



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

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Order Instituting Rulemaking to Advance
Demand Flexibility Through Electric Rates.

R.22-07-005

**CALIFORNIA COMMUNITY CHOICE ASSOCIATION'S
OPENING BRIEF**

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SUMMARY OF RECOMMENDATIONS

California Community Choice Association (CalCCA) recommends that the California Public Utilities Commission:

- Reject proposals to collect the Power Charge Indifference Adjustment (PCIA) through the Income-based Fixed Charge (IGFC) because it would require unnecessarily overhauling the PCIA and would be administratively complex and burdensome.
- Reject proposals to collect the Competition Transition Charge (CTC) through the IGFC given Public Utilities Code section 371(a)'s requirement that the CTC be collected on a volumetric basis and Assembly Bill 205's prohibition on the inclusion of costs based on the volume of electricity consumed.
- Require the investor-owned utilities to include community choice aggregators (CCAs) in IGFC implementation-related working groups, notify CCAs on an ongoing basis of changes to implementation plans, and adopt CalCCA's proposals to ensure consistent messaging regarding the IGFC to both bundled and unbundled customers.

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Pursuant to Rule 13.12 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure,¹ *Assigned Commissioner's Phase 1 Scoping Memo and Ruling*,² *Administrative Law Judge's Ruling Addressing the Track A Procedural Schedule, Opening Briefs Guidance, and Exhibits*³ (Ruling) and *Email Ruling Clarifying ALJ Ruling on Track A Briefs, Opening Briefs, and Exhibits*,⁴ California Community Choice Association⁵ (CalCCA) submits this opening brief.

¹ *State of California Public Utilities Commission, Rules of Practice and Procedure, California Code of Regulations Title 20, Division 1, Chapter 1* (May 2021): <https://webproda.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/rules-of-practice-and-procedure-may-2021.pdf>.

² *Assigned Commissioner's Phase 1 Scoping Memo and Ruling*, Rulemaking (R.) 22-07-005 (Nov. 2, 2022): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M498/K072/498072273.PDF>.

³ *Administrative Law Judge's Ruling Addressing the Track A Procedural Schedule, Opening Briefs Guidance, and Exhibits*, R.22-07-005 (Aug. 22, 2023): <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M517/K847/517847523.PDF>.

⁴ *Email Ruling Clarifying ALJ Ruling on Track A Briefs, Opening Briefs, and Exhibits*, R.22-07-005 (Aug. 24, 2023); <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M518/K155/518155583.PDF>.

⁵ California Community Choice Association represents the interests of 24 community choice electricity providers in California: Apple Valley Choice Energy, Central Coast Community Energy, Clean Energy Alliance, Clean Power Alliance, CleanPowerSF, Desert Community Energy, East Bay Community Energy, Energy For Palmdale's Independent Choice, Lancaster Energy, Marin Clean Energy, Orange County Power Authority, Peninsula Clean Energy, Pico Rivera Innovative Municipal Energy, Pioneer Community Energy, Pomona Choice Energy, Rancho Mirage Energy Authority, Redwood Coast Energy Authority, San Diego Community Power, San Jacinto Power, San José Clean Energy, Santa Barbara Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy.

I. INTRODUCTION

Assembly Bill (AB) 205 requires the Commission to authorize an income-graduated fixed charge (IGFC) by July 1, 2024 for default residential rates of the investor-owned utilities (IOUs).⁶ CalCCA’s opening brief addresses the following two limited issues raised in party IGFC Proposals: (1) whether the Power Charge Indifference Adjustment (PCIA) and the Competitive Transition Charge (CTC) should be among the “costs” incorporated into the IGFC, and (2) how should the IGFC be implemented?

First, the Commission should reject requests to include the PCIA or CTC in the IGFC. AB 205 defines 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.”⁷ Despite generation costs necessarily being charged on a volumetric basis (i.e., customers charged for the electricity they consume), parties including the National Resource Defense Council (NRDC), The Utility Reform Network (TURN), and the Coalition of Utility Employees (CUE) have advocated including the PCIA in the IGFC.⁸ As set forth in CalCCA’s Reply on the June 19th ALJ Ruling on IGFC Implementation,⁹ the PCIA is a charge that includes some fixed costs, but also includes variable generation costs.¹⁰ Extracting the fixed costs from the

⁶ Stats. 2022, Ch. 61 (codified at California Public Utilities Code § 739.9). All section references herein are to the California Public Utilities Code, unless otherwise stated.

⁷ Pub. Util. Code § 739.9(a) (emphasis added).

⁸ See R.22-07-005, *Factual Excerpts from Comments of the Natural Resources Defense Council and The Utility Reform Network on Administrative Law Judge’s Ruling on the Implementation Pathway for Income-Graduated Fixed Charges, Filed July 31, 2023*, Exhibit NRDC-TURN-03 (Sept. 6, 2023) (NRDC-TURN-03 Testimony), at 12; R.22-07-05, *Comments of the Coalition of California Utility Employees on the Implementation Pathway for Income-Graduated Fixed Charges* (July 31, 2023) (CUE Implementation Pathway Ruling Comments), at 5.

⁹ See R.22-07-005, *Administrative Law Judge’s Ruling on The Implementation Pathway for Income-Graduated Fixed Charges* (June 19, 2023) (June 19 Ruling).

¹⁰ R.22-07-005, *California Community Choice Association’s Reply Comments on Administrative Law Judge’s Ruling on the Implementation Pathway for Income-Graduated Fixed Charges* (Aug. 21, 2023), at 3-6.

PCIA would not only be administratively burdensome, but it would also require reversal of the complex and time-consuming work by the Commission and many parties in the years-long proceedings to establish the PCIA.

Second, Sierra Club's/California Environmental Justice Alliance (CEJA)'s argument to include the Competition Transition Charge (CTC), in the IGFC must be rejected given Public Utilities Code section 371(a)'s requirement that the CTC be recovered volumetrically. Therefore, by definition, the CTC cannot be included in the IGFC, and the Commission should reject Sierra Club/CEJA's argument.

Finally, once the IGFC is established, the Commission should require the IOUs to establish working groups to allow stakeholder involvement (including CCAs) in IGFC implementation. In addition, the Commission should require the IOUs to communicate any changes to implementation plans even after the working group process ends.¹¹ Finally, the Commission should adopt CalCCA's proposals set forth in its Concurrent Reply Testimony to ensure consistent messaging regarding the IGFC to both bundled and unbundled customers.

As set forth more fully below, CalCCA recommends that the Commission:

- Reject proposals to collect the PCIA through the IGFC because it would require unnecessarily overhauling the PCIA and would be administratively complex and burdensome.
- Reject proposals to collect the CTC through the IGFC given Public Utilities Code Section 371(a)'s requirement that the CTC be collected on a volumetric basis and AB 205's prohibition on the inclusion of costs based on the volume of electricity consumed.
- Require the IOUs to include CCAs in IGFC implementation-related working groups, notify CCAs on an ongoing basis of changes to implementation plans, and

¹¹ See June 19 Ruling (Question 15b: Should the Commission establish a working group and authorize funding for a third-party contractor to develop an ME&O proposal for consideration in this proceeding?, and Question 15d: Should the Commission establish a working group to discuss IGFC implementation issues and recommend improvements?)

adopt CalCCA’s proposals to ensure consistent messaging regarding the IGFC to both bundled and unbundled customers.

II. THE PCIA CHARGE, COMPOSED OF BOTH FIXED AND VARIABLE GENERATION COSTS, SHOULD BE EXCLUDED FROM THE IGFC

CalCCA provides the answer below in response to the Ruling’s guidance for parties to “focus their briefs on issues necessary to authorize the first version of IGFCs, which will reduce volumetric rates.”¹²

The Commission should reject party proposals to collect the PCIA through the IGFC given the administrative burden and the need to unnecessarily unravel the Commission established combination of fixed and variable costs that make up the PCIA. CalCCA established in its opening brief on statutory interpretation of AB 205, as well as its Concurrent Reply Testimony of Brian Dickman, that generation charges are necessarily based on the volume of electricity consumed and therefore should not be included in the IGFC.¹³ The IGFC is required to include “fixed charges” defined 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.”¹⁴ Despite this distinction, NRDC/TURN and CUE have both proposed that the PCIA should be included in the IGFC.¹⁵

The Commission should exclude collecting PCIA portfolio costs through the IGFC because doing so would require an unraveling or overhaul of the PCIA. The PCIA is a charge that collects both fixed and variable costs. While the fixed costs of the PCIA portfolio would

¹² Ruling, at 4.

¹³ R.22-07-005, *California Community Choice Association’s Opening Brief*, at 3-5 (Jan. 23, 2023); *Errata to Concurrent Reply Testimony of Brian Dickman and Justin Kudo on Behalf of California Community Choice Association*, Exhibit CALCCA-01-E (Sept. 1, 2023) (CalCCA-01-E Testimony), at 3-4.

¹⁴ Pub. Util. Code § 739.9(a) (emphasis added)

¹⁵ See NRDC-TURN-03 Testimony, at 3; CUE Implementation Pathways Ruling Comments, at 5.

theoretically be eligible based on AB 205's requirements for the IGFC, the PCIA portfolio's variable costs would not be eligible. Separating the fixed costs from variable costs that make up the PCIA portfolio would require fundamentally restructuring the PCIA. This approach is unworkable for several reasons. First, the PCIA proceeding recently closed in June of 2023¹⁶ so there is currently no proceeding in which to determine how to accomplish this separation of costs and restructuring of the PCIA. Second, a significant amount of time and resources from many stakeholders went into establishing the PCIA.¹⁷ A complete restructuring would also require significant time and resources for all stakeholders to reach another consensus. Third, assuming fixed PCIA costs are separated, integrating those fixed costs by PCIA vintage into the adopted income tiers of the IGFC on an annual basis represents a considerable administrative burden.

The Commission provided opportunities for parties to comment on what eligible fixed costs should be included in the IGFC and parties failed to provide sufficient rationale for why PCIA costs should be included in the IGFC. For example, Questions 5 and 6 of the June 19 Ruling asked parties what costs are eligible for inclusion in the IGFC and whether any of those eligible costs should be excluded, respectively.¹⁸ Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas and Electric (SDG&E) (collectively, the Joint IOUs), NRDC/TURN, Sierra Club/CEJA, and CUE responded to Question 5 that the PCIA is eligible for the IGFC but only NRDC/TURN and CUE responded to Question 6 that the PCIA should be

¹⁶ See D.23-06-006, *Decision Addressing Greenhouse Gas-Free Resources, Long-Term Renewable Transactions, Energy Index Calculations, and Energy Service Providers' Data Access*, R.17-06-026 (June 13, 2023), at 50 (closing the PCIA proceeding).

¹⁷ See generally, R.17-06-026 (PCIA proceeding).

¹⁸ See June 19 Ruling, at 5 (Question 5 of the Ruling asks, "What type of fixed costs should be eligible to be included in any given IGFC (Eligible Fixed Costs)?"; Question 6 of the Ruling asked: "Are there certain Eligible Fixed Costs that should be excluded from recovery through the first version of the IGFCs?").

included.¹⁹ The only rationale provided by parties to demonstrate the eligibility to collect PCIA costs through the IGFC was a common, but inaccurate, description that the PCIA is a set of fixed costs.²⁰ In fact, NRDC/TURN even stated that including the PCIA in the IGFC would be administratively complex.²¹ No other parties of the many involved in this proceeding advocated for collecting PCIA costs through the IGFC. Notably, while the Joint IOUs consider PCIA costs eligible for collection through the IGFC, they recommend excluding PCIA costs in the IGFC.²²

III. THE COMMISSION SHOULD EXCLUDE CTC COSTS FROM THE IGFC GIVEN SECTION 371(A)'S REQUIREMENT THAT THE CTC BE RECOVERED VOLUMETRICALLY

CalCCA provides the answer below in response to the Ruling's guidance for parties to "focus their briefs on issues necessary to authorize the first version of IGFCs, which will reduce volumetric rates."²³

The Commission should reject Sierra Club/CEJA's proposal to collect the CTC through the IGFC.²⁴ Public Utilities Code section 371(a) prohibits such recovery by requiring the CTC to be collected from customers on a volumetric basis.²⁵ Therefore, by definition, the CTC cannot be included among the non-volumetric costs eligible for recovery under the IGFC.

¹⁹ Parties proposing to incorporate the PCIA in the IGFC include TURN/NRDC and CUE. TURN/NRDC Opening Comments at 25-27; CUE Opening Comments at 4-5. Parties characterizing the PCIA as "eligible" for inclusion in the IGFC (but not recommending including the PCIA in the IGFC) include the Joint IOUs and Sierra Club/CEJA. Joint IOU Opening Comments at 34; Sierra Club/CEJA Opening Comments at 17.

²⁰ *Ibid.*

²¹ See NRDC-TURN-03 Testimony, at 12 (recommending recovery of the PCIA through the IGFC but recognizing that such recovery could be "administratively complex" given the way PCIA costs are currently recovered as "a function of the difference between the annual costs of these resources and their annual market value," and collected based on customer vintage).

²² *Joint IOU Implementation Pathway Opening Comments*, at 34 (recommending the Commission include PCIA in its list of eligible fixed costs, but not to recover PCIA costs through the IGFC).

²³ Ruling, at 4.

²⁴ *Sierra Club/CEJA Implementation Pathway Opening Comments*, at 17.

²⁵ Pub. Util. Code § 371(a) (requiring that the CTC "be applied to each customer based on the amount of electricity purchased by the customer from an electrical corporation or alternate supplier of electricity, subject to changes in usage occurring in the normal course of business").

IV. THE COMMISSION SHOULD REQUIRE THE IOUS TO COORDINATE WITH CCAS IN THE IGFC TRANSITION AND IMPLEMENTATION

CalCCA provides the answer below in response to the following Ruling Questions:

- Question 1 – “What directions should the Commission provide for the development of an ME&O plan for the first IGFCs?”; and
- Question 1.d. – “If the Commission authorizes an ME&O working group, what should be the scope of work for this working group (e.g., should it include ME&O for small and multijurisdictional utilities (SMJUs), development of messages about IGFCs, and/or propose ME&O budgets)? When should the working group proposal be due?”.

The Commission should require the IOUs to coordinate with the CCAs on the IGFC transition and implementation, including allowing CCAs to participate in working groups related to implementation and marketing, education, and outreach (“ME&O”) for the IGFC. CalCCA appreciates the commitment of the IOUs set forth in their Concurrent Opening Testimony to coordinate with CCAs on IOU transition plans related to the IGFC for the benefit of customer communication.²⁶ The June 19 ALJ Ruling also asks questions regarding the establishment of working groups to address implementation and ME&O.²⁷ The Commission should ensure that CCAs can participate in the working group process as CCA input and participation in IOU planning for IGFC implementation is critical to maximizing customer acceptance and understanding. In addition, the Commission should adopt the proposals set forth in CalCCA’s Concurrent Reply Testimony to ensure consistent messaging regarding the IGFC among bundled and unbundled customers.

²⁶ See *Joint Testimony of Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company (the Joint IOUs) Describing Income-Graduated Fixed Charge Proposals*, Exhibit Joint-IOUs-01-E2 (Apr. 7, 2023, revised May 3, 302, revised June 20, 2023), at 104.

²⁷ See June 19 Ruling (Question 15b: Should the Commission establish a working group and authorize funding for a third-party contractor to develop an ME&O proposal for consideration in this proceeding? Question 15d: Should the Commission establish a working group to discuss IGFC implementation issues and recommend improvements?).

A. The Commission Should Allow CCA Participation in the IGFC Transition and Implementation Working Groups

Given the potentially significant changes in customer bills that will likely result from the IGFC, CCA participation in working groups on the IGFC transition and implementation is crucial. As established in CalCCA's Concurrent Reply Testimony, most CCA customer service interactions are due to reasons unrelated to CCA service, and instead address issues relevant to IOU service, such as IOU rate transitions, unusually high usage, high gas bills, Net Energy Metering (NEM) true-ups, and expiration of CARE/FERA eligibility.²⁸ Clear and consistent messaging regarding the IGFC, including in bill presentation and among bundled and unbundled customers, is necessary to minimize the risk of customer confusion.²⁹ CCAs can contribute their knowledge and experience with their customers during the working group process to ensure such clear and consistent messaging is developed and implemented.

In addition to messaging and bill presentation, the working groups can discuss: (1) streamlining of CARE/FERA and other income qualified program enrollment with income verification for the IGFC, (2) income bracket restructuring, (3) ensuring low-income customers realize savings as required by AB 205, (3) community engagement, and (4) consideration of input from equity experts and California community-based organizations. These topics, among others, can inform implementation and ME&O strategies for the first version IGFC as well as inform improvements to subsequent IGFC versions.

Finally, in response to the June 19 Ruling, the Joint IOUs opposed holding working groups on an on-going basis after initial implementation due to the differing timelines of

²⁸ See CALCCA-01-E Testimony, at 5.

²⁹ *Ibid.*

implementation among the IOUs.³⁰ Indeed, on-going working groups from each IOU after initial implementation of the IGFC may not be necessary and may lead to additional, unnecessary costs; however, the IOUs should be required to continually inform CCAs of any changes to IGFC implementation plans so CCAs can continue providing accurate information to customers.

B. The Commission Should Adopt CalCCA’s Proposals to Ensure Consistent IGFC Messaging to Bundled and Unbundled Customers

In addition to including CCAs in the working groups, CalCCA provides proposals in its Concurrent Reply Testimony for other IOU/CCA implementation coordination that will ensure the necessary consistent messaging to customers.³¹ First, the Commission should require the IOUs to solicit CCA input on any planned changes to bill presentation.³² Second, the Commission should require the IOUs to share and solicit input on education and outreach materials on the IGFC with CCAs so that CCAs are aware of the IOUs’ strategy to communicate the new system of fixed charges and lower volumetric rates to customers.³³ Such coordination is necessary to allow the CCAs and IOUs to use consistent explanatory language.³⁴ Third, the IOUs should augment their weekly customer database updates and billing transactions provided to CCAs to include the IGFC income tier and charge for each customer.³⁵ Similar to how CARE program data are currently shared to CCAs for unbundled customers, the IGFC income tier data

³⁰ See Joint IOUs’ Opening Comments, at 61 (supporting initial working group meetings around ME&O however, “given that the IOUs’ respective implementation timelines are not aligned, the Joint IOUs do not support on-going working group meetings that continue through the duration of each IOU’s implementation”).

³¹ See CALCCA-01-E Testimony, at 5-6.

³² *Id.* at 5.

³³ *Id.* at 5-6.

³⁴ *Ibid.*

³⁵ *Id.* at 6.

will provide information to allow CCA staff to accurately answer customer questions about the IGFC and educate customers about their rate options and other bill assistance programs.³⁶

V. CONCLUSION

CalCCA appreciates the Commission's consideration of the recommendations set forth herein.

Respectfully submitted,



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October 6, 2023

³⁶ *Ibid.*