

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking on the Commission's Own Motion to address the issue of customers' electric and natural gas service disconnection.

Rulemaking 10-02-005
(Filed February 4, 2010)

**REPLY COMMENTS
OF THE DIVISION OF RATEPAYER ADVOCATES ON THE
ADMINISTRATIVE LAW JUDGE'S RULING PROVIDING
OPPORTUNITY FOR COMMENTS ON PHASE II ISSUES**

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I. INTRODUCTION

In accordance with the April 19, 2011 Administrative Law Judge's ("ALJ") Ruling Providing Opportunity for Comments on Phase II Issues ("Phase II.2 ALJ Ruling"), the Division of Ratepayer Advocates ("DRA") submits these reply comments regarding the questions enumerated in the Attachment to the Phase II.2 ALJ Ruling. DRA responds in particular to the opening comments of Pacific Gas and Electric Company ("PG&E")¹ and Southern California Edison Company ("SCE").² Those parties' opening comments further underscore the need for disconnection benchmarks and the other recommendations made by DRA in its opening comments to address the ongoing issue of energy affordability among low-income utility customers.

II. COMMENTS

DRA, PG&E and SCE all use the same disconnection data to come to very different conclusions. PG&E and SCE provide information in their comments showing

¹ See Rulemaking ("R.") 10-02-005, Pacific Gas and Electric Company's (U 39 M) Opening Comments on Administrative Law Judge's April 19th Ruling Providing Opportunity for Comments on Phase II Issues ("PG&E Opening Comments"), May 20, 2011.

² See R.10-02-005, Southern California Edison Company's (U 338-E) Opening Comments on the Administrative Law Judge's Ruling Providing Opportunity for Comments on Phase II Issues ("SCE Opening Comments"), May 20, 2011.

that customers receiving assistance via the California Alternate Rates for Energy program (CARE) are much worse off relative to the general customer population and that the situation is unlikely to change, but PG&E and SCE apparently conclude that no regulatory guidance or protection is merited. DRA disagrees.

SCE acknowledges that from January 2009 through March 2011, “the percentage of SCE’s disconnects that are attributed to CARE customers has increased while the percentage of disconnects ascribed to non-CARE customers has decreased.”³ According to SCE, “[t]he primary reason for the discrepancy between the disconnection rates of CARE and non-CARE customers is the increase in CARE population.”⁴ SCE adds that “the process for identifying non-CARE customers who are eligible for CARE inherently leads to customers who are at higher risk of missing payments and becoming eligible for disconnection to be re-categorized as CARE customers.”⁵ PG&E states that “CARE customers have a higher disconnection rate than the Non-CARE population because they have a higher payment delinquency rate even though their bill and pay plan amounts are smaller than Non-CARE customers.”⁶ These proffered explanations essentially boil down to: CARE disconnection rates are higher because CARE customers “inherently” have difficulty paying their energy bills and therefore get disconnected more often, and the more CARE customers there are, the more disconnections there will be. In DRA’s view, the discrepancy between CARE and non-CARE disconnection rates is a symptom of the continuing affordability problem experienced by low-income customers, and the utilities should continue to refine their approaches to managing disconnections and achieving energy service accessibility and affordability for all customers.

Despite the evidence that the disconnection problem now primarily affects CARE customers, PG&E and SCE use non-CARE customer data to support their policy

³ SCE Opening Comments, p. 3

⁴ SCE Opening Comments, p. 3

⁵ SCE Opening Comments, p.2.

⁶ PG&E Opening Comments, p. 2

positions. SCE, for instance, notes that “[r]esidential disconnections consistently remained below 1% of the population by rate class throughout 2010,” and from 2009 to early 2011, “the disconnect rate for CARE customers has remained within historic levels.”⁷ As DRA explains in its opening comments, these historical levels are too high. SCE has consistently high CARE disconnection rates (over eight percent on an annual basis from April 2010 to March 2011) that merit adoption of a six percent benchmark designed to encourage SCE to implement a different approach to managing the disconnection issue with regard to its CARE customers.⁸

PG&E mischaracterizes CARE customer usage as similar to non-CARE usage, despite years of consistently lower gas and electric usage by CARE customers than by non-CARE customers. PG&E states that, in 2010, “CARE customers have smaller bill amounts and similar usage than the Non-CARE customers ... CARE customers with gas heating used 6% less energy than their non-CARE counterparts, while CARE customers with electric heating used 1% more energy than the Non-CARE customers.”⁹ PG&E’s statement reflects 2010 usage, although prior years show that CARE customers, on average, use less energy than other residential customers. For the years 2007, 2008, and 2009, PG&E CARE customer average gas usage was, respectively, 11%, 12%, and 11% less than non-CARE customer average gas usage. PG&E CARE customer average electric usage for these years was, respectively, 8%, 7%, and 2% less than non-CARE customer average electric usage.¹⁰

Moreover, as discussed in DRA’s opening comments, neither PG&E nor SCE has proposed to utilize the CARE program to address the problem that disconnections now primarily affect CARE customers.¹¹ In their respective CARE budget applications for

⁷ SCE Opening Comments, pp. 2-3

⁸ Opening Comments of the Division of Ratepayer Advocates on the Administrative Law Judge’s Ruling Providing Opportunity for Comments on Phase II Issues, May 20, 2011, pp. 4-5.

⁹ PG&E Opening Comments, p.2.

¹⁰ PG&E Annual CARE Reports, filed May 1 annually in R.07-01-042 and A.08-05-022 et al.

¹¹ See DRA Opening Comments, pp. 11-12.

2012-2014, PG&E and SCE propose no strategies to reduce disconnections among CARE customers.¹² Ignoring disconnection reduction as a tool to achieve the CARE objective of energy accessibility and affordability seems inconsistent with statutory directives regarding the CARE program. For example, Public Utilities Code section 739.4(b) requires utilities to do the following “to protect low-income and senior households from unwarranted disconnection of necessary electric and gas services:”

Provide information about the CARE program and other assistance programs, and attempt to qualify customers for CARE, and provide information about individual payment arrangements that allow customers to pay the amounts due over a reasonable period of time, not to exceed 12 months, and attempt to enroll customers in a payment arrangement program, before effecting any disconnection of service for nonpayment or inability to pay energy bills in full.¹³

SCE argues that “[e]stablishing a uniform protocol for remote disconnection for two of the state’s four IOUs would not achieve a consistent policy across California.”¹⁴ However, DRA notes that refining SCE’s and PG&E’s remote disconnection policies to better align with the Sempra utilities’ practices would create a more uniform approach statewide. DRA in its opening comments noted that SCE and San Diego Gas & Electric Company (SDG&E) had similar policies of conducting premise visits prior to remote disconnection for elderly, disabled, medical baseline and life support customers.¹⁵ However, SCE’s opening comments indicate that it appears to be rescinding customer protections that it previously had offered. SCE “proposes to allow remote disconnections for all customers, but require that a utility representative be dispatched to the premises of any critical care customer prior to and during disconnection to monitor the situation for risks to health or safety.”¹⁶ SCE stated as recently as September 2010 that it would

¹² See DRA Opening Comments, pp. 11-12.

¹³ Cal. Pub. Util. Code §739.4(b)(3)(A).

¹⁴ SCE Opening Comments, p.9.

¹⁵ See DRA Opening Comments, p.14.

¹⁶ SCE Opening Comments, p. 10.

provide in-person visits prior to disconnection for a wider range of vulnerable customers. In comments submitted in this proceeding last September, SCE proposed that “[t]he protections provided to sensitive customers, including an in-person visit at the time of disconnection, should be limited to critical-care, disabled, and elderly customers ... SCE has enhanced collection and disconnection policies and procedures for its special needs customers. The special needs group includes elderly, disabled, and critical care customers for whom SCE takes additional health and safety precautions prior to disconnecting electric service.”¹⁷ SCE’s apparent change of policy is a good illustration of the result of leaving disconnection protection to utility discretion.

California already mandates a “uniform” approach to disconnections, part of which is set forth in California Public Utilities Code section 779.1(b):

Every corporation shall make a reasonable attempt to contact an adult person residing at the premises of the customer by telephone or personal contact at least 24 hours prior to any termination of service, except that, whenever telephone or personal contact cannot be accomplished, the corporation shall give, either by mail or in person, a notice of termination of service at least 48 hours prior to termination.¹⁸

When the code section was first enacted in the 1980s, there was no remote disconnection, so there would have been no need for the law to specify a premise visit. Yet, even with the assumed premise visit at the time of disconnection, the law mandated yet another “reasonable attempt” at personal, live contact. Remote disconnection, however, has removed what was previously assumed. DRA’s recommendation for a uniform protocol for *remote* disconnections is a means to compensate for what has been (in PG&E’s case) or will be (in SCE’s case) lost by remote disconnection: a visual premise check at the time of disconnection. The National Consumer Law Center (“NCLC”) is correct in its

¹⁷ R.10-02-005, Southern California Edison Company’s (U 338-E) Opening Comments on the Administrative Law Judge’s Ruling Providing Opportunity for Comments and Addressing Other Phase II Issues, Sept. 15, 2010, p. 11 (emphasis added) and fn. 19: “SCE’s critical care designation is for a subset of medical baseline customers who have indicated they would suffer a risk to health or safety if left without electricity for two hours or more.

¹⁸ Cal.Pub. Util. Code § 779.1 (2011) (history: Stats 1985 ch. 888 § 4; Amended stats 1986 ch. 479 § 1; Stats 1987 ch. 614 § 1).

assertion that “remote disconnection customers should receive no less protection than manually disconnected customers.”¹⁹ PG&E is incorrect in its assertion that remote disconnection customers are subject to the same procedures and process as manual disconnection customers. “PG&E’s disconnection procedure does not deviate, regardless of how the ultimate disconnection is performed (i.e. in the field or remotely). All delinquent customers follow the same, uniform process, receiving the same, uniform notices and calls.”²⁰ Therefore, DRA recommends the CPUC establish a uniform protocol for remote disconnection.²¹

To illustrate why the CPUC should not require a remote disconnection protocol, PG&E describes its prohibition on disconnecting customers on weekends and holidays as a “long-standing policy.”²² However, the utilities have no discretion in this matter, as Pub. Util. Code section 780 sets forth a statewide prohibition on disconnecting customers on weekends and holidays. Therefore, PG&E’s example of abstaining from disconnections on weekend and holiday only demonstrates PG&E’s compliance with legal requirements, rather than demonstrating that legal requirements are unnecessary.

DRA supports SCE’s proposal to explore Level Pay for customers in arrears. As recommended by DRA and other parties²³ in their opening comments, a workshop should be conducted to discuss SCE’s Level Pay proposal, and to review the CPUC’s Community Help Awareness of Natural Gas and Electricity Services (CHANGES) pilot program’s effectiveness regarding the needs for in-language and accessible communications customers.²⁴

¹⁹ Opening Comments of the National Consumer Law Center on the Administrative Law Judge’s Ruling Providing Opportunity for Comments on Phase II Issues, May 20, 2011, p.9.

²⁰ PG&E Opening Comments, p.10.

²¹ See DRA Opening Comments, pp. 15-16.

²² PG&E Opening Comments, p.10.

²³ See NCLC Opening Comments, p.8; Disability Rights Advocates Opening Comments, p. 4; The Utility Reform Network Opening Comments, p.10.

²⁴ See PG&E Opening Comments, p.9.

III. CORRECTION

Finally, DRA clarifies one piece of information it provided in its Opening Comments. In Table 3, DRA presented “Actual Residential Uncollectibles” for the years 2007-2010.²⁵ The value listed for PG&E in 2010 of 34.27 million was an estimate, rather than the actual amount. DRA had only received from PG&E actual uncollectibles through September 2010, and therefore made an estimate for the final quarter.

IV. CONCLUSION

DRA requests that the CPUC adopt the recommendations DRA made in its opening and reply comments. In order to establish a consistent policy for reducing disconnections, 1) disconnection benchmarks should be adopted for PG&E and SCE, 2) the disconnection protections for CARE customers should be extended to December 31, 2013, 3) the CPUC should implement an uniform disconnection protocol for remote disconnections, 4) PG&E and SCE should implement arrearage management programs (“AMPs”) and expand levelized payment programs, and 5) PG&E and SCE should allow customers to choose their billing date. A workshop should be set to discuss and develop Level Pay and AMPs, and review CHANGES.

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²⁵ See DRA Opening Comments, p.12.

Respectfully submitted,

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May 31, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of **REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE ADMINISTRATIVE LAW JUDGE’S RULING PROVIDING OPPORTUNITY FOR COMMENTS ON PHASE II ISSUES** to the official service list in **R.10-02-005** by using the following service:

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Executed on **June 1, 2011** at San Francisco, California.

/s/ ALBERT HILL

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