

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

R.18-07-006
(Filed July 23, 2018)

**REPLY COMMENTS OF THE CENTER FOR ACCESSIBLE TECHNOLOGY ON
ADMINISTRATIVE LAW JUDGE'S RULING INVITING COMMENTS ON STAFF
PROPOSAL**

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's Ruling Inviting Comments on Staff Proposal (ALJ Ruling), issued on August 20, 2019, the Center for Accessible Technology (CforAT) respectfully submits the following reply comments in response to party comments on the Staff Proposal on Essential Service and Affordability Metrics (Staff Proposal) attached to the ALJ Ruling. The ALJ Ruling invited parties to comment on the Staff Proposal itself, as well as on the questions presented in the ALJ Ruling. CforAT notes that these reply comments do not revisit each question presented in the ALJ Ruling, but rather they respond thematically to issues that were identified as significant by various parties.

II. DISCUSSION

A. **Affordability of Essential Use Is a Vital Aspect of Utility Rate Design and Should Be Assessed as a Necessary Part of Commission Proceedings.**

CforAT reiterates the importance of providing customers with access to an affordable level of utility service necessary for health, comfort and safety. This need for these services for California households is recognized in statute for energy,¹ water² and communications services.³ Access to utility service is part of modern life, and the Commission is charged making sure this can be achieved on an affordable basis.

This need for utility service is not the same as the right to unlimited utility service. As noted in opening comments, CforAT does not believe customers should be able to consume unlimited levels of utility service without incurring high charges; rather, consistent with the goals of this proceeding, it is vital that customers have access to an essential quantity of service at an

¹ See, e.g., Cal. Pub. Util. Code §382(b).

² Cal. Water Code §106.3.

³ See, e.g., Cal. Pub. Util. Code §§ 871.5-871.7.

affordable rate.⁴ For this reason, CforAT strongly supports the fact that the stated purpose of this proceeding ties affordability to essential service levels rather than overall consumption, and we appreciate that the Staff Proposal considers affordability within a framework of essential service. CforAT is concerned by the comments of several of the utilities in response to the Staff Proposal, that seek to downplay the importance of affordability of essential service. CforAT appreciates that any proposal or decision that impacts customer bills will require various considerations, and that a change in rates or rate design can impact both essential and non-essential service. However, the affordability of essential service should be a top priority in considering any such change.

1. Affordability Is a Priority.

CWA asserts that the Commission “must recognize that any affordability assessment must be secondary to the establishment of a revenue requirement that reflects the utility’s actual cost of providing service.”⁵ CWA continues, “Once the Commission has determined the reasonableness of the revenue requirement for a particular utility, it can then attempt to assess affordability.”⁶ CforAT strongly disagrees with CWA.⁷ A customer’s ability to access affordable basic utility service, as mandated by statute and recognized as a human right, is not secondary to a utility’s revenue requirement. As noted in comments recently filed in R.17-06-024, CforAT recognizes the need for water utilities to have adequate resources to provide clean and reliable service to their customers, but it is up to policymakers to determine how this can be done without

⁴ CforAT Opening Comments at p. 1; Staff Proposal at p. 5.

⁵ CWA Opening Comments at p. 4-5.

⁶ CWA Opening Comments at p. 5.

⁷ CforAT also noted this disagreement with CWA specifically in the context of water in R.17-06-024. Comments of the Center for Accessible Technology on Administrative Law Judge’s Ruling Inviting Comments on Water Division Staff Report and Responses to Additional Questions (CforAT Water LIRA Comments), filed September 16, 2019 in R.17-06-024, at p. 4-5.

compromising affordability of essential service.⁸ CWA also suggests that low-income ratepayer assistance programs can be used to address affordability concerns.⁹ CforAT strongly supports the creation of such assistance programs and the increased utilization of the programs that already exist. Yet, as recently noted by Commissioner Rechtschaffen, bill assistance programs (which only exist currently for Class A water districts) only provide a limited discount, and they are not designed to address affordability in the context of other expenses.¹⁰ If the Commission were to de-prioritize affordability as CWA suggests, it would undermine the goals of this proceeding to address the need to view cumulative impacts on the affordability of essential service for households with strained resources and potentially impede the development of effective bill assistance programs.¹¹

While not arguing that affordability should be secondary to revenue, SCE and SDG&E/SoCalGas each assert in their respective opening comments that an affordability analysis should not be required each time rates change. SCE suggests that such frequent affordability assessments “would overwhelm the Commission and stakeholders with affordability information.”¹² SDG&E and SoCalGas suggest that reassessing affordability with each rate increase is “impractical” because of the brief time period between rate changes.¹³ While CforAT understands that requiring an affordability analysis with each potential change to

⁸ CforAT Water LIRA Comments, at p. 5.

⁹ CWA Comments at p. 5.

¹⁰ Redefining Utility Affordability: CPUC pursues broad approach to guide decisions, UtilityDive, September 12, 2019.

¹¹ Additionally, as discussed below, CforAT believes that an affordability framework developed in this proceeding will be useful for the Commission to assist in effectively structuring assistance programs so that they best support affordability of essential utility service. For this reason, the development of an affordability framework is complementary to the use of bill assistance programs to enhance direct affordability for customers.

¹² SCE Opening Comments at p. 4.

¹³ SDG&E/SoCalGas Opening Comments at p. 10-11.

customer bills may require utilities to take an additional step beyond current practices, the importance of such regular assessments in supporting the ability of customers to afford essential supplies of utility service mean that the assessments are not “impractical.”¹⁴

PG&E also seeks less frequent consideration of affordability, focused on “the frequency with which actual rate changes go into effect, rather than the frequency with which they are requested,” and further recommends that the Commission should consider affordability as a freestanding concern, outside of specific proceedings.¹⁵ Like suggestions from the other utilities, PG&E’s suggestion misinterprets the importance of ensuring that customer bills for essential service remain affordable in conjunction with proposed changes in rates. Such a separation of affordability concerns from specific proceedings where changes that will impact customer bills would artificially divorce the issue from the Commission’s actual consideration of decision that will impact customer bills. An affordability framework should not be kept separate and apart for proceedings addressing rates or rate design.¹⁶ Similar to a safety assessment, affordability should be considered a vital component of every potential decision that comes before the Commission

CforAT strongly supports the suggestion by TURN that “[e]ach time a utility seeks to increase rates, the utility should have the burden of demonstrating both (1) the effect of the request on the affordability metrics and (2) the cumulative effect of the request and other pending requests for rate increases on the affordability metrics.”¹⁷ Additionally, CforAT believes it would be appropriate to require all regulated utilities to complete an affordability assessment

¹⁴ If the utilities believe that the Commission and stakeholders would be “overwhelmed” with information due to frequent rate changes, they should consider their customers who are even more likely to be overwhelmed in figuring out how to cope with so many changes.

¹⁵ PG&E Opening Comments at p. 10.

¹⁶ Or, in the context of communications service where the Commission does not directly regulate rates, separation from proceedings addressing programs where affordability is relevant, such as LifeLine or various subsidy programs, as discussed below.

¹⁷ TURN Opening Comments at p. 11.

with each application submitted to the Commission that will impact customer bills, as well as with any rate change resulting from a rulemaking proceeding opened by the Commission. For communications services, where the Commission does not regulate rates in the same way that it does for other utilities under its jurisdiction, proceedings regarding programs that impact availability and affordability of essential services such as LifeLine, CASF, High Cost Funds A and B, and various others, should include an affordability assessment.¹⁸

2. Affordability Should Focus on Essential Use

SCE and SDG&E/SoCalGas both recommend the addition of Energy Burden as a additional metric in an affordability framework.¹⁹ While CforAT has strongly supported development of the Energy Burden measurement and recognizes the value of Energy Burden considerations in multiple contexts, this standard is not tied to essential use, and so it should not be incorporated here. CforAT again highlights the appropriate distinction in this proceeding between overall bill affordability and affordability of essential quantities of service. CforAT has repeatedly stressed the importance of policymakers in this proceeding focusing on essential use, rather than total bills (including a customer’s discretionary use) when evaluating affordability.²⁰ CforAT supports the recognition of this distinction in the Staff Proposal, which provides that the proposed definition of utility affordability should focus on “the degree to which a household can regularly pay for *essential service*,” and the metrics “provide complementary descriptions of a

¹⁸ This issue was addressed at the Prehearing Conference on October 12, 2018. *See* PHC Transcript at pp. 31:3-33:4 (noting that it is undisputed that the Commission does not establish rates for telecommunications providers, but “understanding what a telecommunications burden is for customers, comparable to an energy burden, and a greater understanding of what every Californian really is being expected to pay [...] is very significant”).

¹⁹ SCE Opening Comments at p. 6-7; SDG&E/SoCalGas Opening Comments at p. 4-5.

²⁰ CforAT Opening Comments at p. 2; Center for Accessible Technology’s Post-Workshop Comments, filed May 12, 2019, at p. 1.

household's ability to pay for essential utility service.”²¹ Including Energy Burden in addition to the three metrics included in the Staff Proposal would undermine this element of the affordability analysis because Energy Burden examines the affordability of total customer bills instead of just essential service.

For similar reasons, the Commission should not use arrearages or disconnections as metrics to evaluate affordability, as suggested by UCAN.²² Arrearages and disconnections occur when a customer falls behind on total bills, and thus they do not distinguish between essential and nonessential use. Additionally, these are lagging indicators that do not become measurable until a customer is already struggling to pay their utility bills. The purpose of an affordability framework is to provide a tool to assist policymakers in order to (hopefully) reduce the number of customers who experience difficulty paying for essential supplies of electricity. Because arrearages and disconnections are backwards-looking and because they do not allow for any focus on essential use, they are not appropriate metrics for consideration in the development of an affordability framework.²³

B. Affordability Metrics Should Examine Bills With and Without Customer Assistance Programs

1. Energy

PG&E, SCE, and SDG&E/SoCalGas all suggest that the metrics in the staff proposal should factor in all assistance programs, like CARE and FERA in the electric industry, to provide a better reflection of affordability. SCE recommends presenting AR both with and

²¹ Staff Proposal at p. 15.

²² See UCAN Opening Comments at p. 4.

²³ As with Energy Burden, CforAT's explanation of why it is not appropriate to incorporate arrearage and disconnections statistics into an affordability framework in this proceeding is not intended to minimize the value of this information in other contexts. For example, CforAT is an active party in the Commission's ongoing proceeding to specifically address levels of service disconnection for nonpayment (R.18-07-005), where this data is extremely relevant and useful.

without the CARE discount to “provide a more accurate representation of the Affordability Ratio for low income customers.”²⁴ CforAT agrees. Looking at affordability metrics both including and excluding assistance programs will provide a more robust overall picture of affordability by illustrating the effect of such programs on the affordability of essential use.

At the same time, CforAT cautions against the risk of focusing too much on the availability of assistance programs as the solution to affordability concerns. CARE and FERA are targeted programs that are only available to customers who meet specific income criteria tied to federal poverty standards. Based on costs of living in California, affordability concerns are relevant to customers who may not meet the program criteria. Similarly, the Commission has been considering restructuring CARE to better serve its policy goals; CforAT has specifically made recommendations for targeting CARE support more directly to essential usage.²⁵ While the Commission has declined to act on CARE restructuring at this time, it noted the Commission’s ongoing efforts “to ensure that essential levels of service are affordable and that customers are not overburdened by monthly energy expenditures,” and expressly noted that other proceedings, including this one, may provide information that would support revisiting the CARE structure in the future.²⁶

In order to assist in any future evaluation of whether the CARE program effectively supports the goal of ensuring that essential levels of service are affordable, it would be helpful to consider affordability both with and without the support provided by the program. The same is also true of support programs offered in other industries such as water.

²⁴ SCE Opening Comments at p. 6.

²⁵ See D.19-09-004, issued on September 18, 2019 in R.12-06-013, at pp. 11-17.

²⁶ D.19-09-004 at p. 17.

2. Telecommunications

Carriers have asserted that the affordability of telecommunications service should only be addressed in the context of the LifeLine program or in proceedings that specifically address allocation of various funds such as CASF.²⁷ As has been made clear repeatedly in this proceeding, the purpose of the creation of affordability metrics is to develop a framework that can serve as a tool for policymakers when considering actions in other proceedings. No direct action making use of the results of the framework will take place in this docket. As an example, this proceeding will not displace the Lifeline proceeding in considering how to best ensure that the greatest number of California residents have access to “high quality basic telephone service at affordable rates.”²⁸ Rather, any information and data about affordability of communications services (and other necessary utility service) developed using the framework will inform the Commission in its ongoing considerations of how to best structure the LifeLine program, consistent with its authorizing statute, to achieve this policy goal by providing a greater understanding of what constitutes an affordable rate.

If affordability of communications services (including both voice and broadband) are not evaluated, the Commission will forgo development of an important tool to evaluate whether its various communications programs, including not only LifeLine but also other assistance programs such as CASF and the High Cost Funds, are effectively meeting their intended goals. For example, right now, the LifeLine proceeding does not have a clear framework of what it means to provide service at affordable rates. This a gap that will be filled through the analysis being developed here. In this way, the proposed affordability metrics can and should be used by the Commission to better understand affordability in the telecommunications context and thus

²⁷ See CCTA Opening Comments at pp. 10-11; *see also* PHC Transcript at p. 25 (AT&T).

²⁸ Cal. Pub. Util. Code § 871.7.

better structure its existing programs to support access to essential service. Such actions are entirely within the Commission’s jurisdiction, and represent an effort to benefit all stakeholders by ensuring that subsidy funding already being collected and expended is used effectively.

C. **The Commission Should Reject Ongoing Efforts by Communication Service Providers to Limit the Applicability of this Proceeding**

Various communication service providers continue their ongoing efforts to avoid any form of oversight from this Commission;²⁹ these efforts should not be accepted. In formulating affordability metrics that include consideration of essential use of voice service and broadband, the Commission is within its jurisdiction and exercising appropriate regulatory authority. The Commission’s goal of “develop[ing] affordability metrics across utility industries to reflect the cumulative bill impacts” experienced by a customer who needs energy, water and communications services³⁰ is useful and necessary to support universal access to these basic necessities of modern life.

As set out in the Scoping Memo, this proceeding is intended to consider “methods and processes for assessing affordability impacts across Commission proceedings and utility services.”³¹ While the Commission does not set rates for services offered by communications providers (with the limited exception of Small LECs), it appropriately initiates proceedings addressing communications services in California for which affordability impacts are directly relevant. The Commission and parties have repeatedly noted such proceedings (over which the Commission’s jurisdiction is unchallenged), including oversight of the Lifeline program,

²⁹ See, e.g., CCTA Opening Comments (arguing that broadband services should be eliminated from the affordability framework and seeking to limit affordability considerations to the Lifeline proceeding); AT&T Opening Comments (claiming affordability analysis would be “fruitless”); see also PHC Transcript at pp. 24:4-25:26 (requesting exclusion of telecommunications from the proceeding).

³⁰ Scoping Memo at p. 3 (citing OIR at p. 10).

³¹ Scoping Memo at p. 3.

allocation of funding under the California Advanced Services Fund, the High Cost Fund A, and the High Cost Fund B, and support for broadband access via allocation of the California Teleconnect Fund.³² As noted in the Scoping Memo, these Commission-regulated programs address low-income and universal access programs as well as surcharges to support such programs.³³

In order to properly consider how to best advance the policy goals of these various programs, including affordable communication services for low-income households, support for universal access to voice and broadband, and access to basic services (both telephone services and broadband) in all areas of the state, it is appropriate for the Commission to have an understanding of the affordability of such services. For a customer to have genuine access to a necessary service, an appropriate service must be on offer *and* the customer must be able to afford to purchase the service. The Commission's efforts on both sides of this equation can appropriately be informed by the work underway in this proceeding.

III. CONCLUSION

CforAT appreciates the opportunity to respond to party comments on the Staff Proposal. We look forward to further discussion and participation in the development of an affordability framework as this proceeding continues.

Respectfully submitted,
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³² See OIR Appendix 1 at p. 2.

³³ Scoping Memo at p. 3.

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