

**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  
(Filed July 12,2018)

**REPLY COMMENTS OF THE UTILITY CONSUMER' ACTION NETWORK TO THE  
OPENING COMMENTS OF THE ACTIVE PARTIES IN THE AFFORDABILITY  
RULEMAKING**



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**I. Introduction**

Out of the active parties in this rulemaking, 15 (including UCAN) submitted Opening Comments in response to the formal questions posed by California Public Utility Commission (“The Commission”) about the staff’s proposed metrics for measuring affordability. Because a number of the parties’ comments made similar arguments, the Utility Consumer’s Action Network (“UCAN”) has decided to organize its Reply Comments on a topical, rather than a party-by-party basis. In addition, UCAN’s Reply Comments also discuss some limitations of the various metrics and oversights in the Commission staff’s proposal that will affect the accuracy of the metrics and their usefulness in measuring the affordability of utility services in California.

**II. The Definition of Substantial Hardship**

Several parties including the California Community Choice Association (“CalCCA”), the small Local Exchange Carriers, and the California Water Association commented about the lack of precision in defining what constitutes “substantial hardship” in the staff’s set of proposed metrics. UCAN agrees that it is important to settle on an agreed definition of substantial hardship and believes that it may be best to develop a bright-line test to measure substantial hardship such as if the cumulative cost of an individual household’s utility services exceeds 15% of *disposable* income it should be considered to be a substantial hardship. While this definition is admittedly somewhat arbitrary, UCAN believes that additional workshops and data review could further refine this definition. If this proceeding is to achieve its goal of defining affordability, it must have a workable definition of “substantial hardship.”

### **III. Consideration of CARE and FERA Rates**

Most of the major energy utilities in this proceeding: Southern California Edison, San Diego Gas & Electric, Southern California Gas, and Southwest Gas, all noted in their Opening Comments that when the Commission looks at affordability that it do so by looking at the rates participating low-income customers are charged for energy services under the CARE and FERA programs. UCAN agrees that these rates should be taken into consideration in looking at affordability; however, in doing so the Commission should recognize the limitations of these programs. Not only do hundreds of thousands of California households that are eligible for these programs not participate in them, but also households whose income is slightly above the CARE and FERA program thresholds are likely struggling to pay their utility bills. The Commission's affordability deliberations should consider CARE and FERA rates, but it should also recognize the limitations of these programs and the reality that these programs do not provide any form of relief for water or telecommunications bills.

### **IV. When Should Affordability be Measured?**

Most of the utility parties in this rulemaking advocate for having the Commission perform an annual review of affordability, however, they caution against using an affordability measure in specific Commission proceedings where individual utility rate requests are under consideration. Southern California Edison argues on p. 2 of its Comments that affordability metrics should "inform, but not determine" Commission decisions on rate increases. Moreover, Edison argues (p. 4) that an affordability metric should not be used to determine if a proposed rate increase is reasonable. Instead, according to Edison, reasonableness should be determined in view of all of the circumstances of the case and in light of larger Commission and state objectives such as reducing statewide carbon emissions.

UCAN agrees that affordability should not be the only consideration in the Commission's decision-making process on individual utility ratemaking proceedings. However, affordability should be an important factor in the decision-making process. The Commission has a complex balancing act to perform in setting rates—it must set rates at "just and reasonable" levels per section 451 of the Pub. Util. Code-- while at the same time it needs to ensure that utility bills are affordable to low-income consumers. One of the tests of reasonableness must be how a proposed rate increment will affect the state's most vulnerable households.

In its Opening Comments UCAN recommended that affordability should be examined on an 18-month cycle. Most of the commenting parties advocated for an annual review, however, the consumer advocates such as The Center for Accessible Technology (CforAT) urged an affordability assessment with each rate case application. The Public Advocates state that affordability should be looked at in both formal and informal proceedings and should be examined over time.<sup>1</sup> In addition, the Public Advocates urged the Commission to use various scheduled proceedings to see how affordability metrics will operate in a real world setting.

UCAN agrees that affordability needs to be part of major rate case deliberations. While the PA's suggestion of a measured approach towards implementing affordability metrics may have some merit, it fails to recognize the urgency of the affordability crisis in California. The level of arrearages and service terminations in California represents an immediate threat to the health and safety of millions of California residents. California's legislature has charged the Commission to take positive steps to ameliorate the affordability problem with the states utilities. This is one of the reasons why UCAN urges the Commission to include level of disconnections and arrearages in excess of 60 days as one of the best measures of affordability since these figures are an immediate measure of the burden utility rates are placing on the state's households. CalCCA agrees that the level of disconnections and the number of bills in arrears in excess of 60 days should both be affordability metrics.<sup>2</sup> The Commission should incorporate measures of disconnections and extended arrearages in its affordability metrics.

#### **V. Should the Cost of Communications Services be Included in Affordability Measures?**

The Commission's authority (or lack thereof) over the cost of communication services engendered a wide range of commentary in the parties' Opening Comments. Largely the communications carriers such as AT&T and the California Cable Television Association argued that the Commission has no authority to regulate the rates of these services. The Cable Television Association argues that broadband services are not essential, that broadband is not a utility service and that the Federal Communications Commission has excluded states from playing a role in regulating these services. The small Local Exchange Carriers argue that the only time affordability should be looked at is when one of their member utilities is seeking a rate

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<sup>1</sup> Public Advocates, Opening Comments, p. 3.

<sup>2</sup> California Community Choice Association Opening Comments, p. 2.

increase; that looking at affordability more often would be unduly burdensome on small LECs; and that providing broadband in rural areas is more expensive than urbanized regions. AT&T argues that 80% of what is delivered over broadband is video services and that Netflix is not essential and thus broadband is not a utility.<sup>3</sup> The Utility Reform Network (TURN), Greenlining, and the Public Advocates (“CalPA”), find considerable Commission authority to look at communications costs. TURN particularly cites section 709 of the Pub. Util. Code as the source of the Commission’s authority to look at affordability issues.

UCAN believes that this is not the forum to litigate the extent and limitations on the Commission’s authority to look at the affordability of communications services. A better approach is to develop a measure of what it costs a California household to obtain a level of communications services that allows them to fully participate in modern society. Rural customers are particularly affected by the cost of these services because: a) their remoteness make access to communications services essential for public safety and to ensure children have access to on-line education services, and on-line services are becoming increasingly important to the provision of health care—particularly in rural areas; b) poverty rates in many areas of rural California are higher than urban locales; c) access to broadband services is not simply a matter of convenience but is now required to apply for a job or social services—not simply to watch the latest Hollywood feature as AT&T suggests. If the Commission’s affordability rulemaking is to be successful it must measure how the costs of communications services are affecting the state’s economically vulnerable households. Both TURN and Greenlining’s Opening Comments suggest a useful threshold level of service that should be available to all California households regardless of their ability to pay. UCAN believes their proposals are a good basis for establishing a baseline level of communication services that should be considered essential.

## **VI. Affordability of Water Services**

Only three parties comments addressed the affordability of water services: the California Water Association (“CWA”), Southern California Edison (“Edison”) and the Public Advocates. Both the CWA and the Public Advocates stated that the essential level of water services varies from utility to utility and for utilities that have more than one service territory, the level of essential service is specific to that service territory, thus a statewide average of 50 gallons per

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<sup>3</sup> AT&T Opening Comments, p. 2.

day per capita is not a proper measure of essential service. CWA further argues that affordability in regards to water service should only be examined as part of a formal rate proceeding. Edison, the water purveyor on Catalina Island's Avalon community, argues that statewide average consumption figures are inappropriate for an area whose consumption is tied to the level of tourism on the island.

To effectively measure the affordability of California's retail water services the Commission must necessarily look at the rates of municipal water systems that provide the majority of residential water used in California even though the Commission does not directly regulate municipal water rates. UCAN believes that additional work needs to be performed to develop a meaningful metric that accurately reflects the bills being experienced by municipal water users and thus recommends that a task force of affected stakeholders should be assigned to develop a more refined metric in this area.

The Public Advocates cites a study from Spain that notes the limitations of using a per capita measure of consumption. The study found that larger households tend to use less water per capita than single person households. UCAN agrees that per capita figures do not necessarily reflect actual consumption pattern for California households.

For their part, CMA members should develop their own service territory-by-service territory proposals for what constitutes essential level of water service. Section 739.8(a) of the Pub. Util. Code charges the Commission with ensuring "Access to an adequate supply of healthful water is a basic necessity of human life, and shall be made available to all residents of California at an *affordable* cost." (emphasis added). Given this charge, the Commission must look at the affordability of water services in this rulemaking. UCAN looks forward to working on this matter in this and future Commission proceedings on affordability.

## **VII. Do the Proposed Affordability Metrics Measure What They Should?**

Staff's proposed affordability metrics focus on the cost of housing as being the only important other expense that the Commission should consider when it looks at the affordability of utility services. CforAT, TURN, and CalCCA all argue that the cost of housing is only one of a number of essential costs facing low-income households in California. Thus, looking at housing costs alone is an inadequate measure of affordability. UCAN agrees with CalCCA, CforAT, and TURN that housing costs alone fail to account for many of the essential expenses

that all households must pay to continue to live in California. Food, medical care, child and dependent care expenses and transportation all are essential costs that must be paid by the state's households. Simply using housing costs as a proxy fails to account for regional variations in the costs of these other expenses and fails to consider the difficult choices that income constrained households must make to continue to live in the state.

The challenge facing the Commission is to gain an effective handle on essential expenses other than housing. Parties have suggested a number of useful data sources including the United Way, the California Environmental Center's socio-economic indicators, the California Budget & Policy Center, the University of Washington's Center for Women's Welfare, the U.S. Census Bureau and the Bureau of Labor Statistics are all useful data sources for information about these other expenses.

In thinking about the Commission's task in this rulemaking, it is important to be mindful of the legislature's charge to the Commission with regard to affordability—that it take meaningful steps to address the problem of affordability of utility services. In order to perform that task, the Commission must have a good set of data about the amount of disposable income available to California households when paying their utility bills, i.e., how much money do they have to pay for utility services after paying for other essential expenses? Housing, while generally the largest expense facing most Californians is far from the only essential cost. Affordability has to look at households in their totality, not simply as payers of mortgages or rents. A properly structured affordability metric must consider all essential costs, not simply housing and utility bills.

### **VIII. Other Considerations**

In its Opening Comments on the staff's proposal and in earlier filings in this case, UCAN noted that many rural Californians do not use traditional utility services for space heating. A significant number of California's rural residents use wood, pellets or propane to heat their homes, however, staff's proposed affordability metrics fail to give any consideration to the cost of these fuel sources in their calculations. Data about the cost of wood, propane and pellets is readily available from commercial sources and community based organizations in rural areas. UCAN submits that heating costs from non-conventional sources should be part of an affordability metric and should be tracked over time to determine how fluctuations in the cost of

these fuel sources are affecting the state’s rural residents. For many Californians living in mountainous rural parts of the state, ensuring their home has adequate heat is a matter of necessity and essential to their health and well-being—the cost of providing that heat is an important consideration in determining whether utility service is affordable to these residents.

## **IX. Conclusion**

Staff’s proposed affordability metrics represent a good start in looking at affordability of utility services, however, the Commission should recognize that these metrics have significant limitations, and fail to adequately recognize the full dimensions of essential costs facing the state’s utility customers. Moreover, a properly functioning affordability metric must look at the level of extended arrearages and service terminations to determine how affordability issues are affecting the state’s most vulnerable households.

Affordability metrics should measure changes in utility costs over time. Some level of broadband service (and the costs thereof) must be part of the affordability metric regardless of the jurisdictional objections of the industry.

Good sources of data are available about the costs of other essential services such as food, medical care, transportation and child and dependent care. The Commission should avail itself of these data sources.

The state’s rural residents should receive particular attention in developing affordability metrics in light of the higher cost of providing utility services to rural areas, the use of propane, wood and pellet stoves for heating purposes in many areas, the importance of broadband services in providing a panoply of services essential for public safety, education and health care, and the challenges associated with delivering services in rural communities.

The Commission should develop a regular schedule for looking at affordability. While an annual review may be appropriate, for some utilities a less frequent review may be indicated, e.g., for water utilities.

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Respectfully submitted by: \_\_\_\_\_/S/\_\_\_\_\_  
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