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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
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Petition of The Utility Reform Network
to Adopt, Amend, or Repeal a
Regulation Pursuant to Pub. Util. Code
§ 1708.5 Related to Arrearage
Management and Shutoff Prevention for
Residential Customers of the Major
Jurisdictional Electric and Gas Utilities.

Petition 09-06-022
(Filed June 19, 2009)

**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES
ON THE ADMINISTRATIVE LAW JUDGE'S PROPOSED DECISION
DENYING PETITION OF THE UTILITY REFORM NETWORK
FOR A RULEMAKING REGARDING ARREARAGE MANAGEMENT
AND SHUTOFF PREVENTION**

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TABLE OF CONTENTS

<u>TABLE OF CONTENTS</u>	I
<u>TABLE OF AUTHORITIES</u>	II
I. INTRODUCTION	1
II. DISCUSSION.....	4
A. THE PD ERRS BY RELYING UPON OUTDATED DATA TO CONCLUDE THAT THERE HAS BEEN NO UPWARD TREND IN ARREARAGE OR SHUTOFFS	4
1. Recent Data Shows a Substantial Increase in CARE Customer Shutoffs	4
2. Unemployment Has Increased and Utilities Are Expecting More Service Disconnections in the Next Year.....	5
B. THE PD ERRS IN NOT ALLOWING PARTIES THE OPPORTUNITY TO IDENTIFY THE KEY ISSUES ASSOCIATED WITH DISCONNECTIONS AND ARREARAGES.....	6
1. Disconnections Are Counter-productive and Substantially Erode the Benefits of Public Assistance Programs6	
2. The Commission Will Lose the Opportunity to Address Key Issues Associated with Customer Disconnections if the PD is Adopted	10
III. CONCLUSION.....	14
APPENDIX A – Proposed Findings of Fact and Conclusions of Law	
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

Court Cases

General Motors Co. v. Tracy (1997) 519 U.S. 278..... 10
Memphis Light, Gas & Water v. Craft (1978) 436 U.S. 1..... 10

Commission Decisions

D.09-09-030; 2009 Cal. PUC LEXIS 437..... 2
D.08-12-058, 2008 Cal. PUC LEXIS 534..... 10
D.08-11-0311, 4, 6

I. INTRODUCTION

In accordance with Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Division of Ratepayer Advocates ("DRA") hereby files these comments on the proposed decision ("PD") of the Administrative Law Judge ("ALJ") denying The Utility Reform Network's ("TURN") Petition ("Petition") asking the Commission to institute a rulemaking regarding arrearage management, credit deposits, payment plans and shutoff prevention. Additionally, in its response supporting TURN's Petition, DRA recommended that the Rulemaking should include the collection of data to determine how to better improve the Commission's policies during this economic downturn.

The PD stated that it examined the existing low-income programs and reviewed D.08-11-031 to determine what the Commission has done to encourage outreach and authorize funding of existing low-income programs for 2009 through 2011. The PD concluded that existing programs are sufficient, and a rulemaking or investigation is not needed at this time.¹

The facts and data that the PD use to reach its conclusions are outdated. Recent data indicates a growing trend of California Alternate Rates for Energy ("CARE") customers struggling to make their payments and being shutoff from their services. TURN's Petition notes that even though there are a variety of public assistance programs to make energy service affordable, a large number of households who utilize the public assistance programs continue to fall behind on their payments and are disconnected.

The PD simply reiterates TURN's assertion that there are a number of low-income programs available. And the PD relies significantly on the "enhanced" outreach discussed in D.08-11-031 to enroll more customers in programs such as CARE.² However, the PD's reliance on outreach to enroll customers in CARE is not a solution to the problem posed by TURN because it is in fact the CARE customers that are currently facing the most service disconnections. Thus, the PD's assumption that the Commission has already addressed TURN's proposal is inaccurate. The errors contained within the PD are significant enough that the PD should be modified to grant the Petition.

¹ PD at 1 & 11.

² PD, p. 10.

When DRA responded to TURN's Petition more than two months ago, DRA indicated that it is collecting data from the investor-utilities' ("IOU") to identify what the key issues are and recommended that the Commission accept TURN's petition to have a proceeding to address the issues. The PD's rejection of TURN's petition denies parties the opportunity to investigate the data and identify key issues associated with service disconnections and arrearages.

From the recent IOU data, which the PD did not rely on to reach its conclusion, DRA has found that there is a disturbing upward trend of CARE customer service disconnections. All California energy IOUs, except Southern California Gas Company (SoCalGas), show substantially higher numbers of CARE customer disconnections for the same first eight months in year 2009 compared to those in 2008. DRA further found that the IOUs use disconnection as a tool to force customers pay their bills, despite this tool being very costly, especially for customers. After disconnecting the customers for two to three days, the majority of them were reconnected back to the system. The IOUs have exploited the dire situation many CARE families are currently facing by disconnecting their services, and, therefore, incurring two types of utility service costs: 1) payment of the original utility bill; and 2) energy service restoration fees. In addition to these direct utility costs, customers are subjected to indirect costs (spoiled food, lost wages, etc.) and hardship associated with service interruptions.³ These extra inconveniences were recognized by the Commission recently in D.09-09-030, where it stated that "Low income customers might not be able to afford the loss of refrigerated foods and medications, or to take actions to mitigate the impacts of shut-off events, such as evacuating to a hotel, eating at restaurants, or buying batteries, coolers, and generators."⁴ The Commission used this rationale in rejecting SDG&E's de-energization proposal, which would have disconnected service for 13 to 72 hours as part of SDG&E's effort to prevent fires.

Yet, the PD contradicts D.09-09-030 by rejecting the Petition in this economically stressful period when IOUs have increased disconnections of its most vulnerable customers.

³ When service is interrupted, the customer has to contact the utility to restore his (her) service. Normally, an appointment has to be made and the customer may have to take time off from work to get the service restored. If (s)he chooses weekend or holiday hours, (s)he would have to pay a higher restoration charge.

⁴ [D.09-09-030; 2009 Cal. PUC LEXIS 437 \(Cal. PUC 2009\)](#)

DRA urgently recommends that the Commission open this proceeding to stem the tide of CARE disconnections by allowing full consideration of the alternatives to the disconnect and reconnect cycles, and of the increasing final disconnections.

In these comments, DRA provides preliminary recommendations of the alternatives to disconnects that can be further explored by the proposed rulemaking. The Commission needs not decide the merits of any of these proposals by granting the Petition. However, by rejecting the Petition, the PD has precluded the Commission to even consider these proposals. The PD's automatic rejection of the Petition did not allow parties, including the IOUs, to recommend the complete scope of the Rulemaking. Therefore DRA, like TURN in its Petition, will take the opportunity to recommend some issues that are not addressed in any other Commission proceeding and should be included in the Rulemaking. DRA makes the following recommendations:

- Benchmark disconnect rates and require IOUs to bring the disconnection percentage for CARE more in line with the non-CARE customers.
- Set goal of bringing disconnections to lower-than-historical levels whether remote AMI shut-off is implemented or not.
- Direct IOUs to give priority installation of programmable communicating thermostats (PCT) to customers who are at risk for disconnection so that they can better manage their usage and load.
- IOUs should engage in proactive offers for the variety of assistance programs before disconnection takes place.
- Offer customers the ability to receive disconnect notices via a preferred method that is most likely to get their attention (phone calls, e-mails, text-messaging, and 3rd party notification). Increase in-person contacts before disconnection, rather than afterwards.
- Provide additional messages in late payment and disconnect notices that constructively alert the customers of the options the IOUs may offer and provide the list of costs (both direct and indirect costs) the customers may face when service is shut-off.
- Offer autopay to all customers, and provide incentives for signing up for autopay or for fulfilling commitments to payment plans.
- Randomly survey customers (those eligible for disconnection) during customer interactions to identify the most effective means of helping them avoid future disconnections.
- IOUs share best practices on an on-going basis. The Commission's Energy Division can facilitate the information exchanges, or be the depository of the best practice information.

II. DISCUSSION

A. The PD Errs by Relying upon Outdated Data to Conclude that There Has Been No Upward Trend in Arrearage or Shutoffs

1. Recent Data Shows a Substantial Increase in CARE Customer Shutoffs

The PD indicated that there has been no overall upward trend in arrearages or shutoffs of CARE customers since D.08-11-031 was issued despite the decline in the economy.⁵

Unfortunately, it appears that the lag in the data is only now showing the true impact of this economy on customers. Disconnections of California CARE customers have increased on average by 25% over 2008 levels. The table below shows the increase in CARE customer disconnections by IOU.

TABLE 1

	CARE Disconnections⁶		
	2008 (Jan-Aug)	2009 (Jan-Aug)	Increase 2009
PG&E	39,772	71,421	80%
SCE	50,792	61,772	22%
SDG&E	6,106	6,886	13%
SoCalGas	46,508	39,369	-15%
All IOUs	143,178	179,448	25%

The most recent months of 2009-June, July, and August, also show the largest and most sustained increase over last year. In fact, data for this past summer shows that CARE customer disconnections exceed those of the previous three summers. During this past summer (Jun-Aug 2009) roughly 25,000 CARE customers were disconnected each month in total for all four IOUs. For the same months in 2008, 2007, and 2006, roughly 18,000, 20,000 and 19,000, CARE customers were disconnected monthly, respectively.

The PD's conclusion that there have been no changes in shutoffs is clearly erroneous considering that PG&E alone had an 80% increase in shutoffs.

⁵ PD at 9.

⁶ DRA received the IOUs disconnect data on an on-going basis starting from May 2009 and the latest data was received at the end of September 2009.

2. Unemployment Has Increased and Utilities Are Expecting More Service Disconnections in the Next Year

TURN submitted that the Commission must address the fact that California currently has the highest unemployment rate in 25 years.⁷ And, indeed, the Commission should take official notice of the fact that the California Employment Development Department's (EDD) September 18, 2009 press release reported that in August, 2009, California's unemployment rate had increased to 12.2%, compared to 7.6% in August, 2008.⁸ Yet, the PD erroneously concludes that customers' service disconnections and arrearages will not be impacted because D.08-11-031 provides ample opportunities for customers to avoid arrearages. The PD ignores the fact that the data in D.08-11-31 was outdated.

In general, California IOUs appear to expect increased unemployment and/or higher disconnections and more service restorations after disconnection. DRA provides an example below.

As TURN noted in its reply comments,⁹ PG&E requested 11 new positions to address the projected increase in walk-in traffic to deal with requests for service restoration due to an anticipated upturn in the level of service disconnections for nonpayment PG&E expects over the next few years.¹⁰ As a way of managing its uncollectibles, PG&E is also engaged in a revenue assurance ("RA") program that is targeted toward reducing the timeframe in which it identifies closed accounts that remain unpaid and accelerates the assignment of these accounts to collection agencies.¹¹ This RA program may further exacerbate the accelerated disconnection rate DRA has observed for PG&E CARE customers in the last 12 months or so.

⁷ TURN's Petition, p. 1.

⁸ See EDD's website at http://www.edd.ca.gov/about_edd/News_Releases.htm.

⁹ TURN Petition Reply at 12.

¹⁰ PG&E 2011 General Rate Case (GRC) Notice of Intent (NOI) Exhibit PG&E-4, at 3-6.

¹¹ PG&E 2011 General Rate Case (GRC) Notice of Intent (NOI) Exhibit PG&E-4, at 8-24.

B. The PD Errs in Not Allowing Parties the Opportunity to Identify the Key Issues Associated with Disconnections and Arrearages

The PD discusses some of the proposals presented by TURN in its petition and dismisses the need to consider those proposals based on: 1) data for the period of October 2008 through April 2009, and 2) the IOUs' claims that the average dollar amount of arrearage was small, that the IOUs would offer low-income program information if the customers contact the utilities about payment plans, and that they have increased their low-income outreach¹² to customers.¹³ However, the PD's rejection of TURN's Petition means that neither the Commission nor parties had the opportunity to investigate whether the IOUs' claims were accurate and whether these IOU strategies effectively address customer shut-offs and arrearage issues. For example, since the spike in disconnections is currently concentrated within the CARE customer accounts, signing up customers for CARE will not necessarily help. Moreover, the PD neither considered data trends since April 2009, nor assessed the impacts to the customers and IOUs of service disconnections and reconnections.

1. Disconnections Are Counter-productive and Substantially Erode the Benefits of Public Assistance Programs

The PD stated that low-income customers can benefit from a number of programs that can reduce their bills and certain public assistance programs may be used to reduce utility bills.¹⁴ DRA agrees with the PD that these programs are very vital means of helping customers reduce their bills and DRA is a very active participant in ensuring that the low-income programs are implemented. However, using service disconnections as a tool to urge customers to pay their late bills may counter the objective of those public programs objectives: reducing the hardship on the most vulnerable customers associated with home energy costs and assuring some minimum

¹² IOUs stated that they have increased their low-income outreach to customers to increase participation in the available low-income programs as required by D.08-11-031. (PD at 10.) Low-income programs include CARE, LIEE, FERA, etc. LIEE stands for low income energy efficiency program and FERA is family electric rate assistance program.

¹³ PD at 8-10.

¹⁴ PD at 11.

level of energy service for these customers. Unfortunately, the IOUs seem to be engaging in a significant number of disconnect then reconnect cycles.

IOUs' data showed about 65 – 80% customers disconnected were restored back to the system within two to three days of disconnection.¹⁵ The IOUs appear to be using disconnections as “a necessary evil” to bring customers’ attention to paying off their overdue bills.¹⁶ DRA is dubious about the cost-effectiveness of the significantly high quantity of reconnections occurring shortly after service shut-offs. The following table demonstrates how many accounts were turned off and turned back on¹⁷ for all California IOU residential customers:

TABLE 2

	Year 2009 Disconnections	Year 2009 Reconnections
PG&E	247,616	165,556
SCE	203,376	151,841
SOCALGAS	196,665	134,651
SDG&E	25,744	19,413

DRA is very concerned about the potential high costs imposed on the customers due to service disconnection, and questions the appropriateness of doing so, especially during this economic crisis.

Direct Costs to the IOUs and their Customers

Currently, the IOUs charge \$10 to \$71 for disconnection and/or restoration of services, depending on whether the service is performed the same day, next day, weekend day or after

¹⁵ The IOUs showed a customer reconnection rate ranging from 65 to 80% based on data submitted to DRA. The IOUs also verbally stated to DRA that most reconnections happen quickly, i.e. within two to three days, when service is restored after being shut off. Thus, it is highly probable that most monthly reconnections correspond to disconnections occurring in the same month.

¹⁶ Because customers must pay the amount owed in full on their bills in order to have service restored, disconnection is obviously one method of collecting overdue money owed to the utility and reducing uncollectibles. Additionally, IOUs assert that customers will avoid calling them to make arrange payment plans unless disconnection occurs.

¹⁷ IOUs submitted such data to DRA monthly since May 2009 and the latest data was sent to DRA at the end of September 2009.

hours.¹⁸ In its most recent General Rate Case (GRC) Notice of Intent (NOI) filing, PG&E asserted that its cost to restore service is \$66.5 during core business hours and \$85.0 for after regular business hours; and is requesting to increase its reconnection fees from \$20/25 to \$24/30 for CARE/Non-CARE customers during core hours.¹⁹ Based on the number of PG&E’s claimed restoration costs, it would cost PG&E tens of million dollars annually for its disconnections and reconnections. California ratepayers bear these costs through Commission decisions in GRC proceedings, which ultimately affect the rates they pay for energy service. The following table shows the estimated costs for the disconnections and restoration based on three-year historical shut-offs from the California IOUs.

TABLE 3

	SHUTOFFS COSTS
IOU Costs	\$65,320,110
Customer direct+indirect Costs	\$165,588,397
SUM	\$230,908,508

Other Costs to the Customers

When customers’ services are interrupted, they must pay off their outstanding bills, plus the tariffed disconnection fees and service restoration fees in order to get their service restored. This is the direct cost of the service disconnection and reconnection.²⁰ However, customers incur additional indirect costs caused by service interruptions. For instance, once power is out, food stored in refrigerators may be spoiled which could easily cost each customer a few hundred dollars to replace; (s)he may have a resultant computer outage and lost data or documents; (s)he cannot cook and may have to eat out; and (s)he may have to take off time from work (and lose pay from work) to stay home for the service restoration.

¹⁸ IOUs’ TARIFF RULE No. 11.

¹⁹ PG&E 2011 General Rate Case (GRC) Notice of Intent (NOI) Exhibit PG&E-4, at 8-41.

²⁰ IOUs have different practices, some charges both disconnect and restoration while some charge only restoration. Some requires upfront deposit while some allow deposit to be rolled into payment plans.

On average, CARE customers' arrearages are about \$100- 200/account.²¹ The costs of disconnection can be two or three times that amount. During this economic downturn, when more and more customers are barely able to survive day-to-day, it is unreasonable to apply such a harsh tool to make sure customers pay their bills and IOU uncollectibles are minimized. The CPUC and IOUs should look into other alternatives within the context of a formal proceeding. Unfortunately, the PD did not provide an opportunity for these important issues to be addressed. The fact that a rulemaking is commenced does not mean that all or even any of TURN and DRA's recommendations will be adopted, but at least the Commission can consider them.

There is an urgency to address this issue **now** so that IOUs can discuss, research, gather facts, hold Public Participation Hearings, and discuss alternatives on their disconnection policies. Currently, IOUs claim that they do not have adequate resources to disconnect all the customers that are late in paying their bills. However, advance metering infrastructure ("AMI") will likely make remote disconnections much easier and less costly to the utilities. Therefore, IOUs may be tempted to disconnect even greater number of customers faster after AMI is installed. The costs could be quite substantial especially if this results in a greater number of service disconnections. The issue of AMI disconnections has not been addressed yet in a proceeding, yet the PD rejected the Petition. In Finding of Fact # 32, the PD rejects TURN's proposal to "reduce incentives for utilities to shut off services." The PD's finding fails to recognize that just a two or three day disconnection of service of utility service could cause great harm to people. Such reasoning by the PD, which in large part resulted in rejecting the Petition, is not only inequitable, it is also inconsistent with decisions by the U.S. Supreme Court and this Commission. The U.S. Supreme Court explicitly has stated that "Utility service is a necessity of modern life; indeed, the discontinuance of water or heating for even short periods of time may threaten health and safety."²² In D.09-09-030, the Commission rejected SDG&E's de-energization proposal to shutoff power because "shutting off power for output [up to 72 hours] would impose a number of hardships on people with disabilities."²³

²¹ This is based upon PG&E data between 2006-2009 and SCE data of April-June 2009.

²² *Memphis Light, Gas & Water v. Craft* (1978) 436 U.S. 1, 19

²³ [D.09-09-030; 2009 Cal. PUC LEXIS 437 \(Cal. PUC 2009\)](#)

2. The Commission Will Lose the Opportunity to Address Key Issues Associated with Customer Disconnections if the PD is Adopted

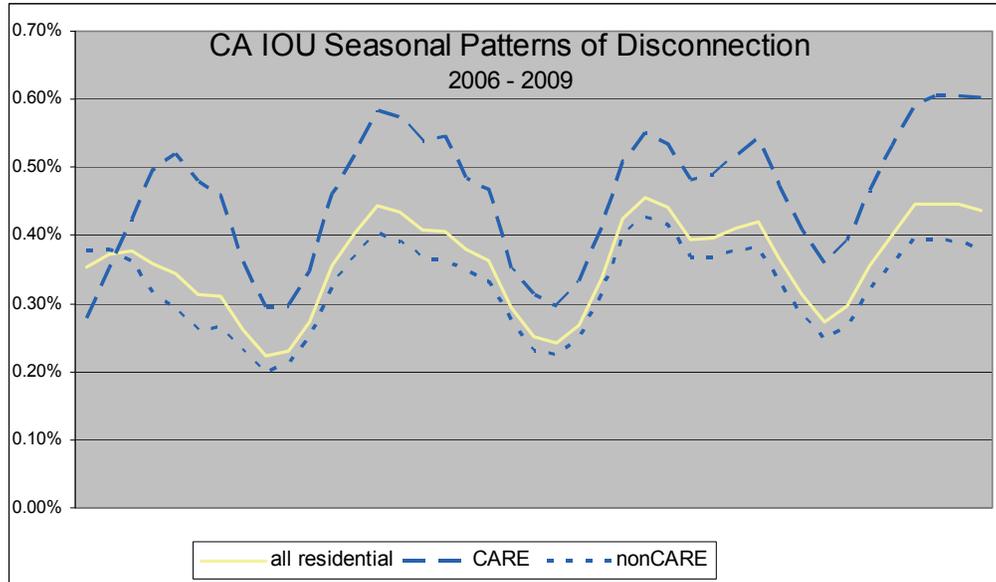
Disconnection is not only costly, it violates the basic principle that the energy utilities have a public service obligation to serve California customers.²⁴ Based on the data that the majority of customers were reconnected within three days after disconnection, it is important that the Commission implement policies that will direct the IOUs to make every effort to help these customers avoid such interim disconnections. The Commission should reject the PD and open a rulemaking as TURN petitioned to allow a full investigation of the alternatives to disconnection. In its Petition, TURN did not ask for a resolution of the issues it listed, but instead Petitioned for a Commission proceeding. DRA provides a preliminary recommendation list for the Commission to consider in a rulemaking:

Require IOUs to Bring the Disconnection Rate for CARE in Line with the non-CARE Rate and Keep It No Higher than Historical Averages with or without AMI Remote Shut-off Capability

Currently, the average disconnection rate for CARE customers is higher than the average rate of overall residential customers. Historically, the disconnection rate for non-CARE customers ranged from approximately 0.16% to 0.51% while the CARE disconnect rate ranges between 0.23% to 0.65% and has stayed at the high end of that range in recent months (i.e. roughly 0.6%) as the chart shown below.²⁵ The Commission should consider whether the IOUs should bring down the disconnection rate for CARE customers to be more in line with that of the non-CARE customers. However, it is important that AMI will not be used as a tool to exacerbate the overall disconnection rate via AMI remote service disconnection. Therefore, even if AMI remote disconnection is used, the IOUs should keep the CARE customer disconnection rate on par with the historical average levels for non-CARE customers.

²⁴ See, e.g., *General Motors Co. v. Tracy* (1997) 519 U.S. 278, 297 ([Utilities] serve all members of the public, without discrimination, throughout their fields of operations. ... They could not ‘pick out good portions of a particular territory, serve only select customers under private contract, and refuse service . . . to . . . other users.’”) See also D.08-12-058, 2008 Cal. PUC LEXIS 534 *199 - *200 (“Pursuant to § 451, SDG&E as an electric utility is required to provide ‘adequate, efficient, just and reasonable service...and facilities,...as necessary to promote the safety, health and convenience of...the public,’ including obtaining adequate supplies of electricity for use by its customers.”).

²⁵ Chart reflects 3-month moving average data for the duration from 2006 through 2009 to date.



IOUs Should Give Priority Installation of the Programmable Communicating Thermostat Load Control Program to Customers Who are likely Candidates for Frequent Disconnection.

Last year, SCE committed that it would sign up 60,000 to 70,000 customers per year for advanced meters and it would provide for free and install the programmable communicating thermostat (PCT) load control device for customers that sign up the program.²⁶ The PCT device may help customers monitor their energy usage in near real time basis and, thus, may help them control their usage and manage their bills. DRA recommends that the IOUs give PCT installation high priority to customers with more difficulties paying their bills to assist them in manage their arrearages. Again, the proposed Rulemaking that the PD erroneously denied would have been the only forum for the Commission and parties to discuss this new technology.

IOUs Should Engage In Proactive Communications with Customers and Should Use an Integrated Public Assistance Program Approach Before Disconnection Takes Place.

IOU customer service representatives should explain and offer assistance programs and payment plan options during all customer-initiated calls, as well as initiate calls to customers who are late in their payments to explain and offer assistance program enrollment and arrange

²⁶ D.08-09-039, Attachment B.

payment plan options. This proactive approach may help reduce the number of customers being disconnected, especially during the current economic downturn.

Offer Notice Communication Options

The IOUs should offer customers the option of signing up for late payment and disconnection notices via phone calls, e-mails, text-messaging, and 3rd party notification to increase the awareness of late payment and possible disconnections. The customers could choose the most effective means for IOUs to reach them.

Aggressive Customer Contact Prior to Disconnection

Current IOU tariff rules requires that the energy IOUs **make a reasonable attempt to contact an adult residing at the customer's residence either by telephone or in person** at least 24 hours prior to terminating service. Not each IOU makes the same reasonable attempt to contact an adult prior to terminating services. SoCalGas' tariff shows a more comprehensive customer contact approach as described below²⁷:

- a. The Utility will solicit or verify customer telephone numbers when customers request that service be turned on, when customers contact the Utility for any type of service order or extension, and when the Utility contacts customers at the time of termination of service.
- b. At least two attempts will be made to personally contact an adult on the customer's premises in order to avoid discontinuance of service.
- c. Whenever telephone contact cannot be accomplished, the Utility shall give by mail a notice of termination of service at least 48 hours prior to termination. The Utility shall maintain a record of the mailed notice.
- d. At the time of termination of service, the Utility shall attempt to personally contact an adult on the customer's premises in order to avoid discontinuance of service.
- e. Where the Utility is aware that there is an elderly (age 62 and over) or handicapped residential customer, the Utility shall provide at least 48 hours notice by telephone or by visit; however, if personal contact cannot be made, a notice shall be posted in a conspicuous location at the service address at least 48 hours prior to termination.

SoCalGas' efforts appear to result in greater success for customers. Among all California IOUs, it has the lowest disconnection rate. DRA encourages the use of SoCalGas' model as the cost for customer service interruption certainly exceeds the cost associated with attempts made by the IOUs' to prevent disconnection. Other IOUs are welcome to design other approaches that best accomplish the objective to get more customer attention and design plans to pay before actual disconnect occurs.

²⁷ SoCalGas Tariff Rule 8.

Provide Customer Options and Service Interruption Cost Information in Disconnection Notices

In its Comments on TURN's Petition, SCE's asserted that it has modified the Final Call (48-hour) notice to include a payment arrangement offer to residential customers having difficulty paying their bills and that it aggressively communicated these policy changes through its Customer Call Center, outreach opportunities in various communities, as well as through the media. SCE further claimed that these efforts have resulted in more customers participating in payment plans and a reduced percentage of customers in arrears. DRA supports such practices to alleviate arrearage and unnecessary disconnection and reconnection cycles. TURN's Petition began such positive dialogue, but unfortunately the PD terminated such valuable sharing of information.

DRA also recommends that the IOUs add language in their late payment notices to provide a list of options to customers, such as payment plans, public assistance programs, and identification of the costs that the customer may face when disconnection occurs. The latter could include disconnection fees, restoration charges, and examples of indirect costs, such as spoiled food replacement, costs associated with damaged equipment, foregone wages, etc.

Provide Incentives to Customers Fulfill Commitment to Payment Plans or Autopayment Enrollment

As indicated in the section II.B.1 above, disconnection and reconnection are costly to both the IOUs and their customers. The IOUs should review their own disconnection/reconnection costs and the Commission should consider using a fraction of those costs as an incentive that may help customers avoid disconnection and help them make their payments. For instance, the IOUs may provide some monetary incentive, such as waiving deposit fees and/or restoration charges in exchange for customers signing up autopay. Alternatively, IOUs could encourage customers to adhere to their agreed monthly payment plan (the payment plan should be designed in a way that the customers can afford to pay) for a specified number of months (11 months, for example,) and they would receive a one month free service at the end of the payment plan period. Such incentives can be designed for the period during this economic down turn and sunset when the economic conditions have improved. These are merely examples that DRA believes worthwhile to explore within a Rulemaking.

Survey Customers to Find the Most Effective Means in Assisting Them

DRA also urges IOUs to take the opportunity when they disconnect or restore customer service to find out what specific difficulties these customers normally face. This could be vital input in determining what tools are most useful in helping them to avoid future disconnections.

IOUs Share Best Practices On An On-Going Basis.

DRA is pleased to learn that IOUs have recently had discussions regarding their best practices. It is important that IOUs continue such discussions and seize opportunities to learn good lessons from one another. DRA recommends that the Commission Energy Division (“ED”) staff facilitate such an information exchange on an on-going basis or serve as an information depository that can be shared by all of the IOUs.

III. CONCLUSION

For the reasons stated above, the PD should be modified to grant TURN's Petition.

Respectfully submitted,

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APPENDIX A

Findings of Fact

1. TURN and supporting parties agree that there are a number of programs are currently offered ~~that address the needs of~~ for low-income customers by providing bill discounts, weatherization and energy efficiency services, including CARE, FERA, LIEE and LIHEAP. Despite this vitally important programs, large number of households continue to fall behind in utility payments, including those enrolled in the CARE program.

2. The utilities offer the REACH program (PG&E), the EAF program (SCE), the NTN program (SDG&E) and the GAF program (SCG) which offer grants to pay utility bills. These programs are insufficient to prevent the significant increase in disconnections of utility service.

3. A large proportion of customers with disabilities are low-income customers, who medically depend on energy services.

4. Medical baseline provides additional quantities of energy at the baseline rate for residential customers on life-support equipment or who have special heating and cooling needs due to certain medical conditions. In addition, all usage in excess of 130% of baseline is billed at Tier 3 rates, thus avoiding higher Tier 4 and 5 rates.

5. Recent data indicates a growing trend of CARE customers struggling to make their payments and being shutoff from their service. All California energy IOUs, except Southern California Gas Company (SoCalGas), show substantially higher numbers of CARE customer disconnections for the same first eight months in year 2009 compared to those in 2008. Disconnections of California CARE customers have increased on average by 25% over 2008 levels. ~~The table in TURN's petition showing the percentages of customers whose bills were not paid in full by the due date for PG&E and SCE for October 2008 through April 2009 indicates variability in the percentages of customers~~

whose bills were not paid in full by the due date, but does not indicate an overall upward trend in the percent of customers who have not paid their bills by the due date.

6. ~~The fact that a customer has not paid the bill in full by the due date does not necessarily mean the customer will not ultimately pay the bill or have service terminated.~~

7. Recent Data the table in TURN's petition showing shutoffs for nonpayment for October 2008 through April 2009 for the four utilities indicates variability in the number of shutoffs, but does not indicate an overall upward trend in shutoffs.

8. Even Wwith all of the programs available to low income customers and the funding provided by D.08-11-031, there are not enoughample opportunities for customers to avoid arrearages and shutoffs.

9. ~~An arrearage forgiveness program needs to be considered at this time.~~

10. ~~Since an arrearage forgiveness program could create an incentive for customers to not pay all or part of their bills, the program would have to be structured to minimize this incentive.~~

11. Existing low-income programs determine the customer's eligibility based on income.

12. ~~An arrearage forgiveness program, as proposed by TURN, would have to look at the customer's ability to pay, which would involve looking at each customer's income and expenses to determine if the customer is truly unable to pay the arrearages.~~

13. ~~An examination of the customer's ability to pay would likely be invasive of the customer's privacy and costly to implement.~~

14. ~~If the examination of the customer's ability to pay is less thorough, the likelihood of the arrearage forgiveness being given to customers who should not receive it would increase.~~

15. During the Rulemaking, parties could discuss a reasonable method on how to address the aArrearage problem. ~~forgiveness program costs would have to be recovered from ratepayers resulting in higher rates.~~

16. Existing payment plans provide for amortization of the outstanding balance over up to 12 months.

~~17. For PG&E, the average balances for customers with arrearages under 365 days are approximately \$100.~~

18. For SCE the average monthly bill for a CARE customer was \$50 in 2008 and the average past due amount at the time of shutoff was \$174.

~~19. There is no reason to believe arrearages for SDG&E and SCE would be substantially different from PG&E and SCE.~~

~~20. On average, an amortization of an arrearage over up to 12 months would not be excessively burdensome to customers.~~

~~21. An increase of the maximum amortization period to more than 12 months is not necessary at this time.~~

~~22. Since the utilities offer information about low income plans such as CARE and LIEE to customers who contact them about payment plans, TURN's proposal that they do so is moot.~~

23. The utilities have increased their low-income outreach to customers with high energy use to increase participation in the available low-income programs. Yet, the outreach has still not resolved the issue in the rising shutoffs among low-income customers as required. D.08-11-031, and have increased the number of CARE-eligible customers participating in CARE. Yet, the shutoffs and disconnections have increased for CARE customers.

24. There has ~~been no overall~~ a significant upward trend in ~~arrears or~~ shutoffs of CARE customers since D.08-11-031 was issued ~~despite~~ due to the decline in the economy and an extremely high unemployment rate. In August, 2009, California's unemployment rate had increased to 12.2%, compared to 7.6% in August, 2008.

~~25. Existing low income programs are working.~~

26. PG&E can require up to two times the customer's highest monthly bill as a deposit, but currently requires two times the customer's average monthly bill, and the deposit may be paid over time as part of a payment arrangement. For a low-income customer with no access to money, this is extremely burdensome. In addition to paying off their outstanding bills, plus the tariffed disconnection fees and service restoration fees in order to get their service restored, customers incur additional indirect costs caused by service interruptions. For instance, once power is out, food stored in refrigerators may be spoiled which could easily cost each customer a few hundred dollars to replace.

27. SCE may reduce or waive deposits based on the customer's account history, and the deposit may be paid over time as part of a payment arrangement.

28. SDG&E requires a deposit of two times the customer's highest bill. For a low-income customer with no access to money, this is extremely burdensome.

29. SGC requires a deposit of two times the customer's average bill. For a low-income customer with no access to money, this is extremely burdensome.

~~30. Deposits are intended to recover past due amounts and provide some assurance that customers will pay for energy subsequently used.~~

~~31. TURN's proposal to waive deposits could force the utilities to serve customers who may be unable to pay their bills.~~

~~32. TURN's proposal to temporarily subject utility uncollectibles associated with residential customer accounts to two-way balancing account treatment as a means of funding its other proposals, and reducing the incentive for utilities to shut off service to minimize uncollectible amounts, would put off cost recovery to future rates.~~

Conclusions of Law

1. In D.08-11-031, the Commission approved LIEE program budgets for PG&E, SDG&E, SCE and SCG totaling \$1 billion for 2009-2011 and CARE budgets totaling \$2.6 billion for 2009-2011. The Commission also: (1) directed IOUs to increase outreach

to LIEE customers who are high energy users, have high energy burden, have high energy insecurity, or are disabled; (2) set a 90% CARE penetration goal for the 2009-2011 period; and required the utilities to provide weatherization and related energy services to 1,052,651 households under the LIEE program over the 2009-2011 period.

2. Existing low-income programs are not sufficient at this time to address shutoffs, disconnections, and arrearage management and further investigation is ~~not~~ needed.

3. By granting the Petition, recommendations of the alternatives to disconnects can be further explored in the rulemaking.

4. Disconnection is not only costly, it violates the basic principle that the energy utilities have a public service obligation to serve California customers.

3.5. Petition 09-06-022 should be approved. ~~denied~~.

ORDER

IT IS ORDERED that:

1. Petition 09-06-022 is approved. ~~denied~~.

2. Petition 09-06-022 is opened as a Rulemaking. ~~closed~~.

This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of “**COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON THE ADMINISTRATIVE LAWJUDGE’S PROPOSED DECISION DENYING PETITION OF THE UTILITY REFORM NETWORK FOR A RULEMAKING REGARDING ARREARAGE MANAGEMENT AND SHUTOFF PREVENTION**” in **P0906022** by using the following service:

E-Mail Service: sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

U.S. Mail Service: mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed in San Francisco, California, on the 15th day of October, 2009.

/s/ NELLY SARMIENTO

NELLY SARMIENTO

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address and/or e-mail address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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