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California Public Utilities Commission
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Via email to CostsEnBanc@cpuc.ca.gov

Comments of the Center for Sustainable Energy® regarding the California Public Utilities Commission's February 24, 2021 Electric Costs and Rates En Banc

The Center for Sustainable Energy® (CSE; www.energycenter.org) is a 25-year-old national nonprofit with a single word mission: Decarbonize. We provide program administration, technical assistance, and policy advisement services to a diverse set of stakeholders across the clean energy and transportation industry. As a nonprofit without members or donors, CSE serves as a trusted resource helping government agencies and utilities implement successful technology programs that use funds in the best interest of consumers, ratepayers, and the general public. CSE is pleased to provide these comments regarding the California Public Utilities Commission (CPUC or Commission) Electric Costs and Rates En Banc (En Banc) held on February 24, 2021.

Introduction

The En Banc White Paper¹ and the comments of various presenters at the En Banc made a strong case for the need to keep rates down both to enhance adoption of important initiatives, such as the electrification of transportation and building services, and to promote equitable access to electricity and natural gas. In addition, the En Banc White Paper focuses on some of the anticipated policy-driven costs that might contribute to future rate increases. The En Banc White Paper and various presenters also demonstrated that for many customers, energy utility rates are already too high.

While, traditionally, the Commission has closely tracked utility costs and has always made rate setting a major priority, the current high rates have been established within that context. This

¹ *Utility Costs and Affordability of the Grid of the Future: An Evaluation of Electric Costs, Rates and Equity Issues pursuant to P.U. Code Section 913.1*, February 2021, available at https://www.cpuc.ca.gov/uploadedFiles/CPUC_Website/Content/Utilities_and_Industries/Energy/Reports_and_White_Papers/Feb%202021%20Utility%20Costs%20and%20Affordability%20of%20the%20Grid%20of%20the%20Future.pdf

points to the need for the Commission to reorient its approach to the establishment of revenue requirements and the design of rates. CSE encourages the Commission to do the following:

1. Take control of the rate setting narrative.

Despite the Commission's expert staff and the dedicated engagement of all decision makers, it is the utilities that frame the debate by asking for increased revenues. For example, various speakers at the En Banc talked of the need to restrict utility rate increases, rather than the need to reduce rates. This is typical of the conversation sparked by a utility's rate case application. Consequently, it enables the utilities to frame the issues based on the amount of additional revenue they seek for various purposes; the amount by which a utility proposes increasing its revenues frames all that follows.

In light of the recognized need to keep rates as low as they reasonably can be, we should imagine a different approach where the Commission declares its intention to reduce rates by a certain amount (let's say, a 10% reduction across the board within three years). This would set the boundaries on the debate in a different way: What would it take to achieve a 10% reduction? The utilities may assert that a reduction of this nature could not be achieved without impairing service quality and safety, but they would also likely devote creative energy to finding effective ways to achieve some reductions. Other stakeholders could also show how the utilities could reduce their revenue requirements. Perhaps most significantly, on its own initiative, the Commission could rely on its in-house experts, and bring in outside experts as appropriate, to identify pathways for rate reductions.

2. Honor the burden of proof.

Regulatory law, as developed by statute and the courts, places on a utility the burden of demonstrating the reasonableness of any costs it seeks to have reflected in rates. Regrettably, rate cases actually work very differently. Utilities usually offer limited and often insufficient justification for their revenue requests in various categories and wait to see which intervenors will object to proposed revenues in which areas. Then, the utilities offer rebuttal testimony to counter the points made by intervenors. The Commission then focuses on the disagreements among the parties and never tests the reasonableness of requested revenues across-the-board.

It is the Commission, not the intervenors, that must determine the appropriate revenue requirement. Thus, the Commission should insist that a utility make a clear and convincing showing as to the reasonableness of all the elements to its request, whether or not an intervenor shines a light on them. This should help add discipline and restraint to the utility as it develops its request as well as empower the Commission to take initiative to reduce or increase revenues as appropriate.

3. Reduce reliance on settlements in rate cases.

It has become the tradition, perhaps even the expectation, that utilities and intervenors will reach settlements as to appropriate revenue requirements and ask the Commission to adopt those settlements. A utility will offer its initial showing, intervenors will usually then prepare responsive showings, and somewhere along the line, some or all parties will cut a deal. The Commission then asks itself whether it should adopt the settlement, and that determination is often guided by a bit of circular logic: The Commission states that it will adopt the settlement if it is in the public interest and then declares that the settlement meets that test because it represents the give-and-take of the negotiating parties. In other words, the deal is reasonable because it is a deal.

Parties like to agree on the bottom line and benefit from the ambiguity as to what it represents. In addition, while they strive to represent their interest groups in the negotiating process, they are often affected as much by what they think the Commission would do on its own or what they think the political winds would support as they are by the best interest of their constituents. This, however, does not ensure that the revenues for programs and the cumulative adopted revenue are reasonable.

Moreover, with the adoption of repeated settlements over the years, the Commission gets further from knowing exactly what the utility is promising to do with its revenue, has less of an ability to keep the utility accountable for its expenditure and practices, and has less control over whether the revenue requirement is reasonable. Perhaps more importantly, the Commission itself becomes less accountable for the reasonableness of rates. All of this results in less of an ability to hold rates down.

The Commission could create greater opportunity to reduce rates or rate increases if it were to fully review the utility's entire request by weighing and balancing the information in the record. And where it still wants to rely on settlements, it could insist that the agreed-upon revenue requirement not be opaque. Just as the utility's initial request is broken down into cost categories, so should the settlement be – with accompanying explanations as to why the negotiated amount in each category is reasonable.

4. Work to shift the funding of improvements with societal benefits.

Over the years, the California Legislature has directed the Commission to undertake various efforts to benefit society without providing funding. These tend to be critically important efforts, which, if anything, should be accelerated. But by sending directives to the Commission without taxpayer funding, the cost of these efforts is placed on the shoulders of utility ratepayers, rather than spread more completely across the society that they benefit. The result is, in effect, a regressive form of taxation without labelling it as such.

The results of this process are fundamentally unfair to ratepayers and discourage them from switching from fossil fuels to the greater use of electricity. It is unfair because certain efforts benefit a broader population than those who pay and fail to spread the burden in an equitable way.

Consider, for instance, efforts to mitigate catastrophic wildfires. The utility-sparked fires are worse because of our changing climate and because of development in the Wildlands Urban Interface. These are societal problems resulting from myriad decisions made outside of the utility context. Yet the cost of mitigation is borne disproportionately by people who just happen to be customers of a particular utility. Why should Pacific Gas and Electric customers in Bakersfield be required to pay for equipment hardening in Sonoma County while people in Northern California locales such as Alameda and Sacramento (which have municipal electric providers) are not? And why should those living north of Bakersfield in Visalia (Southern California Edison service territory), who stand to benefit from improvements in the nearby Sierra Nevada Mountains, instead be asked to pay for improvements in Santa Ana?

The logical, more equitable answer is to socialize the cost of these societal improvements through statewide taxation. In addition, this would remove the hidden tax for such efforts within the utility bill and provide a more accurate price signal to those considering the purchase of an electric vehicle or a heat pump water heater.

5. Reconsider utilities' financial structures and allowed returns on equity.

The En Banc White Paper reports that California's utilities are authorized returns on equity (ROE) that exceed the national average. This raises questions as to whether California's utilities, which face both the danger of wildfires and the protections against wildfire liability contained in Assembly Bill 1054, are riskier businesses than utilities elsewhere. But perhaps more troubling is that ROEs in California have not been reduced dramatically, while interest rates on borrowed money have fallen to historically low levels. While the differential between the cost of equity and cost of debt affects investment decisions, the Commission could reconsider whether the current gap between the two is justified.

Meanwhile, with low interest rates on debt, perhaps it is time to revisit the standard assumptions about the ratio between debt and equity. A more highly leveraged utility could produce considerable savings as long as the upward pressure on interest rates was not too great. The Commission could more thoroughly explore the mix that would create the greatest savings.

6. Reconsider the application of customer charges.

The Commission has long shied away from imposing fixed customer charges on electric utility bills in the hopes that using a bundled commodity charge would encourage greater energy

efficiency. There are legitimate reasons to question whether this approach has met its intended goal, especially since most customers seem to be more familiar with their total bills than with the rates that led to them. At the same time, there is arguably more reason to worry about the size of the commodity charge when trying to convince consumers to use an electric car or electrify their homes. While making these decisions, consumers may be more likely to look at the comparative cost of different fuel choices. As the State pursues electrification, there may be a renewed validity in considering the reduction of the commodity charge by shifting some costs to a fixed customer charge.

Conclusion

CSE appreciates the opportunity to provide these comments regarding the Commission's Electric Costs and Rates En Banc. We look forward to continued collaboration with the Commission and other interested parties to reexamine and reorient the Commission's approach to the establishment of revenue requirements and the design of rates.

Sincerely,

/s/ Raghav Murali

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