

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 18, 2010

To: The Commission
(Meeting of May 20, 2010)

From: Edward Randolph, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **AB 2207 (Fong) – Utilities: termination of service.
As Amended: April 8, 2010**

**LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE UNLESS
AMENDED**

SUMMARY OF BILL:

This bill would require the utilities to extend a payment plan to customers who are at risk of utility service disconnection. It would also require that a customer not have to pay a deposit to reestablish credit following utility service disconnection. Additionally, the utilities would be required to file a Tier 1 Advice Letter to open a memorandum account to track any significant additional costs associated with complying with the above practices.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The California Public Utilities Commission (Commission) has already released an Order Institute Rulemaking (OIR 10-02-005) to address utility service disconnections. The OIR instituted several temporary measures to address an increased number of disconnections resulting from the current recession. The OIR then called for a review of the current disconnection practices with the end goal of creating new permanent disconnection rules. The specific provisions in the bill are almost identical to the temporary measures in the OIR. Signing this bill into law will remove the possibility of a detailed investigation of these provisions or other disconnection options including their cost impacts. The Commission's OIR put these practices in place on a temporary basis; the bill would make them permanent without analysis of the impacts.

The bill proposes to extend the payment plan for customers subject to disconnection to exceed twelve months, without an upper limit. This may result in significant and expensive arrearage management costs which will ultimately be passed on to all

ratepayers. The Commission is currently determining the appropriate payment plan time period based on input from the utilities and advocacy groups.

Filing Tier 1 Advice Letters is an internal Commission procedure and should not be put into statute because the Commission may change the Advice Letter process at any time at its discretion, as it has done in the past.

SUMMARY OF SUGGESTED AMENDMENTS:

To allow the Commission to more completely address issues with current disconnection policies, this bill should be amended to require the Commission to establish statewide guidelines and procedures for the regulated public utilities relating to utility service disconnections.

DIVISION ANALYSIS (Energy Division):

- Precludes a detailed investigation of the cost implications of the OIR
The Commission recognizes the problem of increasing disconnections in the current economic recession and is currently engaged in evaluating and implementing a number of cost-effective measures to reduce the number of disconnections. The Commission established a Rulemaking (R. 10-02-005) on February 4, 2010, and should release a final Decision in this proceeding this summer. The final decision will address the problem of disconnections and strategies for future disconnection practices.
- The Order Institute Rulemaking (OIR) directed the utilities to implement the following interim practices which are almost identical to the bill:
 - The customer has a right to arrange a bill payment plan extending a minimum of three months and a maximum of twelve months.
 - Once a customer has established credit, the utility must not require that customer to pay additional reestablishment of credit deposits with the utility for either slow-payment/no-payment of bills or following a disconnection.
- The OIR process involves input from all parties including the utilities, customer advocacy groups and community based organizations. After engaging various parties, through the OIR process, the Commission will develop best practices while striking a balance between cost-effectiveness and minimizing the impacts on customers who are at the risk of disconnection. Enacting this bill as a law will remove the possibility of a detailed investigation of these provisions, including their cost impacts prior to putting them in place permanently.
- Furthermore, unlike the OIR, the bill does not set an upper limit on payment plan. The bill proposes to extend the payment plan indefinitely for customers subject to disconnection. This may add significant and expensive arrearage management

responsibilities and costs on the utilities. In the absence of a specified time limit, these costs will be very difficult to estimate. The Commission is currently determining the appropriate payment plan time period, while engaging with the utilities and advocacy groups to determine a balanced and responsible payment plan, which helps those customers who are at a risk of disconnection and does not impose a huge burden on other ratepayers.

- Addresses internal Commission Procedures

The bill requires utilities to file a Tier 1 Advice Letter to open a memorandum account to track any significant additional costs. This provision is also identical to the temporary provisions in the OIR. While the directive to file a Tier 1 Advice Letter was justified in the OIR, it does not belong in a legislative bill. Directing the utilities to file Advice Letters is an internal Commission procedure and should not be put into statute. A memorandum account is one means of allowing a utility to track the cost of a program so that the utility can recover those costs in rates at a future date. However, a memorandum account is not the only means of tracking costs and in other circumstances may not be appropriate. Requiring a memorandum account as the preferred means of tracking costs should not be embedded in statute. For example in the after the utilities next general rate case the costs of the disconnection practices will probably be simply embedded in rates.

PROGRAM BACKGROUND:

- The Commission is engaged in continuous efforts to address the needs of low income customers facing residential gas and electric utility service disconnections due to nonpayment.
- Following a Division of Ratepayer Advocate's report entitled, "Status Report on Energy Utility Service Disconnections," which discussed service disconnections and reconnections from January 2006 through August 2009, the Commission held a public meeting on December 17, 2009. Following the meeting, all four utilities agreed to a moratorium on service disconnections beginning December 21 and extending through January 5. The Commission then held a workshop on January 5, 2010, to afford the utilities and other stakeholders an opportunity to discuss "best-practices" for customer outreach and education so that customers can address repayment of arrearages *before* they are disconnected.
- On February 4, 2010, the Commission opened a rulemaking to continue efforts to reduce the number of residential gas and electric utility service disconnections due to nonpayment by improving customer notification and education.
- The Order Institute Rulemaking (OIR) directed the utilities to implement the following temporary practices while the Commission considered long term strategies for reducing the impacts of utility disconnections:

- All customer service representatives (CSRs) must inform any customer that owes an arrearage on a utility bill that puts him or her at risk for disconnection that the customer has a right to arrange a bill payment plan extending from a minimum of three months to a maximum of twelve months.
 - Once a customer has established credit as a customer of that utility, the utility must not require that customer to pay additional reestablishment of credit deposits with the utility for either slow-payment/non-payment of bills or following a disconnection.
 - The utilities must file monthly reports of specific disconnection data including the number of disconnections experienced by each of the respondents.
 - The utilities have a unique opportunity to leverage available funds under the federal government's American Recovery and Reinvestment Act (ARRA) to provide critical payment assistance to eligible low-income customers. Through this provision of ARRA, every one dollar of local contributions will be matched with four dollars from the Emergency Fund. Through this one time program that will expire on September 30, 2010, eligible low-income customers who have experienced an uncontrollable or unforeseen hardship may receive an energy credit on their utility bill. The utilities were directed to file Tier 3 Advice Letters outlining their proposed program to take advantage of the Emergency Fund.
- The Commission anticipates completing the OIR and adopting new disconnection rules by the summer of 2010.

LEGISLATIVE HISTORY:

None.

FISCAL IMPACT:

The fiscal impact would be **\$107,901**. The bill creates work that is different from the current responsibilities of staff in the Low Income Energy Programs Section. Currently, the staff members in this section are occupied with administering and overseeing the LIEE and the CARE programs, and it would be an administrative burden to undertake. The Commission would need to hire a new analyst to estimate the cost and rate impacts of these new measures aimed at a reduction of disconnection rates.

STATUS:

AB 2207 is in the Senate awaiting policy committee referral by the Senate Rules Committee.

SUPPORT/OPPOSITION:

Support: The Greenlining Institute

Opposition: None on file.

STAFF CONTACTS:

Edward Randolph, Director (916) 327-3277 efr@cpuc.ca.gov

Date: May 18, 2010

BILL LANGUAGE:

BILL NUMBER: AB 2207 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY APRIL 8, 2010

INTRODUCED BY Assembly Member Fong

FEBRUARY 18, 2010

An act to add Section 779.3 to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2207, as amended, Fong. Utilities: termination of services.

Existing law prohibits an electrical, gas, heat, or water corporation from terminating residential service for nonpayment of a delinquent account unless the corporation first gives prescribed notice of the delinquency and impending termination. Existing law also prohibits termination in specified situations.

~~This bill would state the intent of the Legislature to enact legislation to create a statewide standard for the termination of household utility service, including electricity and gas, in order to protect vulnerable populations, as well as to prevent death and serious injury resulting from utility service termination~~
require a gas or electrical corporation to implement specified practices, including prescribed bill payment plans for customers who are subject to termination of service for nonpayment of a delinquent bill, and a prohibition on requiring that a customer pay reestablishment of credit deposits for either late payments or nonpayment of bills, or following a termination of service .

Under existing law, a violation of the Public Utilities Act is a crime. Because this bill would be within the act, by imposing requirements on gas and electrical corporations, the violation of which would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes . State-mandated local program: ~~no~~
yes .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 779.3 is added to the Public Utilities Code, to

read:

~~779.3. It is the intent of the Legislature to enact legislation to create a statewide standard for the termination of residential utility service, including electricity and gas, in order to protect vulnerable populations such as the elderly, children, and the disabled, as well as to prevent death and serious injury resulting from utility service termination.~~

779.3. (a) A gas or electrical corporation shall implement the following practices:

(1) Notwithstanding subdivision (c) of Section 779, if a customer is subject to termination of service for nonpayment of a delinquent bill, the gas or electrical corporation shall allow a customer to enter into a bill payment plan in accordance with this paragraph. The gas or electrical corporation shall require a customer service representative to inform the customer that he or she has a right to arrange a bill payment plan extending the period for payment of the bill a minimum of three months. The gas or electrical corporation shall authorize a customer service representative to extend a bill payment plan period up to 12 months, depending on the particulars of the customer's situation and ability to pay. A gas or electrical corporation may authorize bill payment plan schedules that exceed 12 months. A customer service representative may arrange a bill payment plan with a payment period shorter than three months, at the option of the customer, if the customer is informed of his or her right to the three-month option. A customer shall be responsible for any charges that accrue to the service account after entering into a bill payment plan pursuant to this paragraph.

(2) If a customer has established credit as a customer of the corporation, a gas or electrical corporation shall not require that customer to pay reestablishment of credit deposits for either late payments or nonpayment of bills, or following a termination of service.

(b) A gas or electrical corporation may file with the commission a Tier 1 advice letter to open a memorandum account to track any significant additional costs associated with complying with practices pursuant subdivision (a), including the operations and maintenance charges associated with implementing the practices and any uncollectables that are in excess of those projected in the last general rate case for the gas or electrical corporation. The commission shall consider the process for determining the categories and amounts of costs in the memorandum account that should be considered reasonable for recovery, and the appropriate methods for recovery.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

