PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Consumer Protection and Enforcement Division
Utility Enforcement Branch

Resolution UEB–012
April 6, 2023

R E S O L U T I O N

RESOLUTION UEB–012: APPROVING ADMINISTRATIVE CONSENT ORDER AND SETTLEMENT AGREEMENT OF THE UTILITY ENFORCEMENT BRANCH OF THE CONSUMER PROTECTION AND ENFORCEMENT DIVISION AND SOUTHERN CALIFONIA GAS COMPANY REGARDING THE IMPROPER COLLECTION OF RESIDENTIAL AND SMALL BUSINESS DEPOSITS PURSUANT TO RESOLUTION M-4846.

SUMMARY

In this Resolution, the California Public Utilities Commission (Commission) approves an Administrative Consent Order (ACO) and Settlement Agreement (or Agreement) between the Commission's Utilities Enforcement Branch (UEB) of the Consumer Protection and Enforcement Division (CPED) and Southern California Gas Company (SoCalGas) (collectively the Parties) to resolve alleged noncompliance relating to SoCalGas's collection of residential and small business deposits, pursuant to the attached Settlement Agreement. Specifically, the Commission issued a set of guidelines, namely, Resolution M-4842, directing the Investor-Owned Utilities (IOUs) to implement consumer protections using the emergency disaster relief program guidelines set forth in Decision (D.) 19-07-015 during the COVID-19 pandemic, including waiving deposits for residential and small business customers.[1] In addition, the Commission adopted D.20-06-003 on June 11, 2020, with a date of issuance of June 16, 2020, which prohibits the IOUs from requiring any residential customer to pay establishment of credit deposits for new service or reestablishment of service deposits for any reestablishment of service.

SoCalGas agrees to pay a total of $2.7 million at shareholders' expense as follows: $2,086,275.00 paid to residential and small business accounts that were billed and paid an establishment or reestablishment of service deposit on or after May 7, 2020, and that were not timely reversed[2]; $213,725.00 paid to SoCalGas's Gas Assistance Fund (GAF); and, $400,000 as penalties paid to the State of California's General Fund (General Fund).

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[1] Resolution M-4842 at 5-6; D.19-07-015 at 21-25; D.20-06-003 at 147 (Ordering Paragraph 8).

[2] This amount to be paid to customers is on top of the credits SoCalGas issued to affected customers to reverse the improper deposits.

BACKGROUND

IOUs previously had the authority to assess deposits for customers who sought to connect new service based on creditworthiness or active customers based on the timeliness of payments. On April 17, 2020, the Commission issued a set of guidelines, namely, Resolution M-4842, directing the IOUs to implement consumer protections using the emergency disaster relief program guidelines set forth in D.19-07-015 during the COVID-19 pandemic, including waiving deposits for residential and small business customers retroactively to March 4, 2020 – the date of Governor Gavin Newsom's declaration of a State of Emergency in response to the COVID-19 pandemic. On May 7, 2020, the Commission sent email correspondence to the IOUs requesting that the IOUs provide written confirmation that the IOUs are complying with the COVID-19 consumer protection regulations and waiving requirements for security deposits to connect or re-connect service. In addition, the Commission adopted D.20-06-003 on June 11, 2020, with a date of issuance of June 16, 2020, which prohibits the IOUs from requiring any residential customer to pay establishment of credit deposits for new service or reestablishment of service deposits for any reestablishment of service. Further, the Commission unanimously approved Resolution UEB-006, issued on December 17, 2020, which imposes a violation of $1,000 per affected residential customer where the IOU "bills a residential customer for a credit or service deposit in order to establish or re-establish service."[3]

On August 4, 2020, SoCalGas self-reported the collection of residential deposits by issuing an update to the Disconnection Order Instituting Rulemaking 18-07-005 service list and to the Energy Division. Consistent with D.19-07-015 and Resolution M-4842, SoCalGas waived security deposits for active core customers that established service and suspended reassessment of creditworthiness that would trigger additional deposits for active core customers. However, SoCalGas did not waive deposits for new customer turn-ons until the Commission communicated to SoCalGas on May 7, 2020, that the Commission's intent was for the IOUs to waive all deposits, including to connect or reconnect service, i.e. (new customer turn-ons). Based on its review of SoCalGas' responses to data requests, UEB determined that SoCalGas billed 100,380 residential and 4,537 small business customers deposits for establishment or reestablishment of service between March 4, 2020, and April 16, 2021.[4] UEB also determined that SoCalGas did not bill residential customers after December 17, 2020, the date Resolution UEB-006 was issued.

SoCalGas assessed and manually removed deposits retroactive to March 4, 2020, and credited accounts for any payments made while the company implemented a Customer Information System (CIS) enhancement to stop and remove deposits. After the issuance of

[3] Resolution UEB-006 at 11.

[4] SoCalGas billed 33,115 residential and small business customers deposits for establishment or reestablishment of service from May 7, 2020, through April 21, 2021, and 16,709 of these customers paid the deposit.

D.20-06-003, SoCalGas continued the manual processes to monitor, and clean-up deposits applied in error until the CIS process was fully automated.

Resolution M-4846, issued November 2020, adopted the Commission Enforcement and Penalty Policy (Enforcement Policy or Policy) and authorized Commission staff to negotiate and propose an ACO to resolve an enforcement matter, subject to review and consideration by the Commission.

UEB and SoCalGas executed the attached ACO and Agreement, pursuant to and consistent with the Enforcement Policy, which resolves all issues related to UEB's investigation into the alleged noncompliance related to SoCalGas's collection of residential and small business deposits. In accordance with the Enforcement Policy, the proposed settlement between UEB and SoCalGas (collectively, Parties or Settling Parties) is memorialized in the attached proposed ACO and Agreement.

The Enforcement Policy provides that the following general considerations should be evaluated as part of any proposed settlement to be submitted for Commission review:

1. equitable factors;
2. mitigating circumstances;
3. evidentiary issues; and
4. other weaknesses in the enforcement action

As part of developing the Agreement, the Parties explicitly considered these factors in their confidential settlement communications under Rule 12.6 of the Commission's Rules of Practice and Procedure. UEB acknowledges that SoCalGas fully cooperated with UEB on the negotiation of the ACO and Agreement, and that UEB explicitly considered a range of evidentiary and other matters, including all the factors set forth above, that would bear upon its pursuit of enforcement actions seeking penalties on disputed issues of fact and law. When taken as a whole, the Parties agree that the ACO amounts are within the range of reasonable outcomes had the matters proceeded to formal litigation.

PENALTY

Resolution M-4846 requires that any penalty assessed on a regulated entity using the Enforcement Policy must be calculated using its Penalty Assessment Methodology (Methodology). The Methodology sets forth factors to be considered when determining the amount of penalty.

1. Severity or Gravity of the Offense

The first factor looks at the type of harm inflicted because of the alleged violations of the utility. SoCalGas's deposit violations primarily resulted in potential financial harms related to emergency customer protections to support California customers during the COVID-19 pandemic. As explained in Resolution M-4842, the response to COVID-19 has been extremely disruptive to all Californians and has impacted many Californians' ability to work. The COVID-19 pandemic represents a different type of emergency, one where the threat --in this case, a virus-- necessitates a response which impacts Californians' ability to pay for utility service. SoCalGas continued to assess deposits on both residential and small business customers during the COVID-19 customer protection period and after the issuance of D.20-06-003, which eliminated deposits for residential customers. Although not all customers paid the deposits assessed, some did. Of the customers who paid the deposit, SoCalGas reviewed the accounts, and these accounts have all received a credit to offset the amount of the deposit charged. The penalty assessed against SoCalGas takes into account the severity of the threat to Californians' ability to pay for service that arose from SoCalGas's alleged violations during the COVID-19 protection period where the threat to Californians' ability to pay for service was heightened by the response to COVID-19.

2. Conduct of the Regulated Entity

The second factor the Methodology requires is consideration of the conduct of the entity. We considered SoCalGas's explanation that it took several steps to mitigate the assessment of deposits, including incorporating Customer Information System IT enhancements to comply with system issues. In addition, SoCalGas reported compliance issues and explained that it made attempts to correct the deposits so that it would not adversely impact its customers. Of the customers who paid the deposit, SoCalGas reviewed the accounts, and these accounts have all received a credit to offset the amount of the deposit charged. SoCalGas was also responsive to UEB's requests for data and information during UEB's investigation.

3. Financial Resources of the Regulated Entity, Including the Size of the Business

The third factor under the Methodology is the financial resources of the utility. Here, the Commission must ensure against excessive fines or penalties while imposing an effective fine/penalty. An effective fine or penalty is one that reflects the severity of the harm (the first factor examined above) and is also proportionate to the offending entity and those similarly situated to deter future similar offense of violations, without putting them out of business or otherwise impacting the entity in a catastrophic way.

Here, we find that SoCalGas should be required to pay a total of $2,700,000. SoCalGas shall pay $400,000 of this amount as penalties to the State's General Fund. The remaining amount will be allocated to directly benefit SoCalGas customers, as detailed in the Administrative Consent Order. SoCalGas is the nation's largest natural gas distribution utility in terms of customers and revenue. The settlement amount is enough to emphasize the importance of

compliance with the deposit requirements, provide relief to SoCalGas customers, and is reasonable given SoCalGas's financial resources.

4. Totality of the Circumstances in Furtherance of the Public Interest

The fourth factor under the Methodology is an evaluation of the penalty in the totality of the circumstances, with an emphasis on protecting the public interest. As described above, the $2,700,000 settlement is reasonable under the circumstances and is in the public's interest. Resolution M-4842 went into detail about the importance of customer protections during the COVID-19 pandemic.[5] Further, D.20-06-003 discussed the importance of not requesting deposits because "deposits can adversely impact a household's ability to meet its financial obligations."[6] This fine represents the importance the Commission placed on the COVID-19 customer protections and the elimination of deposits in D.20-06-003. It also provides benefits to SoCalGas's customers.

5. The Role of Precedent

The final factor is an examination of fines in other Commission Decisions with similar factual situations. This is the first enforcement action of the COVID-19 customer protections since the Commission issued Resolution M-4842. This is also the first enforcement action since the issuance of D.20-06-003, requiring the IOUs to eliminate deposits. We believe the $2,700,000 settlement in this instance can serve as an adequate deterrence from alleged deposit violations under Resolution M-4842 and D.10-06-003 and is reasonable under Resolution M-4846.

COMMENTS ON DRAFT RESOLUTION

The Draft Resolution was served on SoCalGas and all Parties of Record for R.18-07-005 on March 3, 2023 in accordance with PU Code § 311(g). The only comments received were from The Utility Reform Network (TURN) on March 20, 2023.

TURN requested clarification on the applicability of Resolution UEB-006 to SoCalGas' noncompliance, since the citation program adopted in Resolution UEB-006 was designed to enforce disconnection-related consumer protection rules adopted in D.20-06-003. Resolution UEB-006 was issued on December 17, 2020, which, among other things, imposes a fine of $1,000 per affected customer for billing a residential customer for a credit or service deposit.[7]

[5] Resolution M-4842.

[6] D.20-06-003 at 3.

[7] Resolution UEB-006 at 11.

In response to TURN's concerns and need for clarification, the Draft Resolution was revised to clarify that Resolution UEB-006 is not applicable in this matter because none of the impacted residential customers were billed after December 17, 2020, the date Resolution-006 was issued.[8]

FINDINGS AND CONCLUSIONS

1. Resolution M-4846 authorized Commission staff to negotiate and propose an Administrative Consent Order to resolve an enforcement matter, subject to review and consideration by the Commission.
2. UEB and SoCalGas have engaged in settlement negotiations and, consistent with Resolution M-4846 and the Enforcement Policy, have memorialized their proposed settlement in the attached ACO and Agreement.
3. UEB and SoCalGas have agreed that the attached ACO and Agreement resolves all issues related to UEB's investigation into the alleged noncompliance related to SoCalGas's collection of residential and small business deposits.
4. The agreed-upon payment and fines appropriately resolve all issues related to UEB's investigation and any enforcement action UEB might have brought, are reasonable in light of the circumstances, consistent with law, and in the public interest.

THEREFORE, IT IS ORDERED that:

1. The Administrative Consent Order and Agreement between UEB and SoCalGas relating to SoCalGas's collection of residential and small business deposits addressed therein is adopted.
2. This Resolution is effective today.

[8] SoCalGas billed 33,115 residential and small business customers deposits for establishment or reestablishment of service from May 7, 2020, through April 21, 2021, and 16,709 of these customers paid the deposit. No residential and 40 small business customers were billed after December 17, 2020.

I certify that the foregoing Resolution was adopted by the California Public Utilities Commission at its regular meeting on April 6, 2023, and the following Commissioners approved favorably thereon:

/s/ *RACHEL PETERSON*

RACHEL PETERSON
Executive Director

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners

ATTACHMENTS

ADMINISTRATIVE CONSENT ORDER

SETTLEMENT AGREEMENT

CALIFORNIA PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the matter of:

Southern California Gas Company – re: SoCalGas's collection of residential and small business deposits

ADMINISTRATIVE CONSENT ORDER

I. INTRODUCTION

This proposed Administrative Consent Order (ACO) is agreed to by and between the California Public Utilities Commission's Utilities Enforcement Branch (UEB) of the Consumer Protection and Enforcement Division (CPED) and Southern California Gas Company (SoCalGas) (collectively the Parties). As a result of negotiations between UEB and SoCalGas, this proposed ACO shall be presented to the authority of the Commission for adoption as a final Administrative Consent Order, pursuant to the authority in the Commission Enforcement Policy adopted by Resolution (Res.) M-4846 (Enforcement Policy or Policy), dated November 5, 2020, titled *Resolution Adopting Commission Enforcement Policy*. Under the Policy, UEB may negotiate a proposed settlement with a regulated entity to resolve allegations of violations of law or Commission order, resolution, decision, or rule.

This ACO resolves alleged noncompliance relating to SoCalGas's collection of residential and small business deposits, pursuant to the attached Settlement Agreement.

Specifically, the Commission issued a set of guidelines, namely, Res. M-4842, directing the Investor-Owned Utilities (IOUs) to implement consumer protections using the emergency disaster relief program guidelines set forth in Decision (D.) 19-07-015 during the COVID-19 pandemic, including waiving deposits for residential and small business customers.[1]

[1] Res. M-4842 at 5-6; D.19-07-015 at 21-25. SoCalGas asserts that it initially implemented the COVID-19 deposit protections consistent with D.19-07-015 to waive deposits for service restorations after a customer had been disconnected for non-payment (re-connects). However, SoCalGas also indicated that it continued billing new customers an establishment of service deposit because it did not believe that Resolution M-4842, guided by D.19-07-015, applied to new customers. On or around May 7, 2020, the Commission's Energy Division informed SoCalGas that the intent of Resolution M-4842 was to waive all deposits for residential and small business customers, including deposits assessed in connection with re-connects as well as those assessed in connection with new turn-ons.

In addition, on June 11, 2020, the Commission adopted D.20-06-003, with a date of issuance of June 16, 2020. Among other things, D.20-06-003 prohibits the IOUs from requiring any residential customer to pay establishment of credit deposits for new service or reestablishment of service deposits for any reestablishment of service.[2]

SoCalGas continued to assess deposits after these dates and reported compliance issues to the Commission.[3] Beginning April 27, 2021, UEB performed reviews on data and information submitted by SoCalGas in response to data requests, to evaluate SoCalGas's compliance with the requirements under Resolution M-4842 and D.20-06-003. Based on its review, UEB concluded that SoCalGas did not comply with provisions of Commission Resolution M-4842 and D.20-06-003.

The penalty amount in the Settlement Agreement was determined by factors including those set forth in the Policy's Penalty Assessment Methodology (Policy, Appendix I). UEB believes that a prompt, certain, and effective settlement of this matter is in the best interest of the people of the State of California. This ACO shall become final and effective upon its approval by the Commission.

II. RECITALS

The relevant factual background, the violations alleged by UEB, and SoCalGas's responses to the alleged violations are set forth in the attached Settlement Agreement. Without waiving the protections of Rule 12.6 of the Commission's Rules of Practice and Procedure for the Parties' settlement communications that resulted in the ACO and the Settlement Agreement, the attached Settlement Agreement addresses the elements required by Section III.A.7 of the Policy:

i. The law or Commission order, resolution, decision, or rule violated by the regulated entity;
ii. The facts that form the basis for each violation;
iii. The number of violations, including the dates on which violations occurred;
iv. Information related to the potential for additional or ongoing violations;
v. An agreement by the regulated entity to correct each violation;
vi. A date by which the regulated entity must certify it corrected all violations;
vii. An agreement by the regulated entity to pay any penalty by a date specified.

III. TERMS

The terms of this ACO are set forth in the attached Settlement Agreement.

[2] D.20-06-003 at 147 (Ordering Paragraph 8).
[3] SoCalGas asserts that deposits were collected primarily as a direct or indirect result of the obsolete technology of SoCalGas's legacy CIS legacy Customer Information System (CIS).

Any penalty amounts that are agreed to be paid pursuant to this ACO shall be paid in a manner consistent with the attached Settlement Agreement. With respect to the payments to the State of California General Fund, agreed to pursuant to the Settlement Agreement, they shall be by check or money order and shall be made payable to the California Public Utilities Commission. SoCalGas shall write on the face of the check or money order: "For deposit to the State of California General Fund," and should identify that it relates to this ACO regarding SoCalGas's collection of residential and small business deposits. SoCalGas shall deliver payment to:

California Public Utilities Commission's
Fiscal Office
505 Van Ness Ave., Room 3000
San Francisco, CA 94102

If SoCalGas becomes aware that it will be unable to perform any activity or submit any document within the time required under the attached Settlement Agreement, SoCalGas shall promptly inform UEB. SoCalGas and UEB may agree to an extension of time, to be memorialized in writing.

SoCalGas is responsible for compliance with the obligations it has agreed to assume under the Settlement Agreement, as approved by this ACO, and for ensuring that its subsidiaries, employees, contractors, consultants, subcontractors, and agents comply with such ACO.

If SoCalGas fails to comply with the terms of this ACO, as reflected in the Settlement Agreement, nothing in this ACO or the Settlement Agreement limits the authority of UEB or the Commission to take any and all actions within their authority to ensure SoCalGas's compliance.

Public Notice

The Parties understand that this ACO, including the attached Settlement Agreement, will be noticed for public review and comment prior to consideration by the Commission, consistent with the Public Utilities Code and the Commission's Rules of Practice and Procedure.

Regulatory Notice

The Parties agree to seek prompt Commission approval of this ACO, including the attached Settlement Agreement, without modification.



Dated: 1/13/2023 By: _____

Jennifer L. Walker
Vice President, Customer Services
Southern California Gas Company

Dated: 2/23/2023

By _____

Jeanette Lo, Chief
Utilities Enforcement Branch
Consumer Protection and Enforcement Division

SETTLEMENT AGREEMENT BETWEEN SOUTHERN CALIFORNIA GAS COMPANY AND THE CONSUMER PROTECTION AND ENFORCEMENT DIVISION OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION RESOLVING THE INVESTIGATION INTO SOCALGAS'S ALLEGED NONCOMPLIANCE WITH REQUIREMENTS FOR THE COLLECTION OF RESIDENTIAL AND SMALL BUSINESS DEPOSITS PURSUANT TO (RESOLUTION M-4842) AND D.20-06-003

Southern California Gas Company (SoCalGas) and the Utilities Enforcement Branch (UEB) of the Consumer Protection and Enforcement Division (CPED) of the California Public Utilities Commission (CPUC or Commission) are hereinafter collectively referred to as the Settling Parties. On the following terms and conditions, the Settling Parties hereby agree to settle, resolve, and dispose of all claims, allegations, liabilities, and defenses within the scope of the investigation into SoCalGas's collection of residential and small business deposits.

This Settlement Agreement is entered into as a compromise of disputed claims and defenses in order to minimize the time, expense, and uncertainty of an Order Instituting Investigation and/or other litigation. The Settling Parties agree to the following terms and conditions as a complete and final resolution of all claims that have been or could be made by UEB and all defenses that were or could have been raised by SoCalGas related to alleged noncompliance with requirements for the collection of residential and small business deposits, as set forth herein and in the proposed Administrative Consent Order submitted herewith, pursuant to Resolution M-4842 and D.20-06-003.

I. PARTIES

The parties of this Settlement Agreement are UEB and SoCalGas.

A. CPED is a division of the Commission charged with enforcing compliance with the Public Utilities Code and other relevant utility laws and the Commission's rules, regulations, orders, and decisions. UEB is a branch of CPED.

B. SoCalGas is an investor-owned utility (IOU) natural gas corporation organized under the laws of the State of California and regulated by the California Public Utilities Commission. SoCalGas is the nation's largest natural gas distribution utility, serving 21.8 million residential, commercial, and industrial consumers in its southern California service territory.

II. RECITALS

A. Stipulated Facts

The Settling Parties have stipulated to the facts set forth below for purposes of this Settlement Agreement. The facts as stipulated herein are solely for the purpose of reaching this Settlement Agreement and should the Settlement Agreement not be approved by the CPUC, the Parties hereby fully reserve their rights and remedies.

Background Information Relevant to the Deposit Requirements

1. Investor-owned utilities (IOUs) previously had the authority to assess deposits for customers who sought to connect new service based on creditworthiness or active customers based on the timeliness of payments.

2. On April 17, 2020, the Commission issued a set of guidelines, namely, Resolution M-4842, directing the IOUs to implement consumer protections using the emergency disaster relief program guidelines set forth in D.19-07-015 during the COVID-19 pandemic, including waiving deposits for residential and small business customers retroactively to March 4, 2020 – the date of Governor Gavin Newsom's declaration of a State of Emergency in response to the COVID-19 pandemic.[4]

3. The purpose of the Resolution M-4842 requirement to waive deposits was in response to the COVID-19 pandemic state of emergency. This consumer protection was adopted for continuity of essential service to customers during the COVID-19 health and safety crisis where the emergency may impact Californians' ability to pay for utility service.[5]

4. On May 7, 2020, the Commission sent email correspondence to the IOUs requesting that the IOUs provide written confirmation that the IOUs are complying with the COVID-19 consumer protection regulations and waiving requirements for security deposits to connect or re-connect service.[6]

5. Consistent with D.19-07-015 and Res. M-4842, SoCalGas waived security deposits for active core customers that established service and suspended reassessment of creditworthiness that would trigger additional deposits for active core customers. SoCalGas did not waive deposits for new customer turn-ons until the Commission communicated to SoCalGas on May 7, 2020, that their intent was for the IOUs to waive all deposits, including to connect or reconnect service, i.e. (new customer turn-ons).[7]

6. On June 11, 2020, the Commission adopted D.20-06-003, with a date of issuance of June 16, 2020. The decision, among other things, prohibits the IOUs from requiring any residential customer to pay establishment of credit deposits for new service or reestablishment of service deposits for any reestablishment of service.[8]

[4] Res. M-4842 at 5-6; D.19-07-015 at 21-25.
[5] State of California Office of Governor Gavin Newsom, *Proclamation of a State of Emergency* (March 2020), *available at:* https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf.
[6] Edward Randolph, email message to IOUs, May 7, 2020.
[7] Edward Randolph, email message to IOUs, May 7, 2020.
[8] D.20-06-003 at 147 (Ordering Paragraph 8).

7. The purpose of the D.20-06-003 requirement prohibiting establishment of service deposit or reestablishment of service deposits is that "deposits can adversely impact a household's ability to meet its financial obligations."[9]

8. After the Commission's May 7, 2020, clarification on the requirement to waive all deposits, SoCalGas assessed and manually removed deposits retroactive to March 4, 2020, and credited accounts for any payments made while the company implemented a Customer Information System (CIS) enhancement to stop and remove all deposits. After the issuance of D.20-06-003, SoCalGas continued the manual processes to monitor, and clean-up deposits applied in error until the CIS process was fully automated.

9. On August 4, 2020, SoCalGas self-reported the collection of residential deposits by issuing an update to the Disconnection Order Instituting Rulemaking 18-07-005 service list and to the Energy Division.

    - The continued collection of deposits was primarily caused both directly and indirectly by issues with SoCalGas's legacy CIS.
    - The requirement for deposits is complex and deeply embedded in the system logic for new turn-ons and is further complicated by the various ways that a customer can be charged a deposit, for example through the call center, online My Account self-service, or automatically when the system detects a pattern of untimely payments or to restore service after a disconnection.
    - Initially, stopping the collection of deposits required a manual process on a forward going basis. Some errors occurred early in the implementation of manual processes, leading to a residual number of new service deposits being charged after the emergency protections were put in place.

10. SoCalGas has reviewed customer accounts which were charged a service deposit after March 4, 2020, and have received a credit to their account that offset the amount of the deposit charged.

    - SoCalGas also provided a communication to customers in August 2020 by email and/or mail notifying them that, at their election, they could receive a refund check instead of the credit by contacting SoCalGas.

[9] *Id*. at 3.

B. Noncompliance Alleged by UEB

UEB alleges the below noncompliance resulting from its investigation into SoCalGas's collection of residential and small business deposits.

1. Beginning April 27, 2021, UEB reviewed data and information submitted by SoCalGas in response to CPED data requests DR-SoCalGas GAS-00022-01 and DR-SoCalGas-GAS-00022-02, to evaluate SoCalGas's compliance with the requirements under Resolution M-4842 and D.20-06-003.

2. Based on its review of SoCalGas' May 11, 2021 response to data request DR-GAS-00022-01 dated April 27, 2021, UEB determined that SoCalGas billed 100,380 residential and 4,537 small business customers deposits for establishment or reestablishment of service between March 4, 2020 and April 16, 2021.
   a) UEB determined that 75,821 residential customers were billed for establishment of service deposits and 53,137 of them paid the deposits.
   b) UEB determined that 24,559 residential customers were billed for reestablishment of service deposits and 5,719 of them paid the deposits.
   c) UEB determined that 3,775 small business customers were billed for establishment of service deposits and 1,996 of them paid the deposits.
   d) UEB determined that 762 small business customers were billed for reestablishment of service deposits and 347 of them paid the deposits.

3. On April 20, 2022, SoCalGas requested UEB consider SoCalGas' representation that it waived deposits for service reconnection after a customer had been disconnected for non-payment, but did not waive deposits for establishment or reestablishment of service, i.e. (new customer turn-ons) until May 7, 2020, when the Commission's Energy Division informed SoCalGas that the intent of Resolution M-4842 was to waive all deposits including new customer turn-ons. SoCalGas also requested that UEB consider short duration deposits and customers who moved to a new address. With short duration deposits, SoCalGas represents that its CIS charged the deposit but a manual process removed the deposit within 1-2 days so that the deposit was not actually assessed on the customer's bill. SoCalGas represents that the second category includes customers who had existing deposits before March 4, 2020, but moved to a new address and the existing deposit transferred with them.

4. After considering SoCalGas's request, UEB determined that SoCalGas billed 33,115 residential and small business customers deposits for establishment or reestablishment of service from May 7, 2020 through April 21, 2021. 16,709 of these customers paid the deposit.
   a) SoCalGas billed 30,948 residential customers for establishment and reestablishment of service deposits and 16,042 customers paid.
   b) SoCalGas billed 2,167 small business customers for establishment and reestablishment of service and 667 paid.

5. On September 29, 2022, SoCalGas informed UEB that some customers may have multiple accounts and provided an update on the number of residential and small business accounts that was billed and paid an establishment or reestablishment of service deposit (New Turn-On) from May 7, 2020, through April 21, 2021.
   a) SoCalGas indicated that 33,078 residential accounts were billed a New Turn-On service deposit and 15,488 of them paid the deposits.
   b) SoCalGas indicated that 1,851 small business accounts were billed a New Turn-On service deposit and 686 of them paid the deposits.

III. AGREEMENT

In reaching this Settlement Agreement, UEB considered SoCalGas's position that it disputes UEB's allegations of noncompliance and that there were several mitigating factors present. SoCalGas asserts that it initially operated under the directives of D.19-07-15, which SoCalGas believed permitted deposits for new turn-ons, until receiving direction from the CPUC that its intention was for the IOUs to waive all deposits, including those for new turn-ons. In addition, once SoCalGas received the Res. M-4842 directive, the Company needed time to implement deposit processes and to make an enhancement to the Company's Customer Information System to stop deposits from being charged. Regarding mitigating factors, SoCalGas asserts that (1) SoCalGas took several steps to mitigate the assessment of deposits, including interim manual fixes and incorporating CIS IT system enhancements to stop deposits, (2) SoCalGas self-reported the issue and made attempts to correct the deposits so that it would not adversely impact its customers, (3) SoCalGas provided all impacted customers with a refund or credit to the customer's account, (4) SoCalGas was cooperative with UEB's request for data, information, and investigation, and (5) SoCalGas has established several measures to track and promote compliance.

In addition, UEB considered penalty factors including those set forth in the Policy's Penalty Assessment Methodology (Policy, Appendix I), and the parties agree to request that the Commission adopt the proposed Penalty Factor language provided below in Section III.C.

To settle this investigation and resolve all matters pertaining to any deposits collected for residential and small business customers, as set forth above, SoCalGas shall pay a total of $2.7 million, with $2,086,275.00 to directly benefit New Turn-On customers who were charged a deposit on or after May 7, 2020, that was not timely reversed;[10] $213,725.00 deposited in SoCalGas's Gas Assistance Fund (GAF), and $400,000 going to the State of California General Fund (General Fund).

A. $2.7 Million Payment at Shareholder Expense

SoCalGas will pay a total of $2,086,275.00 to directly benefit New Turn-On customers who were charged a deposit on or after May 7, 2020. New Turn-On customers who were assessed and paid a deposit will receive $100. New Turn-On customers who were assessed but

[10] SoCalGas will provide a credit to customers with active accounts and customers with inactive accounts that still hold a balance up to 105 business days after the account was closed.

did not pay a deposit will receive $25. The Settling Parties agree that for purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, the payments made by SoCalGas to New Turn-On customers discussed above in this Section III. A. of the Settlement Agreement are restitution or required in order to come into compliance with the law. SoCalGas will provide $213,725.00 to the GAF to provide direct benefits to customers needing financial assistance in paying their bills. The GAF program provides bill payment assistance of up to $100 per year to low-income customers experiencing financial hardship. SoCalGas's shareholders, employees, and customers contribute to the GAF program. GAF contributions are not limited to a specific timeframe and can be reopened any time funds are available. SoCalGas will not incur additional administrative cost in distributing additional funds to customers resulting from this settlement. GAF would be able to help more customers as soon as the funds become available.

The amount of $2,086,275.00 will be credited to customer accounts to directly benefit New Turn-On customers who were charged a deposit on or after May 7, 2020, within 120 days of the Effective Date of this Agreement, as defined in Section C below. The amount of $213,725.00 will be paid to the GAF within 30 days of the Effective Date of this Agreement, as defined in Section C below.

B. General Fund

SoCalGas will pay $400,000 to the General Fund. This amount will be paid within 30 days of the Effective Date of this Agreement, as defined in Section C below.

C. Proposed Penalty Factor Language

Resolution M-4846 requires that any penalty assessed on a regulated entity using the Enforcement Policy must be calculated using its Penalty Assessment Methodology (Methodology). The Methodology sets forth factors to be considered when determining the amount of penalty.

1. Severity or Gravity of the Offense

The first factor looks at the type of harm inflicted because of the alleged violations of the utility. SoCalGas's deposit violations primarily resulted in potential financial harms related to emergency customer protections to support California customers during the COVID-19 pandemic. As explained in Resolution M-4842, the response to COVID-19 has been extremely disruptive to all Californians and has impacted many Californians' ability to work. The COVID-19 pandemic represents a different type of emergency, one where the threat --in this case, a virus-- necessitates a response which impacts Californians' ability to pay for utility service. SoCalGas continued to assess deposits on both residential and small business customers during the COVID-19 customer protection period and after the issuance of D.20-06-003, which eliminated deposits for residential customers. Although not all customers paid the deposits assessed, some did. Of the customers who paid the deposit, SoCalGas reviewed the accounts, and these accounts have all received a credit to offset the amount of the deposit charged. The penalty assessed against SoCalGas takes into account the severity of the threat to Californians'

ability to pay for service that arose from SoCalGas's alleged violations during the COVID-19 protection period where the threat to Californians' ability to pay for service was heightened by the response to COVID-19.

2. Conduct of the Regulated Entity

The second factor the Methodology requires is consideration of the conduct of the entity. We considered SoCalGas's explanation that it took several steps to mitigate the assessment of deposits, including incorporating Customer Information System IT enhancements to comply with system issues. In addition, SoCalGas reported compliance issues and explained that it made attempts to correct the deposits so that it would not adversely impact its customers. Of the customers who paid the deposit, SoCalGas reviewed the accounts, and these accounts have all received a credit to offset the amount of the deposit charged. SoCalGas was also responsive to UEB's requests for data and information during UEB's investigation.

3. Financial Resources of the Regulated Entity, Including the Size of the Business

The third factor under the Methodology is the financial resources of the utility. Here, the Commission must ensure against excessive fines or penalties while imposing an effective fine/penalty. An effective fine or penalty is one that reflects the severity of the harm (the first factor examined above) and is also proportionate to the offending entity and those similarly situated to deter future similar offense of violations, without putting them out of business or otherwise impacting the entity in a catastrophic way.

Here, we find that SoCalGas should be required to pay a total of $2,700,000. SoCalGas shall pay $400,000 of this amount to the State's General Fund. The remaining amount will be allocated to directly benefit SoCalGas customers, as detailed in the Administrative Consent Order. SoCalGas is the nation's largest natural gas distribution utility in terms of customers and revenue. The settlement amount is enough to emphasize the importance of compliance with the deposit requirements, provide relief to SoCalGas customers, and is reasonable given SoCalGas's financial resources.

4. Totality of the Circumstances in Furtherance of the Public Interest

The fourth factor under the Methodology is an evaluation of the penalty in the totality of the circumstances, with an emphasis on protecting the public interest. As described above, the $2,700,000 settlement is reasonable under the circumstances and is in the public's interest. Resolution M-4842 went into detail about the importance of customer protections during the COVID-19 pandemic.[11] Further, D.20-06-003 discussed the importance of not requesting deposits because "deposits can adversely impact a household's ability to meet its financial obligations."[12] This fine represents the importance the Commission placed on the COVID-19 customer protections and the elimination of deposits in D.20-06-003. It also provides benefits to SoCalGas's customers.

[11] Res. M-4842.

[12] D.20-06-003 at 3.

5. The Role of Precedent

The final factor is an examination of fines in other Commission Decisions with similar factual situations. This is the first enforcement action of the COVID-19 customer protections since the Commission issued Resolution M-4842. This is also the first enforcement action since the issuance of D.20-06-003, requiring the IOUs to eliminate deposits. We believe the $2,700,000 settlement in this instance can serve as an adequate deterrence from alleged deposit violations under Resolution M-4842 and D.10-06-003 and is reasonable under Resolution M-4846.

D. Effective Date

This Settlement Agreement shall become effective (Effective Date) upon final Commission Approval of the proposed Administrative Consent Order submitted by UEB pursuant to Resolution M-4846, as set forth in Section IV.A, below. The Commission Approval of the Administrative Consent Order shall be deemed final when the Administrative Consent Order approving the Settlement Agreement (either without modification or with modification ordered by the Commission and accepted by both Parties) shall no longer be subject to any challenge, appeal, review, or modification.

IV. Additional Terms

A. The Settling Parties agree to seek expeditious approval of this Settlement Agreement and the terms of the settlement, and to use their reasonable efforts to secure Commission approval of it without change, including by UEB submitting a proposed Resolution and Administrative Consent Order containing this Settlement Agreement as well as any other written filings, appearances, and other means as may be necessary to secure Commission Approval.

B. The Settling Parties agree to actively and mutually defend this Settlement Agreement if its adoption is opposed by any other party in proceedings before the Commission. In accordance with Rule 12.6 of the Commission's Rules of Practice and Procedure, if this Settlement Agreement is not adopted by the Commission, its terms are inadmissible in any evidentiary hearing unless their admission is agreed to by the Settling Parties. In the event the Commission rejects or proposes alternative terms to the Settlement Agreement, Settling Parties reserve all rights set forth in Rule 12.4 of the Rules of Practice and Procedure. The provisions of Paragraph IV. A and B shall impose obligations on the Settling Parties immediately upon the execution of this Settlement Agreement.

C. The Settling Parties agree to continue to abide by the confidentiality provisions and protections of Rule 12.6 of the Commission's Rules of Practice and Procedure, which governs the discussions, admissions, concessions and offers to settle that preceded the execution of the ACO and Settlement Agreement and that were exchanged in all efforts to support Commission approval. Those prior negotiations and communications shall remain confidential indefinitely, and the Settling Parties shall not disclose them without the consent of both Settling Parties.

D. UEB shall not assert or support any argument or assertions that any noncompliance or conduct underlying the alleged or identified noncompliance herein are or can be the basis for future disallowances, violations, or penalties.

E. UEB agrees to release and refrain from instituting, directing, or maintaining any noncompliance or enforcement proceedings against SoCalGas related to the alleged noncompliance regarding collection of residential and small business deposits addressed herein based on the information: (a) known, or that could have been known, to UEB at the time that UEB executes this Settlement Agreement, or (b) substantially similar to the violations alleged against SoCalGas related to the alleged collection of residential and small business deposits noncompliance issues referenced in this Settlement Agreement.

F. Subject to Paragraph IV. E., nothing in this Settlement Agreement constitutes a waiver by UEB of its legal obligations, authority, or discretion to investigate and enforce applicable requirements (including, without limitation, Res. M-4842 or D.20-06-003) as to other conduct by SoCalGas unrelated to the alleged collection of residential and small business deposits noncompliance addressed herein that UEB may identify as the basis for any alleged violation(s). UEB shall retain such authority regardless of any factual or legal similarities that other SoCalGas conduct, and any alleged violation(s), may have to SoCalGas's alleged noncompliance related to the collection of residential and small business deposits addressed herein. Accordingly, any such similarities shall not preclude UEB from using other conduct and alleged violation(s) as a basis for seeking future disallowances.

G. The Settling Parties have bargained in good faith to reach this Settlement Agreement. The Settling Parties intend the Settlement Agreement to be interpreted as a unified, interrelated agreement. The Settling Parties agree that no provision of this Settlement Agreement shall be construed against any of them because a particular party or its counsel drafted the provision. The representatives of the Settling Parties signing this Settlement Agreement are fully authorized to enter into this Settlement Agreement.

H. The rights conferred, and obligations imposed on any of the Settling Parties by this Settlement Agreement shall inure to the benefit of or be binding on that Settling Party's successors in interest or assignees as if such successor or assignee was itself a party to this Settlement Agreement.

I. Should any dispute arise between the Settling Parties regarding the manner in which this Settlement Agreement or any term shall be implemented, the Settling Parties agree, prior to initiation of any other remedy, to work in good faith to resolve such differences in a manner consistent with both the express language and the intent of the Settling Parties in entering into this Settlement Agreement.

J. This Settlement Agreement is not intended by the Settling Parties to be precedent for any other proceeding, whether pending or instituted in the future. The Settling Parties have assented to the terms of this Settlement Agreement only for the purpose of arriving at the settlement embodied in this Settlement Agreement.

Each Settling Party expressly reserves its right to advocate, in other current and future proceedings, or in the event that the Settlement Agreement is rejected by the Commission, positions, principles, assumptions, arguments and methodologies which may be different than those underlying this Settlement Agreement, and the Settling Parties expressly declare that, as provided in Rule 12.5 of the Commission's Rules of Practice and Procedure, this Settlement Agreement should not be considered as a precedent for or against them.

K. Regarding any issue resolved in this Settlement Agreement, the Settling Parties are prohibited from filing a petition for modification or application for rehearing of a Commission decision that approves this Settlement Agreement without modification.

L. SoCalGas's waiver of its due process rights to an evidentiary hearing on the matters set forth herein is conditioned on a final Commission resolution or order approving this ACO and Settlement Agreement without modification, or with modification(s) agreeable to the Settling Parties.

M. This Settlement Agreement may be executed in counterparts.

N. The Settling Parties hereby agree that this Settlement Agreement is entered into as a compromise of disputed violations and defenses in order to minimize the time, expense, and uncertainty of an Order Instituting Investigation and/or other litigation.

O. Nothing in this Settlement Agreement relieves SoCalGas from any responsibilities imposed on it by law or Commission rules, orders, or decisions.

P. In reaching this Settlement Agreement, the Settling Parties expect and intend that neither the fact of this settlement nor any of its specific contents will be admissible as evidence of fault or liability in any other proceeding before the Commission, any other administrative body, or any court. In this regard, the Settling Parties are relying on Evidence Code Section 1152(a) and Public Utilities Code Section 315. Furthermore, such use of this Settlement Agreement or any of its contents in any other proceeding before the Commission, any other administrative body, or any court would frustrate and interfere with the Commission's stated policy preference for settlements rather than litigated outcomes. See Pub. Util. Code § 1759(a).

Q. This ACO and Settlement Agreement constitutes the entire agreement between the Settling Parties and supersedes all prior or contemporaneous agreements, negotiations, representations, warranties and understanding of the Parties with respect to the subject matter set forth.

IN WITNESS WHEREOF, the Settling Parties hereto have duly executed this Settlement Agreement.

[Signatures immediately follow this page]

Dated: 1/13/2023

By: 

Jennifer L. Walker
Vice President, Customer Services
Southern California Gas Company

[This space intentionally left blank]

Dated: 2-23-2023

By: _____
Jeanette Lo, Chief
Utilities Enforcement Branch
Consumer Protection and Enforcement Division

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