

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



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Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates.

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

**SIERRA CLUB AND CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE
REPLY COMMENTS ON PROPOSED DECISION ADDRESSING
ASSEMBLY BILL 205 REQUIREMENTS FOR ELECTRIC UTILITIES**

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*On Behalf of California Environmental
Justice Alliance*

On Behalf of Sierra Club

Dated: April 22, 2024

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I. INTRODUCTION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Sierra Club and the California Environmental Justice Alliance (“CEJA”) submit these reply comments on the Proposed Decision of Administrative Law Judge Stephanie Wang Addressing Assembly Bill (“AB”) 205 Requirements for Electric Utilities (“PD”).

Sierra Club/CEJA address five issues raised in opening comments: (1) The Greenlining Institute’s equity recommendations; (2) the eligibility of non-marginal distribution costs in an income-graduated fixed charge (“IGFC”); (3) record support for including low-income customers living in deed-restricted affordable housing in the PD’s proposed Tier 2; (4) Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), and San Diego Gas & Electric Company’s (jointly, “Large Utilities” or “Joint IOUs”) request that revenue shortfalls or over-collections be “trued up” through the IGFC rather than the volumetric rate; and (5) Natural Resources Defense Council (“NRDC”) and The Utility Reform Network’s (“TURN”) request that the Commission expressly find that Process Working Group (“PWG”) participation is eligible for intervenor compensation.

II. THE COMMISSION SHOULD CAREFULLY CONSIDER THE GREENLINING INSTITUTE’S COMMENTS AND ADOPT THEIR EQUITY RECOMMENDATIONS

The Greenlining Institute echoed many of the issues raised by Sierra Club/CEJA in opening comments, including that Assembly Bill (“AB”) 205 was intended to ensure benefits for all low-income ratepayers—not only the portion of low-income customers that qualify for

California Alternate Rates for Energy (“CARE”) assistance.¹ Thus, it is not sufficient for an “average” low-income CARE customer to see marginal bill savings, as we highlighted in bill impacts analyses in opening comments. Instead, AB 205 provides protections for *all* low-income customers,² which is properly and by the Commission’s Environmental and Social Justice Action Plan itself defined as a household earning less than 80 percent of Area Median Income (“AMI”).³ Otherwise, the PD’s definition of low-income will exclude large swathes of California’s low-income residents.

In addition, the Commission should take up The Greenlining Institute’s other recommendations to more fully embed equity into the fixed charge program. Specifically, The Greenlining Institute urged the Commission to amend the PD to include a section specifically addressing equity,⁴ establish an “Equity and ESJ Committee” for the Process Working Group,⁵ consult with community-based organizations on marketing, education, and outreach efforts,⁶ and finally establish and measure metrics to evaluate the implementation of the IGFC.⁷ Each of these are sound recommendations that will significantly strengthen the PD, while bringing the decision more in line with the Commission’s Environmental and Social Justice Action Plan.

III. CERTAIN NON-MARGINAL DISTRIBUTION COSTS SHOULD BE FOUND ELIGIBLE FOR INCLUSION IN A FUTURE IGFC

Sierra Club/CEJA agree with other parties⁸ that certain non-marginal distribution costs should be considered eligible for inclusion in a future IGFC, with one major caveat. As Sierra Club witness John Wilson explained, “only *customer-related* distribution cost components and distribution-related non-bypassable charges” should be considered eligible for recovery in an IGFC because they do not vary with electricity consumption.⁹ The PD errs by excluding these

¹ The Greenlining Inst. Opening Comments on the Proposed Decision at 4 [hereinafter “Greenlining Opening Comments”]; *see also* Comments of TURN and the NRDC on the Proposed Decision at 6-7 [hereinafter “TURN & NRDC Opening Comments”].

² *See, e.g.*, Sierra Club and CEJA Opening Comments on Proposed Decision at Section III [hereinafter “Sierra Club & CEJA Opening Comments”].

³ Sierra Club & CEJA Opening Comments at 7.

⁴ Greenlining Opening Comments at 6-7.

⁵ *Id.* at 8.

⁶ *Id.*

⁷ *Id.* at 8-9.

⁸ *See, e.g.*, Track A Opening Br. of PG&E, SCE, and SDG&E. at 8-9 [hereinafter “Joint IOUs Opening Br.”] (arguing that all non-marginal distribution costs should be classified as fixed) (As explained above, Sierra Club/CEJA agree that non-marginal, *customer-related* distribution costs should be classified as fixed for the IGFC); Joint Opening Br. of TURN and NRDC on Phase 1 Track A Issues at 2-3.

⁹ Ex. SC-01E, Direct Test. of John D. Wilson at 10:24-11:1 (emphasis in original) [hereinafter “Ex. SC-01E”].

costs from recovery in an IGFC, and, as NRDC/TURN note, excluding these costs from the IGFC means that the IGFC, with its maximum cap of \$24.15/month, will consist of more CARE-exempt charges, resulting in a smaller volumetric rate reduction for CARE customer than could be achieved by including non-CARE-exempt charges in the IGFC.¹⁰

However, Sierra Club/CEJA agree with the PD that the Large Utilities have not sufficiently calculated which of their distribution costs qualify as non-marginal, customer access distribution costs.¹¹ Despite the Large Utilities' protestations in opening comments that they do maintain a list of non-marginal distribution costs,¹² Sierra Club/CEJA are not aware of any comprehensive accounting that accurately and separately identifies marginal and non-marginal distribution costs, let alone customer access costs as a subset of non-marginal distribution costs.¹³

Accordingly, the PD should be revised to find that non-marginal, customer access distribution costs are *eligible* for inclusion in an IGFC but not include those costs at this time. Instead, the Large Utilities should be required to provide the Commission with clear documentation of these costs. Alternatively, the Commission could in the near-term use Mr. Wilson's analysis of Federal Energy Regulatory Commission ("FERC") Form 1 submissions to estimate percentages of non-marginal distribution costs by utility.¹⁴ Sierra Club/CEJA also do not oppose the Large Utilities providing this information through a Tier 3 Advice Letter, for a relatively quick process that would allow approved IGFCs to include more non-CARE-exempt costs. Holding fixed charges level, non-CARE exempt costs would then displace CARE-exempt costs included in the IGFC, ultimately providing CARE customers with an increased volumetric rate reduction.

IV. THE RECORD SUPPORTS INCLUDING CUSTOMERS LIVING IN DEED-RESTRICTED, AFFORDABLE HOUSING IN TIER 2

As noted in Sierra Club/CEJA's opening comments and contrary to the Large Utility's assertions, the PD's inclusion of customers living in deed-restricted affordable housing in Tier 2 is an important step to ensuring that the first-version IGFC provides at least some protections for

¹⁰ TURN & NRDC Opening Comments at 5-7.

¹¹ Proposed Decision Addressing AB 205 Requirements for Elec. Utils. at 67 (Mar. 27, 2024) [hereinafter "PD"].

¹² Opening Comments of the Joint IOUs on Proposed at 3.

¹³ This is precisely why Mr. Wilson was required to create a methodology to calculate these costs. *See* Ex. SC-01E at 12:10-29.

¹⁴ Ex. SC-01E at 12.

customers who are indisputably low-income.¹⁵ The record is well supported to include these customers in a low-income tier.

As NRDC/TURN explained in reply testimony,¹⁶ eligibility for deed-restricted affordable housing is based on federal or state limits that are “relative to household area median income (AMI) at the county level and updated annually.”¹⁷ NRDC/TURN also provided information on how utilities could work with a Third-Party Administrator “to map a database of addresses to meters,” allowing the utilities to without intrusion identify which customers are living in deed-restricted affordable housing.¹⁸ Although Sierra Club proposed using AMI to assign all customers to various income tiers,¹⁹ NRDC/TURN’s proposal would, at least, allow for AMI to be incorporated into income-tier assignment. There is substantial record support for using 80 percent AMI to identify low-income customers, in Sierra Club/CEJA’s testimony, opening and reply briefs, and comments on implementation.

CEJA’s testimony suggested using publicly available assessed residential property values as a proxy for income, analogous to NRDC/TURN’s proposal.²⁰ Both of these address-based proposals responded to a request from the Large Utilities to avoid creating an income tier for only Family Electric Rate Assistance (“FERA”) customers, who are only one percent of total residential customers in California.²¹ Indeed, because FERA customers constitute such a small percentage of total residential utility customers, providing a \$0 fixed charge for both the PD’s proposed Tiers 1 and 2 would have essentially the same impact on the Tier 3 fixed charge.²² Considering the record as a whole, then, the PD reasonably found that NRDC/TURN’s proposal will help address issues raised by other parties.

The Large Utilities identify no insurmountable hurdles to implementing this part of the PD, and the Commission must not be swayed by the Large Utilities’ complaints that including affordable housing low-income customers in Tier 2 will create unreasonable burdens on their billing systems. The Commission must prioritize providing as much relief to low-income

¹⁵ Sierra Club & CEJA Opening Comments at 7.

¹⁶ Ex. NRDC-TURN-02E, Rebuttal Test. of Mohit Chhabra and Sylvie Ashford at 21.

¹⁷ *Id.*

¹⁸ *Id.* at 22-23.

¹⁹ *See, e.g.*, Ex. SC-01E at 32:4-9.

²⁰ Ex. CEJA-01, Prepared Track A Opening Test. of Tyson Siegele at 27:11-28:10 [hereinafter Ex. CEJA-01].

²¹ *See, e.g.*, PD at 52 (describing the Joint IOUs’ request to split CARE customers into multiple tiers rather than have a tier with only FERA customers).

²² *See* Sierra Club & CEJA Opening Comments at 6, Table 2.

customers as possible in this first-version IGFC, and inclusion of customers living in deed-restricted housing in Tier 2 is a modest and relatively straightforward way to do so.

V. SHORTFALLS AND OVER-COLLECTIONS TO THE REVENUE REQUIREMENT SHOULD BE “TRUED-UP” THROUGH THE VOLUMETRIC RATE, RATHER THAN THE FIXED CHARGE

The Large Utilities request that any shortfall or over-collection of their revenue requirement caused by the IGFC be corrected by adjusting the fixed charge, rather than through the volumetric rate.²³ The Commission should reject this proposal, as it is a clear attempt by the Large Utilities to continually increase their fixed charge, providing guaranteed rate recovery. Sierra Club/CEJA have previously recommended²⁴ that under-collections should be added to the volumetric rate, while overcollections should be subtracted from the fixed charge, as this will incentivize the utilities to produce an accurate estimate of revenue collections each year based on the combined volumetric and fixed charges.²⁵ The PD instead implies that true-ups will be made through adjusting the distribution component of volumetric rates.²⁶ This is acceptable and a better approach than regularly adjusting the fixed charge, either upwards or downwards, which would almost certainly cause customer dissatisfaction and confusion.

VI. THE PROCESS WORKING GROUP CAN BE IMPROVED BY CLARIFYING THAT PARTICIPATION IS ELIGIBLE FOR INTERVENOR COMPENSATION

Sierra Club/CEJA support establishing a PWG to advance specific fixed charge issues more rapidly,²⁷ including equity considerations as noted above. Sierra Club/CEJA also support NRDC/TURN's recommendation that the PD provide explicit assurance that intervenor compensation-eligible parties can participate in the PWG.²⁸ Indeed, the Commission should explain how parties can establish a significant contribution based on participation, as there are typically not tangible, filed party documents, such as comments or briefs, in working groups, despite parties spending significant time and resources to consistently participate. Without guidance in this decision, many intervenors will be unable to participate in the PWG.

VII. CONCLUSION

For the reasons set forth above and in opening comments, Sierra Club/CEJA urge the Commission to adopt their recommendations and modifications to the PD.

²³ Joint IOUs Opening Br. at 14-15.

²⁴ See Sierra Club & CEJA Comments on Implementation Pathways at 41-42.

²⁵ Ex. CEJA-01 at 3:28-4:3.

²⁶ PD at 97.

²⁷ Sierra Club & CEJA Opening Comments at Section V.

²⁸ TURN & NRDC Opening Comments at 8-9.

Dated: April 22, 2024

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