PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ID#4071

ENERGY DIVISION **RESOLUTION G-3369**
December 16, 2004

R E S O L U T I O N

Resolution G-3369. Pacific Gas and Electric Company (PG&E) seeks revisions to Gas and Electric Rule 17.1 – Adjustment of Bills for Billing Error and Rule 17.2 – Adjustment of Bills for Unauthorized Use, and addition of Gas and Electric Rule 17.3 – Limitation on Adjustment of Bills for Energy Use. Approved with modifications.

By Advice Letter (AL) 2581-G / 2568-E filed on October 15, 2004.

SUMMARY

PG&E proposes to modify electric and gas Rules 17.1 and 17.2 to limit a residential customer's exposure to three months for undercharges resulting from PG&E's failure to deliver an actual or estimated bill. PG&E also proposes new Rule 17.3 to address when customers may be back billed for up to 3 years. We grant PG&E's proposal with modifications as summarized below:

- Consistent with existing CPUC tariffs failure to issue a bill constitutes billing error. If billing error has occurred, Rule 17.2 addressing unauthorized use shall not apply, and PG&E may only back bill residential customers for undercharges for a period of 3 months.

- As specified in this resolution PG&E shall revise gas and electric Rules 9 and 17 to show when the issuance of estimated bills constitutes billing error for purposes of applying Rule 17.1; PG&E shall also remove the reference to "unusual conditions" in the portion of Rule 9 which addresses estimated bills.

- If PG&E cannot read a meter and must estimate a bill due to a cause under the control of the customer, PG&E shall promptly notify the customer in

writing about the situation; the notice shall inform the customer of the consequences of a continued lack of access to the meter.

- The billing delays and billing estimates resulting from implementing PG&E's billing system constitute billing error for purposes of applying Rule 17.1.

- PG&E shall modify Rule 17.2 to reflect that PG&E shall bill a customer for unauthorized use only if the customer benefited from the unauthorized use.

- The tariff changes we authorize today are declarative of existing CPUC tariffs and requirements, including those set forth in Decision (D.) 86-06-035. PG&E's tariffs should have been interpreted in the manner we specify herein prior to the date that PG&E requests AL 2581-G / 2568-E become effective.

- The tariff changes authorized in this resolution affect customers' billing obligations for bills rendered prior to the effective date of these changes.

- PG&E's proposed Rule 17.3 is denied. The rule as proposed by PG&E is overly broad and vague.

- PG&E shall file an advice letter within 30 days to propose how it will bring its past billing practices into compliance with the tariffs approved in this resolution.

BACKGROUND

D.86-06-035 established procedures for retroactive billing by gas and electric utilities to correct alleged under billings.

In D.86-06-035 the Commission established rules applicable to gas and electric utilities regarding application for service, disputed bills, discontinuance of service, and adjustment of bills for billing error, meter error, and unauthorized use. These rules form the basis for the utilities' tariff Rules 9 relating to rendering of bills, Rules 17 and 17.1 on meter tests and adjustments for meter and billing error, and Rule 17.2 regarding adjustment of bills for unauthorized use.

Tariff Rule 9 requires PG&E to typically read meters and render bills monthly; PG&E may estimate bills for reasons beyond PG&E's control.

PG&E's gas and electric tariff Rule 9 establishes that meters will be read as nearly as possible at regular intervals, and that except as otherwise stated, the regular billing period will be once each month.

Rule 9 also allows PG&E to estimate bills. Rule 9C states:

> "If, because of unusual conditions or for reasons beyond the meter reading entity's control, the customer's meter cannot be read on the scheduled reading date, or if for any reason accurate usage data are not available, PG&E will bill the customer for estimated consumption during the billing period. Estimated consumption for this purpose will be calculated considering the customer's prior usage, PG&E's experience with other customers of the same class in that area, and the general characteristics of the customer's operations."

Tariff Rule 17 allows PG&E to estimate a customer's usage for billing purposes if accurate meter readings are not available or usage has not been accurately measured.

Gas and electric tariff Rule 17 address meter tests and adjustment of bills for meter error. Rule 17.B.5 states that PG&E may estimate a customer's gas or electric usage for billing purposes when regular, accurate meter readings are not available or usage has not been accurately measured.

Tariff Rule 17.1 defines billing error and allows PG&E to adjust residential bills for undercharges due to billing error for a period of 3 months; for nonresidential customers adjustments may be made for a period of 3 years.

PG&E's gas and electric Rule 17.1A define billing error. Gas Rule 17.1.A states:

> "Billing error is the incorrect billing of an account due to an error by PG&E or the Customer which results in incorrect charges to the Customer. Billing error includes, but is not limited to, incorrect meter reads or clerical errors, wrong daily billing factor, wrong connected load information, crossed meters, an incorrect billing calculation, an incorrect meter multiplier, an inapplicable rate, or PG&E's failure to provide the Customer with notice of rate options in accordance with Rule 12.

> Field error, including, but not limited to, installing the meter or regulator incorrectly, is also considered billing error.
>
> Billing error which does not entitle the Customer to a credit adjustment includes failure of the Customer to notify PG&E of changes in the Customer's connected load, equipment or operation or failure of the Customer to take advantage of any noticed rate option or condition of service for which the Customer becomes eligible subsequent to the date of application for service."

Electric Rule 17.1.A states:

> "Billing error is the incorrect billing of an account due to an error by PG&E, the energy service provider (ESP), or its agents, or the Customer which results in incorrect charges to the Customer. Billing error includes, but is not limited to, incorrect meter reads or clerical errors, wrong daily billing factor, incorrect voltage discount, wrong connected load information, crossed meters, an incorrect billing calculation, an incorrect meter multiplier, an inapplicable rate, or PG&E's and/or the ESP's failure to provide the Customer with notice of rate options in accordance with Rule 12. Billing error shall also include errors or failures of PG&E, an Energy Service Provider (ESP), or its agent, to properly edit and validate meter data into bill quality data pursuant to meter data processing standards and protocols adopted by the Commission.
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> Field error, including, but not limited to, installing the meter incorrectly and failure to close the meter potential or test switches, is also considered billing error.
>
> Billing error which does not entitle the Customer to a credit adjustment includes failure of the Customer to notify PG&E of changes in the Customer's connected load, equipment or operation or failure of the Customer to take advantage of any noticed rate option or condition of service for which the Customer becomes eligible subsequent to the date of application for service."

Gas and electric Rule 17.1.B allows PG&E to adjust bills for billing errors. According to the rule PG&E may bill a residential customer for the amount of an undercharge due to billing error for a period of 3 months. PG&E may bill a nonresidential customer for the amount of an undercharge resulting from billing error for a period of 3 years. Rule 17.1.B.2 states:

> "a. RESIDENTIAL SERVICE
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> If a residential service is found to have been undercharged due to a billing error, PG&E may bill the Customer for the amount of the undercharge for a period of three months. However, if it is known that the period of billing error was less than three months, the undercharge will be calculated for only those months during which the billing error occurred.
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> b. NONRESIDENTIAL SERVICE

> If a nonresidential service is found to have been undercharged due to a billing error, PG&E may bill the Customer for the amount of the undercharge for a period of three years. However, if it is known that the period of billing error was less than three years, the undercharge will be calculated for only those months during which the billing error occurred."

Tariff Rule 17.2 allows PG&E to investigate and recover charges for unauthorized use of gas and electricity.

Gas and electric tariff Rule 17.2 permits PG&E to investigate and recover charges for unauthorized use, for example when meter tampering or unauthorized connection of service has occurred. PG&E may adjust bills for unauthorized use based on actual meter readings if they are available or on estimates if accurate readings are not available.

The Commission has received a high level of complaints from PG&E customers regarding delayed and estimated bills; some related to PG&E's new billing system.

In 2003 and 2004 the Commission's Consumer Affairs Branch (CAB) received a significant number of complaints from PG&E customers claiming that PG&E failed to bill them for actual gas or electric usage on a regular monthly basis as specified in tariff Rule 9. In some cases PG&E failed to issue a bill for several months, and subsequently issued a single bill covering all the previous months not billed ("back bill"). In other cases PG&E estimated a customer's bill for several months and later rendered a back bill for undercharges associated with the difference between estimated usage and the actual usage during the months usage was estimated.

PG&E issued a relatively large number of delayed bills in 2003. "Delayed" in this context refers to a bill that is issued more than 60 days after gas or electric usage occurred. PG&E informed Energy Division that some delayed bills in 2003 were related to implementation of PG&E's new billing system (the CorDaptix system or "CDx") at the end of 2002.

Data provided by PG&E to the Energy Division show that the number of delayed bills peaked in July 2003 when PG&E issued about 59,600 such bills. Between April 2002 and December 2002 the number of delayed bills varied between about

14,000 and 24,000 per month. From March through August 2004 the number of delayed bills was in the range of 14,000 to 20,000 per month.

The number of estimated bills (in which either gas, electricity, or both gas and electricity usage were estimated) has varied. Between December 2002 and August 2004 PG&E issued estimated bills in the range of 52,650 (March 2003) to about 179,400 (January 2003) per month. PG&E issues about 5.5 million bills each month.

The Commission's Executive Director called on PG&E to suspend collection activities for overdue amounts related to delayed and estimated bills.

By letter to PG&E dated October 12, 2004 the Commission's Executive Director noted the numerous customer complaints related to delayed and estimated bills. The Executive Director stated that if PG&E is experiencing circumstances requiring it to estimate so many bills each month that it should proactively address the situation. The Executive Director requested that PG&E stop collecting overdue amounts from residential customers that date back more than 90 days and referred to Rule 17.1.

In response to the letter from the Executive Director PG&E proposed revisions to gas and electric Rules 17.1 and 17.2 and the addition of Rule 17.3.

By AL 2581-G/2568-E filed on October 15, 2004 PG&E proposes to add language to Rule 17.1 indicating that billing error includes failure to issue a bill, actual or estimated. PG&E also seeks by the AL to add language to Rule 17.2 stating that meter or billing errors defined under Rule 17.1 do not constitute unauthorized use. In addition PG&E proposes to add Rule 17.3 which would allow it to make billing adjustments covering a period of three years in situations not defined as billing error, meter error, or unauthorized use. PG&E notes that Southern California Edison Company's tariff Rule 17.F contains language similar to what PG&E proposes in Rule 17.3.

PG&E requests that AL 2581-G/2568-E become effective on October 13, 2004. PG&E points out that the Executive Director requested that it discontinue collection of overdue amounts from residential customers that exceed the three-month limit set forth in Rule 17.1. PG&E states that the tariff changes it proposes modify Rules 17.1 and 17.2 to implement the three-month limit and that the changes would not affect customers' billing obligations for bills rendered prior to the proposed effective date of the AL.

NOTICE

Notice of AL 2581-G/2568-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the AL was mailed and distributed in accordance with Section III-G of General Order 96-A. On October 21, 2004 PG&E issued an electronic copy of the AL to the service list in its test year 2003 general rate case Application (A.) 02-11-017.

PROTESTS

TURN recommends that the Commission reject PG&E's advice letter and instead conduct a comprehensive investigation; otherwise TURN proposes modifications to the AL.

TURN protested AL 2581-G/2568-E on November 4, 2004. TURN recommends that we reject the AL and consider issues raised by the AL in a formal proceeding. After issuing its protest on PG&E's AL, TURN filed a motion in PG&E's test year 2003 general rate case A.02-11-017 requesting that the Commission open an investigation into PG&E's billing and collection practices. TURN proposes the modifications summarized below in the event that we consider the AL:

- Failure to issue a timely and accurate bill whether due to reliance on estimated meter reads or other delays constitutes billing error and did so prior to issuance of AL 2581-G/2568-E.
- Extended reliance on an estimated bill constitutes billing error as tariffs are currently written.
- Rule 17.1 should not exclude from billing error causes beyond the reasonable control of the utility.
- PG&E's proposed Rule 17.3 should be rejected.
- PG&E's assertion that bills rendered prior to the effective date of AL 2581-G/2568-E are not subject the provisions of the tariffs proposed in the AL should be rejected.

PG&E states that TURN's protest is unfair and unreasonable and urges the Commission to reject the protest.

PG&E responded to TURN's protest on November 12. A summary of PG&E's response is as follows:

- PG&E cannot eliminate all estimated bills; limiting adjustments of estimated bills to 3 months is unfair; estimation is justified for extended periods for reasons beyond PG&E's control such as when roads are inaccessible, or access to the meter is denied.
- Under TURN's proposal a customer would have a financial incentive to block access to a meter since PG&E would only be able to back bill for a 3 month period.
- PG&E cannot be limited to 3 months for adjustment of delayed bills when the cause is beyond the utility's reasonable control.
- PG&E's proposed Rule 17.3 is designed to be an accommodation to the customer.
- The Commission should approve PG&E's AL without opening a broad investigation proposed by TURN; past conduct is not an issue in PG&E's AL.
- The tariff changes proposed by PG&E in its AL are prospective and intended to address the "long" bills that customers have disputed; these customers benefited from usage charged in the "long" bills.
- The Commission can act on PG&E's AL without addressing TURN's argument that Rule 17.1 already defined delayed bills as "billing error".

DISCUSSION

The Commission should act on PG&E's AL 2581-G/2568-E and not wait for a formal investigation to address issues raised by the AL.

PG&E's proposal in AL 2581-G/2568-E should be considered at this time. Changes must be made to PG&E's tariffs now given the issues that have arisen regarding estimated and delayed bills.

We deny TURN's protest that the AL be rejected in favor of considering the issues in a formal proceeding. Although we consider AL 2581-G/2568-E now the

Commission may in the future open a formal proceeding regarding the billing and collection practices of the utilities.

PG&E's proposed change to Rule 17.1 to reflect that the failure to issue a bill constitutes billing error is approved. This change is declarative of existing CPUC tariffs and requirements, including those requirements set forth in D.86-06-035.

PG&E proposes to add the following language to gas and electric Rule 17.1 which we approve:

> "Billing error shall also include failure to deliver a gas, electric, or combined commodity bill, actual or estimated, in a timely manner in accordance with Rule 9A."

The change to the tariffs cited above is declarative of existing CPUC tariffs and requirements, including those set forth in D.86-06-035. This tariff change reflects the proper interpretation of existing tariffs.

PG&E's proposed changes to Rule 17.1 concerning exclusions from billing error are denied.

PG&E also proposes to add the following language to gas and electric Rule 17.1 which we deny:

> "Failure to issue a bill due to causes beyond the reasonable control of PG&E, including inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, the customer's failure to establish service with PG&E or other causes within reasonable control of the customer shall not be considered "billing error" for the purposes of this Rule."

In cases where roads are inaccessible or PG&E's access to the customer's property is prevented, PG&E should issue an estimated bill rather than no bill at all. When the customer fails to establish service with PG&E, the provisions of Rule 17.2 regarding unauthorized use applies; Rule 17.1 relating to billing error does not apply in such a case. Thus we deny the proposed language cited above since it is unnecessary.

We grant TURN's protest regarding PG&E's proposed modification to Rule 17.1 to exclude from billing error, "causes beyond the reasonable control" of the utility. The language as proposed by PG&E is overly broad and vague. In the tariff changes that we require PG&E make to Rules 9C and 17.B.5 described below, we exclude certain circumstances from billing error when bills are estimated; causes "beyond the reasonable control of the utility" is not among those circumstances.

Billing error has occurred and Rule 17.1 applies when delayed and estimated bills are issued due to circumstances involving changes to a billing system.

Energy Division has reviewed some responses by PG&E to customer complaints received by CAB. Customers submitted these complaints because PG&E issued back bills for the difference between several months' prior bills based on estimated usage and what those bills should have been using actual consumption. PG&E had to estimate bills in these instances because its billing system did not register new meters that had been installed at the customers' residences.

In a response to one complaint PG&E informed the customer that usage had been estimated for 7 months from the end of December 2002 until the end of July 2003. PG&E stated that estimating usage is in accordance with Rule 9, and cited "unusual conditions" as a reason for estimating usage. PG&E told the customer that "due to the migration process to our new customer information system the meter change was not recognized in our system and accurate usage data could not be used in your billing." PG&E informed the customer that it had since been able to process the meter change in its system and verified reads were used to re bill the customer for actual usage.

In another instance a customer disputed PG&E's back billing for a period longer than 3 months. PG&E informed the customer that the system did not register a meter change at his residence and PG&E was allowed to estimate consumption in accordance with Rule 9. PG&E told the customer that Rule 9 "states for any unusual conditions actual data is not readily available, PG&E will bill for estimate usage." PG&E told the customer that the meter change had since been processed in its system and it was able to bill for actual reads. In its communications to CAB about this complaint PG&E stated that "this situation is not stipulated in Rule 17.1".

If these examples represent PG&E's policy concerning when to apply Rule 17.1, then PG&E has misapplied its tariffs. In these instances Rule 17.1 applied; estimating the customers' bills resulted from the implementation of PG&E's new billing system. That would constitute billing error. These are not circumstances in which we expect PG&E would issue estimated bills, i.e., in cases of inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, or other causes within control of the customer. The customers in these cases should have been back billed only for a period of 3 months in accordance with Rule 17.1.B.a.

PG&E improperly relied on the phrase "unusual conditions" in Rule 9C and should have, but did not, apply Rule 17.1 when billing error occurred during implementation of its billing system.

PG&E's responses to complaints that CAB has received indicate that PG&E has misinterpreted the provisions of Rule 9C and Rule 17.1. PG&E has improperly relied on the phrase "unusual conditions" to justify estimating bills indefinitely when billing error occurred and PG&E should have, but did not, apply Rule 17.1. We therefore instruct PG&E to remove that language from the tariffs. In addition Rules 9C and 17.B.5 should be clarified to identify those situations under which the issuance of estimated bills may be excluded from the provisions of Rule 17.1 relating to billing error.

PG&E shall modify Rule 9C and Rule 17 to limit circumstances under which the issuance of estimated bills is not considered billing error; PG&E shall remove the phrase "unusual conditions" from Rule 9C.

PG&E shall modify gas and electric Rule 9C so that it reads as follows:

> "If for reasons beyond the meter reading entity's control, the customer's meter cannot be read on the scheduled reading date, or if for any reason accurate usage data are not available, PG&E will bill the customer for estimated consumption during the billing period. Estimated consumption for this purpose will be calculated considering the customer's prior usage, PG&E's experience with other customers of the same class in that area, and the general characteristics of the customer's operations.
>
> Unless estimated bills result from inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, or other causes within

> control of the customer, the issuance of estimated bills shall be considered "billing error" for the purposes of applying Rule 17.1."

Since Rule 17 also allows PG&E to estimate bills, PG&E shall add the second paragraph above in quotations to gas and electric Rule 17.B.5 to clarify when the issuance of estimated bills constitutes billing error.

These tariff changes are declarative of existing CPUC tariffs and requirements.

We grant in part TURN's protest that failure to issue a timely and accurate bill whether due to reliance on estimated meter reads or other delays constitutes billing error and did so prior to issuance of AL 2581-G/2568-E. We also grant in part TURN's protest that extended reliance on an estimated bill constitutes billing error as the tariffs are currently written. The revisions that we require PG&E make to Rule 9C and Rule 17 set forth when issuance of estimated bills constitutes billing error and when it does not.

We require PG&E to make additional revisions to Rules 9C and 17.B.5 as described below.

When PG&E must estimate bills because of lack of access or other causes within control of the customer PG&E shall promptly notify the customer in writing to correct the situation.

We seek to minimize the need to estimate bills. In situations where PG&E must estimate bills due to causes under the control of the customer, e.g., a locked gate preventing access to the meter, PG&E shall notify the customer by letter or written notice within one week of a missed meter read. The letter or notice shall advise the customer of the particular situation, the fact that PG&E needs to estimate the bill as a result, and request that the customer correct the situation before the date of the next month's meter read. The notice shall also propose how the customer can correct the situation, and inform the customer of the customer-meter-read option if that option is applicable. Finally the notice shall inform the customer that unless the situation is corrected within 90 days of the date the notice is issued, PG&E may disconnect the customer's service pursuant to its tariff rules concerning disconnection of service. The Ordering Paragraphs of this resolution include tariff additions that we require PG&E make to gas and electric Rules 9C and 17.B.5 regarding this customer notification.

We note that PG&E may disconnect service if the customer denies access to the meter for an extended period of time and the situation otherwise falls within the conditions of PG&E's gas tariff Rule 11.K.2 and electric tariff Rule 11.J.2. Thus any financial incentive of the customer to deliberately deny access is mitigated.

PG&E's proposed changes to Rule 17.2 clarifying use of PG&E service without compensation are approved with modifications; these tariff changes are declarative of existing CPUC tariffs and requirements.

PG&E's current gas and electric tariff Rule 17.2 includes as one example of unauthorized use the following:

> "Using PG&E service without compensation to PG&E in violation of applicable tariffs and/or statutes."

PG&E proposes to extend this language as follows:

> "Using PG&E service without compensation to PG&E in violation of applicable tariffs and/or statutes, except for meter and billing errors as defined under Rule 17 and 17.1. If it is found that a meter or billing error has occurred, those tariffs, and not Rule 17.2, shall apply. Examples of using PG&E service without compensation include, but are not limited to, the customer, its agent, or other occupant reconnecting service after it has been discontinued in accordance with Rule 11 or the customer, its agent, other occupant, an animal, or the physical condition of the property preventing access to PG&E facilities on the customer's premise."

We grant in part PG&E's proposed tariff revisions. We deny PG&E's proposed additions relating to lack of access.

Lack of access does not constitute service without compensation.

We deny the tariff revisions to Rule 17.2 proposed by PG&E that includes the following examples of service without compensation: "the customer, its agent, other occupant, an animal, or the physical condition of the property preventing access to PG&E facilities on the customer's premise". In these cases PG&E should issue a bill based on estimated usage. They are not examples of unauthorized use.

PG&E shall revise gas Rule 17.2.A.5 and electric Rule 17.2.B.6 to read as follows:

> "Using PG&E service without compensation to PG&E in violation of applicable tariffs and/or statutes, except for meter and billing errors as defined under Rule 17 and 17.1. If it is found that a meter or billing error has occurred, those tariffs, and not Rule 17.2, shall apply. Examples of using PG&E service without compensation include, but are not limited to, the customer, its agent, or other occupant reconnecting service after it has been discontinued in accordance with Rule 11."

The tariff changes that we require are declarative of existing CPUC tariffs and requirements.

PG&E shall modify Rule 17.2 to clarify that a person shall only be held responsible for unauthorized use from which that person benefited.

While we are considering changes to Rule 17.2 as proposed by PG&E, it is desirable to address another aspect of the rule. The rule currently states that PG&E shall have legal right to recover from any customer or other person who caused or benefited from unauthorized use, the estimated undercharges for the full period of such unauthorized use. CAB has received complaints from consumers about being billed by PG&E for unauthorized use which occurred at a location prior to their taking service at the location, i.e., they allegedly were billed for unauthorized use that they neither caused nor from which they benefited.

It is possible that a customer may not have caused the unauthorized use to occur but benefited from that use. For example, a customer may start taking service at a location where the meter had been tampered with by a prior customer at that location. If PG&E subsequently determines that unauthorized use occurred, the new customer should only be responsible for the unauthorized use that took place from the time the new customer began taking service.

D.86-06-035 states that the Commission's sole purpose in resolving complaints from customers about back bills for unauthorized use "is to determine the value of any energy that can be shown to have been *used by the customer* but not metered or billed by the utility." (21 CPUC 2d, p. 273, emphasis added). We require PG&E to modify Rule 17.2 to clarify that a customer shall only be billed for unauthorized use of energy used by that customer. The first sentence of the paragraph immediately following gas Rule 17.2.A.5, and the first sentence of the paragraph immediately following electric Rule 17.2.A.6 shall be revised so that they read:

> "Where PG&E determines there has been unauthorized use, PG&E shall have the legal right to recover, from the person who benefited from such unauthorized use, the estimated undercharges for the full period of such unauthorized use."

This tariff change is declarative of existing CPUC tariffs and requirements.

PG&E's proposed Rule 17.3 is overly broad and vague and is denied.

PG&E proposes new Rule 17.3 as follows:

> "For any situations where a customer's bill requires adjustment but is not defined as billing error, meter error, or unauthorized use, PG&E will apply Rule 17.3. Under Rule 17.3, billing adjustments for an undercharge or overcharge shall not exceed three years (36 months of energy usage)."

It is not clear from this proposed rule to what situations it would apply, i.e., what is "not defined as billing error, meter error, or unauthorized use". We deny this proposed rule as it is overly broad and vague. TURN's protest that we reject PG&E's proposed Rule 17.3 is granted.

PG&E shall file an advice letter to propose how it will bring its prior practices into compliance with proper application of the tariffs.

In AL 2581-G / 2568-E PG&E states that the Executive Director's October 12 letter requested that PG&E discontinue collection of overdue accounts from its residential customers that exceed a three-month limit. PG&E further states that the AL modifies Rules 17.1 and 17.2 to implement the three-month limitation, and references PU Code Section 532. PG&E also states that the changes proposed in the AL would not affect customers' billing obligations for bills rendered prior to the proposed effective date of the AL (October 13, 2004). PU Code Section 532 prohibits a utility from refunding or remitting a portion of charges to a customer unless extended to all affected customers.

The tariff changes we authorize in this resolution are declarative of existing CPUC tariffs and requirements, including the requirements set forth in D.86-06-035. These changes simply reflect the proper interpretation of existing tariffs. Thus the tariff changes approved herein apply to customers' billing obligations for bills rendered prior to the effective date of the AL contrary to PG&E's assertion. We grant TURN's protest on this matter.

Within 30 days PG&E shall file an advice letter proposing how it will bring its past billing practices in to compliance with the tariffs we authorize in this resolution. The advice letter will become effective upon further action by the Commission.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days of public review and comment prior to a vote of the Commission. Accordingly the draft resolution was issued for comment to all parties no later than 30 days prior to being considered by the Commission.

FINDINGS

1. PG&E filed AL 2581-G / 2568-E on October 15, 2004 proposing to modify electric and gas Rules 17.1 and 17.2 to limit a residential customer's exposure to three months for undercharges resulting from PG&E's failure to deliver a bill. PG&E also proposes in its AL new Rule 17.3.

2. TURN protested AL 2581-G / 2568-E on November 4, 2004. TURN states that the Commission should reject AL 2581-G / 2568-E and consider billing and collection matters in a comprehensive investigation; TURN proposes modifications to AL 2581-G / 2568-E if the Commission addresses the AL. PG&E responded to TURN's protest on November 12, 2004.

3. Failure to issue a bill constitutes billing error. This is declarative of existing CPUC tariffs and requirements, including the requirements of D.86-06-035.

4. Failure to issue a bill or estimating a bill due to changes to a billing system constitutes billing error for purposes of applying gas or electric Rule 17.1. This is declarative of existing CPUC tariffs and requirements, including the requirements of D.86-06-035.

5. Rule 17.2 addressing unauthorized use does not apply if billing error has occurred.

6. Unless they result from inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, or other causes within control of the customer, the issuance of estimated bills should be considered "billing error" for the purposes of applying gas and electric Rule 17.1.

7. PG&E has misinterpreted Rule 9C and has relied on the phrase "unusual conditions" to justify estimating bills indefinitely when billing error occurred and PG&E should have, but did not, apply Rule 17.1.

8. PG&E should promptly notify the customer in writing if a situation within control of the customer prevents a meter reader's access to the customer's meter. The notification should advise the customer of the situation and inform the customer that PG&E must estimate the bill as a result, request that the customer correct the situation before the next scheduled meter read and propose a specific way(s) to correct the situation, inform the customer of the customer-meter-read option if that option is applicable, and advise the customer that if the situation is not corrected within 90 days of the date of the notice PG&E may disconnect service where authorized in tariff Rule 11.

9. PG&E's proposed Rule 17.3 is overly broad and vague.

10. The tariff changes to gas and electric Rules 9C, 17, 17.1, and 17.2 required by this resolution are declarative of existing CPUC tariffs and requirements, including the requirements of D.86-06-035. These tariff changes reflect the proper application of the existing tariffs prior to the effective date of the changes.

11. The tariff changes authorized in this resolution reflect customers' billing obligations for bills rendered prior to the effective date of the changes.

12. PG&E should file an advice letter to propose how it intends to bring past billing practices in to compliance with the tariffs approved in this resolution.

13. TURN's protest to reject PG&E's AL 2581-G / 2568-E in lieu of considering billing and collection issues in a formal investigation is denied.

14. TURN's protest that failure to issue a timely and accurate bill whether due to reliance on estimated meter reads or other delays constitutes billing error and did so prior to issuance of AL 2581-G/2568-E is granted in part as described in the Discussion section of this resolution.

15. TURN's protest that extended reliance on an estimated bill constitutes billing error as tariffs are currently written is granted in part as described in the Discussion section of this resolution.

16. TURN's protest that Rule 17.1 should not exclude from billing error causes beyond the reasonable control of the utility is granted.

17. TURN's protest that PG&E's proposed Rule 17.3 be rejected is granted.

18. We grant TURN's protest to reject PG&E's assertion that bills rendered prior to the effective date of AL 2581-G/2568-E are not subject to the provisions of the tariffs proposed in the AL.

THEREFORE IT IS ORDERED THAT:

1. The tariff changes proposed by PG&E in AL 2581-G/2568-E are approved with modifications. The tariff changes approved by this Order are declarative of existing CPUC tariffs and requirements, including the requirements of D.86-06-035; they reflect the proper application of existing tariffs prior to the effective date of the changes. Within 7 days PG&E shall supplement AL 2581-G/2568-E to make the tariff changes required by this resolution. The supplemental advice letter shall replace the original advice letter in its entirety and shall be effective today subject to Energy Division determining that it complies with this Order. The tariff changes that PG&E shall make are as follows:

   a. Add the following language to gas and electric Rule 17.1:

      > "Billing error shall also include failure to deliver a gas, electric, or combined commodity bill, actual or estimated, in a timely manner in accordance with Rule 9A."

   b. Modify gas and electric Rule 9C so that they read as follows:

"If for reasons beyond the meter reading entity's control, the customer's meter cannot be read on the scheduled reading date, or if for any reason accurate usage data are not available, PG&E will bill the customer for estimated consumption during the billing period. Estimated consumption for this purpose will be calculated considering the customer's prior usage, PG&E's experience with other customers of the same class in that area, and the general characteristics of the customer's operations.

Unless estimated bills result from inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, or other causes within control of the customer, the issuance of estimated bills shall be considered "billing error" for the purposes of applying Rule 17.1.

If PG&E must estimate a bill because of lack of access to the meter caused by a situation under the control of the customer, PG&E shall notify the customer in writing within one week of a missed meter read. The written notice shall advise the customer of the situation and the fact that PG&E needs to estimate the bill as a result of the situation, request that the customer correct the situation before the next month's meter read, propose a specific way(s) to correct the situation, inform the customer of the customer-meter-read option if the option is applicable, and advise the customer that if the situation is not corrected within 90 days of the date of the notice that PG&E may disconnect service where authorized in PG&E's tariff Rule 11."

c. Add the following to gas and electric Rule 17.B.5:

"Unless estimated bills result from inaccessible roads, the customer, the customer's agent, other occupant, animal or physical condition of the property preventing access to PG&E's facilities on the customer's premise, or other causes within control of the customer, the issuance of estimated bills shall be considered "billing error" for the purposes of applying Rule 17.1.

If PG&E must estimate a bill because of lack of access to the meter caused by a situation under the control of the customer, PG&E shall notify the customer in writing within one week of a missed meter read. The written notice shall advise the customer of the situation and the fact that PG&E needs to estimate the bill as a result of the situation, request that the customer correct the situation before the next month's meter read, propose a specific way(s) to correct the situation, inform the customer of the customer-meter-read option if the option is applicable, and advise the customer that if the situation is not corrected within 90 days of the date of the notice that PG&E may disconnect service where authorized in PG&E's tariff Rule 11."

d. Modify gas Rule 17.2.A.5 and electric Rule 17.2.B.6 so that they read as follows:

> "Using PG&E service without compensation to PG&E in violation of applicable tariffs and/or statutes, except for meter and billing errors as defined under Rule 17 and 17.1. If it is found that a meter or billing error has occurred, those tariffs, and not Rule 17.2, shall apply. Examples of using PG&E service without compensation include, but are not limited to, the customer, its agent, or other occupant reconnecting service after it has been discontinued in accordance with Rule 11."

e. Modify the first sentence of the paragraph immediately following gas Rule 17.2.A.5, and modify the first sentence of the paragraph immediately following electric Rule 17.2.A.6 such that they read as follows:

> "Where PG&E determines there has been unauthorized use, PG&E shall have the legal right to recover, from the person who benefited from such unauthorized use, the estimated undercharges for the full period of such unauthorized use."

2. Within 30 days PG&E shall file an advice letter to propose how it will bring its prior billing practices in to compliance with the tariffs authorized by this Order. The advice letter shall become effective upon further action by the Commission.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on December 16, 2004, the following Commissioners voting favorably thereon:

STEVE LARSON
Executive Director

November 16, 2004

Draft Resolution G-3369
Commission Meeting: December16, 2004

TO: PARTIES TO PACIFIC GAS AND ELECTRC CO. ADVICE LETTER (AL) 2581-G / 2568-E

Enclosed is draft Resolution G-3369 of the Energy Division. It will be on the agenda at the Commission's December 16, 2004 meeting. The Commission may then vote on the resolution or it may postpone a vote until later. Only when the Commission acts does the resolution become binding on the parties.

Parties may comment on the draft Resolution.

An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Fax: 415-703-2200
Email: jjr@cpuc.ca.gov

An electronic copy of comments should be submitted to:

Don Lafrenz at dlf@cpuc.ca.gov; and
Steve Roscow at scr@cpuc.ca.gov.

Draft Resolution G-3369
November
16, 2004
PG&E AL 2581-G / 2568-E Page 2

Any comments on the draft Resolution must be received by the Energy Division by December 3, 2004. Those submitting comments must serve a copy of their comments on 1) the entire service list attached to the draft Resolution, 2) all Commissioners, and 3) the director of the Energy Division, on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken in the advice letter or protests will be accorded no weight and are not to be submitted.

Replies to comments on the draft resolution may be filed (i.e., received by the Energy Division) on December 8, 2004, and shall be limited to identifying misrepresentations of law or fact contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth above for comments.

Late submitted comments or replies will not be considered.

Gurbux Kahlon
Program Manager
Energy Division

Enclosure: Service List
Certificate of Service

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of draft Resolution G-3369 on all parties in these filings or their attorneys as shown on the attached list.

Dated November 16, 2004 at San Francisco, California.

Jerry Royer

NOTICE

Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Avenue, Room 4002, San Francisco, CA 94102 of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the list on which your name appears.

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