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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish a Framework and Processes for Assessing the Affordability of Utility Service.

Rulemaking 18-07-006

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

On July 12, 2018, the Commission instituted this rulemaking to develop a common understanding and methods and processes to assess, consistent with Commission jurisdiction, the impacts on affordability of individual Commission proceedings and utility rate requests.

Comments on the Order Instituting Rulemaking (OIR) were filed on August 13, 2018.¹

¹ Comments were filed by: Pacific Bell Telephone Company *dba* AT&T California, AT&T Corp., Teleport Communications America, LLC, and AT&T Mobility LLC (New Cingular Wireless PCS, LLC, AT&T Mobility Wireless Operations Holdings, Inc., and Santa Barbara Cellular Systems Ltd.) (collectively, "AT&T"); Consolidated Communications of California Company; California Cable and Telecommunications Association; CTIA; Cox California Telecom, LLC, *dba* Cox Communications; Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, Ponderosa Telephone Company, Sierra Telephone Company, Inc., Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company (collectively, "Small LECs"); Pacific Gas and Electric Company (PG&E), Southern California Gas Company, San Diego Gas and Electric Company, and Southwest Gas Corporation

Footnote continued on next page

A prehearing conference (PHC) was held on October 12, 2018 to discuss the issues of law and fact and determine the need for hearing and schedule for resolving the matter. After considering the comments on the OIR and discussion at the PHC, I have determined the issues and schedule of the proceeding to be as set forth in this scoping memo.

2. Issues Determined to Be Within the Scope of the Proceeding

This scoping memo confirms that the issues identified in the preliminary scoping memo are within the scope of this rulemaking:

- 1) Identification and definition of affordability criteria for Commission-jurisdictional utility services.
- 2) Methods and processes for assessing affordability impacts across Commission proceedings and utility services.
- 3) Other issues relating to the Commission's consideration of the affordability of utility services.

Consideration of these issues may include, among other things, the consideration of the questions set forth on pages 11-12 of the OIR.

Parties representing telecommunications service providers recommend that affordability issues for telecommunications services other than those provided by the small local exchange carriers (which are rate regulated by the Commission) be excluded from consideration in this proceeding. Other parties including the Greenlining Institute, Cal Advocates, CforAT, and TURN support including affordability issues related to telecommunications services within the scope of this rulemaking.

(collectively "Joint Utilities"); Southern California Edison Company; PacifiCorp, Bear Valley Electric Service, and Liberty Utilities (CalPeco Electric) LLC (jointly); CALCCA; Shell Energy North America (US, L.P.); Great Oaks Water Company; California Water Association; Center for Accessible Technology (CforAT); the Greenlining Institute; The Utility Reform Network (TURN); the Consumer Federation of California Foundation; the City and County of San Francisco, and the Office of Ratepayer Advocates (now re-named the Public Advocates Office of the Public Utilities Commission) (Cal Advocates).

This scoping memo confirms that affordability issues across Commission-jurisdictional utility services, including water, energy, and telecommunications services, will be considered. The stated intent of the OIR is to develop affordability metrics across utility industries to reflect the cumulative bill impacts since a customer often pays for electricity, gas, water, and telecommunications services under a single household budget.² Although the Commission does not regulate rates for all telecommunications services, the Commission oversees a number of low-income and universal access programs for telecommunications services and also imposes surcharges for these programs.³ In previously examining issues regarding the telecommunications market, the Commission has stated:

[W]e will continue to gather data about the telecommunications market to enable us to perform our obligations under the law, which include administering public purpose programs, monitoring the market, and performing our delegated duties as impartial judges of disputes regarding competitors' access to essential infrastructure and interconnection between service providers.⁴

The affordability considerations for telecommunications services may be different than for energy or water services but it is worth considering whether common definitions and metrics can be developed and it is within the Commission's jurisdiction to consider these affordability issues.

² OIR at 10.

³ See e.g. OIR, Appendix 1 at 2. AT&T acknowledges that issues of affordability are relevant to the Commission's oversight of these programs. (Reporter's Transcript (RT) at 25:13-26 (Asserting that the Commission should address issues of affordability in the Lifeline proceeding).)

⁴ Decision (D.) 16-12-025 at 170.

2.1 Issues Determined to Be Outside the Scope of the Proceeding

This scoping memo finds that the following issues will not be considered as part of this rulemaking:

- 1) Affordability issues related to customer classes other than residential customers.

Several parties recommend that affordability issues for non-residential customer classes also be considered in this proceeding. Other parties recommend that the scope of the proceeding be limited to the residential class given the different considerations for non-residential customers.

The affordability of utility services for non-residential customer classes is an important concern. However, the issues and metrics for non-residential customers are likely to be very different than for residential customers. In order to effectuate a manageable caseload and achieve the stated goals of the OIR, this scoping memo confirms the determination in the OIR that this rulemaking will for the time being be limited to considering affordability issues within the residential class. It is possible that a subsequent phase of this proceeding may consider affordability issues for non-residential customers or the Commission may separately consider these issues in another proceeding.⁵

Parties raise concerns regarding the impact that rate adjustments for residential customers will have on other ratepayer classes.⁶ This rulemaking will not involve any ratemaking or determinations regarding the allocation of costs between customer classes.

- 2) Evaluation of the effectiveness of existing affordability programs or creation of new customer programs to assess affordability.

⁵ An amended scoping memo would be issued for any subsequent phase of this proceeding.

⁶ RT at 38:2-11.

This scoping memo confirms that this proceeding will not be considering modification or restructuring of existing affordability programs or the creation of new customer programs. It is possible that data gathered and metrics developed in this proceeding may inform the Commission's evaluation of these programs in the future. The Commission is currently evaluating the effectiveness of existing affordability programs in other proceedings. For example, the Commission is considering issues related to low-income rate assistance programs for Class A water utilities in Rulemaking (R.) 17-06-024 and restructuring of the California Alternative Rates for Energy program in R.12-06-013.

3) New approaches to disconnections and reconnections.

As noted in the OIR, the Commission will be addressing issues related to disconnections and reconnections in a companion OIR (R.18-07-005).

4) Pacific Gas and Electric Company's Essential Use Study

D.18-08-013 issued in PG&E's General Rate Case (GRC) Phase II (Application 16-06-013) directed PG&E to submit a study plan for the development of a model to determine the essential amount of electricity usage for PG&E's residential customers.⁷ This decision directed that if the development of a model of essential usage is included in the scope of R.18-07-006 before PG&E files its next GRC Phase II application, PG&E is not required to file the study plan in its next GRC Phase II.⁸ PG&E recommends that this issue be included in the scope of this rulemaking so that the model can be developed with statewide stakeholder input.⁹

⁷ D.18-08-013 at Ordering Paragraph 14.

⁸ D.18-08-013 at Ordering Paragraph 14.

⁹ Joint Utilities' Comments on OIR at 2.

This scoping memo finds that the essential use study should be filed in PG&E's next GRC Phase II application rather than be considered in this rulemaking. The concept of essential usage is closely related to the concept of affordability. It is not necessary, however, to develop a model of what constitutes essential amounts of electricity usage for residential customers to resolve the primary issues in this rulemaking, which are to identify and define affordability criteria and to develop a framework for assessing affordability impacts across Commission proceedings and utility services.

PG&E is currently scheduled to file the study when it files its next GRC Phase II application in August 2019.¹⁰ No party has proposed a schedule for considering the study in this proceeding. Given the other priorities in this proceeding, it is unlikely that this issue would be considered sooner in this proceeding than in the next GRC Phase II.

3. Need for Evidentiary Hearing

Parties have not identified any issues of material disputed fact in this proceeding. Therefore, this scoping memo affirms the Commission's preliminary determination that evidentiary hearings are not needed. As stated in the OIR, the Commission intends to conduct this proceeding using notice and comment rulemaking procedures. This does not preclude a party from requesting an evidentiary hearing in the future if material disputed facts are discovered during the pendency of this proceeding.

¹⁰ RT at 13:12-14.

4. Schedule

The following schedule is adopted here and may be modified by the Administrative Law Judge (ALJ) as required to promote the efficient and fair resolution of the rulemaking.

<u>Event</u>	<u>Date</u>
Workshop	January 22, 2019 Commission Offices 505 Van Ness Avenue San Francisco, CA 94102 (Additional details and agenda to follow.)
Additional Workshops (as necessary)	TBD
Staff Proposal	TBD
Comments on Staff Proposal	TBD
Reply Comments on Staff Proposal	TBD
Proposed decision	No later than 90 days after Submission.
Commission decision	No sooner than 30 days after the proposed decision.

The proceeding will stand submitted upon the filing of reply comments on the Staff Proposal, unless the ALJ requires further evidence or argument. It is anticipated that this proceeding will be resolved within 18 months of the date this Rulemaking was opened as required by Pub. Util. Code § 1701.5.

5. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission’s preliminary determination that this is a quasi-legislative proceeding. (OIR at 13.) Accordingly, *ex parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Commission’s Rules of Practice and Procedure.

6. Oral Argument

Unless comment is waived pursuant to Rule 14.6(c)(2) of the Commission’s Rules of Practice and Procedure for granting the uncontested relief requested,

motion for oral argument shall be by no later than the time for filing comment on the proposed decision.

7. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the August 2018 edition of the Commission's monthly "Working for California" newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website. The Commission's Business and Community Outreach Office also sent an information release and link to the proceeding to approximately 2,500 contacts statewide, including local government (*e.g.*, county supervisors, city managers, mayors, and public works directors in the state), community-based organizations, and media.

In addition, the Commission served the Order Instituting Rulemaking on certified Community Choice Aggregators; service lists of 32 energy, water, and telecommunications proceedings; the Governor's Office of Planning and Research; the California Energy Commission; the California Air Resources Board; the Department of Water Resources; and the State Water Resources Control Board.¹¹

8. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by November 12, 2018, 30 days after the PHC.

¹¹ OIR at 15-18.

9. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

10. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 of the Commission's Rules of Practice and Procedure requires only electronic service on any person on the official service list, other than the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

11. Assignment of Proceeding

Clifford Rechtschaffen is the Assigned Commissioner and Sophia J. Park is the assigned ALJ for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. Evidentiary hearings are not needed.
4. The category of the proceeding is quasi-legislative.

Dated November 19, 2018 at San Francisco, California.

/s/ CLIFFORD RECHTSCHAFFEN

Clifford Rechtschaffen
Assigned Commissioner