



FILED

06-30-11
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Revise and
Clarify Commission Regulations Relating to
the Safety of Electric Utility and
Communications Infrastructure Provider
Facilities

Rulemaking 08-11-005
(Filed November 6, 2008)

**COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF COMMISSIONER SIMON
ON PHASE II ISSUES IN R.08-11-005**



June 30, 2011

Nina Suetake, Staff Attorney
Regina Costa, Telecommunications Director
Gayatri Schilberg, JBS Energy Inc.
Consultant for TURN

THE UTILITY REFORM NETWORK
115 Sansome Street, 9th Floor
San Francisco, CA 94104
Email: nsuetake@turn.org
Office: (415) 929-8876
Fax: (415) 929-1132

**COMMENTS OF THE UTILITY REFORM NETWORK
ON THE PROPOSED DECISION OF COMMISSIONER SIMON
ON PHASE II ISSUES IN R.08-11-005**

Pursuant to Rule 14.3 of the California Public Utilities Commission’s (“PUC” or “Commission”) Rules of Practice and Procedure TURN provides the following comments on the Proposed Decision of Commissioner Simon on Phase II Issues (“PD” or “Proposed Decision”) entitled *Decision Adopting Regulations to Reduce Fire Hazards Associated with Overhead Power Lines and Communications Facilities*.

I. Contested Issue 7A, Rule 25, Paragraph 4

The PD adopts the Joint Utilities’ proposal to authorize electric utilities to shut off power to customers who obstruct vegetation management on their property but provides certain restrictions on this ability. The PD authorizes the electric utilities to shut off power to the property where the vegetation hazard is occurring and only one additional meter serving either the property owner’s primary residence or, if the property owner is a business entity, then at the entity’s primary place of business. The PD clarifies that this ability does not apply to state or local government customers. The PD declined to require increased notice requirements, as requested by TURN and instead stated, “prior to shutting off power, electric utilities shall follow the procedures and notice requirements applicable to discontinuance of service for non-payment, including the requirements applicable for sensitive customers, customers who are not proficient in English, and other customer groups.”¹

TURN originally requested the increased notice requirement, in part, because of

¹ Proposed Decision of Commission Simon in Phase II of R.08-11-005 (henceforth “Proposed Decision”), p. 88.

the unfair harm that this expanded shut off power may cause to tenants of a multifamily dwelling if their landlord obstructs vegetation management activities either on the rental property or on his or her own personal property.² TURN therefore requests that the PD specifically state that the heightened notices requirements for multifamily accommodations for termination of service due to non-payment also applies when the utilities seek to terminate service at a multifamily accommodation due to vegetation management disputes.

The PD also states that electric utilities may shut off power to the obstructing property owner's residence or primary place of business at any time for vegetation hazards that pose an immediate threat to public safety.³ The PD requires electric utilities who terminate service under these circumstances to attempt to contact the property owner by daily visits to the property owner's residence or primary place of business, in addition to sending written notice, until contact is achieved and the property owner is notified why power has been shut off and what steps need to be taken to restore power. While TURN does not object to this authorization and appreciates the increased notice requirements under this scenario, TURN is concerned how immediate termination of service may affect medical baseline customers who require electric service for life support.

In such cases immediate termination of service may be life threatening an after-the-fact visit will not mitigate the harm. TURN therefore requests that the Commission

² See e.g., PG&E Electric Rule 8 and SCE Electric Rule 8. Existing rules for multifamily dwellings require a 10-day notice period for a multifamily accommodation with individual meters that are in the name of the property owner, as well as the requirement that the utility notify the individual tenants that they have the right to become the customer of record on the account. For master-metered service to a multifamily accommodation, the utility shall post notice of service termination 15 days prior to shutting off service.

³ Proposed Decision, p. 88.

specify that the prior to terminating service, the electric utilities must first check to see if the property takes service under a medical baseline allowance with a specific requirements for life support devices. The applications for a medical baseline allowance for San Diego Gas & Electric Company, Southern California Edison Company, and Pacific Gas & Electric Company all require an applicant to specify whether they require special life-support equipment so, presumably, the utilities have a record of which medical baseline customers require service for life support devices. In the event that a utility must shut off power to a location that is listed as receiving medical baseline service for life support equipment, the Commission should require, at a minimum, that the utility send field personnel to the location at the time the power is to be shut off in order to attempt immediate contact with the customer at that location.

The PD agrees with TURN and CPSD that the authority to shut off power to a customer who obstructs vegetation management should be added to the utilities' tariffs as a "condition of service".⁴ TURN, however, also recommends that the Commission require the utilities to update their Electric Rule 8, which outlines notice requirements for non-payment, to specifically state that the notice requirements also apply to terminations due to vegetation management disputes.

⁴ *Id.*

II. Cost Recovery

A. Cost Recovery for the Electric IOUs

Under the cost recovery mechanism for the electric IOUs outlined in the PD, the electric IOUs are required to track and record their costs to implement the regulations adopted in this proceeding in the Fire Hazard Prevention Memorandum Accounts (“FHPMA”) that were established pursuant to the Phase 1 decision. The PD permits the electric utilities to recover the costs recorded in its FHPMA by filing one or more applications until the first GRC that occurs after the close of this proceeding, at which time the FHPMA will be closed. From that point forward, the electric utility may then use the GRC mechanism to request recovery of the costs associated with this rulemaking.

TURN appreciates the PD’s attempt to strike a balance between the utilities’ desire to recover the costs associated with this proceeding and the need for the Commission and parties to be able to verify and assess the reasonableness of the recorded costs. However, while applications for cost recovery would allow parties to review a utility’s recorded costs more rigorously than through advice letters, the PD’s reliance on stand-alone applications fails to consider the cost and availability of resources necessary to review stand-alone applications. The Commission and parties would be better served by requiring the utilities to request recovery of costs related to this rulemaking in their next GRC. In a GRC, the Commission would be able to review the costs against a full and complete record and in the context of the Utilities’ total revenues, expenses, and assets. The costs already incurred for activities such as vegetation management can be easily compared to both historical and forecast costs for the same activity in a GRC since the data would be readily available to do so. Reviewing these costs in the context of a GRC would save the Commission and all parties, including the utilities, both money and

resources and would be a more effective and efficient vehicle in which to assess the reasonableness of recorded costs than stand-alone applications. TURN therefore recommends that the Commission modify the PD to require the electric utilities to file for the recovery of costs related to this Rulemaking in their next GRC.

As written, the PD appears to only allow the electric utilities to recover the costs in their FHPMAs through stand-alone applications. If the Commission declines to require the utilities to recover costs in their next GRC, the Commission should at least modify the PD to provide utilities the option of waiting until their next GRC to request recovery. This would be beneficial to utilities that have incurred only relatively minimal costs to comply with this rulemaking and would save their ratepayers the cost of litigating a stand-alone application.

B. Cost Recovery for the Small LECs

The cost recovery mechanism adopted for the Small Local Exchange Carriers (Small LECs) strikes a good balance in that it allows for timely recovery of costs, while ensuring that ratepayers will not be asked to pay for costs that are unreasonable. The PD permits the Small Local Exchange Carriers (“Small LECs”) to recover costs recorded in their FHPMAs through California High Cost Fund-A (“CHCF-A”) Tier 3 advice letters.⁵ The Commission will verify and assess the reasonableness of these costs as part of its review of Small LEC’s annual CHCF-A advice letters. This procedure can be used until the first GRC that occurs after the close of this proceeding. For those carriers who have opted out of CHCF-A, they may seek to recover costs recorded in their FHPMA as part of their next GRC.

⁵ Proposed Decision, p. 145.

While it is true that Small LECs are not required to file GRCs, this procedure gives them an incentive to do so. As the PD points out, an ILEC that does not file a GRC will eventually lose CHCF-A support and the ability to recover FHPMA costs through the Advice Letter. And carriers who have opted out of CHCF-A will need to file GRC's to recover FHMPA costs. Thus, the requirements imposed by the PD will not only ensure the recovery of only reasonable costs, but will likely encourage the Small LECs to file GRCs, which would provide the Commission with the opportunity to review their operations. The PD's recommendation regarding Small LEC cost recovery should be adopted.

Dated: June 30, 2011

Respectfully submitted,

_____/S/_____

Nina Suetake, Staff Attorney for

THE UTILITY REFORM NETWORK

115 Sansome Street, 9th Floor

San Francisco, CA 94104

Direct Line: (408) 916-3691

Phone: (415) 929-8876

Fax: (415) 929-1132

Email: nsuetake@turn.org