AB 205, Ms. Wodtke ignores that the FC is, in fact, cost-based because it is based on the fixed costs of providing electric service, with a discount for low-income customers.

[196] The Commission need not entertain these arguments as they are not proper matters to include in opening briefs per the ALJ's August 22, 2023 Ruling.

[197] *See* Wodtke Opening Brief, pp. 17-18.

As the ALJ has already determined,[198] and as virtually all parties to this proceeding agree,[199] Section 739.9(e)(1) mandates that the Commission authorize a fixed charge for default residential rates by July 1, 2024. It expressly provides that the Commission "*shall*, no later than July 1, 2024, authorize a fixed charge for default residential rates" and that the "fixed charge *shall* be established on an income-graduated basis[.]"[200] The cardinal rule of statutory construction is that statutes should be construed so as to effectuate the intent of the legislature.[201] The legislature is presumed to act intentionally when it uses the words "shall" or "may."[202] Where, as here, the statutory language is unambiguous, the legislature is presumed to have meant what it said, and the plain meaning of the statute controls.[203]

Nonetheless, Ms. Wodtke argues that subdivision (e)(1) does not mean what it plainly says, because Section 739.9 also grants the Commission permissive authority to adopt fixed charges in other circumstances.[204] Subdivision (d) provides that the Commission "may adopt" fixed charges, and (e)(1) further provides that the Commission "may authorize fixed charges for any rate schedule applicable to a residential customer account."[205] These provisions can easily be read in harmony, as they must be under the principles of statutory construction.[206] The Commission *must* authorize an income-graduated fixed charge for default residential rates by

---

198 Indeed, the ALJ has previously rejected the very same arguments raised by Ms. Wodtke in her Opening Brief. *See Administrative Law Judge's Ruling to Deny Motion to Dismiss* (Aug. 2, 2023), pp. 2-3.

199 None of the 12 parties that submitted statutory construction briefs in January 2023 disputed this, including those that oppose the FC.

200 Cal. Pub. Util. Code § 739.9(e)(1) (emphasis added).

201 *Wisner v. Dignity Health*, 85 Cal.App.5th 35, 46 (2022); Cal. Code of Civ. Proc. § 1859.

202 *Briggs v. Eden Council for Hope & Opportunity*, 19 Cal.4th 1106, 1117 (1999) ("Where different words or phrases are used in the same connection in different parts of a statute, it is presumed the Legislature intended a different meaning").

203 *Wisner*, 85 Cal.App.5th at 46; *Hunt v. Superior Court*, 21 Cal.4th 984, 1000 (1999).

204 Wodtke Opening Brief, pp. 15-16.

205 Cal. Pub. Util. Code § 739.9(d) (e)(1).

206 *Viking Ins. Co. v. State Farm Mut. Auto. Ins. Co.*, 17 Cal.App.4th 540, 546 (1993) ("legislation should be construed so as to harmonize its various elements"); *see also* Cal. Code of Civ. Proc. § 1859 ("when a general and particular provision are inconsistent, the latter is paramount to the former. So, a particular intent will control a general one that is inconsistent with it.").

July 1, 2024, and it *may* do so for any other "rate schedule applicable to a residential customer account." Ms. Wodtke also argues that the expression of legislative intent in AB 205 demonstrates that the Commission has discretion regarding the FC because it states "**IF** the Public Utilities Commission establishes fixed charges on default residential customer rates . . . ."[207] This argument fails because "[c]ourts may look to legislative history to construe a statute *only* when the statutory language is susceptible of more than one reasonable interpretation,"[208] which is not the case here.

The only reasonable interpretation of Section 739.9(e)(1)--as requiring a fixed charge for default residential rates by July 1, 2024—accords with the stated intent of the Legislature in amending the statute: to "equitably allocate and recover costs among residential customers" and "more fairly distribute the burden of supporting the electric system and achieving California's climate change goals through the fixed charge."[209] Ms. Wodtke's personal views on whether the FC should instead have been a tax, and whether it is an effective tool to achieve the State's climate goals, are appropriately addressed not to the Commission, but to the *Legislature*.

Additionally, there is no conflict between Cal. Pub. Util. Code § 739.9(e)(1) and cost-of-service ratemaking, or Sections 453(a) and (c), 728, and 739.1(a), as Ms. Wodtke suggests.[210] The fixed charge mandated by AB 205 *is* cost-based—it is based on the fixed costs of providing electric service, with a discount for low-income customers. The fixed charge is not "discriminatory" under Section 453. That statute prohibits "*unreasonable* difference[s]" in

---

207 Wodtke Opening Brief, p. 16 (emphasis in original).

208 *Pacific Gas & Electric Co. v. Public Utilities Com*., 85 Cal.App.4th 86, 92 (2000) (emphasis in original); *Monette-Shaw v. San Francisco Bd. of Supervisors*, 139 Cal.App.4th 1210, 1219 (2006) ("No principle of statutory construction allows petitioner's circular argument—using extrinsic evidence of voters' intent to create an ambiguity, using that ambiguity to allow consideration of extrinsic evidence, and then using the original extrinsic evidence to construe an ambiguity it created itself.").

209 AB 205, Sec. 14 of, Findings and Declaration for Pub. Util. Code § 739.9.

210 Wodtke Opening Brief, pp. 10, 17-18. Ms. Wodtke also states, without explanation, that Section 1701.1" prohibit[s] discriminatory rates," but that section merely sets forth procedural rules for Commission proceedings. *Id.* at p. 17.

rates.[211] It requires that utilities treat similarly situated customers alike, precisely what the legislation's requirement of at least three income thresholds achieves. Ms. Wodtke also argues that the fixed charge violates Section 728's requirement that rates be reasonable "because income cannot be properly measured without violating the privacy rights of customers," and Equifax data is inaccurate.[212] This argument, and Ms. Wodtke's privacy concerns more generally, are beyond the scope of Track A, which will establish a First Version FC that relies solely on existing CARE/FERA income verification processes and data.[213] Finally, Section 739.1(a) applies to the CARE program. Thus, even if the Commission had discretion to reject the FC (it does not), the statutes cited by Ms. Wodtke do not provide a basis for doing so.

F. Marketing, Education, And Outreach

1. Each Utility Should Administer Its Own ME&O

The Joint IOUs agree with Sierra Club that "[f]or the sake of efficiency and cost containment, each utility should administer its own marketing, education, and outreach" plans under the Commission's guidance, and the Commission "should avoid ballooning implementation costs by designating consultants for ME&O[.]"[214] As detailed in the Joint IOUs' testimony and Opening Brief,[215] the benefits of this approach include:

- Efficiency and Cost Containment: Allowing each utility to administer its own ME&O plan can lead to a more streamlined process. It means that utilities can tailor their strategies to the specific needs of their service areas, thus ensuring that resources are allocated effectively.
- Local Expertise and Tailored Strategies: Utilities possess valuable local knowledge and insights. We are best equipped to understand the unique needs, challenges, and demographics of our respective service areas. Additionally, an individualized approach to ME&O plans allows utilities to adapt their strategies to

[211] Cal. Pub. Util. Code § 453(c) (emphasis added).

[212] Wodtke Opening Brief, p. 18.

[213] August 22, 2023 Ruling, p. 4.

[214] Sierra Club Opening Brief, p. 41.

[215] Joint IOUs Opening Brief, pp. 23-26.

changing circumstances, technological advancements, and evolving customer preferences.

- Cost Savings: Designating consultants or conducting Working Groups for each utility's ME&O plan would be costly and time-consuming. This would likely lead to ballooning implementation costs, which ultimately get passed on to customers.
- Encouraging Innovation: Allowing each IOU to administer its own ME&O plan will encourage innovation within the overall framework of coordinated themes. Utilities can experiment with new approaches, technologies, and communication channels and share best practices with one another.

Sierra Club supports a balanced approach along these lines that empowers the utilities to manage their own ME&O plans while still maintaining oversight and guidance from the Commission.[216] Such an approach leverages the expertise and local knowledge of utilities, encourages efficiency and cost savings, and enables innovation in reaching energy and environmental goals, and should be adopted.

2. **Statewide ME&O Is Less Effective And More Expensive, And Could Delay Implementation for SDG&E And SCE**

Several parties advocate for a formal statewide marketing, education, and outreach (ME&O) plan. The Joint IOUs disagree with this cumbersome and costly approach to coordination for many of the same reasons discussed above. To reduce their costs, the CASMU parties recommend a two-pronged ME&O approach using both an overall statewide ME&O framework with individual ME&O framework for each utility, though they caution that "statewide coordination could prove challenging given the differences between utilities as well as the differences between utility IGFC proposals."[217] Cal Advocates similarly recommends developing a common statewide outline for each IOU to follow.[218] Acknowledging that IOUs "may have specific reasons for discrete pieces of their messaging to differ from one another,"

[216] Sierra Club Opening Brief, p. 41.

[217] CASMU Joint Opening Brief, October 6, 2023, p. 22.

[218] Cal Advocates Opening Brief, pp. 2-4.

including differences in implementation timing and "differences in customer make up, projected bill impacts, climate zones, and relationships with community-based organizations," Cal Advocates recommends that the Commission "should consider whether to allow such discrete differences on a case-by-case basis."[219] TURN/NRDC also express support for a statewide coordinated ME&O plan "that can identify common themes, topics and messaging."[220]

As an initial matter, the Joint IOUs agree that their respective ME&O efforts should be based on a common underlying framework plus informal coordination, for consistency in themes and messaging.[221] To that end, the Joint IOUs' proposal calls for IOU-specific tailored local messaging to be augmented by certain limited, foundational statewide messaging, such as a Commission webpage.[222] The Joint IOUs also proposed using quarterly progress implementation reports to share the results of their ME&O research, best practices, and ME&O materials to find efficiencies and further promote consistency in messaging.[223] In addition, the Joint IOUs will meet with CASMU members in Q1 2024 to coordinate ME&O efforts, as described in Section II.F.7, below.

However, as explained in detail in our Opening Brief, it is critical that the Joint IOUs have flexibility to tailor messaging based on customer demographics, behaviors, and preferences as well as available outreach channels, all of which will differ by IOU.[224] A formal statewide ME&O plan would hinder the Joint IOUs' ability to conduct localized messaging to their diverse customer populations. UCAN agrees that the Commission should not order a statewide ME&O plan for this reason, and "should set guidelines as to what must be communicated but leave the details of the communications to each individual IOU" so they can "customize the communication based on the communities they serve, as well as provide data as to which

---

[219] Cal Advocates Opening Brief, pp. 4-5.

[220] TURN/NRDC Opening Brief, p. 42.

[221] Joint IOUs Opening Brief, pp. 24-25.

[222] *Id.* at p. 26.

[223] Joint IOUs Opening Brief, p. 26.

[224] *Id.* at p. 25.

communication pathways and language are the most effective in reaching all ratepayers[.]"[225] Likewise, Clean Coalition does not recommend a formal statewide ME&O plan if different fixed charges are adopted for each utility because "the details will differ."[226]

While CASMU's proposal contemplates individually tailored ME&O plans in addition to the statewide framework, Cal Advocates recommends that differences in ME&O materials be approved on a case-by-case basis, and TURN's proposal does not appear to allow for any differences in the Joint IOUs' ME&O materials. The Joint IOUs explained in our Opening Brief why it is critical that we be empowered to adapt our ME&O plans in real time (using the "test and learn" method), without the need to reach statewide consensus.[227]

Additionally, the Joint IOUs have explained that a single, statewide ME&O plan would unnecessarily increase our costs, particularly in light of differing implementation timelines.[228] Implementing a formal, broad statewide campaign could also cause delays in implementation due to the time-consuming approval process to select a statewide consultant/agency of record and the need for customization to suit regional needs. The parties supporting a statewide ME&O campaign do not address these issues.

3. SEIA Does Not Dispute That the Joint IOUs' Detailed ME&O Proposal Is Designed to Build Customer Awareness and Acceptance

SEIA expresses concern about the "steep learning curve to achieve customer understanding and acceptance of IGFCs" and observes that the Commission declined to impose fixed charges in the past because of deficiencies in IOU ME&O plans, but does not actually take issue with the Joint IOUs' much more detailed ME&O proposal in this proceeding.[229] SEIA appears to be suggesting that because there are "concerns with residential customers'

[225] UCAN Opening Brief, p. 8.
[226] Clean Coalition Opening Brief, p. 9.
[227] Joint IOUs Opening Brief, p. 24.
[228] Joint IOUs Opening Briefs, pp. 23-24; Exhibit Joint IOUs-04, pp. 27-28.
[229] SEIA Opening Brief, pp. 24-25 (*citing* D.20-03-003, p. 20).

understanding and acceptance of a fixed charge," the Commission should not adopt meaningfully different fixed charges for the CARE/FERA tiers and the remaining tier.[230] SEIA's position is untenable – taken to its logical conclusion, it would prevent the Commission from ever making meaningful change in the face of any degree of opposition, and would have thwarted SMUD's successful move to its current FC.

The Commission should focus instead on the ME&O proposal before it. The Joint IOUs recognize that ME&O is of fundamental importance in calming potential backlash, and our proposal is well calculated to foster customer awareness, understanding, and acceptance of the fixed charge. As detailed in our testimony and Opening Brief, the Joint IOUs' ME&O proposal draws on our recent experience of successfully transitioning millions of residential customers to default TOU rate plans and includes customer research to determine customers' preferred approach to FC messaging and education.[231]

4. Cal Advocates' Proposed ME&O Working Group And Advice Letter Process Would Unnecessarily Delay Implementation Or Limit The Time For Pre-Implementation Customer Outreach

The Joint IOUs disagree with Cal Advocates' proposed ME&O process because it is not feasible on the 12-month implementation timeline they support for SCE and SDG&E. Cal Advocates recommends convening an ME&O working group that will culminate in an ME&O proposal by Q3 of 2024, with parties submitting comments on the proposal by Q4, and a final ME&O decision to be issued by the end of the year.[232] Cal Advocates proposes that the IOUs then file Tier 2 ME&O Advice Letters within 60 days of the final ME&O decision.[233] These Tier 2 ALs would therefore not be filed until at least February 2025, and the soonest they could

---

[230] SEIA Opening Brief, p. 25.

[231] Joint IOUs Opening Brief, pp. 16-17; Exhibit Joint IOUs-01-E2, pp. 109-127.

[232] Cal Advocates Opening Brief, p. 14.

[233] *Id.*

become effective would be through an ED Disposition Letter 30 days post-filing.[234] Under Cal Advocates' model, therefore, SCE and SDG&E would likely not be able to begin customer communications until the end of Q2 2025, *at the earliest*, a mere three months before Cal Advocates recommends that SCE and SDG&E should apply the First Version FC to customer bills.[235] Thus, the lengthy ME&O process proposed by Cal Advocates would either result in a severely compressed timeline for customer communications or would significantly delay the implementation timeline. Either way, the heavy oversight proposed by Cal Advocates runs counter to their stated goal of "expeditious implementation" and facilitating ME&O "in a timely manner" that does "not delay IGFC implementation."[236]

Experience with the TOU transition also demonstrates that any ME&O working group process is likely to impede timely implementation of the first version fixed charge. In preparation for the rollout of TOU rates, a dedicated ME&O working group facilitator was engaged in January 2018 following a lengthy RFP process. SDG&E, the first utility to begin the transition to default residential TOU rates, did not actually begin to transition customers until March 2019, a full 15 months later. Here, SCE and SDG&E have proposed 12-month implementation timelines, with support from Cal Advocates.[237] Many other parties agree that timely implementation should be a priority for the first version, including TURN/NRDC, who are also recommending an ME&O working group.[238] Past experience with the TOU transition demonstrates that this timeframe will not allow for the parties to engage a facilitator, establish and convene an ME&O working group and also timely launch the First Version FC.

In Opening Testimony and comments, the Joint IOUs presented a detailed ME&O strategy firmly rooted in our direct experiences and proven successes in conducting similar

[234] *See* G.O. 96-B, Rule 7.3.4 (1).
[235] Cal Advocates Opening Brief, p. 14.
[236] Cal Advocates Opening Brief, pp. 5, 8.
[237] Cal Advocates Opening Brief, p. 14.
[238] TURN/NRDC Opening Brief, pp. 33, 43.

outreach efforts for the rollout of TOU default rates and various other campaigns.[239] In our Opening Brief, the Joint IOUs underscored that "research and experience demonstrates that robust and focused ME&O in advance of implementation is critical to achieve customer awareness, understanding, and acceptance," and this process "should commence no later than six months before implementation."[240] Several parties agree that customer outreach should begin well in advance of implementation.[241] Yet, Cal Advocates' proposed approach allows for only three months of customer outreach before the fixed charge appears on customer bills under SCE and SDG&E's 12-month implementation timeline, which Cal Advocates supports.[242] Given the likelihood of a high volume of customer questions and inquiries, a three-month timespan would not be sufficient from an operational perspective to properly address customer concerns or requests to change their assigned bracket level. Additionally, given the volume of customer communications that must be sent (all residential customers will be targeted, i.e., several million customers), communications will need to be sent in waves over several months, similar to what was done during our successful outreach campaign for the default TOU transition. If instead there were only three-months of lead time (at most), some customers would not receive any information until a few weeks prior to the launch, which may not allow sufficient time for them to contact the Joint IOUs and for the Joint IOUs to make any necessary changes to their bracket assignments. Because Cal Advocates' suggested timeline fails to take such practical, customer-centric realities into account, it is unreasonable and must not be adopted.

---

[239] Exhibit Joint IOUs-04, p. 6; Exhibit Joint IOUs-01-E2, pp. 109-127 and p. 116, Table V-17.

[240] Joint IOUs Opening Brief, p. 21.

[241] SEIA Opening Brief, p. 24 (" there will be a steep learning curve to achieve customer understanding and acceptance of IGFCs"); TURN Opening Brief, p. 43 (recommending" six-month period of ME&O during customer tier assignment"); Sierra Club Opening Brief, p. 40 ("Customers should be given substantial lead time").

[242] Cal Advocates Opening Brief, p. 14.

5. Town Hall Meetings Specific To The Fixed Charge Would Be Duplicative Of Other ME&O Efforts

Ms. Wodtke proposes that each IOU hold town hall meetings specific to the fixed charge in their service territory. Specifically, she recommends "face-to-face conversations of customers and utility company executives to develop understanding between them."[243] At these town halls, the utilities should explain "why income-based rates meet state goals of reducing greenhouse gas emissions, conservation, energy efficiency, and beneficial electrification."[244] The Joint IOUs respectfully disagree with this recommendation.

Ms. Wodtke's recommendation that the utilities conduct town halls with executives who have "authority to make change"[245] ignores the legislative mandate of AB 205. No utility employee has authority to violate statutory requirements. Additionally, town halls specific to the fixed charge are not a necessary or efficient way to educate customers and the public about the Fixed Charge. The Joint IOUs' ME&O proposal already encompasses outreach on these very topics.[246] The Joint IOUs will also engage with various stakeholders to inform and educate them about the potential impacts of a fixed charge. Outreach includes remote and in-person discussions with community organizations, elected officials, and others.[247] Finally, to the extent the Commission orders additional focused ME&O discussions for the First Version FC, the Joint IOUs have proposed an ME&O workshop.[248]

---

[243] Wodtke Opening Brief, p. 9.

[244] *Id.,* p. 29.

[245] Wotdke Opening Brief, p. 32.

[246] Joint IOUs Opening Brief, pp. 21-22.

[247] Joint IOUs Opening Brief, p. 18; Exhibit Joint IOUs-01-E2, pp. 118, 120.

[248] Joint IOUs Opening Brief, p. 27.

6. **The Parties Generally Agree On The Topics To Be Covered In Pre-Implementation ME&O**

Most parties who addressed this issue generally agree that pre-implementation ME&O should cover the basics of the fixed charge, including what it is, when and why it is being implemented, and what customers can expect to see on their bills.[249] Several parties also agree with the Joint IOUs that pre-implementation ME&O should encourage enrollment in the CARE and FERA programs.[250]

TURN/NRDC propose more complicated topics for ME&O, including that customers "be educated about the difference between their average rate (average bill divided by kWh consumed) and the marginal rate they are charged for additional usage."[251] The Joint IOUs have been conducting detailed customer research, which remains ongoing.[252] Thus far, there is no indication that customers want or need ME&O at the level of detail TURN/NRDC propose. While customers want a general understanding of how the volumetric and fixed charges interrelate, the most common request from customers has been to simply see "before and after FC" sample bills.[253] Ms. Wodtke proposes that ME&O should address concerns raised by some customers in their comments submitted via the public comments portal, including that the fixed charge is unfairly based on income, does not encourage conservation, violates customers' privacy rights, and disadvantages customers who have implemented energy savings measures.[254] Although the Joint IOUs and Ms. Wodtke frame the issues differently, as a practical matter, the ME&O topics the Joint IOUs have proposed already encompass these issues. For example, educating customers about why the fixed charge is being implemented and how it advances state

[249] *See, e.g.*, Cal Advocates Opening Brief, p. 2; Clean Coalition Opening Brief, p. 8; CASMU Opening Brief, p. 23.

[250] TURN/NRDC Opening Brief, p. 42; SEIA Opening Brief, p. 40.

[251] TURN/NRDC Opening Brief, pp. 41-42.

[252] Exhibit Joint IOUS-01-E2, p. 117.

[253] Exhibit Joint IOUS-01-E2, pp. 112, 114, 116.

[254] Wodtke Opening Brief, pp. 8-9.

policy goals of beneficial electrification and improved equity is responsive to customer concerns about conservation messaging and the relevance of income.[255] Educating customers that they will not necessarily see higher bills will address some customers' concerns about energy saving measures they have already adopted.[256] Privacy concerns will be alleviated by ME&O explaining how income brackets were determined based on existing processes and data.[257]

The Joint IOUs note that while it is not surprising that most people who chose to comment via the public portal oppose a fixed charge, several commenters also expressed support for it. For instance, one customer described how her electricity bills have become a source of severe financial hardship for her low-income household. Despite living in an area of California with temperatures that approach, or even surpass, 100 degrees, the commenter described how running her AC unit (or heat in the winter) is not an option—she simply cannot afford it. This customer is not alone in "wholeheartedly support[ing]" the fixed charge.[258]

7. CASMU And The Joint IOUs Have Agreed to Meet And Confer Regarding ME&O Plans

The Joint IOUs met with CASMU members and agreed to share research findings to help inform the smaller utilities' ME&O. As discussed, each IOU, including CASMU members, recognize the need for individualized ME&O. The large IOUs will share best practices, research findings, and further details of plans provided in the record of this proceeding to help inform the efforts and communications of the smaller utilities. A first meeting is tentatively scheduled for Q1 2024 and all parties can participate to hear research findings and understand how it may inform the large IOUs' ME&O efforts.

---

[255] Joint IOUs Opening Brief, pp. 21-22.

[256] *Id.*

[257] *Id.*

[258] R.22-07-005, *California Public Utilities Commission Proceeding Public Comments* (accessed on Oct. 16, 2023). The ALJ authorized parties to "refer to public comments on the Docket Card of this proceeding in" briefing. *ALJ Ruling Addressing Motion for Public Participation Hearings* (Aug. 15, 2023), p. 4.

G. Cost Recovery

The Joint IOUs continue to propose that all costs incurred by the IOUs (i.e., the actual incremental operations and maintenance (O&M) expenses and the capital-related revenue requirements associated with the actual incremental capital expenditures) be recorded in a new two-way balancing account, the Income Graduated Fixed Charge Balancing Account (IGFCBA), for the reasons set forth in our Opening Brief.[259] To the extent the actual capital-related revenue requirements and O&M expenses are greater, or less, than the authorized revenue requirement, the Joint IOUs propose to recover or return the difference (i.e., the December 31 balance) to customers on an annual basis through the following year's Public Purpose Program (PPP) rates, using the annual year-end rate change advice letter process adopted in Resolution E-5127.[260]

While parties generally agreed with the use of PPP rates to recover these costs,[261] certain parties advocated for the use of memorandum accounts or a process that requires additional reasonableness review in lieu of establishing a two-way balancing account.[262] Specifically, Cal Advocates recommends establishing a memorandum account with a cost cap and a requirement that the IOUs seek reasonableness review via an application to recover the amounts up to the cost cap.[263] The only supporting rationale Cal Advocates cites is that "[t]his approach is reasonable given the evolving nature of this proceeding with the large array of IGFC proposals."[264] Cal Advocates further clarifies that "[t]he Commission should establish a cost cap based upon justified implementation cost estimates."[265] Although TURN/NRDC do not explicitly use the term "memorandum account," they advocate against allowing automatic recovery through a

---

[259] *See* Joint IOUs Opening Brief, pp. 39-42.

[260] Joint IOUs Opening Brief, p. 40.

[261] *See* TURN/NRDC Opening Brief, p. 46; Cal Advocates Opening Brief, p. 12.

[262] The Joint IOUs do not take a position on the SMJUs' request to use memorandum accounts to track associated implementation and administrative costs. The Joint IOUs believe that different approaches may be appropriate for the SMJUs based on their unique circumstances.

[263] Cal Advocates Opening Brief, pp. 11-12.

[264] Cal Advocates Opening Brief, p. 11.

[265] Cal Advocates Opening Brief, pp. 11-12.

balancing account and true-up mechanism and instead recommend that all costs be reviewed for reasonableness in a subsequent proceeding, a successor docket, or each IOU's next scheduled General Rate Case (GRC) prior to any amount being recovered in rates.[266] The only rationale TURN/NRDC provide is that such a process would result in "greater scrutiny" of the costs.[267] Finally, Ms. Wodtke recommends that the costs of implementing the FC be recorded in a memorandum account, with recovery contingent upon the outcome that the use of FC rates "measurably and substantially contribute[s] to all of the climate change goals stated in Cal. Pub. Util. Code § 739.9(d)."[268] Ms. Wodtke's rationale is that "[p]lacing the risks of recovery on the shoulders of utilities would make them operate like other businesses who risk losses when they introduce a new product."[269]

The Joint IOUs disagree with these proposals. Memorandum accounts are generally authorized to address retroactive ratemaking concerns for activities that were not previously authorized for ratemaking done on a *prospective* basis.[270] Here, the Joint IOUs have set forth an efficient proposal that allows for a prospective process for setting the forecast revenue requirement on an annual basis via the use of Tier 2 advice letters.[271] In the current high-interest rate environment, customers benefit from aligning the timing of the amounts included in rates with when the costs are incurred by the utility. This minimizes interest expense that would otherwise be recoverable in customers' rates. Now that the Joint IOUs each have a four-year GRC cycle, a significant amount of interest expense can accumulate on costs just waiting for the review process due to timing. This type of framework benefits no one.

Moreover, Cal Advocates' proposal to cap the amounts recorded in a memorandum account – with no cited precedent for that treatment – is inconsistent with cost-of-service

---

266 TURN/NRDC Opening Brief, p. 46.

267 *Id.*

268 Wodtke Opening Brief, p. 32.

269 *Id.*, pp. 32-33.

270 D.19-09-026, pp. 5-6, *citing* D.92-03-094.

271 *See* Joint IOUs Opening Brief, pp. 42-43.

ratemaking and supports the Joint IOUs' proposal that prospective ratemaking is feasible here. If the IOUs are required to submit "justified implementation cost estimates" as the basis for the "cap," that is essentially a tacit acknowledgement by Cal Advocates that the appropriate recovery mechanism is a balancing account (with the cost estimate used as the basis for authorizing a forecast revenue requirement). Capping a memorandum account with no potential for recovery of incremental costs associated with activities done in compliance with state law and Commission directive is punitive and should be rejected. The same is true for Ms. Wodtke's proposal.

The Joint IOUs urge the Commission to authorize the establishment of the new two-way IGFCBAs and adopt the proposed oversight process for setting and truing up the authorized revenue requirements. This approach best aligns the recovery of costs in rates with the timing in which they are incurred and minimizes interest expense borne by customers for the implementation of a rate that is mandated by state law and whose structure is directed by the Commission.

H. Next Steps Toward A Future Version Fixed Charge

1. The Commission Should Adopt A Pathway To The Next Version IGFC That Begins Without Undue Delay

In its Opening Brief, SEIA recommends that the Commission: (1) limit the scope of its initial Track A decision to implementation of the First Version FC and (2) wait multiple years until data is collected on the First Version, and the impact of other rate designs -- including those being discussed in Track B -- can be studied before proceeding down a pathway to a second version FC.[272] SEIA provides a list of recommended reporting requirements and evaluation plans,[273] including a recommended three-years of post-FC data collection before any structural

[272] SEIA Opening Brief, pp. 62-63.
[273] *Id*., pp. 65-68.

changes are made.[274] In her June 19 Ruling, the ALJ provided no reason that work on a second version FC cannot start shortly after the First Version is implemented.

The principal challenge for moving from the First Version FC to the second is finding an income verification method that can differentiate among non-CARE/FERA customers (at the household income level), and is also compliant with the law, respectful of the privacy rights and preferences of customers and their households, operationally feasible, accurate and reliable, reasonable in terms of cost and administration, capable of regular updates and data refreshes to ensure accuracy of tier placement, and also capable of handling appeals, corrections, refund demands, and other customer complaints. Given these complexities, the Joint IOUs have advised that the Commission should be tasked with overseeing income verification through a third-party administrator.[275] While the first version is limited to using existing processes to differentiate customers and therefore only relies on data for low-income households,[276] a future version could allow time for identification and implementation of incremental processes with no such limitation. Because data from the First Version will have little to no bearing on income verification for the next version, the process to research and assess alternate income verification options should start as soon as practicable, as recommended in the Joint IOUs' Opening Brief.[277]

The Joint IOUs see value in collecting and using customer impact data from the First Version FC to inform the next version, and have suggested that nine months – inclusive of a summer season – is a sufficient period.[278] Conclusions on the issues of income verification and rate design should be the "critical path" items leading to the next step FC, while customer impact data should only be considered to the degree doing so does not delay proposals for and implementation of a second version. In contrast, SEIA cites no reason for requiring three years of customer impact data as a minimum. SEIA argues that future rate design innovations may

[274] *Id.*, p. 68.

[275] *See* Joint IOUs Opening Brief, p. 11; Exhibit Joint IOUs-01 at p. 55.

[276] August 22, 2023 Ruling, p. 4.

[277] Joint IOUs Opening Brief, p. 50.

[278] *Id.*, p. 61.

impact the need for a second version FC and that the Commission should wait for implementation of these designs before assessing the need for a future version.[279] SEIA's rationale lacks merit because there will always be new rate design features and customer programs on the horizon. The notion that each program and rate has to await resolution of all related items before it can be discussed is akin to suggesting that the Commission handle only one pricing or load management-related issue at a time. It would be unreasonable to slow down exploration of implementing any rate feature or customer program just because other programs and features are being discussed elsewhere. The Commission should reject SEIA's proposal and instead adopt a pathway to a future FC by beginning work on critical path foundational research issues as soon as practicable, while also collecting reported findings from a reasonable volume of customer impact data. We trust the Commission to use its experienced, expert judgment as its gradual pathway unfolds, without adopting SEIA's unwarranted three-year delay.

2. The Next Steps For The Gradual Pathway Should Start With Working Group Efforts To Explore Broader Income Verification

In Opening Briefs, multiple parties recommend the development of a Working Group to explore income verification methods and tiers for a second version fixed charge. Specifically, TURN/NRDC "support the creation of a Working Group to make recommendations for income verification and the design of higher-income fixed charge tiers."[280] Cal Advocates argues that the Commission should create a Working Group to focus on the "technical details of income verification alternatives and provide the facts that support each alternative."[281] The Joint IOUs agree that a Working Group should be established to help guide the development of a second version fixed charge. Given the need to promote beneficial electrification and reduce volumetric rates for customers, the Joint IOUs recommend that the Commission authorize such a Working

[279] SEIA Opening Brief, p. 63.
[280] TURN/NRDC Opening Brief, p. 48.
[281] Cal Advocates Opening Brief, p. 15.

Group to begin its efficient and expeditious research in 2024, to start examining options and challenges related to broader income verification.

Additionally, to help facilitate discussions and bring to bear additional insight, the Commission should authorize both a request for proposal and the ability to record in the proposed two-way balancing account any needed costs for a third-party consultant to advise on income verification proposals for the second version fixed charge. As noted in the Joint IOUs' Opening Brief, a consultant who can build consensus despite differing opinions, but is also a process expert, could be helpful for such second version FC explorations.[282]

I. Other

1. The Commission Should Reject PearlX's Newly Proposed Multi-Family Fixed Charge "Credit" Proposal

Pearl X, a third-party solar and storage developer, waited until the October 6, 2023 deadline for concurrent Opening Briefs in Track A to both file its motion for party status and present an entirely new proposal that, for the reasons discussed below, should be rejected as procedurally inappropriate. PearlX proposes that the Commission create a "credit against the IGFC for multi-family housing customers that participate in the VNEM, NEM-3, or their successor tariffs"[283] The Joint IOUs oppose PearlX's new proposal as beyond the scope of Track A, and as legally deficient in two ways: (1) it constitutes a prohibited collateral attack on clear prior rate design policy determinations in D.22-12-056; and (2) PearlX has neither supported its assertions with sworn testimony nor has its brief addressed the existing related testimony already in the record. Therefore, the Commission is on solid footing to reject PearlX's belated request at this time.

---

[282] Joint IOUs Opening Brief, p. 59.

[283] PearlX Opening Brief p. 6.

a) <u>PearlX's Proposal Represents An Improper Collateral Attack on D.22-12-056</u>

PearlX's belated new proposal constitutes a prohibited collateral attack on the Commission's existing decision in the NEM Revisit proceeding (R.20-08-020), adopting the Net Billing Tariff (NBT) (D.22-12-056). In that decision, the Commission clearly contemplated that the fixed charge established in the DFOIR would apply to NEM customers and successor tariff (NBT) customers. For example, the decision explains that the fixed charge, established through the DFOIR, "will further reduce cost shifts through an equitable approach to the distribution of electric costs."[284] The Commission reiterated its intent that the fixed charge should apply to rooftop solar customers: "As previously stated, the Commission considers this new rulemaking [the DFOIR] to be a more appropriate venue to consider the issue of an income-graduated fixed charge <u>applicable to *all* customers,</u> which will include NEM 1.0 and NEM 2.0 customers."[285] The Commission also explained that "[a]s is the current practice in NEM 2.0, net billing tariff customers will be subject to any minimum bill or fixed charge that is contained in a customer's applicable rate.[286]

Similarly, D.22-12-056 emphasized that "[s]uccessor tariff customers will pay any fixed charge components of an eligible current or future retail import rate, similar to a non-participating customer who takes service on the same rate."[287] Finally, Ordering Paragraph 1(g) leaves no doubt as to the applicability of fixed charges to successor tariff customers: "Net billing tariff customers are subject to any minimum bill or fixed charge that is contained in a customer's applicable rate."[288]

---

[284] D.22-12-056, pp. 4-5.
[285] *Id*., pp. 193-194 (emphasis added).
[286] *Id*., p.129.
[287] *Id*. p. 160.
[288] D.22-12-056, p. 240, Ordering Paragraph 1(g).

Notably, the Commission thought it relevant in D.22-12-056 to highlight CALSSA's agreement that net energy metering customers should be assessed such a fixed charge, along with all residential customers. CALSSA stated "that utilizing a consistent methodology across all relevant customer classes and categories, *i.e.*, a fixed charge, is the correct way to approach the question of how to recover utilities' fixed costs equitably."[289]

PearlX now brings a last-minute collateral attack seeking to upend the above-referenced, carefully balanced and clear language of a final Commission decision. Pub. Util. Code § 1709 provides that "in all collateral actions or proceedings, the orders and decisions of the Commission which have become final shall be conclusive," and there can be no dispute that D.22-12-056 is such a decision. PearlX erred by failing to make this proposal previously when the NEM Revisit proceeding was litigated. Nor did PearlX file a Petition to Modify D.22-12-056, to allow that proceeding's ALJ to assess how PearlX's effort to modify that decision should be handled. PearlX's belated attempt at a "second bite" here -- through a new FC "credit" request in Track A of the DFOIR -- would not represent a small change to the NEM Revisit decision. Rather, PearlX's belated new proposal would effectively exempt millions of customers from paying fixed costs that they cause on the system. As to PearlX's notion that NBT customers and virtual Net Energy Metering customers should be able to offset their FC with credits, D.22-12-056 already addressed that issue, as well. It provided that "[t]he ACC Plus is allowed to offset non-bypassable charges[.]"[290] However, "[a]ny Fixed charge contained in the current or future eligible retail import rates are considered non-bypassable through the use of export compensation, and…"[291] in other words, *the Commission already considered the issue of fixed charge crediting, and determined that only the ACC Plus can offset fixed charges*. For this reason alone, PearlX's eleventh-hour proposal here should be rejected as beyond the scope of

---

[289] *Id*., p. 118.
[290] *Id*., p. 153.
[291] *Id*., p. 160.

this proceeding and an impermissible collateral attack that would change the balance the Commission already struck in its adopted NBT rate design decision.

b) The Record Does Not Support Prioritizing PearlX's Proposal Over Other Core Issues Pertinent To A Subsequent Version Of The Fixed Charge

Even if it were properly before the Commission in this proceeding, PearlX's belated new FC "credit" proposal lacks an appropriate evidentiary basis to be adopted here. PearlX has provided zero *sworn* testimony to support the many factual assertions made in its Opening Brief. Nor have other parties had an opportunity to conduct discovery or present responsive testimony on this new multi-family "NEM fixed charge credit" concept. However, the Joint IOUs did provide relevant testimony that PearlX's brief failed to address -- including our showing that any attempt to distinguish between multi-family and single-family customers (or for that matter, small and large customers) runs into time intensive and expensive implementation challenges.[292] In short, PearlX has not provided adequate record support for belatedly requesting that an entirely new "multi-family" subclass somehow now be created within the Residential class.

Perhaps in recognition of its deficient *record* here, PearlX[293] ultimately asks the Commission to "open a new phase" in this proceeding to consider whether, and if so, how, to develop such a multi-family credit in the future, for customers who participate in the NEM 3, VNEM or successor tariffs. Specifically, PearlX requests that this "new phase" of the DFOIR include consideration of: "(a) the process for identifying qualifying multi-family [customers], (b) the amount of any such credit, c) how the credit should appear on customers' bills."[294] PearlX's proposal fails to address the fact that any such credit would raise serious issues about creating Fixed Charge under-collections that would impact all residential customers. Nor does PearlX's

[292] Exhibit Joint IOUs-03-E1, p. 38-40.
[293] PearlX Opening Brief, p. 7.
[294] *Id*.

issues list recognize that there would need to be a full evaluation of whether the costs involved and the timing that would be necessary to accomplish such a bill credit might be warranted at this time. Even if the Commission decides to eventually consider the existing testimony about the cost- and time-intensity of such an effort, PearlX's proposal remains deficient, and, combined with the fact that PearlX's credit proposal constitutes an inappropriate collateral attack on the Commission's net energy metering decision (D.22-12-056), it must be rejected at this time. If, the Commission determines, notwithstanding the above, that it could be appropriate to consider PearlX's belated proposal, this issue should not be given scheduling priority over the widely-accepted core FC issues that have to be addressed as a foundation for developing an AB 205-compliant second version FC. For example, almost every party to this proceeding has stressed the importance of early assessment of potential new approaches to income verification. On the other hand, PearlX is the only party to bring up a "credits" proposal, which at least suggests that this issue should be given a lower priority.

The Joint IOUs respectfully caution the Commission not to rush to judgment of PearlX's newly proposed "multi-family FC credit." PearlX does not explain why this proposal is being made so late (given that the DFOIR has been pending for 15 months) nor does it make any effort to create an adequate evidentiary record, nor explain how to coordinate with prior Commission decisions, so that other parties can meaningfully respond. Adding any type of credit that would exempt large swaths of residential customers from paying their fair share of fixed costs is a slippery slope, likely to cause other parties to envision additional exemptions or credits their constituents or industries might prefer.

2. Specific Solar Party Proposals To Preserve Inequities Should Be Rejected

Parties representing solar installer interests make several claims and proposals that are unwarranted or would continue inequities against the intent of AB 205.

a) **Legacy Treatment for NBT Customers On Revised Electrification Rates Is Unwarranted And Will Already Be Considered Through The NBT Review Process**

SEIA's Opening Brief asserts that the Commission should adopt changes to the Net Billing Tariff (NBT) if it adopts any fixed charge higher than SEIA's proposed fixed charges.[295] SEIA suggests that the Avoided Cost Calculator (ACC) Plus adders could be recalculated under a new rate design, to the extent fixed charges are being raised and volumetric rates are being reduced.[296] This position fails to acknowledge that other factors have changed since the NBT and related ACC Plus adders were adopted, nor does it account for how the ACC Plus adders were developed. In D.22-12-056, the Commission designed the ACC Plus adders to achieve a simple payback period of nine years, a metric that assumes no rate increases will occur in the future, *at the urging of SEIA*.[297] SEIA's preferred metric for developing ACC Plus values was insensitive to any changes in rates after 2022, even though rates were and are expected to increase. For instance, each of the Joint IOUs had a consolidated rate change in 2023 that increased volumetric rates for residential customers. If the Commission takes into account any decrease in the volumetric rate resulting from the addition of a fixed charge, it should also take into consideration any volumetric rate increases that have occurred since the adoption of the NBT in D.22-12-056.

Finally, arguments in favor of exempting or insulating customers with solar and storage are not consistent with the intent of D.22-12-056. Rather than adopting a fixed charge for customers with distributed generation in D.22-12-056, the Commission referenced this DFOIR proceeding as being the appropriate venue to consider fixed charges -- acknowledging that the

---

[295] SEIA Opening Brief, pp. 43-45.

[296] Exhibit SEIA-02, p. 30, lines 13-15.

[297] *See* D.22-12-056, Decision Revising Net Energy Metering Tariff and Subtariffs, R.20-08-020, issued December 19, 2022; *see also* R.20-08-020, Reply Comments of the Solar Energy Industries Association and Vote Solar on the Proposed Decision Revising Net Energy Metering Tariff and Subtariffs (Dec. 5, 2022), pp. 1-2.

structure adopted in that decision was not intended to create static bill impacts for NBT customers.[298]

b) SEIA's New NVBT Argument Is Both Out of Scope And Meritless Because It Would Drive Up Costs for Low-Income Customers

SEIA contends that the community solar proposal being considered in A.22-05-022 to provide lower-income customers who are not able to install behind the meter storage and solar ("access to renewables") will lower bills and is preferable to lowering bills through this effort.[299] In addition to the fact that the Net Value Billing Tariff (NVBT), if adopted, would provide a paltry sum to lower income customers as compared to developers, SEIA's assertion is out of touch[300] as well as out of scope. Lower income customers need affordable rates for green power so they can feed their families and keep the lights on. Competitive solicitations will continue to ensure the most competitive rates for green power across the IOU systems. On the other hand, NVBT is not cost-effective and would require the IOU to purchase energy at exorbitant rates many times higher than the price the IOU could otherwise obtain in the market to an entity selected in a solicitation. NVBT would result in developers favoring the NVBT tariff over the IOUs' solicitations, driving up the cost of renewable power that the state, this Commission, and the IOUs drove down through their early adoption and support of the renewable market. Not only will this set back all that has been accomplished but it in the long run, it would drive up energy costs, which each IOU would be forced to pass on to all customers (including low-income customers), eviscerating any potential benefit this program could provide to them and exacerbating the challenge of maintaining affordable rates for customers. The scope of the Track A proceeding on an AB 205-compliant fixed charge does not include reconsideration of the

[298] D.22-12-056, p. 219, FOFs 123 and 124.

[299] SEIA Opening Brief, p. 17.

[300] SEIA seems not only to be assuming the NVBT will be adopted, but also that enough projects would be built to enable subscription by low-income customers on a widespread basis without providing a showing substantiating such big results.

NVBT tariff nor does it call for separate consideration of what is already before the Commission in the community solar proceeding.

3. CEJA's Requests For All-Electric Discounts Should Be Set Aside For Now

CEJA proposed a fixed charge discount for electric-only homes, which would be phased out between 2030 and 2035.[301] CEJA has not provided an adequate showing to support attempting the complex new implementation steps that would be necessary to create such a new discount. A discount for electric-only customers would be inequitable, shifting costs to mixed fuel customers who may not have the ability to electrify their homes.[302] Additionally, just because a customer does not receive natural gas service does not mean that they do not have other nonrenewable fuel sources, such as heating oil or diesel generators. Therefore, the Joint IOUs agree with Sierra Club that this issue would be more appropriately addressed in a subsequent phase of this proceeding.[303]

III.

CONCLUSION

The Joint IOUs appreciate the opportunity to submit this Reply Brief and respectfully request that the Commission approve the Joint IOUs' recommendations as stated herein and in the Joint IOUs' Opening Brief filed October 6, 2023.[304]

---

[301] CEJA Opening Brief, p. 9.

[302] Exhibit Joint IOUs-03-E1, p. 43.

[303] Sierra Club Opening Brief, pp. 42-43.

[304] Pursuant to Commission Rule 1.8(d), counsel for PG&E and SDG&E have authorized SCE to file this document on their behalf.

Respectfully submitted,

/s/ James Whooley

By: James Whooley

Attorney for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, CA 91770
Telephone: (626) 302-1991
E-mail: James.Whooley@sce.com

Dated: November 3, 2023