

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
I.D.# 6844  
**ENERGY DIVISION** **RESOLUTION E-4092**  
**August 23, 2007**

**R E S O L U T I O N**

**Resolution E-4092. San Diego Gas & Electric Company (SDG&E) requests revisions to Gas and Electric Rule 6 - Establishment and Re-Establishment of Credit. SDG&E's request is approved with a modification.**

**By Advice Letter 1882-E/1679-G filed on March 21, 2007.**

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**SUMMARY**

**This Resolution approves SDG&E Advice Letter (AL) 1882-E/1679-G with a modification. SDG&E filed this advice letter to present information in its Gas and Electric Rule 6 more clearly and to make it more understandable. Rule 6 describes how customers establish and re-establish credit with the company. SDG&E's proposed revisions would bring SDG&E's Rule 6 into conformance with Southern California Gas Company's (SoCalGas) Rule 6. Similar changes to SoCalGas' Rule 6 were recently made effective with SoCalGas AL 3726.**

Utility Consumers' Action Network (UCAN) protested SDG&E's advice letter on two points. First, UCAN believes that one of SDG&E's proposed methods for determining a customer's credit is inappropriate. Second, UCAN believes that SDG&E's proposal for allowing tenants of multi-family dwellings (where the landlord fails to pay the utility bill) to maintain service is flawed.

UCAN's first protest issue is granted. SDG&E shall remove the phrase "...provided, however, the credit of the applicant is unimpaired in the opinion of the utility" from Rule 6, Section A.4. A previous SDG&E customer may obtain credit for new service if they made timely payments to SDG&E for the most recent 12 months.

UCAN's second protest issue is denied, since UCAN's concerns are already adequately addressed by SDG&E's proposed Rule 6 and Rule 11A.8.

## **BACKGROUND**

**With AL 1882-E/1679-G SDG&E proposes to bring its Gas and Electric Rule 6, Establishment and Re-Establishment of Credit, into conformance with SoCalGas' Rule 6. SDG&E asserted that the revisions proposed promote tariff simplicity, respond to customer needs and provide ease in administering the tariff.**

SDG&E proposes the following changes:

- To read more clearly and avoid any change in meaning and intent and to reflect current practice, SDG&E rewrote the entire Rule 6.
- SDG&E added a new item A.5 to explain that an individual tenants(s) may establish credit for a single metered multi-family dwelling unit, in place of the landlord who fails to pay the bills, subject to the Utility's credit standards. This provision is consistent with SDG&E's Rule 11, Section A.7.
- A new item A.6 accommodates any other method of establishing credit that is not specifically mentioned in the Rule.
- The Advice Letter adds a new section B, Establishment of Credit - Non-Residential Service, items 1 through 4 in order to clarify for customers the applicable forms of credit for non-residential service. Items 1 through 4 are consistent with SoCalGas' Section B for Non-Residential Service. The AL states that creating the Non-Residential Section is consistent with Pacific Gas and Electric Company's (PG&E) and Southern California Edison Company's (Edison) Rule 6 - Establishment and Re-establishment of Credit.
- SDG&E re-wrote the section entitled "Re-establishment of Service - All Classes of Service" items C.1 and C.2 for clarity and revises C. 2 relating to current residential and non-residential customers.
- Item C. 3 clarifies that a non-residential customer with multiple service locations whose bills become past due at one or more locations may be required to re-establish credit for any or all locations.

- The proposed item C.4, relating to a residential customer that left another utility's service territory with an unpaid bill, is a revised second paragraph of the current item B.2

## **NOTICE**

Notice of AL 1882-E/1679-G was made by publication in the Commission's Daily Calendar. SDG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

**UCAN filed a protest on April 10, 2007 on two points: 1) UCAN argues that SDG&E's proposed method for determining a customer's credit is unfair because it appears to allow consideration of a customer's payment record to other businesses, rather than just the payment record to SDG&E, and 2) UCAN believes that SDG&E's proposal for allowing tenants of multi-family dwellings (where the landlord fails to pay the utility bill) to maintain service would be too burdensome for those customers.**

The first of UCAN's concerns is the language of the proposed Section A.4 listing one of the requirements for establishing credit. Under that requirement, SDG&E proposes to establish credit as follows:

*"A.4 By having been a residential customer within the last two years and having paid all bills for service as set forth in Rule 9 for the most recent 12 consecutive months of service provided, however, the credit of the applicant is unimpaired in the opinion of the utility."*

UCAN interprets this clause to mean that where a former customer of SDG&E had paid all bills for service for 12 consecutive months but establishes new service (for any reason) then the utility will be incurring the added expense of conducting a credit check upon that customer. UCAN asserted that if the credit check shows that the customer has been late in payments to any other creditor then SDG&E is authorized to impose a deposit requirement upon that customer, notwithstanding a perfect payment record to SDG&E.

UCAN said that the proposed practice is "disturbingly similar" to the universally-criticized "universal default" policy that has been adopted (and

subsequently abandoned) by many credit card companies in the early 2000s. **UCAN regards as unfair the concept of the utility imposing a higher cost of initiating service when a customer has issues with another creditor, especially given that utility service is a necessity and that the customer may have issues with another creditor that might explain the late or disputed payments.** UCAN adds the possibility that the customer account which was shown as being in default in the first place was in default due to fraud or institutional error by the credit or credit reporting company. UCAN said that a credit check may be justified for a new customer who has not had a service record with SDG&E, but not appropriate for customers who have demonstrated good payment records with the utility.

**UCAN said its concerns apply equally to proposed Rules 6, Sections B.3. – Non-residential service and 6.C.3 – Non-residential service at one or more locations.** UCAN assert that these new clauses impose upon small businesses the same burdens and costs as A.4 imposes upon residential customers.

Second, UCAN objects to some language in Section A.5. In this section, SDG&E provides requirements for a resident of a multi-family dwelling to become a utility customer where a landlord fails to pay a bill. UCAN applauds SDG&E for trying to address this issue, but protests language of Section A.5 which states:

*“The Utility may require that one (or more) applicant(s) assume responsibility to the Utility for such payments; such applicant(s) must be willing and able to assume responsibility for the entire account to the satisfaction of the Utility.”*

**UCAN asserts that the “assume responsibility” clause can be readily construed to impose upon the utility customer the obligation to assume responsibility for the unpaid bills that the landlord failed to make, thus shifting the cost of recovering those payments that the landlord failed to make from the landlord and SDG&E to the tenant.** UCAN argues that this shifting of costs is untenable for two reasons: 1) Most tenants might find such an obligation unaffordable; they will be responsible for double-paying the utility charge and then attempting to recover the double-payment from a clearly irresponsible landlord. 2) That clause compels the tenant to adopt an adversarial relationship with a landlord that could easily resort to retaliatory eviction. UCAN concludes that the language must specifically preclude the utility from placing the responsibility for

collecting unpaid backbills from any tenant who becomes a utility customer in place of a landlord.

**UCAN also interprets the clause to require the tenant to assume responsibility for the “entire account”.** According to UCAN, SDG&E’s proposal would require that in order to remain in a habitable dwelling, one or more customers would have to assume responsibility for ALL of the other tenants paying the bill.

UCAN regards the “assume responsibility” clause as ambiguous as to the requirement of and the basis for a deposit. UCAN said that these tenants will likely not have been SDG&E customers. **SDG&E could impose significant deposits upon them in order to get their service resumed – notwithstanding that these customers made their payments to their derelict landlord.** UCAN recommends that the rules be modified to state that the tenant would not have a deposit imposed if that tenant can show 12 months of timely payment of rent. UCAN thinks it likely that any and all of the tenants in such a building will move out to escape an irresponsible landlord and the imposition of any deposit for a short-term fix is problematic and burdensome to the customer.

#### SDG&E’s response

**SDG&E filed a timely response to UCAN’s protest on April 17, 2007. SDG&E believes that no changes are needed to its proposed Rule 6. With regard to Section A.4, SDG&E argues that it has no plans to “credit score” customers, and that its practice has been to determine creditworthiness based on a customer’s payment record to SDG&E. With regard to Section A.5, SDG&E argues that existing tariff language already addresses UCAN’s concerns.**

As an initial comment, SDG&E noted that its proposed language conforms its Rule 6 to that of SoCalGas’ Rule 6.

With regard to Sections A.4 (residential) and B.3 (non-residential), SDG&E explains that those sections both address credit requirements for prior residential and nonresidential applicants who have taken service within the last two years and who do not currently have an active account. SDG&E said that it does not credit score these applicants, and has no plans to do so. **SDG&E’s practice is to determine credit worthiness for these applicants based on their payment record with SDG&E.** SDG&E maintains that this long established practice is prudent and UCAN’s concerns are unwarranted.

SDG&E disagrees with UCAN's assertion that the language proposed in A.5, allowing tenants of single metered multi-family dwellings to become utility customers should the landlord default on paying the bills, is new and that the language should be modified. SDG&E points out that the language is not new and it currently exists in SDG&E's Rule 11 - Discontinuance of Service, Special Condition 8 - Master Meter and is consistent with Public Utilities Code Section 777.1 as noted below.

SC 8. Master Meter. When the Utility is aware that the discontinuance of service to a master meter may deprive residential tenants of electric and gas service, the Utility shall comply with the provisions of paragraph A.1, A.2, and A.8. **In addition the Utility shall give the tenants not less than 15 calendar days prior to the date of discontinuance, notice of their right to become customers without obligation for the bills which have accrued in the master meter.**

PU Code 777.1(a): **the residential occupants have the right to become customers, to whom the service will then be billed without being required to pay any amount which may be due on the delinquent account.**

SDG&E answered UCAN's recommendation that the rules should be modified to state that the tenant would not have a deposit imposed if that tenant can show 12 months of timely payment of rent. SDG&E pointed to proposed language for A.5 which states:

**"In addition, where prior service is being considered as a condition for establishing such credit, residency in the multi-family dwellings for the immediately preceding 12 months and proof of prompt payment of rent for this same period of time shall be a satisfactory equivalent."**

SDG&E recommends that UCAN's protest be rejected.

## **DISCUSSION**

**We will grant UCAN's protest of SDG&E's proposed Rule 6, Section A.4, and order SDG&E to remove the phrase "...provided, however, the credit of the applicant is unimpaired in the opinion of the utility". We will deny UCAN's protest of Section A.5.**

With regard to Section A.4, SDG&E stated in its response to UCAN's protest that the purpose of its advice letter was "not to change the meaning or intent of SDG&E's Rule 6, as UCAN supposes." SDG&E also stated that has no plans for credit scoring. Finally, SDG&E stated that its practice has been to base a customer's creditworthiness on its payment record with SDG&E.

However, SDG&E's current Rule 6, Section A.4, only requires that new service applicants who have been previous customers with the last two years may establish credit by having paid all bills for the most recent 12 consecutive months. The current Rule 6 does not include the phrase "...provided, however, the credit of the applicant is unimpaired in the opinion of the utility."

Further, if SDG&E does not "credit score" applicants, and has no plans to do so, and its "long-established" practice is to base creditworthiness on payment records, then there is no reason to add the additional phrase.

Finally, SDG&E provided no significant reason why the additional phrase was necessary.

**With regard to Section A.5, SDG&E's Rule 11, Section 8 addresses UCAN's concern that a tenant desiring to become a customer may be held responsible for recovering overdue payments from an irresponsible landlord. Rule 11, Section 8 requires SDG&E to give notice to tenants that they can become customers without obligation for the bills which have accrued on the master meter**

Rule 11 A.8. states the conditions under which master-meter tenants may assume responsibility for utility bill payments:

""The Utility is not required to make service available to the occupants unless each occupant or a "representative of the residential occupants" agrees to the terms and conditions of service and meets the requirements of law and the Utility's rules and tariffs. **However,**

**if one or more of the occupants or the representatives of the occupants are willing and able to assume responsibility for subsequent charges to the account to the satisfaction of the Utility, or if there are physical means, legally available to the Utility, of selectively terminating service to those occupants, who have not met those requirements or on whose behalf those requirements of the Utility's rules and tariffs or for whom the representative of the occupants is not responsible, the Utility shall make service available to those occupants who have met those requirements or on whose behalf those requirements have been met."**

Essentially the Utility will continue to serve the master-meter residents if the occupants as a whole agree to terms of service or if one or more representative(s) agree to assume responsibility for payments. Alternatively, to the extent it is able to legally and physically exclude those other tenants that cannot meet such requirements, SDG&E will do so.

Rule 6, Section A.5, simply spells out the credit requirements for such situations.

UCAN failed to adequately explain its concerns about Section C.3. That section states:

"A customer using non-residential service may be required to re-establish credit at one or more of its locations in accordance with this Rule if the conditions of service or basis on which credit was originally established, in the opinion of the Utility, have materially changed or the Utility believes a condition of high risk exists."

UCAN simply stated that its "...concerns also apply to Rule 6.B.3 and C.3." It is clear what UCAN's concerns are with regard to Section B.3, but it is not clear what UCAN's concerns would be with regard to Section C.3. We believe Section C.3 is reasonable.

We will grant UCAN's protest regarding Rule 6, Sections A.4 and B.3, but will deny UCAN's protest regarding Rule 6, Sections A.5 and C.3. SDG&E shall remove from Sections A.4 and B.3 the phrase "...provided, however, the credit of the applicant is unimpaired in the opinion of the utility."

## **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 public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution will be mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from the mailing date.

## **FINDINGS**

1. SDG&E filed Advice Letter 1882-E/1679-G on March 21, 2007, in order to revise its Rule 6 to bring it into conformance with SoCalGas' Rule 6.
2. UCAN filed a timely protest on April 10, 2007. UCAN opposed language in Sections A.4 and B.3 that required unimpaired credit in the opinion of the utility.
3. UCAN also opposed language in Section A.5 that stated credit requirements for master-meter tenants who wished to become a utility customer, when a landlord fails to make bill payments, and assume responsibility for bill payments.
4. UCAN also opposed language in Section C.3.
5. SDG&E filed a response to UCAN's protest on April 17, 2007.
6. SDG&E failed to provide adequate reasons why "unimpaired credit" in "the opinion of the utility" should be an additional requirement beyond a good payment record in order to establish credit for prior customers.
7. Under SDG&E Rule 11, Section 8, occupants of a multi-family dwelling, where a landlord has failed to make utility bill payments, can become customers without obligation for bills which previously had been accrued on the master meter.
8. The proposed Section A.5 of Rule 6 allows an occupant of such a multi-family dwelling to establish credit by showing residency in the multi-unit dwellings for the immediately preceding 12 months and proof of prompt payment of rent for this same period of time where prior service is being considered as a condition for establishing credit.

9. UCAN did not adequately explain its objections to Section C.3.
10. We should grant UCAN's protest of Sections A. 4 and B.3.
11. SDG&E should file a supplemental advice letter to remove the phrase "...provided, however, the credit of the applicant is unimpaired in the opinion of the utility."
12. We should deny UCAN's protest regarding Section A.5. Master meter tenants who wish to become utility customers after a landlord has failed to make utility bill payments are not required to pay for any prior landlord utility bills.
13. The credit requirements stated in Section A.5 are reasonable.
14. UCAN's protest of Section C.3 did not adequately explain their objections to the language there, and should be denied.

**THEREFORE IT IS ORDERED THAT:**

1. UCAN's protest of SDG&E's proposed Rule 6, Section A.4 and B.3 is granted.
2. SDG&E shall file a supplemental advice letter within 5 days of the effective date of this resolution to remove the phrase "provided, however, the credit of the applicant is unimpaired in the opinion of the utility" from Sections A.4 and B.3. The supplemental advice letter will become effective after Energy Division review.
3. UCAN's protest regarding Sections A.5 and C.3 is denied.
4. Other than the modification ordered above, Advice Letter 1882-E/1679-G is approved.

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 August 23, 2007 the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor*

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



July 23, 2007

I.D.# 6844

RESOLUTION E-4092

Commission Meeting August 23, 2007

TO: PARTIES TO SAN DIEGO GAS & ELECTRIC ADVICE LETTER NO  
1882-E/1679-G

Enclosed is draft Resolution Number E-4092 of the Energy Division. It will be on the agenda at the next Commission meeting, which is held at least 30 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties may submit comments on the draft Resolution.

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

Honesto Gatchalian  
Energy Division

California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Fax: 415-703-2200

A copy of the comments should be submitted in electronic format to:

Maurice Monson and Richard Myers  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Email: [mdm@cpuc.ca.gov](mailto:mdm@cpuc.ca.gov) and [ram@cpuc.ca.gov](mailto:ram@cpuc.ca.gov)

Any comments on the draft Resolution must be received by the Energy Division by August 13, 2007. 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 Chief Administrative Law Judge, and 4) the General Counsel on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to fifteen pages in length and should list the recommended changes to the draft Resolution.

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 August 20, 2007, five days after comments are filed, 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.

Richard Myers, Program and Project Supervisor  
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 E-4092 on all parties in these filings or their attorneys as shown on the attached list.

Dated July 23, 2007 at San Francisco, California.

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*Honesto Gatchalian*

### 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 service list on which your name appears.

Service List for Resolution E-4092

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