

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

**ENERGY DIVISION**

**RESOLUTION G-3433**

**May 21, 2009**

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

Resolution G-3433: Southern California Gas Company (SoCalGas) and San Diego Gas and Electric (SDG&E) submit updated gas and electric tariff schedules incorporating the new Public Utilities Code Section 739.5 (h) as enacted by Assembly Bill 2857 (2008) regarding the California Alternative Rate for Energy (CARE) discount provided to sub-metered residents of master-metered utility customers. These updates were filed as required in a directive stated in D.08-11-031, and are approved without modification.

By Advice Letter 3923 filed on November 20, 2008 by Southern California Gas Company.

By Advice Letter 2055-E/1830-G filed on January 5, 2009 by San Diego Gas and Electric.

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**SUMMARY**

This Resolution approves SoCalGas' Advice Letter 3923, which revised tariff Schedule Nos. G-CARE and GM, as well as SDG&E's Advice Letter 2055-E / 1830-G, which revised Schedules G-CARE, E-CARE, and GM. These tariffs relate to the California Alternative Rates for Energy (CARE) discount and its applicability to submetered residents of master-meter customers throughout the Investor Owned Utilities' (IOUs) territories. The additional language added to these tariffs to comply with the requirements of D.08-11-031 pursuant to AB 2857 is valid and does not require modifications. All updates were reflected in SoCalGas' and SDG&E's tariffs' Table of Contents. It should be noted that the

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

other affected IOUs, Pacific Gas and Electric (PG&E) and Southern California Edison (SCE), submitted compliance Advice Letters on January 5, 2009, which were made effective on March 10, 2009, after finding that their tariffs already complied with the language of AB 2857.

The Western Manufactured Housing Community Association (“WMA”) timely protested AL 3923 and AL 2055-E/1830-G on the grounds that : a) the utilities are not currently, but should be, working with individual park owners to identify eligible residents who are not submetered and who do not pay separately for utility service or have utility charges included in their rents, b) the utilities should provide eligible sub-metered customers CARE applications, c) the utilities, not the park owners bear the responsibility for offering CARE to the residents, and d) the utilities should be required to develop a communication plan with mobile home parks and residents affected by AB 2857. WMA’s protest is denied.

The new tariffs submitted by SoCalGas and SDG&E are effective immediately.

## **BACKGROUND**

AB 2857 (Lieber) was signed into law by the Governor on September 28, 2008 and became effective on January 1, 2009. The legislation added Section H to Public Utilities Code Section 739.5. It reads:

(h) Notwithstanding any other provision of law or decision of the commission, the commission shall not deny eligibility for the California Alternative Rates for Energy (CARE) program, created pursuant to Section

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

739.1, for a residential user of gas or electric service who is a submetered resident or tenant served by a master-meter customer on the basis that some residential units in the master-meter customer's mobile home park, apartment building, or similar residential complex do not receive gas or electric service through a submetered system.

Section H addressed a deficiency in some of the IOU tariffs that interpreted the Public Utilities Code in such a way as to prohibit certain sub-metered residents of master-metered facilities from receiving the CARE discount because the master-metered property on which they lived was not entirely sub-metered. While a large majority of submetered residents of mobile home parks did receive the CARE discount under the prior tariffs, a very small minority of eligible sub-metered customers faced the prospect of being denied the CARE discount because of this deficiency in the utilities' tariffs.

On November 6, 2008, the Commission issued D.08-11-031; *Decision on Large Investor-Owned Utilities' 2009-11 Low Income Energy Efficiency (LIEE) and California Alternate Rates for Energy (CARE) Applications*. In Ordering Paragraph (OP) 105, it states that the utilities shall comply with the recently passed AB 2857 and submit an Advice Letter that detail resulting tariff updates within 60-days of the issuance of the Decision.

SoCalGas complied with this order, and submitted Advice Letter 3923 to the Commission on November 20, 2008. In its Advice Letter, SoCalGas proposes two changes to existing language on two different tariff schedules. The first Schedule, G-CARE, defines the applicability criteria for the CARE discount for SoCalGas' customers. Sheet 1 of the tariff schedule currently reads:

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

### APPLICABILITY

This schedule provides a California Alternate Rates for Energy (CARE) discount to each of the following types of customers listed below that meets the requirements for CARE eligibility as defined in Rule No. 1, Definitions, and herein, and is taken in conjunction with the customer's otherwise applicable service schedule.

1. Customers residing in a permanent single-family accommodation, separately metered by the Utility.
- 2. Multi-family dwelling units and mobile home parks supplied through one meter on single premises and submetered to all individual units.**
3. Non-profit group living facilities.
4. Agricultural employee housing facilities.

The tariff revision to Number 2, as submitted by SoCalGas, will now read:

- 2. Multi-family dwelling units and mobile home parks supplied through one meter on a single premises where the individual unit is submetered.**

The second tariff, Schedule GM, defines the baseline rates for multi-family service and updates its applicability guidelines to include the G-CARE schedule, which it did not include previously. The following language is added to Sheet 1 of Schedule GM, after the sixth paragraph under Applicability:

This schedule is applicable to income-qualified households that meet the requirements for the California Alternative Rates for Energy as set forth in Schedule No. G-CARE.

The tariff revisions above remove the deficiency of the prior tariffs by 1) revising the applicability of the CARE discount to apply to an individually sub-metered

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

unit and 2) adding the G-CARE schedule to the list of those applicable for GM base rates.

SDG&E also complied with OP 105, and submitted Advice Letter 2055-E/1830-G on January 5, 2009. In its Advice Letter, SDG&E proposes similar changes to SoCalGas' existing language on three different tariff schedules. Schedules E-CARE and G-CARE both define the applicability criteria for the CARE discount for SDG&E's customers. Sheet 1 of each tariff schedule currently reads:

APPLICABILITY

This schedule provides a California Alternate Rates for Energy (CARE) discount to each of the following types of customers listed below that meets the requirements for CARE eligibility as defined in Rule No. 1, Definitions, and herein, and is taken in conjunction with the customer's otherwise applicable service schedule.

1. Customers residing in a permanent single-family accommodation, separately metered by the Utility.
- 2. Multi-family dwelling units and mobile home parks supplied through one meter on single premises and submetered to all individual units.**
3. Non-profit group living facilities.
4. Agricultural employee housing facilities.

Number 2 for Schedules E-CARE and G-CARE, as submitted by SDG&E will now read:

**2. Multi-family dwelling units and mobile home parks supplied through one meter on a single premises where the individual unit is submetered.**  
The third tariff, Schedule GM, defines the baseline rates for multi-family service and updates its applicability guidelines to include the G-CARE schedule, which

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

had not been included previously. The following language is added to Sheet 1 of Schedule GM, after the fourth paragraph under Applicability:

This schedule is applicable to income-qualified households that meet the requirements for the California Alternative Rates for Energy (CARE) as set forth in Schedule G-CARE.

Similar to SoCalGas, the tariff revisions above for SDG&E remove the deficiency of the prior tariffs by 1) revising the applicability provisions of the CARE discount to be relevant to the individually sub-metered unit, and not the mobile home park as a whole, and 2) adding the G-CARE schedule to the list of those applicable for GM base rates.

### **NOTICE**

Notices of AL 3923 and AL 2055-E/1830-G were made by publication in the Commission's Daily Calendar. SoCalGas and SDG&E state that copies of the Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

### **PROTESTS**

SoCalGas' and SDG&E's Advice Letters were timely protested by the Western Manufactured Housing Community Association (WMA) on December 1, 2008, and January 23, 2009, respectively. Arguments in each protest were made on the grounds that: a) the utilities are not currently, but should be, working with individual park owners to identify eligible residents who are not sub-metered

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

and who do not pay separately for utility service or have utility charges included in their rents, b) the utilities should provide the residents with CARE applications, c) the utilities and not the park owner, bear the responsibility for offering the CARE discount to residents, and d) the utilities should be required to develop a communication plan with mobile home parks and other residents affected by AB 2857.

SoCalGas and SDG&E respectively filed Replies to the Protests submitted by WMA on December 17, 2008, and January 28, 2009. Both utilities' Replies address the same issues, and share similar perspectives. The Replies focus on the four main issues that WMA objects to as follows:

- 1. WMA states that SoCalGas/SDG&E should be required to work with mobile home park owners to enroll customers who do not pay for their utilities separately from their rents.**

Both SoCalGas and SDG&E point to tariff rules (Rule Nos. 1 and 24 – SoCalGas; Rule No. 19 – SDG&E) that state that the master-meter customer is required to furnish utility service to a submetered tenant at the same rate as if the sub-metered customer were receiving service from the utility directly. They also specify that these rules, as well as AB 2857, do not apply to residents who do not pay separate utility charges or whose utility costs may be included in their rents.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

**2. WMA believes SoCalGas/SDG&E should be required to provide CARE applications to customers.**

Both utilities reply that they have ongoing efforts to conduct outreach to potential CARE customers, including those that are sub-metered on a master-metered property. They also provide a list of examples of activities they perform, e.g., Customer Contact Center phone numbers, website information, distribution through community-based agencies, etc.

**3. WMA asserts that SoCalGas and SDG&E, not the mobile home park owner, bear the responsibility of offering the CARE discount to residents.**

Both utilities reply that they abide by California Civil Code Section 798.43.1, Paragraph A<sup>1</sup>, which requires mobile home park management to send out informative reminders about the CARE program by February 1st every year to sub-metered residents. They believe that WMA's assertion is therefore incorrect. Both utilities state they send out direct mail reminders regarding this law to master-meter customers

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<sup>1</sup> The utilities provide the following footnote: "Senate Bill (SB) 920 (2001) requires the management of master-metered mobile home parks to give residents written notice each year about the assistance available to low-income persons under CARE.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

every January. They also elaborate on further activities they are doing to outreach non-participating sub-metered customers, including direct mail to sub-metered tenants living in close proximity to existing CARE customers and door-to-door canvassing activities by CARE program contractors.

- 4. WMA states that SoCalGas and SDG&E should be required to develop a plan for communicating with those parks and residents affected by AB 2857.**

Both utilities specify that they are committed to enrolling all CARE-eligible sub-metered residents of master-meter accounts and in fact already have procedures in place for doing this. In addition, each utility has also planned to send out a direct mailer to its master-meter customers informing them of the changes associated with AB 2857. Mobile home park owners thus contacted will then identify sub-metered residents who qualify for the CARE discount and return this list, postage-paid, to each utility. The utility will then have its customer service representatives follow up on the resulting accounts and facility information. New accounts created as a result of AB 2857 will be added into the utility's annual January direct mailer for future years, as described in detail above.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

## **DISCUSSION**

The Commission finds that the modified language in SoCalGas' and SDG&E's tariffs, as elucidated in the background section above, satisfies the changes required by D.08-11-031 pursuant to AB 2857. The Commission finds that the tariff changes will mean that within the PG&E, SCE, SDG&E, and SoCalGas service territories, qualified sub-metered residents of master-metered customers cannot be denied the CARE discount, regardless of the metering situation for utility services provided to other residents of the same facilities, including those whose utility charges may be included in their rents or who do not pay them separately.

After review of their protests to the SoCalGas and SDG&E Advice Letters, we do not find WMA's arguments to be valid.

First, WMA states SoCalGas/SDG&E should be required to work with mobile home park owners to enroll tenants who are not sub-metered. However, Section H of AB 2857 applies only to sub-metered customers and specifically states that a discount will be provided for a residential user of gas or electric service who is a **sub-metered** resident or tenant served by a master-meter customer. Historically, mobile home park residents who are not sub-metered have not received the

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

CARE discount.<sup>2</sup> Legislative analyses for AB 2857,<sup>3</sup> stated: “because CARE program eligibility is based on an individual users need, individuals who live in master-metered communities which are not sub-metered are not eligible for the discount.”

Second, WMA states SoCalGas/SDG&E should be required to provide CARE applications to tenants. First, WMA’s protest is not valid because AB 2857 does not address CARE outreach or enrollment. Moreover, we note that our review of current methods of CARE program delivery reveal that the IOUs currently make substantial efforts to outreach mobile home park customers including efforts to increase rates of application submissions and approval. In fact, specific effort is made to outreach the harder-to-reach customers, which include sub-metered residents of master-metered facilities. In addition, the utilities have affidavits on file stating their compliance and outlining their strategies in compliance with AB 2104 (2006), which further improved both utility and mobile home park owner efforts to outreach to CARE-qualified sub-metered residents. Specifically, the utilities provide a list of eligible tenants to mobile home park owners yearly so

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<sup>2</sup> OP 4 of D.89-09-044 says: “Low-income program rates will not be available to unmetered consumers because their energy bills are bundled with their rent and there is no way to enforce a pass through of the program discount to the consumer.”

<sup>3</sup> See August 25, 2008 - Senate Floor Analyses, page 2. Available at: <http://www.leginfo.ca.gov/bilinfo.html>

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

that the master-metered customer, who is generally the owner of the park, can pass the CARE discount on to the appropriate residents.

Third, WMA asserts that SoCalGas/SDG&E, not the mobile home park owner, bears the responsibility of offering CARE to residents. Again, as stated above, neither D.08-11-031 nor AB 2857 addresses the issue of who enrolls the CARE customers. Rather, AB 2857 and D.08-11-031 address the deficiency or loophole in the IOUs' tariffs whereby certain sub-metered customers could not obtain the CARE discount that they legitimately qualified for.

Additionally, in their replies, SoCalGas and SDG&E correctly point out, that the responsibility for notification of the availability of the CARE discount, as well as for the subsequent monetary pass-through from the utility to the park residents falls directly on mobile home park management, as iterated in California Civil Code 798.43.1. Even so, the utilities send out reminder notifications about this law to mobile home park owners each January, working with park owners and managers to enroll qualified residences. They also may conduct other outreach activities such as the aggressive targeting of currently non-participating residences within close proximity to residences currently enrolled in the CARE program located on the same premises.

Finally, WMA states that SoCalGas/SDG&E should be required to develop a plan for communicating with those parks and residents affected by this legislation. We want to reiterate that AB 2857 does not address communications between park residents and the utilities. It is clear however that both utilities

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

are already engaged in this process. SoCalGas and SDG&E state in their replies that direct mailers will be sent to the master-meter customers informing them of the tariff changes and how they will affect their sub-metered residents. Both utilities will work with the master-meter customer to add new accounts into their databases and include them in their annual January mailings reminding master-meter customers of residents or tenants on the property that are CARE eligible.

In conclusion, the Commission finds that both SoCalGas and SDG&E have filed timely and appropriate compliance Advice Letters as directed by D.08-11-031. We do not find the protests of WMA to be valid. SoCalGas' Advice Letter 3923 and SDG&E's Advice Letter 2055-E/1830-G are thus approved without modification and are effective on the date this Resolution is adopted.

## **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 was mailed to parties for comments, and subsequently received no comments during the open period. It will be placed on the Commission's May 21, 2009 agenda.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

## **FINDINGS**

1. On November 6, 2008, in D.08-11-031, the Commission adopted the IOUs' 2009-11 Low Income Energy Efficiency (LIEE) program budgets and the California Alternate Rate for Energy (CARE) program budgets.
2. D.08-11-0-31 includes discussion on the recent passage of AB 2857, which relates to the California Alternative Rate for Energy (CARE) discount for sub-metered residents of master-meter customers.
3. AB 2857 adds Section H to Public Utilities Code Section 739.5, which reads:

(h) The Commission shall not deny eligibility for the California Alternative Rates for Energy (CARE) program, created pursuant to Section 739.1, for a residential user of gas or electric service who is a submetered resident or tenant served by a master-meter customer on the basis that some residential units in the master-meter customer's mobile home park, apartment building, or similar residential complex do not use a submetering structure to obtain and pay for their utility service.
4. D.08-11-031 orders the IOUs to comply with AB 2857 by updating their tariffs to reflect the additional language in the Public Utilities Code. The IOU's submitted their compliance Advice Letters on January 5, 2009, with the exception of SoCalGas, who filed on November 20, 2008.
5. PG&E's and SCE's Advice Letters demonstrated that their tariff schedules were already in compliance with AB 2857. Both IOUs' Advice Letters were approved and made effective on March 10, 2009.
6. SoCalGas' and SDG&E's Advice Letters submitted revisions and additional language to their existing tariffs in compliance with AB 2857. For SoCalGas such alterations included modifications to Schedule Nos.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

GM and G-CARE. SDG&E submitted modifications to Schedules GM, G-CARE, and E-CARE.

7. The Western Manufactured Housing Community Association (WMA) submitted protests to both SoCalGas' and SDG&E's Advice Letter on December 1, 2008, and January 23, 2009, respectively.
8. SoCalGas and SDG&E responded to WMA's protests on December 17, 2008, and January 28, 2009, respectively. WMA filed a secondary protest on December 30, 2008, following SoCalGas' reply comments.
9. The Commission finds that the tariff changes contained in SoCalGas Advice Letter 3923 and SDG&E Advice Letters 2055-E/1830-G are in compliance with AB 2857.
10. With the approval of these Advice Letters, all qualified submetered residents of master-meter customers of the IOUs within California shall have access to the CARE discount, regardless of the metering situation for utility services provided to other residents on their property.
11. WMA's protest that SoCalGas' and SDG&E's Advice Letters are in violation of AB 2857 because they do not provide the CARE discount to residents of a master-metered facility who do not pay their utilities separately or pay them through rent is not valid.
12. There are already numerous procedures and laws in place requiring the utilities to provide CARE applications to tenants.
13. California Civil Code 798.43.1 specifically requires the master-meter customer to notify qualified tenants about the CARE discount as well as appropriately pass it through to CARE participants on their monthly utility bills.

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

14. Neither D. 08-11-031 nor AB 2857 addresses CARE outreach or enrollment by the IOUs.
15. SoCalGas' and SDG&E's Advice Letters are in compliance as submitted.

**THEREFORE IT IS ORDERED THAT:**

1. SoCalGas's modified tariff Schedule Nos. GM and G-CARE as submitted in Advice Letter 3923 are approved.
2. SDG&E's modified tariff Schedule Nos. GM, G-CARE, and E-CARE as submitted in Advice Letter 2055-E / 1830-G are 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 May 21, 2009; the following Commissioners voting favorably thereon:

/s/ Paul Clanon  
Paul Clanon

<SoCalGas, SDG&E> <AL 3923, 2055-E/1830-G> /<do2>

Executive Director

MICHAEL R. PEEVEY

PRESIDENT

DIAN M. GRUENEICH

JOHN A. BOHN

RACHELLE B. CHONG

TIMOTHY ALAN SIMON

Commissioners