

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, To Increase Revenue Requirements for Electric and Gas Service and to Increase Rates and Charges for Gas Service Effective on January 1, 2003.

(U 39 M)

Application 02-11-017
(Filed November 8, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Pacific Gas and Electric Company.

Investigation 03-01-012
(Filed January 16, 2003)

Application of Pacific Gas and Electric Company Pursuant to Resolution E-3770 for Reimbursement of Costs Associated with Delay in Implementation of PG&E's New Customer Information System Caused by the 2002 20/20 Customer Rebate Program.

(U 39 E)

Application 02-09-005
(Filed September 6, 2002)

**ASSIGNED COMMISSIONER'S RULING
GRANTING THE UTILITY REFORM NETWORK MOTION FOR
AN INVESTIGATION INTO PACIFIC GAS AND ELECTRIC
COMPANY'S BILLING AND COLLECTION PRACTICES**

This Ruling grants the November 9, 2004 motion for an investigation into the billing and collection practices of Pacific Gas and Electric Company (PG&E) filed by The Utility Reform Network (TURN). This action is in response to the Motion filed by TURN as well as the increasing number of complaints received

by the Commission's Consumer Affairs Branch (CAB) and issues raised in response to Advice Letter (AL) 2550-G/2534-E filed by PG&E on July 20, 2004. We will consolidate this investigation with Order Instituting Investigation (I.) 03-01-012, which was opened as a companion investigation to PG&E's test year 2003 general rate case.

This fact-finding proceeding will allow the Commission to investigate whether PG&E's past conduct with regard to billing and collecting issues, including its collection of deposits from customers, is consistent with the orders and regulations of the Commission. As part of this review, the Commission will consider PG&E's request for authority to implement a late payment fee.¹ This proceeding is categorized as ratesetting. PG&E is placed on notice that evidence taken in this proceeding may be the basis for findings and Commission orders. If the investigation reveals that the conduct of PG&E violated the statutory laws or rules or orders of the Commission, it may levy fines and/or order PG&E to issue refunds. Other issues, including PG&E's request for a late payment fee, may be addressed on a prospective basis.

Background

On October 12, 2004, Executive Director Steve Larson sent a letter to PG&E, stating that numerous customer complaints to this Commission indicate that a large number of PG&E customers have received delayed or estimated bills. The letter stated that preliminary inquiries by Commission staff have not satisfactorily resolved the reasons for these bills, which are causing PG&E to

¹ PG&E's AL 2550-G/2534-E requesting authority to implement a late payment fee was filed on July 20, 2004.

demand high deposits and/or onerous payment arrangements from some customers. The Executive Director requested that PG&E “suspend all collection activities associated with overdue amounts related to these bills until we have completed our inquiry,” and “stop collecting overdue amounts from residential customers that date back more than the 90 days provided in Rule 17.1.”

In response to the Executive Director’s letter, PG&E filed AL 2581-G/2568-E on October 15, 2004, proposing revisions to gas and electric Rules 17.1 and 17.2 and the addition of a new Rule 17.3. PG&E’s proposal sought to: (1) add language to Rule 17.1 indicating that billing error includes failure to issue a bill, actual or estimated; (2) add language to Rule 17.2 stating that meter or billing errors defined under Rule 17.1 do not constitute unauthorized use; and (3) create an additional rule, Rule 17.3, which would permit PG&E to make billing adjustments covering a period of three years.

The Commission granted PG&E’s proposal in part and denied it in part. In particular, the Commission approved PG&E’s proposed change to Rule 17.1 to reflect that failure to issue a bill constitutes billing error. The Commission found that “consistent with the policy underlying its existing tariffs, failure to issue a bill shall be treated as billing error.” The Commission also noted that “[T]his is consistent with existing CPUC policy, tariffs, and requirements, including the requirements of D.86-06-035.”²

The Commission also adopted a modified version of PG&E’s requested changes to Rule 17.1 concerning exclusions from billing error. The Commission rejected PG&E’s proposed language defining exclusions, but agreed with PG&E

² Resolution G-3372, Finding of Fact 3, p. 24.

on the narrow point that delayed bills resulting from a natural or man-made disaster should be excluded from billing error. Once again, the Commission noted that “[T]his tariff change reflects the proper interpretation of existing tariffs.”

The Commission also expressed concern that PG&E’s responses to complaints received by CAB indicate that PG&E may have improperly relied on the phrase “unusual conditions” in Rule 9C to justify estimating bills indefinitely when billing error occurred and ordered PG&E to clarify Rule 9C and Rule 17 to remove the phrase “unusual conditions.”

The Commission rejected as vague PG&E’s proposed Rule 17.3, which would have allowed PG&E to back bill customers for a period of three years for “any situations where a customer’s bill requires adjustment but is not defined as billing error, meter error, or unauthorized use.”

In conclusion, the Commission stated that “the tariff changes we authorize in this resolution are consistent with existing CPUC policy, tariffs, and requirements, including the requirements set forth in D.86-06-035. These changes simply reflect the proper interpretation of existing tariffs.” The Commission ordered PG&E to file a report in A.02-11-017 et al., explaining the reasons for the large number of delayed and estimated bills over the past five years and a plan for reducing the number of these bills.

TURN’s Motion

On November 9, 2005, TURN filed a Motion for an investigation into the billing and collection practices of PG&E. TURN states that an ever-growing number of PG&E customers have contacted TURN with concerns regarding PG&E’s billing and collection practices. TURN claims that PG&E appears to be failing to issue timely bills, backbilling customers for periods in excess of the

three-month period permitted under Rule 17.1, and requiring customers to provide additional or excessive deposits to ensure continued service. TURN requests that the Commission formally examine whether PG&E's conduct violated Tariff Rule 17.1 and the orders of the Commission. TURN's Motion expresses concern regarding the following three practices:

Delayed Bills – TURN states that PG&E has reported delayed bills reaching as high as 59,000 in a single month, and has ranged between 20,000 and 24,000 per month through August of 2004. However, since under PG&E's practices a bill does not reach the "delayed" category until it has been delayed by more than 30 days from the date it would normally issue, TURN submits that the number of delayed bills would increase if PG&E were required to treat all bills issued after the normal billing date as "delayed" bills.

Estimated Bills – TURN reports that the number of "estimated bills" each month has reached 179,000 and has ranged between 55,000 and 100,000 in 2004 (through August).³ TURN suggests that the numbers reported by PG&E indicate that PG&E may be relying on "estimated" bills for extended, and excessive periods of time even when circumstances permit an actual meter read.

Rule 17.1 – TURN contends that PG&E's collection practices on delayed and estimated bills "violate the plain language of the utility's tariffs,"⁴ and suggests that PG&E has treated balances from unbilled usage as "unauthorized use of energy" in order to avoid the three month limit on back billing set forth in

³ An estimated bill is issued based on the utility's estimate of the customer's consumption, rather than metered consumption.

⁴ November 9, 2004, TURN Motion, p. 7.

Rule 17.1.B.2. TURN notes that certain cases, the delayed or estimated billing problems did not cease even after the customer notified PG&E of the missing, incomplete, or incorrect bill.

TURN also expressed concern that PG&E may be requiring customers to provide additional or increased deposits as a result of undercollections associated with delayed or estimated bills.

TURN requests that, at a minimum, the Commission investigate: (1) the scope and cause of PG&E's billing problems, (2) the changes necessary to eliminate those problems; and (3) appropriate remedies for affected consumers. TURN suggests that the Commission seek to identify the impact that PG&E's practices have had on its customers, and require PG&E to "make whole" the customers that have been adversely impacted by PG&E's practices. In addition, TURN requests that the Commission direct PG&E to suspend all service termination for payment delinquencies associated with estimated bills, delayed bills, or other billing error. TURN also requests that the Commission direct that PG&E neither require nor collect any additional deposit for customers whose payment delinquency or service termination was due in part to an undercollection resulting from estimated bills, delayed bills or other billing error.

In addition, TURN suggests that the Commission consider devising a system for tracking information about customers that call with billing or service complaints, particularly the number of service terminations and threatened service terminations, and whether they are due in part and in whole to undercollection on delayed or estimated bills.

TURN recommends that the appropriate vehicle for the Commission's review of PG&E's billing and collection practices is the existing investigation that

is a companion proceeding to PG&E's test year 2003 General Rate Case, I.03-01-012.

PG&E's Response

PG&E's response to TURN's motion is twofold. First, PG&E states that the Commission should deny TURN's request because delayed and estimated bills are not increasing, but in fact have been decreasing, and PG&E's practices are not harming customers. Second, PG&E argues that it has applied its tariffs consistent with Commission precedent, guidance of Commission staff, and sound public policy. In addition, PG&E states that TURN's request is unnecessary because the Commission staff is already covering the same ground.

PG&E states that during the spring of 2004, the Commission's Consumer Service and Information Division (CSID) notified PG&E of an increase in the number of complaints regarding billings practices. PG&E notes that over the past several months, CSID and the Commission's Energy Division have been in close contact with PG&E regarding billing issues.

PG&E asserts that the level of delayed and estimated bills is consistent with historical averages. PG&E reports that, since 1993, the numbers of bills not issued in 60 days or more has averaged about 39,000,⁵ which corresponds to less than three-quarters of 1% of the approximately five million bills issued by PG&E each month.⁶

⁵ Exhibit A-1 to PG&E's December 30, 2004, Response to TURN's Motion.

⁶ PG&E uses the term "delayed bill" to refer to those bills that are not sent to a customer within PG&E's typical 30-day cycle (the actual range is 27-33 days), but only includes in Exhibit A-1 bills that are not issued in 60 days or more.

PG&E admits that there was a temporary increase in delayed and estimated bills in 2003 associated with the rollout of PG&E's new customer information system (CorDaptix), but claims that this increase was neither severe nor unexpected. PG&E reports that the delayed billing numbers peaked at almost 60,000 in July 2003, about seven months after the implementation of CorDaptix.

PG&E maintains that customers were not harmed by the temporary increase in delayed and estimated bills, because PG&E voluntarily imposed a moratorium against any automated collections activity in the month preceding and in the four months⁷ following the rollout.⁸ PG&E suggest that if it is true, as TURN alleges, that customer complaints about PG&E's billing practices have increased in the recent past, these complaints are likely due to the fact that many customers were insulated from collection activities for the first four months of 2003.

PG&E also maintains that it has not become more likely to shut-off customer accounts for non-payment. PG&E reports that, since 1999, it has had to shut-off approximately 182,000 accounts per year for non-payment. PG&E admits that shut-off activity for 2003 and from January through November 2004, was slightly higher, with about 198,000 and about 187,000 accounts losing service

⁷ PG&E states that while initially this suspension covered all customers, beginning in March 2003, PG&E gradually lifted the suspension, starting with commercial and industrial customers.

⁸ PG&E states that it continued to pursue manual collection activities with respect to a small number of customers representing high dollar, high risk exposures. (PG&E Response, p. 11)

for non-payment, respectively, but that these numbers are consistent with the average.

PG&E also disputes TURN's allegation that PG&E has required excessive or additional deposits from customers for undercollections related to delayed or estimated bills, noting that the percentage of residential customers that have posted deposits with PG&E in 2004, about 7%, is in line with historical averages.

PG&E maintains that delayed and estimated bills do not constitute "billing error" within the meaning of Rule 17.1 and are therefore not subject to the three-month limitation on adjusting undercharges to residential customers. PG&E argues that the plain meaning of Rule 17.1 excludes delayed and estimated bills from the definitions of billing error. PG&E contends that public policy supports PG&E's practice of billing customers for all energy consumed at tariffed rates, regardless of when the billing occurs, arguing that this policy stems from Sections 532 and 3453 of the Public Utilities Code, which create a "legal duty" to backbill, citing D.90-01-018, and three other Commission Decisions. (D.89-05-012, D.03-10-089, and D.86-06-035).

PG&E also claims that because Commission Consumer Affairs Branch (CAB) staff reached the same interpretation as PG&E on numerous occasions, the Commission should now be barred from questioning PG&E's practices. PG&E states that the Commission's existing procedures for addressing billing concerns are effective and already engaged and that the Commission cannot properly evaluate TURN's proposals without considering the associated financial implications.

PG&E's Request for Authority to Implement a Late Payment Fee

On July 20, 2004, PG&E filed AL 2550-G/2534-E requesting authority to implement a late payment fee. PG&E received authority to implement a late

payment fee as part D.95-12-055, issued in PG&E's test year 1996 GRC, but this authority was contingent on PG&E's demonstrating the efficacy of PG&E's billing system. PG&E's AL explained that the requirement for demonstrating efficacy was based on intervenors' concerns about implementing the late payment fee in PG&E's prior customer information system called Legacy CIS. PG&E's Legacy CIS was not initially designed to accommodate a late payment fee and was, even in 1995, thought to be an outdated system that carried a risk of system error.

The AL explains that in late 2002 PG&E replaced its Legacy CIS with a vendor-supplied CIS called CorDaptix. CorDaptix offers late payment fee functionality as part of its base system, which PG&E has, to date, not yet implemented. The AL states that PG&E is now in the process of working with its vendor to modify the CorDaptix late payment fee module to PG&E's business rules.

The AL explains that although the module has already undergone testing and use by PG&E's vendor, the module will still need to be installation-tested on PG&E's system immediately prior to implementation, taking into consideration whatever rate changes or system changes have been made up to the point of implementation. Furthermore, PG&E will conduct a post-implementation review to ensure that the late payment fee is functioning properly and PG&E will report any unexpected findings to the Energy Division.

Tariff Revisions

The AL proposes to add a new section N to gas and electric Rule 9—Rendering and Payment of Bills, to set forth the late payment fee:

“A Late Payment Fee (LPF) of one percent (1%) per month may be applied to the total amount of unpaid energy-related charges if the

customer's payment is not received in a timely manner in accordance with PG&E's tariffs after issuance of a residential or nonresidential bill. Customers participating in the California Alternate Rates for Energy (CARE) program and State Governmental agencies are exempt from the LPF. "

"Charges not subject to the LPF would be those amounts corresponding to Utility User's Tax, Energy Commission Tax, Electric Franchise Fee Surcharge and Gas Franchise Fee Surcharge. All other types of charges would be subject to the LPF, including, but not limited to, amounts corresponding to DWR charges, public purpose programs, decommissioning costs, reconnection charges following discontinuance of service, and non-bypassable charges."

Protests

ORA protested the implementation of AL 2560-G/2534-E on the basis that it was not timely filed, raised factual issues, and does not comply with the minimum requirements for implementation as set forth in the original order. ORA maintains that the analysis, factual evidence and testimony relied on by the Commission when it issued D.95-12-055 are outdated and that PG&E should not be allowed to rely on an eight-year-old decision to implement a late payment fee that should have been addressed in its most recent GRC.

ORA also states that PG&E has not complied with the minimum requirement for late payment fee implementation established in D.95-12-055 and that PG&E's request is too ambiguous with respect to the criterion for determining the timeliness of payment. ORA categorized PG&E's proposed 1% per month fee as another factual issue.

ORA recommends that if PG&E still seeks to implement a late payment fee and associated tariff changes, it should do so by filing an application through which PG&E can present evidence on the implementation of such a fee, including the revenue impact associated with the implementation of the fee.

TURN also protested AL 2560-G/2534-E. TURN argues that since PG&E did not identify implementing the late payment charge as part of either of the two general rate cases that have been litigated and decided since D.95-12-055, and the additional revenues that would result, PG&E's AL must be rejected. TURN asserts that it would not have agreed to the settlement adopted in D.04-05-055, had PG&E notified parties of its intention to seek approval of the late payment fee.

TURN recommends that the Commission re-open the evidentiary record in A.02-11-017 and require testimony and hearings to explore the revenue impacts of the late payment fee and understand the extent to which PG&E's proposal would modify the settlement adopted in D-04-05-055.

Statutory and Decisional Standards

As an "electrical corporation," PG&E is subject to the requirements of the Public Utilities Code.⁹ In particular, Section 451 of the Public Utilities Code obligates every public utility to "furnish and maintain such adequate, efficient, just and reasonable service...as [is] necessary to promote the safety, health, comfort and convenience of its patrons, employees, and the public." Section 701 of the Public Utilities Code authorizes the Commission to regulate all public utilities in this state and "to do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."¹⁰ Section 702 of the Public Utilities Code obligates

⁹ Public Utilities Code Sections 216, 218 and 451.

¹⁰ The cited sections of the Public Utilities Code are broadly construed by the courts. *San Diego Gas & Electric Co. v. Superior Court* (1996) 55 Cal. Rptr. 2d 724, 13 Cal 4th 893, *Lobby Against Monopolies v. Public Utilities Commission* (1979) 160 Cal. Rptr. 124, 25 Cal

Footnote continued on next page

every regulated utility to “obey and comply with every order, decision, direction or rule made or prescribed” by the Commission.

One of the primary mechanisms through which the Commission regulates an electrical corporation such as PG&E is the utility’s general rate case. On May 27, 2004, the Commission approved D.04-05-055 in PG&E’s Test Year 2003 GRC. D.04-05-055 approved a settlement agreement that adopted annual revenue requirements for electric and gas distribution service for the period from January 1, 2003, through the year 2006. D.04-05-055 granted, for the most part, PG&E’s requested \$176 million in capital expenditures for its Cordaptix customer information system (CIS) project and \$49 million in associated Operation and Maintenance expenses.

Decision 86-06-035

D.86-06-035 established procedures for retroactive billing by gas and electric utilities to correct alleged under billings. These rules form the basis for the utilities’ tariff rules relating to rendering of bills, meter testing and adjustments for meter and billing error, and adjustment of bills for unauthorized use. Among other things, D.86-06-035 found that “a three month limitation period for backbilling residential customers [for undercharges due to meter error or billing error] is sufficient in view of the utilities’ assertion that they have procedures to detect billing and meter errors promptly.”¹¹

3d 891. The Commission is a constitutional body with broad legislative and judicial powers and may exercise equitable jurisdiction as an incident to its express duties and authorities. *Wise v. Pacific Gas & Electric Co.* 91 Cal. Rptr. 2d, 479, 77 Cal. App. 4th 287, rehearing denied, review denied.

¹¹ (21 CPUC2d, p. 278.)

PG&E's Tariff Rule 9

PG&E's Tariff Rule 9 governs the rendering of bills. It provides that bills will be rendered at regular intervals, typically once a month. Tariff Rule 9 also provides that, if for reasons beyond the meter reading entity's control, the meter cannot be read, PG&E will bill the customer for estimated consumption.

Tariff Rule 17.1

PG&E's gas and electric Rule 17.1A defines billing error and allows PG&E to adjust residential bills for undercharges due to billing error for a period of three months; for nonresidential customers adjustments may be made for a period of three years.

Discussion

TURN's motion raises serious issues for PG&E customers and this Commission. TURN describes a system under which PG&E appears to have been interpreting its tariffs in such a manner as to allow it to "back-bill" customers or estimate customers bills for extended periods of time due to temporary delays or deficiencies in its billing system. TURN's motion also raises issues concerning PG&E's policies with regard to customer deposits.

In its December 30, 2004 response to TURN's motion, PG&E acknowledges that it has issued both "delayed" and "estimated" bills for periods in excess of three months, but argues that its actions were consistent with the requirements of its tariffs. PG&E points to several Commission decisions addressing billing issues that it claims support its positions. PG&E also points to letters issued by CAB that it claims further support its position. However, since, PG&E filed its Response, the Commission issued G-3372, addressing PG&E's Rules 17.1, 17.2 and the requirements of D.86-06-035. In G-3372, the Commission found that under "the proper interpretation of existing tariffs," "failure to issue bills should be treated as billing error." While the Commission declined to adjudicate the question of whether or not PG&E's past actions were inconsistent with its tariffs through the AL, the Commission specifically responded to PG&E's assertion by stating that "consistent with existing CPUC policy, tariffs, and requirements, including the requirements of D.86-06-035," failure to issue a bill or estimating a

bill due to changes to a billing system should be treated as a billing error for purposes of applying gas or electric Rule 17.1.”¹²

Both TURN’s Motion and PG&E’s Response raise a number of material factual issues that warrant investigation. While the questions regarding PG&E’s interpretation of the tariffs have been resolved on a going forward basis in Resolution G-3372, the question of whether PG&E’s past conduct violated the tariffs, rules or order of the Commission will be adjudicated in this proceeding. The adoption of Resolution G-2887 in no way implicates the disposition of issues which arise from past behavior.

In addition, although both PG&E’s December 30, 2004, Response to TURN’s Motion and PG&E’s Report on Delayed and Estimated Bills From 2000 through 2004 describe several possible reasons for delayed and estimated bills, neither document resolves all of the outstanding issues. While PG&E claims that its estimated bill numbers compare favorably to prior levels and industry norms, the factual evidence is limited, and both parties should be afforded the opportunity to test and validate the information through testimony and cross-examination. Furthermore, it is clear from both documents that neither the number of customers affected by delayed and estimated bills nor the total dollar amount of the delayed and estimated bills is insignificant.

¹² Resolution G-3372, Finding of Fact 24.

Table 4 of PG&E's Report of Estimated and Delayed Bills from 2002 to 2004 lists the number of "long bills" ¹³ issued as follows:¹⁴

Year	Number of Residential Long Bills Issued with Energy Use Over 60 Days	Number of Non-Residential Long Bills Issued with Energy Use Over 60 Days
2000	200,000	96,000
2001	265,000	88,000
2002	390,000	76,000
2003	868,000	173,000
2004	297,000	79,000

PG&E's Table 6 provides PG&E's estimate of the total dollar amounts billed to residential and non-residential customers with energy use over 60 days.

Year	Total Amounts Billed to Residential Customers with Energy Use Over 60 Days	Total Amounts Billed to Non-Residential Customers with Energy Use Over 60 Days
2000	\$37,000,000	\$176,000,000
2001	\$63,000,000	\$199,000,000
2002	\$70,000,000	\$126,000,000
2003	\$193,000,000	\$1,249,000,000
2004	\$88,000,000	\$934,000,000

PG&E does not provide data for the number of residential customers receiving estimated bills prior to 2003, but states that 637,000 residential customers received estimated bills in 2003 and 430,000 received estimated bills in 2004.

¹³ *Id.*, Table 6, p. 18.

¹⁴ (PG&E Report on Estimated and Delayed Bills from 2000 through 2004, dated February 4, 2005, p. 3.)

Moreover, the Commission continues to receive complaints and comments from customers who feel that PG&E is not complying with Tariff Rule 171. and/or are other wise dissatisfied with PG&E's billing and collecting operations.

Two recent comments regarding PG&E's billing and collection practices are summarized below.

On February 1, 2005, a PG&E customer testifying at a public participating hearing held as part of A.04-06-024, stated:

“Recently, I’ve had repeated contact with PG&E, which puts me in an optimal position to evaluate its performance in key areas....First, customer service. Last month I received a 48-hour turn-off notice, the identical notice I had received the previous month. Since my accounts were in good order I was fairly certain that this notice, like the December one, was a mistake....I proceeded through various menu options, all leading to a dead end...Eventually I figured out how to bypass the menu, but it took me 20 minutes... The customer service agent informed me that I had thrown off the utility’s computer by paying the December bill before the due date. ...”

“I, myself was back billed in January 2004 for the period August 2002-March 2003. I was also back billed in late 2003 for the period March – July 2003. These back bills for eight and four months respectively, presented me with a significant financial burden.¹⁵

¹⁵ February 1, 2005 oral comments of R. Ruth Linden in A.04-06-024.

Another customer at the same PPH stated:

“I had a big problem with PG&E. I moved into a new house. I called. I canceled my old service. Got my new service. And one month, no bill. Two months, no bill. I called them and said...you guys haven't billed me. What's going on? Send me a bill so I can pay you the money I owe you, because I'm fearing some \$500 bill down the road. Six months goes by.”¹⁶

Similarly, at the February 2, 2005 public participation hearing (PPH) in the same proceeding, another individual submitted the following comments:

“I am a program manager at Community Action Marin in San Rafael, CA. One of my duties is overseeing the Home Energy Assistance Program funded by the California State Department of Community Services and Development (CSD). During the past year or so (since November of 2003) our program has been deluged with request for assistance to address PG&E bills. Our 'safety net' program is failing to help these households to the degree it could in previous years, and the system is approaching collapse. Our energy assistance program has disbursed \$60,000 in the first month of activity, and will almost certainly be out of money by the end of March. CSD expects us to run this program twelve months a year. CSD has added another component to their program, which allows us to make 'supplemental' payments for clients beyond the usual assistance. While this helps with the enormous bills our customers receive, it only further depletes our resource.

“There have been several events which have negatively impacted our ability to help our clientele...PG&E's conversion of its account number system (November 2002) created chaos in the system. Many clients were not billed for months at a time, then received bills for these unbilled periods, the totals of which they were unable to meet...PG&E began a period of inflexibility in payment plans,

¹⁶ February 1, 2005 oral comments of Mr. Alesandro in A.04-06-024.

despite their violation of their own regulations regarding billing. Wholesale shutoff notices were the result. In the ensuing months, utility rates, particularly for gas service, have increased exponentially. Many of our clients come into our offices with gas bills which are 100% higher than the previous year.

“Each of these issues has reduced the ability of our program to get our clients out of trouble. This program, which was designed to help people with occasional, emergency situations, has become the sole resource for large numbers of households, many of which had never sought assistance in the past.

“PG&E is a ‘public utility.’ It is estimated that approximately 11% of households in the Bay Area are living at or below the Federal Poverty level. Constantly escalating home energy bills present an increasingly volatile part of household budgets, even among the most conservative rate payers. Where not too long ago it was true that low income households were paying 300% higher energy bills in proportion to their incomes, that percentage is approaching 600%. For many of our clients, a \$ 150.00 energy bill represents 19% of the household income each month. (When reconnect fees and security deposits are included, the percentage goes way up.) This population must be considered in any application for rate increases or some other consideration must be made. All of our applicants are required to apply for the CARE program, but with the size of the bills this winter, that is little relief.”¹⁷

While we cannot accord these comments the same weight as evidence presented in sworn testimony and subject to cross-examination, these comments reinforce the decision to formalize the Commission’s informal review and grant TURN’s motion. The performance described in these comments, if accurate, is unacceptable.

¹⁷ Written comments of Richard McKee, submitted in response to the February, 2, 2005 PPH in A.04-06-024.

In addition, it is worth noting that the San Francisco Board of Supervisors issued a resolution urging the Commission to open a public investigation into PG&E's practices of estimating electric usage rather than reading electric meters.¹⁸

Like TURN's motion, the resolution expressed concern that PG&E's practices might harm consumers by requiring them to pay for more electricity than they used.

We reject PG&E's claim that the Commission is barred from conducting an investigation into PG&E's practices due to various CAB staff communications. PG&E is well aware that Commission staff does not speak for the Commission and that only Commission order carry the weight of law. As noted in Resolution G-3372, "[t]he Commission has the authority to rescind staff disposition of complaints" ... "issues formal opinions only through its decisions and resolutions."¹⁹

We also reject PG&E's claim that TURN's request is procedurally flawed because it proposed to open an inquiry with potential financial consequences to PG&E in a GRC in which the revenue requirement has already been fixed. On the contrary, reviewing PG&E's billing and collection practices in the very proceeding in which we adopted a revenue requirement for performing those services is appropriate. This ruling, like the initiating OII, provide PG&E with notice of the investigation, and the forthcoming hearings will provide PG&E with the opportunity to be heard.

¹⁸ Resolution 585-04 adopted September 21, 2004.

¹⁹ Resolution G-3372, p.10, footnote 1; p. 17.

We will not deny PG&E its due process rights and the ability to be heard regarding its past actions, nor will we deny TURN's motion without adjudicating the factual issues raised by the motion.

This investigation will review the facts to determine whether PG&E violated D.86-06-035 and Tariff Rules 9 and 17.1 by billing customers in excess of the three month limitation imposed by Rule 17.1. This investigation will also evaluate the scope and impact of PG&E's billing and collection practices on PG&E's customers. The scope of this investigation will include, but is not limited to:

- Whether PG&E has implemented any changes to its billing practices since the beginning of 2002 that would impact the number of estimated or delayed bills it issues to its customers.
- The effect of PG&E's new billing system Cordaptix on the utility's billing practices.
- Whether PG&E has implemented any change to its collection practices since the beginning of 2002?
- How PG&E determines whether and when to require a deposit, including whether it has implemented any change to its deposit requirement practices since the beginning of 2002.
- In each year since 2002, of the customers who had their service terminated due to non-payment of their utility bill, how many had received estimated or delayed bills?
- In each year since 2002, the number of customers from which PG&E requested a new or additional deposit for continuation of service.

- In each year since 2002, of the customers from whom PG&E requested a new or additional deposit, how many had received estimated or delayed bills?
- Investigate whether PG&E's actions with regard to estimated and delayed bills and the impacts that these bills have on the utility's customers warrant imposition of a fine.
- Investigate appropriate reparations to the PG&E customers who have suffered from the utility's estimated and delayed billing practices and the associated collection activities for delinquent amounts from such bills.

In addition, this investigation will consider PG&E's request for authority to implement a late payment fee. It would be inimical to customers' interests if the Commission were to grant PG&E authority to charge a late payment fee for undercollections or late payments resulting from delayed bills. Therefore, in addition to the issues described above, this proceeding will evaluate the reasonableness of PG&E's request for a late payment fee in light of the current CIS system and the revenue requirement adopted in D.04-05-055.

Discovery

Discovery may commence immediately. Any discovery disputes that the parties cannot resolve between themselves, after good faith efforts to meet and confer, may be raised by written motion in accordance with Rule 45. The Commission generally looks to the Code of Civil Procedure for guidance in resolving discovery disputes.

Service List

The existing service list for A.02-11-017 et al. shall be used for service until a new service list for this phase of the proceeding is established at the PHC. This proceeding continues to be subject to Rule 7 (c) of the Commission's Rules of

Practice and Procedure. In addition to placing specific requirements on ex parte communications, Rule 7(c) requires parties to report ex parte communications pursuant to Rule 7.1.

IT IS RULED that:

1. The November 9, 2004 motion for an investigation into Pacific Gas and Electric Company's (PG&E) billing and collecting practices filed by The Utility Reform Network (TURN) is granted.

2. The investigation into PG&E's billing and collecting practices will be conducted in I.03-01-012, the companion investigation to PG&E's test year 2003 General Rate Case.

3. PG&E's Advice Letter 2550-G/2534-E requesting authority to implement a late payment fee, filed on July 20, 2004, will be included within the scope of this investigation.

4. The scope of this investigation will also include:

- Whether PG&E has implemented any changes to its billing practices since the beginning of 2002 that would impact the number of estimated or delayed bills it issues to its customers.
- The effect of PG&E's new billing system Cordaptix on the utility's billing practices.
- Whether PG&E has implemented any change to its collection practices since the beginning of 2002.
- In each year since 2002, of the customers who had their service terminated due to non-payment of their utility bill, how many had received estimated or delayed bills.
- How PG&E determines whether and when to require a deposit, including whether it has implemented any change to its deposit requirement practices since the beginning of 2002.

- In each year since 2002, the number of customers from which PG&E requested a new or additional deposit for continuation of service.
- In each year since 2002, of the customers from whom PG&E requested a new or additional deposit, how many had received estimated or delayed bills.
- Investigation of whether PG&E's actions with regard to estimated and delayed bills and the impacts that these bills have on the utility's customers warrant imposition of a fine.
- Investigation of appropriate reparations to the PG&E customers who have suffered from the utility's estimated and delayed billing practices and the associated collection activities for delinquent amounts from such bills.

5. The investigation shall determine whether:

- PG&E violated D.86-06-035 and Tariff Rules 9 and 17.1 by billing customers for periods in excess of three months, and/or
- PG&E violated Tariff Rule by providing customers with estimated bills for periods in excess of three months.

6. The investigation shall also determine whether, pursuant to Sections 701, 734, and 1702 of the Public Utilities Code, institution of any or all of the following remedies for the customers that have suffered from PG&E's practices is warranted:

- PG&E should be required to refund any amounts collected in violation of Tariff Rules 9 and 17.1, plus interest, to all customers who paid such amounts, and/or,
- PG&E should be fined pursuant to Public Utilities Code Sections 2107 and 2108 for violations of the Orders and Rules of this Commission.

7. Discovery in this phase of the consolidated proceedings may commence immediately.

8. A prehearing conference shall be scheduled on March 22, 2005, at 10:00 a.m., in the Commission Court Room, State Office Building, 505 Van Ness Avenue, San Francisco, California, for the purpose of identifying the parties and setting a schedule for this proceeding.

9. Parties on other entities who intend to participate in this proceeding shall file and serve prehearing conference statements on or before March 15, 2005.

Dated February 25, 2005, at San Francisco, California.

/s/ MICHAEL R. PEEVEY

Michael R. Peevey
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by electronic mail to the parties to which an electronic mail address has been provided and by mail to parties for whom an electronic mail address was not provided, this day served a true copy of the original attached Assigned Commissioner’s Ruling Granting The Utility Reform Network Motion for an Investigation into Pacific Gas and Electric Company’s Billing and Collection Practices on all parties of record in this proceeding or their attorneys of record.

Dated February 25, 2005, at San Francisco, California.

 /s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.