PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

FILED
01/14/19
01:57 PM

January 14, 2019

TO PARTIES OF RECORD IN INVESTIGATION 17-04-021

This proceeding was filed on April 27, 2017, and is assigned to Commissioner Rechtschaffen and Administrative Law Judge (ALJ) Ayoade. This is the decision of the Presiding Officer, ALJ Ayoade.

Any party to this adjudicatory proceeding may file and serve an Appeal of the Presiding Officer's Decision within 30 days of the date of issuance (i.e., the date of mailing) of this decision. In addition, any Commissioner may request review of the Presiding Officer's Decision by filing and serving a Request for Review within 30 days of the date of issuance.

Appeals and Requests for Review must set forth specifically the grounds on which the appellant or requestor believes the Presiding Officer's Decision to be unlawful or erroneous. The purpose of an Appeal or Request for Review is to alert the Commission to a potential error, so that the error may be corrected expeditiously by the Commission. Vague assertions as to the record or the law, without citation, may be accorded little weight.

Appeals and Requests for Review must be served on all parties and accompanied by a certificate of service. Any party may file and serve a Response to an Appeal or Request for Review no later than 15 days after the date the Appeal or Request for Review was filed. In cases of multiple Appeals or Requests for Review, the Response may be to all such filings and may be filed 15 days after the last such Appeal or Request for Review was filed. Replies to Responses are not permitted. (See, generally, Rule 14.4 of the Commission's Rules of Practice and Procedure at www.cpuc.ca.gov.)

If no Appeal or Request for Review is filed within 30 days of the date of issuance of the Presiding Officer's Decision, the decision shall become the decision of the Commission. In this event, the Commission will designate a decision number and advise the parties by letter that the Presiding Officer's Decision has become the Commission's decision.

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:jt2
Attachment

238829271

PRESIDING OFFICER'S DECISION **(Mailed 1/14/2019)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Billing Practices of Southern California Gas Company (U904G); and Order to Show Cause Why the Commission Should not Revise Rule No. 14, Impose Penalties and/or Other Remedies for Extending Billing Periods and Issuing Untimely Monthly Bills.	Investigation 17-04-021

PRESIDING OFFICER'S DECISION

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PRESIDING OFFICER'S DECISION

Summary

This decision finds that Southern California Gas Company violated its Tariff Rules 12.A, 14.A and 14.D when it failed to render bills based on a monthly duration, but instead issued 13.57 million bills with 34-60 billing days between 2014 and 2016, and failed to prorate 153,358 of these bills. This decision also finds that Southern California Gas Company violated its Tariff Rules 12.A and 14.A when it issued delayed bills with up to 45 billing days to approximately 47,000 mostly residential customers during the winter months of 2015 and 2016.

To deter future violations and demand accountability, this decision orders Southern California Gas Company to pay penalties in the amount of $3,000,000 for the 13.57 million Rules 12.A, 14.A and 14.D violations. In order to deter future violations and compensate affected customers, we also impose a penalty in the amount of $5,058,200 on Southern California Gas Company for the 47,000 Tariff Rule 12.A and 14.A violations. Of this $5,058,200 penalty amount, $365,000 shall be paid to the State's general fund and the remaining $4,693,200 shall be paid to the affected customers as a $100 bill credit within 90 days of this decision. We order Southern California Gas Company to review its internal billing practices and meter reading schedules, and submit a Tier-2 Advice Letter within 60 days of this decision in order to inform the Commission's Energy Division how it will comply with these rules in the future.

This decision finds that Southern California Gas Company's issuance of over 9.29 million estimated bills to its customers from 2014 to 2016 did not violate the applicable tariff. We find that Southern California Gas Company's tariff (Rule 12.A) requires monthly bills based on measured gas use, except as noted in Rule 14.C. The tariff also provides that estimated bills must be issued to

customers when, for any reason, a meter cannot be read or accurate usage data are not available (Rules 14.C.1 and 14.C.3).

Tariffs rules permitting bill estimation (when bills based on measured usage are not available) are common among large electric and gas utilities, and the circumstances under which bill estimation may/must occur are neither consistent nor well defined in those tariffs. Accordingly, this decision recommends the Commission consider opening an industry-wide rulemaking (or adding to an existing rulemaking) to determine whether revisions to the utilities' tariffs are warranted, regarding when and how estimated billing should be allowed or required in order to achieve consistency, better protect customers, and effectuate Commission's intent requiring utilities to render accurate bills to customers based on a monthly duration.

1. Factual Background

On May 4, 2017, pursuant to the Commission's Rules of Practice and Procedure (Rules), Rule 5.1, we instituted a formal investigation by opening an Order Instituting Investigation (OII) to determine whether Southern California Gas Company (SoCalGas or Respondent), violated any provision(s) of the California Public Utilities Code, Commission General Orders or decisions, or other applicable rules or requirements pertaining to billing practices between 2014-2016 by: repeatedly failing to issue timely monthly bills; extending the billing period for a significant number of customers; and issuing over nine million estimated bills.

The Commission opened the OII "in response to nearly 700 billing-related complaints received by the Commission's Consumer Affairs Branch (CAB), and following an informal investigation (of the complaints) conducted by the staff of the Commission's Consumer Protection and Enforcement Division's Utility

Enforcement Branch (CPED). After its informal investigation, CPED staff developed a "Staff Report" entitled: "Investigation of Southern California Gas Company (U904G) Concerning Billing Practices, upon which the alleged facts in the OII were based.

Based on the Staff Report, the Commission determined that CPED's informal investigation provided "sufficient evidence and good cause to commence a formal investigation to determine whether SoCalGas violated its customers' right to receive accurate bills at regular intervals, and its Tariff Rules 12 and 14." (OII, at 2) In its Staff Report, CPED alleges that: (1) SoCalGas deprived its consumers of their right to receive accurate bills at regular intervals by issuing over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016;[1] (2) SoCalGas violated Section A of its Gas Tariff Rule No. 14 (Rule 14) by failing to issue bills based on a monthly duration, resulting in higher than normal customer bills; and (3) SoCalGas violated Section A of its Rule 12 by failing to issue timely monthly bills to approximately 47,000 customers during the winter of 2015-2016 because of delays in its bill validation process.[2]

CPED recommended that the Commission open an OII directing SoCalGas to show cause why it should not be ordered to: (1) revise its Rule 14.C to place limits on the circumstances under which it may issue estimated bills; (2) pay penalties and/or other remedies for extending the billing period of approximately 140,000 customers in November and December 2015, and to over

[1] SoCalGas issued 209,941,617 total gas bills from 2014 to 2016.

[2] CPED noted that these customers received bills that include several months of natural gas usage.

13.57 million customers from 2014 to 2016; (3) pay penalties and/or other remedies for its failure to issue timely monthly bills to approximately 47,000 customers during the winter of 2015-2016; and (4) absorb all costs associated with the incremental meter read workforce and the temporary work force it employed to address its bill validation system related issues.

Consistent with the recommendations in CPED's Staff Report, the Commission opened this OII, which alleges that Respondent: (1) violated its Gas Tariff Rule 12 by failing to issue timely monthly bills; (2) violated its Gas Tariff Rule 14 by failing to issue bills based on a one-month duration; and (3) deprived its customers of their right to receive accurate bills at regular intervals by issuing estimated bills to its customers pursuant to Respondent's Gas Tariff Rule 14.C.[3]

The OII directed SoCalGas to show cause why the Commission should not order revisions to SoCalGas' Gas Tariff Rule (Gas Tariff Rule or Tariff Rule) 14 and/or impose penalties and/or other remedies, including requiring SoCalGas shareholders to absorb all costs associated with incremental meter read workforce and the temporary work force SoCalGas employed to address bill validation system issues.

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[3] That is, CPED does not interpret Rule 14 Sections C.1 and C.3 to place any limitations on SoCalGas' ability to issue estimated bills because it may issue estimated bills for reasons "beyond" and "within" its control. However, CPED asserts that issuing estimated bills violated the Commission policy requiring bills at regular intervals based upon actual metering data. (*See* Decision (D.) 07-09-041.)

1.1. Procedural Background

Following the issuance of the OII, the Commission received comments and/or responses to the OII from SoCalGas; Public Advocate's Office of the Public Utilities Commission (Cal Advocates);[4] Shell Energy North America (US) LP (Shell); and The Utility Reform Network (TURN), and a reply to the comments on the OII from SoCalGas and the Commission's CPED, all of which are parties to this proceeding.

A prehearing conference (PHC) was held in this matter on June 21, 2017. At the PHC, the Administrative Law Judge (ALJ) requested that the parties brief certain legal issues determined relevant to this proceeding,[5] by July 21, 2017 and July 31, 2017, respectively. SoCalGas, CPED, and TURN timely submitted their briefs addressing the five legal issues.

At the PHC, the parties agreed that evidentiary hearings are not needed in this matter as there are no factual disputes regarding the underlying data and/or facts relied upon by the Commission in issuing the OII. Accordingly, the ALJ

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[4] Formerly, the Commission's Office of Ratepayer Advocates (ORA). Senate Bill (SB) 854 (Stats. 2018, ch. 51) amended Pub. Util. Code § 309.5(a) renaming the Office of Ratepayer Advocates to "the Public Advocate's Office of the Public Utilities Commission." We will refer to this party as Cal Advocates.

[5] The issues are: (1) Whether Estimated or delayed bills are permitted under SoCalGas' approved tariff rules; (2) What limitations are placed on SoCalGas pursuant to its tariff rules regarding the issuance of estimated or delayed bills; (3) Whether, by issuing the delayed or estimated bills in question, SoCalGas violated any of its tariff rules, Commission law, Commission rules or regulation, General Order or Commission decision; (4) Whether, there is a case to be made for revision of [utilities'] tariff rules regarding circumstances under which estimated or delayed bills can be issued [on an industry-wide basis] to ensure consistency across the industry; and (5) Whether the issues raised in this investigation regarding the circumstances under which estimated or delayed bills can be issued are better addressed in a rulemaking proceeding?

ordered the parties to meet and confer and submit Joint Stipulations of Facts by July 31, 2017. The parties timely complied with this order.

Following the PHC, the Commission issued the Scoping Memo and Ruling (Scoping Memo) of the Assigned Commissioner and Administrative Law Judge on September 20, 2017, to address and/or confirm such issues as the category of the proceeding, scope and issues to be resolved in the investigation, and the schedule for this proceeding, among other relevant matters. On November 21, 2017, the assigned Commissioner issued an Amended Scoping Memo which added one additional issue (Issue 8 below) to this proceeding.

On February 23, 2018, the ALJ issued a Ruling setting March 26, 2018 as the deadline for the parties to file their respective opening briefs, and April 25, 2018 for their reply briefs. The parties timely submitted their respective opening and reply briefs, and this case was submitted upon the submission of the reply briefs.

On April 26, 2018, the Commission issued an Order Extending the Statutory Deadline in this investigation to October 27, 2018.[6]

On August 27, 2018, the Commission issued a ruling reopening the evidentiary record in the proceeding to further evaluate the question of whether the Commission should, in this proceeding, revise or direct the revision of SoCalGas' Tariff Rule 14.C in order to limit the circumstances under which Respondent can issue estimated bills, and directing the parties to address certain

[6] The Commission found that due to the addition of Issue 8, and granting of parties' extension requests for discovery and briefing (and the resultant delays), it was impossible to resolve this OII by April 27, 2018, or within 12 months of initiation as required by § 1701.2(i).

questions through submission of written comments by September 14, 2018, and reply comments by October 1, 2018.

On October 25, 2018 the Commission extended the statutory deadline in this investigation until April 27, 2019, due to the reopening of the evidentiary record, and the time needed for parties to submit the requested comments.

The parties timely submitted their comments regarding Issue 4 in the Scoping Memo, as directed.[7]

2. Jurisdiction

SoCalGas is a natural gas distribution utility serving approximately 21.6 million customers through 5.9 million meters throughout Central and Southern California, stretching from Visalia, California to the Mexican border. SoCalGas is a regulated subsidiary of Sempra Energy.[8] SoCalGas is subject to the Commission's jurisdiction by virtue of its acceptance of those conditions that governed its formation in addition to several provisions of the Public Utilities Code that give the Commission broad authority to act to protect ratepayers in a variety of circumstances, to enforce the constitution, statutes, and Commission rules, orders, and decisions, and to remedy violations thereof.[9]

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[7] All agreed, and continue to recommend, that an industry-wide rulemaking is needed for consistency across the industry as SoCalGas' tariffs governing when and how the utility must/may issue estimated bills (SoCalGas' Rules 14 and 16) are similar to those of other major energy utilities, and that a rulemaking will preserve the utilities' and other interested parties' rights to be heard on these issues. Additionally, in its comments, TURN raised the issue of whether deleting Rule 14.C.3 will make the ratepayers to be better off, as "SoCalGas might simply delay the issuance of a bill where an accurate meter read is unavailable or send an incorrect bill, instead of estimating bills based on the methods indicated in Rule 16.A." (*See TURN's Comments at 5*).

[8] *See* OII at 1.

[9] *See* Public Utilities Code Section (Pub. Util. Code §) 451 (requiring public utilities to furnish and maintain adequate, efficient, just and reasonable service as necessary to promote the safety,

Footnote continued on next page

3. Scope of the OII and Issues to be Resolved

Based on the alleged facts in the OII, the following issues are within the scope of the OII as provided in the Scoping Memo and the amended Scoping Memo:

1) Did Respondent deprive its consumers of their right to receive accurate bills at regular intervals when it issued over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016?
2) Did Respondent violate Section A of its Gas Tariff Rule 14 by failing to issue over 13.57 million bills based on a monthly duration between 2014 and 2016, resulting in higher than normal customer bills?
3) Did Respondent violate Section A of its Rule 12 by failing to issue timely monthly bills to approximately 47,000 customers during the winter (months) of 2015-2016 because of delays in its bill validation process?
4) Should the Commission revise or require revision of Tariff Rule 14.C in order to limit the circumstances under which Respondent can issue estimated bills?
5) Should the Commission require Respondent's shareholders to absorb costs associated with incremental meter read workforce and the temporary work force the Respondent employed to address bill validation system issues?
6) Should the Commission impose penalties and/or other remedies on Respondent for extending the billing period of approximately

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health, comfort, and convenience of its patrons, employees and the public); Pub. Util. Code § 701 (Commission may do all things necessary and convenient to exercise its power and jurisdiction to regulate public utilities); Pub. Util. Code § 761 (Commission may adopt order or rule to remedy unjust or unreasonable practices of a public utility); Pub. Util. Code § 798 (provides for remedies against a utility that makes imprudent payments to its holding company); and Pub. Util. Code §§ 2101 - 2113 (authority to enforce Constitution, statutes, and violations of Commission orders, rules, and decisions).

140,000 customers in November and December 2015, and over 13.57 million customers from 2014 to 2016?

7) Should the Commission impose penalties and/or other remedies on Respondent for its failure to issue timely monthly bills to approximately 47,000 customers during the winter of 2015-2016?

8) Whether Respondent violated its Gas Tariff Rule 14.D by issuing bills for 34 or more days of gas usage without proration?[10]

4. Positions of the Parties

4.1. CPED's Position[11]

CPED contends that SoCalGas' Tariff Rules 12 and 14 impose requirements on SoCalGas to deliver customer bills timely, and prorate certain rate schedules to ensure customers are billed for the proper number of days of gas usage. CPED asserted that: (1) SoCalGas' Rules 12.A and 14.A require SoCalGas to render bills monthly based on monthly duration; (2) SoCalGas' Rule 14.C "permits" estimated billing; and (3) SoCalGas' Rule 14.D requires proration when bills are issued outside of the regular monthly billing period. CPED argued that while the tariff rules "permit" SoCalGas some flexibility regarding delivery of bills to customers, receiving monthly bills, whether estimated or actual usage, is mandated under the tariff rules. Nevertheless, relying on D.07-09-041,[12] CPED contends that receiving accurate bills at regular intervals is a basic customer right, and that compliance with the tariff rules is critical as failure to issue timely and accurate bills can hamper price signals and impede a customer's ability to budget, and adversely impact low-income customers.

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[10] This issue was added pursuant to the Amended Scoping Memo of the Assigned Commissioner issued on November 21, 2017.

[11] *See* CPED's opening brief submitted on March 26, 2018.

[12] *See* D.07-09-041 at 8.

Thus, CPED argued that SoCalGas violated its tariff rules, and/or its customers' basic right to receive accurate bills at regular intervals when: SoCalGas issued over 9.29 million bills during 2014 to 2016 based on estimated usage rather than actual usage; SoCalGas failed to issue bills based on a monthly duration when SoCalGas issued 13.57 million bills with 34-60 billing days from 2014 and 2016; SoCalGas failed to prorate 153,358 bills that required proration; and SoCalGas failed to render 47,000 timely bills during the winter months of 2015 to 2016.

CPED recommends that SoCalGas be subject to reasonable penalties to ensure it does not continue to violate its tariff rules and its customers' basic rights. For its alleged violations of Tariff Rules 14.A (13.57 million bills delayed by 34-60 days), and 14.D (failure to prorate 153,358 bills), CPED recommends that the Commission impose penalties of $1,095,000 on SoCalGas and require SoCalGas to its review Tariff Rule 14.D and its internal billing practices and determine how it will comply with Rule 14.D in the future.

For the Tariff Rule 12.A violation (delayed billing to approximately 47,000 customers for "several months of gas usage"[13]), CPED recommends that the Commission impose a penalty of $5,058,200 on SoCalGas, of which $365,000 should be paid to the State's general fund, and the remaining $4,693,200 paid to affected customers as a $100 bill credit each.

CPED does not recommend penalties for SoCalGas for issuing over 9.29 million bills during 2014 to 2016 based on estimated usage rather than actual usage.

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[13] *See* the OII at 4, and Attachment A to the OII (Staff Report) at 1.

4.2. TURN's Position[14]

TURN also contends that the Commission should conclude that SoCalGas deprived its consumers of their right to receive accurate bills at regular intervals when it issued over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016. TURN contends that, in D.07-09-041, the Commission recognized that utility consumers have a "basic right" to receive accurate bills issued at regular intervals as "[C]onsumers, particularly those with low or fixed monthly incomes, must have accurate monthly bills in order to properly budget their expenses."[15] Thus, TURN argued that regular reliance on estimated bills violates the requirement to issue bills at regular intervals based upon actual metering data, even where the utility's tariffs permit it to estimate consumption when accurate usage data is not available.[16]

TURN also urges the Commission to find that SoCalGas violated its Tariff Rule 12.A (Rule 12, Section A) by failing to issue timely monthly bills (delaying bills) to approximately 47,000 customers during the winter of 2015-2016 because of delays in SoCalGas bill validation process. In addition, TURN asserts that SoCalGas violated its tariff by issuing 13.5 million late bills from 2014 – 2016. TURN pointed out that SoCalGas' Rule 14.A provides that the regular billing period for residential service "*shall be one month*," and that pursuant to SoCalGas'

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14 *See* TURN's opening brief submitted on March 26, 2018.

15 D.07-09-041 at 8.

16 *Citing* D.07-09-041 at 6, TURN pointed out that the Commission found that Pacific Gas and Electric Company (PG&E) violated its Tariff Rule 9A which requires the utility to issue bills at regular intervals based upon actual metering data, even though PG&E's Rule 9C also permitted PG&E to issue estimated bills when accurate usage data was not available as in this case.

Rule 14.D, a billing period of 27-33 days is consistent with monthly billing.[17] TURN contends that delaying customers' bills is not permitted based on SoCalGas' approved tariffs, as SoCalGas' Rules contemplate that the utility will issue an estimated bill during the customer's regular billing period rather simply delaying billing the customer.[18]

TURN argued that even in those situations where SoCalGas is permitted to skip monthly reading of customers' meters, i.e. for customers who have opt-outed out of the AMI program, the utility must issue estimated bills in the interim monthly period to those customers.[19] Thus, TURN concludes that SoCalGas' Rules do not authorize it to delay billing the customer until the next meter read, but instead require SoCalGas to issue an estimated bill.[20]

Finally, like CPED, TURN recommends that the Commission should not order any revisions to SoCalGas' Rule 14.C in order to limit the circumstances under which SoCalGas can issue estimated bills in this OII, but that such revision should be considered in an industry-wide rulemaking for industry-wide consistency because SoCalGas' tariffs governing when and how the utility must/may issue estimated bills (SoCalGas' Rules 14 and 16) are similar and/or consistent with tariffs of other major energy utilities. TURN believes that

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[17] *See* SoCalGas Tariff Rule 14.D.

[18] *Citing* SoCalGas' Rule 14.C.1, which provides in pertinent part: "If, for reasons beyond the Utility's control, the meter serving the customer cannot be read on the scheduled reading date or accurate usage data are not available, *the Utility will bill the customer for estimated consumption during the billing period*, and make any necessary corrections when a reading is obtained.

[19] *See*, D.14-12-078 at 51; and also Rule 12.C.7, providing for estimated billing for customers on "Level Pay Plan."

[20] *See* also Resolution G-3372, which addressed Pacific Gas and Electric Company's billing practices and related tariffs, the Commission made explicit its expectation that a utility will issue an estimated bill, rather than no bill at all, when it cannot obtain an accurate meter read.

delayed and estimated bills generally undermine the Commission's policies intended to support customers' ability to manage their energy usage in response to accurate price signals. Thus, TURN recommends that the Commission take seriously the requirements of Rule 12.A to ensure that delayed and estimated bills are the rare exception, not the norm.

TURN supports CPED's recommendation of penalty for SoCalGas' delayed billing of approximately 47,000 customers during the winter of 2015-2016 due to its bill validation process, including CPED's proposal that the majority of the penalty amount go to affected customers in the form of a bill credit, with the remainder going to the State's General Fund. TURN does not address the issue of whether SoCalGas violated its Gas Tariff Rule 14.A by failing to issue over 13.57 million bills based on a monthly duration between 2014 and 2016.

4.3. SoCalGas' Position[21]

SoCalGas contends that it: (1) did not deprive its consumers of their right to receive accurate bills at regular intervals when it issued over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016 (Issue 1**; discussed *herein in section 5.2);***; (2) did not violate its Tariff Rule 14, Section A (Tariff 14.A) when it failed to issue over 13.57 million bills based on a monthly duration between 2014 and 2016 resulting in higher than normal customer bills (Issue 2); (3) did not violate its Tariff Rule 12.A when it failed to issue timely monthly bills to approximately 47,000 customers during the winter months of 2015-2016 because of delays in its bill validation process (Issue 3); and

[21] *See* SoCalGas' opening brief submitted on March 26, 2018.

(4) did not violate its Tariff Rule 14.D when it issued bills for 34 or more days of gas usage without proration (Issue 8).[22]

SoCalGas argued that because it did not deprive its customers of rights under its tariffs, and did not violate any of its tariffs, the Commission should not impose penalties and/or other remedies on SoCalGas for the alleged violations of Tariff Rule 14.A, or Rule 12.A, as requested in Issues 6 and 7, respectively.

Regarding Issue 5, SoCalGas contends that the issue should be moot as it has "clarified that it has *not* sought cost recovery of the incremental and temporary workforce with respect to its bill validation system issues during the relevant time-period."[23]

Finally, regarding Issue 4, SoCalGas contends that the revision of its Tariff Rule 14 is unnecessary given that SoCalGas' tariff authority is not functionally different from those of other California utilities, and because "there is no evidence that SoCalGas violated or abused its tariff authority when it issued estimated bills during the relevant time-period." However, SoCalGas agrees with the other parties, if the Commission decides to address the issue of estimated billing, the appropriate forum is an industry-wide rulemaking.

5. Resolution of the Issues

5.1. SoCalGas' Applicable Tariffs

SoCalGas' Tariff Rule 12.A.1 (Rendering of Bills) provides for regular, *monthly* rendering of bills as follows:

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[22] Issues I through VIII in the Amended Scoping Memo, are identified and discussed herein in Section 5.2 (Issues 5.2.1 through 5.2.8, respectively).

[23] *See* SoCal Gas' opening brief at 21-22; and "Summary of Recommendations" (in opening brief).

> "Bills for gas service will be rendered monthly, or as may otherwise be provided under applicable tariff schedules, and will be based on the measured quantity of gas delivered to the customer, except as provided in Section C below and as noted in Rule No. 14, Meter Reading, Section C." (Emphasis added.)

SoCalGas' Tariff Rule 14.A (Meter Reading Schedule) provides for regular reading of meters at regular intervals, as follows:

> "Meters shall be read as nearly as possible at regular intervals. The regular billing period for residential service shall be one month. The regular billing period for all other classes of service shall be one month unless credit relations or collection difficulties make shorter periods advisable. In such cases the billing period may be reduced to two weeks or to one week at the Utility's discretion. For residential customers who have opted-out of the Advanced Meter Program their regular meter reads will occur bi-monthly[24] as directed by D.14-12-078." (Emphasis added.)

SoCalGas' Tariff Rule 14.C.1 (Estimated Bills) provides for bill estimation as follows:

> "If, for reasons beyond the Utility's control, the meter serving the customer cannot be read on the scheduled reading date or accurate usage data are not available, the Utility will bill the customer for estimated consumption during the billing period, and make any necessary corrections when a reading is obtained. Estimated consumption for this purpose will be calculated considering the customer's prior usage, the Utility's experience with other customers of the same class in that area, and the general characteristics of the customer's operations." (Emphasis added)

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[24] Bi-monthly is understood by the parties to mean every two months. (*See* the respective opening brief of each party.)

In addition, SoCalGas' Tariff Rules 14.C.3 and 14.C.4 provide for bill estimation, as follows:

> "If, for reasons within the Utility's control, the meter cannot be read or accurate usage data are not available, the Utility will bill the customer for estimated consumption during the billing period, and make any necessary corrections when a reading is obtained in accordance with Rule No. 16 C. Such estimated bills shall be considered "billing error" for the purpose of applying Rule No. 16. Estimated consumption for this purpose will be calculated as described above."[25] (Emphasis added.)

SoCalGas' Tariff Rule 14.D ("Bills for Less Than 27 or More Than 33 Days") provides:

> "Except as otherwise provided in certain rate schedules and bills utilizing daily allowance billing, all bills, including opening and closing bills, for gas service rendered for a period of less than 27 days or more than 33 days will be computed in accordance with the applicable rate schedule and shall be **prorated** on the basis of the number of days service has been rendered to the number of days in an average month which shall be taken as 30 days. Proration will include the size of any rate blocks and recurring fixed monthly charges as stated in the rate schedule(s). Service establishment charges shall not be prorated".

Finally, SoCalGas' Tariff Rule 16.A, dealing with information the utility may rely upon in estimating bills (i.e. methodology), provides:

[25] Separately, SoCalGas Tariff Rule 14.C.4 ("Advanced Metering Infrastructure (AMI) Meter Installation") provides that: "if the Utility is unable to gain access to install an electronic meter reading device, the Utility may bill the customer for estimated consumption in accordance with C.1 and C.2."

> "When regular, accurate meter readings are not available or the gas usage has not been accurately measured, the Utility may estimate the customer's gas usage for billing purposes on the basis of information including, but not limited to, the physical condition of the metering equipment, available meter readings, records of historical use, and/or the general characteristics of the customer's load and operation." (Emphasis added.)

There are no disputed issues concerning the remaining parts of SoCalGas' Tariff Rule 16 (including 16.B, 16.C, and 16.D) which deal with adjustments of bills due to billing and meter errors, as well as unauthorized use of gas energy. Additionally, the parties agree that the analysis of the data provided by SoCalGas shows no evidence suggesting that SoCalGas failed to comply with bill adjustment requirements in SoCalGas' Rule 16.C regarding the delayed and/or estimated billings that are subject of this OII.[26]

5.2. Discussion of the Issues and Resolution[27]

5.2.1. Did Respondent deprive its consumers of their right to receive accurate bills at regular intervals when it issued over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016?

SoCalGas issued over 9.29 million gas bills based on estimated usage rather than actual usage from January 2014 through December 2016. The number of estimated bills was highest from January 2014 to October 2015, and began to decrease in November 2015.[28]

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[26] *See* Stipulated Facts 32 (Jointly Filed by SoCalGas, CPED, ORA, and TURN on July 21, 2017).

[27] The following are Issues I through VIII in the Amended Scoping Memo of the Assigned Commissioner issued on November 21, 2017.

[28] *See* Stipulated Facts 13.

SoCalGas explained it had a higher number of estimated bills, delayed bills, and bills for 34 or more days of gas usage from 2014 to 2016 due to a high number of advanced meter installations in its service territories, meaning that analog meter routes were being dismantled, and its meter reading routes were far less efficient than in the past. SoCalGas also believe that high turnover amongst its meter readers (111% in 2014; 160% on 2015; and 159% from January to May 2016) contributed to its meter reading inefficiency problems.[29] Finally, SoCal Gas explained that it took several steps to mitigate the problem by hiring and training new meter readers.[30] [31]

Pursuant to SoCalGas' Tariff Rule 12.A.1, bills for gas service must be rendered <u>monthly</u> based on measured gas delivery, except as provided in Rule 12.C or as noted in Rule 14.C.

As noted above, SoCalGas' Tariff Rule 14.C.1 provides that "[i]f, for reasons beyond the Utility's control, the meter serving the customer cannot be read on the scheduled reading date or accurate usage data are not available, the Utility will bill the customer for estimated consumption during the billing period." That is, pursuant to SoCalGas' Tariff Rule 14.C.1, the Utility **<u>will</u>** bill the customer for estimated consumption during the billing period, if accurate usage data for the consumer is not available during a specific billing period, which for residential customers is one month.[32]

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[29] *See* Stipulated Facts 9 – 11.

[30] SoCalGas hired 147 incremental meter readers from 2014 to 2016 at a cost of $542,152 (within its current authorized requirement and shall not seek relief for costs related to the incremental meter readers hired).

[31] Stipulated Facts 12.

[32] *See* SoCalGas' Tariff Rule 12.A.1.

Similarly, SoCalGas' Tariff Rule 14.C.3 provides for bill estimation (rather than a bill based on measured gas delivery) "[i]f, for reasons within the utility's control, the meter cannot be read or accurate usage data are not available"

To resolve the above issue, we must first determine whether the term "the utility will bill the customer for estimated consumption" (used in SoCalGas' Tariff Rule 14.C.1 and 14.C.3) merely provides SoCalGas with a permissive option, rather than imposes a mandatory obligation on SoCalGas - to estimate a customer's bills (based the customer's estimated consumption during a billing period) if accurate usage data for the consumer is not available during a specific billing period.

Generally, courts have found that use of the words "may" and "should" signify permissive action, while use of the words "shall," "will" or "must" signify mandatory clauses. Fla. State Bd. of Admin. v. Law Eng'g & Envtl. Servs., 2003 U.S. Dist. LEXIS 9320, *1, 262 F. Supp. 2d 1004, 1006. Further, in construing an administrative regulation, we apply the same rules of construction that we would in interpreting a statute." *Phillips v. Exec. Dir., Colo. Dep't of Corr.*, 251 P.3d 1176, 1178 (Colo. App. 2010). "[P]rovisions that an entity 'will' do something typically are construed, like those using the term 'shall,' as mandatory." Plains Metro. Dist. v. Ken-Caryl Ranch Metro. Dist., 250 P.3d 697, 699 (Colo. App. 2010). *See also*, Malahoff v. Saito, 111 Haw. 168, 171, 140 P.3d 401, 404, 2006 Haw. LEXIS 432, *1, 180 L.R.R.M. 2381, where the Supreme Court of Hawaii found that while "the traditional language signifying a mandatory provision, i.e., the word "shall," is not used in Haw. Rev. Stat. § 78-13, [but] a word comparable in meaning and effect -- "will" -- is clearly present in § 78-13. The word "will" is "an auxiliary verb commonly having the mandatory sense of shall or must. It is a word of certainty, while the word "may" is one of speculation and uncertainty.

Thus, while the parties in their respective briefs appear to suggest that SoCalGas' Tariff Rules "permits" and/or "authorizes" SoCalGas to issue estimated bills when the meter serving the customer has not/cannot be read or accurate usage data for the customer is not available, a plain reading of SoCalGas' Tariff Rules 14.C indicates that, rather than being permissive, estimated bills are <u>required</u> in these situations.

We conclude that, rather than being permissive, issuance of estimated bills to customers is <u>mandatory</u> under SoCalGas' Tariff 14.C in those situations when the customers' meters cannot be read on the scheduled reading date or accurate usage data for the customers are not available.

While Rule 12.A requires SoCalGas to issue monthly bills to its customers "based on the measured quantity of gas delivered to the customer"[33] it also provides an exception "<u>as noted in Rule No. 14, Meter Reading, Section C.</u>" As discussed above, pursuant to Rule 14.C, when meters cannot be read for any reason, an estimated bill is not only permitted, it is required. Accordingly, we find that it was not a violation of the Rule 12.A to issue the estimated bills.

Because the exception in Rule 14.C is so broad, and it appears not to contain any actual limitation on when estimated bills may be used (rather than bills based on measured use), it is questionable whether this is the outcome intended by the Commission. However, this appears to be the result under the plain language of the approved rules. As it stands, the language of the approved rules does not give the regulated utility adequate notice that, when the meter

[33] SoCalGas' Tariff Rule 12.A.1.

cannot be read, issuing an estimated bill for usage during the billing period violates the approved tariff.

Thus, while it could be argued that SoCalGas' customers did not receive "accurate" bills at regular intervals when SoCalGas issued over 9.29 million gas bills based on estimated usage and accordingly consumers were denied their rights to receive accurate bills at regular intervals as argued by CPED and TURN, it is also possible that the majority of the estimated bills were substantially accurate.

Thus, we conclude that the general policy statement in D.07-09-041, regarding customers' rights to receive accurate bills does not override the more specific/actual language of Rules 12 and 14 of the SoCalGas' tariff requiring issuance of the estimated bills at issue here.

Accordingly, we find that Respondent did not violate any applicable tariffs, rules or regulations in issuing 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016, when accurate usage data was not available for those customers during the specific billing periods involved.

5.2.2. Did Respondent violate Section A of its gas Tariff Rule 14 by failing to issue over 13.57 million bills based on a monthly duration between 2014 and 2016, resulting in higher than normal customer bills?

SoCalGas admitted that it issued 13.57 million bills beyond the required billing period (these bills covered 34 -60 days of gas usage).[34] In its opening brief (at 14), SoCalGas contends that although the range (bills with 34-60 billing days) may appear wide, only 822,181 bills were for more than 35 days, representing

[34] SoCalGas Reply Brief on ALJ Issues at 4; Stipulated Facts 18; SoCalGas' opening brief at 14.

only 0.4% of bills, out of more than 200 million bills issued between 2014-2016.[35] SoCalGas explained that, of the 13.57 million delayed bills: 7.97 million bills were issued for 34 billing (usage) days; 4.9 million bills were issued for 35 billing days; leaving 822,181 bills issued for more than 35 billing days.

SoCalGas explained that the main reason for the delayed bills was an extended temporary break in service by the customers, or because SoCalGas was issuing the first bill of the heat season for heat-only customers.[36]

SoCalGas also explained that it re-aligned meter reading dates for about 400,000 of its 5.4 million customers, and that the change in meter reading dates impacted the number of billing days for the first bill issued after the change was made, thus causing about 140,000 customers to each receive a bill containing more than 35 billing days. SoCalGas contacted the Commission and the impacted customers to explain the cause of delay for 140,000 bills, and to assure customers that subsequent bills would return to the typical billing period at the next cycle, and that customers could contact SoCalGas in the event they had trouble paying their bill.[37] However, the majority of the 13.57 million late bills were discovered subsequently during CPED's investigation.

In addition to the above, SoCalGas' admitted failing to prorate about 153,358 bills (of the 13.57 million extended/delayed bills herein), where the billing period was 34 or 35 days, which is contrary to its Tariff Rule 14.D which requires bills for more than 33 days to be prorated.[38]

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[35] Summary of data provided in Stipulated Fact No. 19.

[36] SoCalGas Reply Brief on ALJ Issues at 4; also Stipulated Facts 20, 22, 23.

[37] SoCalGas Reply Brief on ALJ Issues at 4; also Stipulated Facts 20, 22, 23.

[38] *See* SoCalGas response to question 3c of CPED data request DR-GAS-00006-5. As noted

Footnote continued on next page

SoCalGas contends that its billing practices were justified, and that because it took measures to reduce the harm caused by the improper billing, it did not violate its tariff rules. Accordingly, SoCalGas argued that the "stipulated facts provide the Commission with an evidentiary basis to conclude that SoCalGas neither engaged in any improper practices nor mismanaged the issuance of bills to its customers during this time period."[39]

Despite SoCalGas' arguments, explanation, and its efforts at mitigation, we find that SoCalGas' residential rate schedules do not provide alternative billing schedules for the residential customers at issue here, and that bills to those customers must be issued monthly. That is, pursuant to SoCalGas' Tariff Rule 12.A(1), "bills for gas service will be rendered monthly, or as may otherwise be provided under applicable tariff schedules." In addition, SoCalGas' Tariff Rule 14.D provides that "the number of days in an average month [which] shall be taken as 30 days." Accordingly, bills for gas service rendered for a period of less than 27 days or more than 33 days must be prorated.[40]

Accordingly, as further discussed below, we find that Respondent violated its Gas Tariff Rules 12.A and 14.A by failing to issue over 13.57 million bills based on a <u>monthly</u> duration between 2014 and 2016, resulting in higher than

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above, SoCalGas' Tariff Rule 14.D provides that "except as otherwise provided in certain rate schedules and bills utilizing daily allowance billing, all bills, including opening and closing bills, for gas service rendered for a period of less than 27 days or more than 33 days will be computed in accordance with the applicable rate schedule and shall be **prorated** on the basis of the number of days service has been rendered to the number of days in an average month which shall be taken as 30 days." (Emphasis added.)

[39] SoCalGas Reply Brief on Preliminary Legal Issues at 5 (July 31, 2017) (hereinafter "SoCalGas Reply Brief on ALJ Issues").

[40] *See* SoCalGas' Tariff Rule 14.D.

normal customer bills. We further find that SoCalGas violated Section D of its Gas Tariff Rule 14 by failing to prorate 153,358 bills out of the 13.57 million bills, where the billing period was 34 or more days.

Here, to emphasize, SoCalGas' Tariff Rule 12.A.1 states that "[b]ills for gas service will be rendered monthly, or as may otherwise be provided under applicable tariff schedules." (Emphasis added.) Further, SoCalGas' Tariff Rule 14.A provides that: "The regular billing period for residential service shall be one month. The regular billing period for all other classes of service shall be one month unless credit relations or collection difficulties make shorter periods advisable. In such cases the billing period may be reduced to two weeks or to one week at the Utility's discretion. For residential customers who have opted-out of the Advanced Meter Program their regular meter reads will occur bi-monthly as directed by D.14-12-078."[41]

As noted above, we find that SoCalGas' Tariff Rule 14.C (1) requires SoCalGas to estimate its customers' bills when "the meter serving the customer cannot be read on the scheduled reading date or accurate usage data are not available." (*See* discussion in Section 5.2.1. above). Pursuant to SoCalGas' Tariff Rule 14.C.1, the Utility **must** bill the customer for estimated consumption during the billing period, if accurate usage data for the consumer is not available during a specific billing period, which for residential customers is one month.[42]

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[41] As can be seen above, Rule 14.A includes an exception from monthly billing for residential customers who have opted-out of the Advanced Meter Program – whose regular meter reads will occur bi-monthly (every two months) as directed by D.14-12-078.

[42] *See* SoCalGas' Tariff Rule 12.A.1.

As pointed out by CPED and TURN, there are no tariff rules permitting SoCalGas to deviate from its obligations under its tariffs to issue bills monthly to its customers.[43] Additionally, none of the stipulated facts explained SoCalGas' failure to issue monthly estimated bills when its actual customers' usage data was unavailable for the 13.57 million bills and/or customers at issue here. Nothing that SoCalGas presented explained why it did not follow the Commission directives to issue estimated bills to its customers when it was unable to obtain accurate usage data of those customers pursuant to Rule 14.C. This record demonstrates that SoCalGas violated its Tariff Rules 12.A and 14.A by delaying 13.57 million bills to its customers.

Rule 14.C (bill estimation) requirement was put in place to ensure that SoCalGas will issue monthly bills (*albeit*, estimated bills), and to ensure that customers receive bills monthly as required by Tariffs Rules 12.A and 14.C, rather than no bill at all or delayed bills covering more than one month. Customers, particularly those with low or fixed monthly incomes, must have accurate monthly bills in order to properly budget their expenses.[44] This is also true, even in situations when the meters serving the customers cannot be read on the scheduled reading date(s) or accurate usage data for the customers are not available as provided in Rules 14.C.1 and 14.C.3.

Accordingly, we find that SoCalGas violated Section A of its Gas Tariff Rules 12.A and 14.A by failing to issue over 13.57 million bills based on a monthly duration between 2014 and 2016, resulting in higher than normal customer bills.

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[43] *See* CPED Opening Brief on ALJ Issues at 4; *and* TURN Opening Brief on ALJ Issues at 5-6.

[44] *See* D.07-09-041 at 8.

Lastly here, SoCalGas' Tariff Rule 14.D requires proration for bills that are "for less than 27 days or more than 33 days," unless its rates or schedules provides otherwise. No rate or schedule allowing a deviation from this requirement was provided in this record. None of the stipulated facts adequately explain SoCalGas' failure to prorate the 153,358 bills herein discussed, other than its admission that its system was programmed since 1996 "to prorate all bills of longer than 35 days." This is an admitted violation of its tariff Rule 14.D and accordingly, we find here that SoCalGas violated Rule 14.D by failing to prorate 153,358 bills for 34-35 days of gas usage. We require SoCaGas to review its billing processes to ensure it can fully comply with the Rule 14.D going forward.

5.2.3. Did Respondent violate Section A of its Tariff Rule 12 by failing to issue timely month bills to approximately 47,000 customers during the winter (months) of 2015-2016 because of delays in its bill validation process?

SoCalGas admitted that it delayed issuance of bills to approximately 47,000 of its customers due to a variety of factors including issues with its bill-validation system. SoCalGas reported the issue to the Commission's Energy Division on May 9, 2016, and had a follow-up meeting with the Director and Staff of the Energy Division, and staff from the Commission's CAB on May 16, 2016. These delayed bills are in addition to the 13.57 million delayed bills discussed above.

On September 7, 2016, pursuant to SoCalGas' response to DR-GA-00006-3, question 2, SoCalGas explained that the billing delays were caused by the "many billing validations SoCalGas has in place to ensure the accuracy of a customer's bill combined with other factors that cause billing exceptions (*e.g.* waiting on a failed order, high bill research, etc.)…" Further, SoCalGas explained that while billing delays due to this validation process was common for a small number of customers, the 47,000 number was higher than normal so it reported the delays to the Commission.[45]

SoCalGas worked to resolve this problem by reducing the numbers of exceptions flagged due to the billing validations, among other efforts. SoCalGas sent notices to the customers who received these delayed bills, informing them of the cause(s) of the delay, what to expect (*e.g*. that upcoming bill may include charges for multiple months, and that total amounts may be higher); and encouraging customers to call to discuss their accounts if they "would like more time to pay, … or make payment arrangements," among others things.[46] These approximately 47,000 bills were delayed by over 45 days (approximately), resulting in higher than normal bills that included "several months of natural gas usage."[47]

SoCalGas explained that it worked diligently to address the issues leading to the approximately 47,000 delayed bills. It took actions that substantially reduced the number of customers with delayed bills from the approximately 47,000 initially reported in May 2016 to less than 12,000 by September 2016. SoCalGas assigned a project manager to coordinate resources to reduce delayed bills, increased staffing in billing operations, hired and trained more than a dozen additional full-time billing analysts, authorized overtime to all billing

[45] *See* Stipulated Fact 26.

[46] *See* Stipulated Facts, 31.

[47] Order Instituting Investigation and Order to Show Cause at 1 and 4. (*See* also SoCalGas response to question 2 of CPED data request DR-GAS-00006-3.)

analysts, made 21 "significant enhancements" to the process to reduce volume of incoming work by more than 37% from an average of 6,250 to 4,000, and improved management tools allowing flexibility to re-allocate work where needed. SoCalGas indicated that the incremental cost of the temporary workforce to augment the current workforce was $150,000, and contends that because it is operating within its authorized revenue requirement, it has not and will not seek to recover these incremental costs related to the temporary workforce from ratepayers.[48]

In its opening brief, SoCalGas contends that its tariffs "make [it] clear that SoCalGas has the authority and the ability to issue delayed bills to customers."[49] Despite this assertion, SoCalGas failed to identify a specific rule in its tariffs granting SoCalGas the ability to delay bills to its customers. Instead, SoCalGas listed, on page 18 of its opening brief, the above-described efforts at mitigating the impact of the delayed bills to its customer, and an explanation of its bill-validation protocols.

As already determined above (under Issues 6(a) and 6(b)), SoCalGas' Tariff Rule 12.A requires that bills are rendered monthly and Tariff Rule 14.A states that "the regular billing period for residential service shall be one month." Tariff Rule 14.C.1 provides that if the customer's meter cannot be read or accurate usage data are not available, SoCalGas **must** bill the customer for estimated consumption.[50] That is, rather than delay billing for more than one month, SoCalGas is required to provide an estimated bill.

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48 *See* Stipulated Facts 24-31.

49 *See* SoCalGas' opening brief at 17.

50 *See* SoCalGas' Tariff Rule 12.A.1.

We further restate that SoCalGas' tariff rules do not permit SoCalGas to deviate from its obligations to issue monthly bills to its customers.[51]

Accordingly, while SoCalGas' mitigation efforts may be commendable, this record supports a conclusion that SoCalGas violated its Tariff Rules 12.A, 14.A and 14.C when it issued delayed bills to approximately 47,000 of its customers during the winter (months) of 2015-2016 because of delays in its bill validation process. SoCalGas mitigation actions may be considered by the Commission in determining, what penalty, if any, to impose on SoCalGas.

5.2.4. Should the Commission revise or require revision of SoCalGas' Tariff Rule 14.C in order to limit the circumstances under which Respondent can issue estimated bills?

This issue relates to Section C of SoCalGas' Tariff Rule 14 (Rule 14.C) only. As discussed above, SoCalGas' Tariff Rule 14.C permits estimated bills both for reasons "beyond," and "within" SoCalGas' control[52] when the meters serving the customers "cannot be read or accurate usage data are not available."[53] CPED and TURN agree that SoCalGas' tariffs "authorizes" or "permits"[54] SoCalGas to issue

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[51] As correctly pointed out in TURN's reply brief (April 25, 2018), at 11, none of SoCalGas' tariff rules authorizes SoCalGas to delay issuing bills to its customers. SoCalGas' "Rules 14.D and 16 provide consumer protections in the event that SoCalGas fails to issue a timely bill but do not in themselves authorize the utility to delay bills. Rule 14.D specifies how SoCalGas is to compute bills for time periods longer or shorter than a month," while Rule 16.C limits SoCalGas' ability to adjust bills for undercharges resulting from billing error, including the failure to issue a timely bill, to three months of usage for residential and small commercial customers, and requires three years of adjustments for overcharges for all customers (Rule 16C.2). (*See* also TURN's reply brief at 8; and CPED's opening brief at 13-15.)

[52] *See*, SocalGas' opening brief at 4-5; and SoCalGas Tariff Rule Tariff Rule 14.C.1 and 14.C.3, respectively.

[53] SoCalGas' Tariff Rule 16.A provides guidance as to what factors to consider by SoCalGas in estimating bills of its customers.

[54] As already discussed above, SoCalGas' tariff rules actually **require** bill estimation in certain

Footnote continued on next page

estimated bills to customers in various and undefined circumstances. CPED and TURN also agree that the tariffs of the other major utilities have similar but inconsistent language that place inconsistent limitations, if any, on the circumstances under which the utilities may issue estimated bills to customers. Accordingly, we recognize there is a need for the Commission to review the relevant tariffs and determine whether SoCalGas, as well as the other energy utilities, should be ordered to revise their tariffs in order to limit the circumstances under which the utilities may issue estimated bills to their customers.

In its opening brief,[55] TURN observed that SoCalGas' tariffs governing when and how the utility may/must issue estimated bills (Tariff Rules 14 and 16) are similar to the tariffs of other major energy utilities.[56] Likewise, in its opening brief, CPED observed that, while similar, the utilities' tariffs are different.[57] CPED explained that SoCalGas and San Diego Gas & Electric Company (SDG&E) have the broadest tariff rules, allowing estimated billing for reasons "beyond the Utility's control" and "within the Utility's control" when the meter cannot be read or accurate usage data are not available,[58] while PG&E's tariff is more limited, permitting estimated bills only for <u>reasons beyond</u> PG&E's control.[59] CPED also pointed out that Southwest Gas Corporation's (Southwest Gas) Gas

situations.

55 TURN opening brief at 7.

56 All of the utilities modified their tariffs in conformance with Resolution G-3372, which clarified certain issues related to billing errors. (*See* TURN's opening brief at 7.)

57 CPED opening brief at 16.

58 SoCalGas Tariff Rule 14; SDG&E Tariff Rule 17.

59 Referencing PG&E's Tariff Rule 9.A.

Rule 9 and Southern California Edison Company's (SCE) electric tariff rules are different. Southwest Gas provides for estimated bills in circumstances beyond Southwest Gas' control when the meter cannot be read due to three specific/enumerated reasons listed in its tariffs,[60] and SCE's tariffs do not include the "within" or "beyond" the utility's control language found in SoCalGas' tariffs.

CPED argued that "because electric and gas utilities' tariff rules related to estimated billing include *inconsistent language* regarding the reasons why the utility may issue estimated bills, there may be a need to revise the rules so that each utility's tariffs are consistent, easily understood, and the circumstances when a utility may issue estimated bills are limited."[61]

CPED and TURN both recommended that any revisions to SoCalGas' Rule 14.C should be considered in an industry-wide rulemaking, but not adopted in this proceeding. CPED and TURN argued that a rulemaking would be more efficient because all of the utilities would be parties and therefore the Commission could universally determine the circumstances in which estimated bills can be issued. While, SoCalGas does not believe that a revision of its Tariff Rule 14 regarding issuance of estimated bills is warranted, it concedes that any revision (if the Commission so chooses) should be done across the industry in a rulemaking in order to preserve the utilities' and other interested parties' rights to be heard on these issues, as argued by TURN and CPED.

We agree with CPED and TURN's reasoning and recommendations, and recognize there is a need for the Commission to conduct a review and determine

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60 Such reasons are not listed/identified in SoCalGas' Rule 14.

61 CPED opening brief at 16.

whether SoCalGas, as well as the other energy utilities, should be ordered to revise their tariffs to limit the circumstances under which the utilities may/must issue estimated bills to their customers. We encourage the Commission to consider opening a new rulemaking, or adding this issue to an existing rulemaking.

TURN recommended that the Commission also consider changes to the tariffs, across the industry in a rulemaking proceeding, regarding circumstances under which delayed bills may be issued to ensure consistency (Opening Brief on Preliminary Legal Issues, filed July 21, 2017 (Section II (E)). As discussed above, a careful reading of SoCalGas' tariffs does not permit issuance of delayed bills by SoCalGas to its customers. We also are not aware of inconsistencies, or ambiguity regarding the Commission's intent, with respect to the delayed billing provisions in the various utilities' tariffs. Accordingly, based on the limited record before us, we do not accept TURN's recommendation to consider revisions to utility tariffs regarding delayed billing.

5.2.5. Should the Commission require Respondent's shareholders to absorb costs associated with incremental meter read workforce and the temporary work force the Respondent employed to address bill validation system issues?

SoCalGas incurred incremental costs to address the increase in estimated billing during 2014 to 2016[62] due to high turnover rate among meter readers from 2014-2016. The turnover required SoCalGas to hire and train 147 incremental meter readers at the cost of $542,152 over the three-year period.[63]

[62] Stipulated Facts 9-12.

[63] Stipulated Facts 11 and 12.

SoCalGas also incurred incremental costs of $150,000 associated with hiring a temporary workforce to address issues related to the approximately 47,000 delayed bills issued from 2014 to 2016 by: assigning a project manager to coordinate resources to reduce delayed bills; increasing staffing; hiring and training additional full-time billing analysts; authorizing overtime; making "21 significant enhancements to the process to reduce volume of incoming work by more than 37% from an average of 6,250 to 4,000, and improved management tools allowing flexibility to reallocate work."[64,65] CPED's Staff Report recommended that SoCalGas "absorb all costs associated with the incremental meter read workforce and the temporary work force it employed to address its bill validation system related issues."[66] The OII accepted this recommendation as an issue, and the issue was included in the Scoping Memo as Issue 5.

SoCalGas contends that this issue is moot, as it has clarified its position on this issue, <u>to wit;</u> "SoCalGas … is operating within its authorized revenue requirement and shall not seek relief for costs related to the incremental meter readers,"[67] and "SoCalGas will not seek relief for these incremental costs related to the temporary workforce in future revenue requirement from ratepayers."[68]

There is no dispute regarding Issue 5, as the issue has been resolved through parties' agreement and/or stipulation. Accordingly, as agreed to by all parties, SoCalGas shall neither seek relief for costs related with the incremental

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[64] Stipulated Facts 30.

[65] Stipulated Facts 30.

[66] *See* Staff Report at 2.

[67] Stipulated Facts 12.

[68] Stipulated Facts 30.

meter readers ($542,152) nor seek relief or reimbursement for the $150,000 in incremental costs incurred with regards to SoCalGas' temporary workforce, as presented in Issue 5 herein.

The Commission finds that SoCalGas shall absorb the $542,152 incremental meter reader cost and the $150,000 temporary workforce cost within its authorized revenue requirement, or at shareholder expense. Finally, SoCalGas shall not include the $150,000 (cost associated with temporary workforce) or the $542,152 incremental meter reader cost in its future General Rate Case request.[69]

5.2.6. Should the Commission impose penalties and/or other remedies on Respondent for extending the billing period of approximately 140,000 customers in November and December 2015, and over 13.57 million customers from 2014 to 2016?

This issue is tied to Issue 2 (Section 5.2.2 above) where we found that SoCalGas violated its Tariff Rules 12.A, 14.A and 14C., when it failed to issue over 13.57 million bills based on a <u>monthly</u> duration between 2014 and 2016, resulting in higher than normal customer bills.[70] In addition, we also found in Issue 2 above that SoCalGas violated Tariff Rule 14.D when it failed to prorate 153,358 of the 13.57 million delayed bills.[71]

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[69] For completeness, TURN's recommendation that this issue be deferred for resolution in "SoCalGas' current General Rate Case, A.17-10-008" is rejected as Issue 5 present no active dispute requiring additional findings and/or order beyond the parties' stipulation. TURN is a party to the stipulation.

[70] SoCalGas reported to the Commission that if failed to issue 140,000 bills on a monthly basis. These are included in the total of 13.57 million delayed bills subsequently identified during CPED's investigation.

[71] *See* pages 22-24 above; also *See* Joint Motion of the Consumer Protection and Enforcement Division, Southern California Gas Company, and the Utility Reform Network, filed January 5, 2018, Attachment 2, (Rule 14.D Facts") Response 3c to DR-GAS-00006-5.

SoCalGas offered justification for the delayed bills, and explained that it could not issue timely, monthly bills, during the regular billing period, but instead issued extended bills because, due to holidays and extra weekends in some months, its regular 21 day meter reading schedule did not provide sufficient time to provide monthly bills to all customers.[72]

In addition, SoCalGas contends that it only prorates bills when the billing cycle exceeds 35 days because customers could end up paying more for certain annual charges if it prorates bills with 34 or 35 days.[73]

Accordingly, SoCalGas argued for no penalties or sanctions, as it does not believe it violated its tariffs, rules, law or decisions of the Commission. As explained above, we disagree.

While SoCalGas' explanation, and its rationale for the admitted violation of Tariff Rule 14.D (to help consumers) may be accorded their due weight as mitigating factors when determining sanctions and/or penalties to impose for this violation, a violation has indeed occurred. Accordingly, we find that SoCalGas violated Rules 14.A and 14.D.

The Commission has found that "any violation of statutes, Commission decisions, and directives, *regardless of the circumstances*, is a serious offense that should be subject to fines."[74] Moreover, establishing billing protocols that achieve compliance with tariff rules is a core responsibility of the utility, and neglect of this core responsibility disregards Commission rules protecting

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72 SoCalGas response to question 3c of CPED data request DR-GAS-00006-5.

73 *See* SoCalGas response to question 2e of CPED data request DR-GAS-00006-6.

74 D.98-12-075 (Penalty Analysis Decision) at 36; also D.07-11-037 at 116, emphasis added.

consumer rights.[75] Thus, SoCalGas must ensure that its billing is conducted in a manner than complies with its tariffs. Accordingly, as discussed below, we will require SoCalGas to review its practices (including meter reading schedules and billing processes) to ensure that SoCalGas will comply with its tariff without further violations, unless and until the tariff is modified.

5.2.6.1. Penalty Requirements, Authority and Standards

Pub. Util. Code § 2107, provides that "any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars ($500), nor more than fifty thousand dollars ($50,000) for each offense." Under Pub. Util. Code § 2108, each violation of a Commission requirement is a distinct offense.[76] Accordingly, pursuant to Pub. Util. Code §§ 2107 and 2018, the Commission is authorized to impose fines between five hundred dollars ($500) and fifty thousand dollars ($50,000) on SoCalGas for each separate offense or violation.

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[75] *See* D.07-09-041 at 9-10 (finding that PG&E's billing problems related the replacement of its outdated Legacy system demonstrated a "pattern of mismanagement and disregard for Commission rules protecting consumer rights … [because n]ot only did PG&E cause substantial harm to thousands of customers over a period of five years, it did so notwithstanding the existence of tariff protections that were designed to prevent such harm").

[76] The full text of Pub. Util. Code § 2108 reads: "Every violation of the provisions of this part or of any part of any order, decision, decree, rule, direction, demand, or requirement of the commission, by any corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be a separate and distinct offense."

As CPED pointed out in its opening brief, the Commission has found that "the purpose of a fine is to go beyond restitution to the victim and to effectively deter further violations by … [the utility] or others."[77] In evaluating the amount of penalties to impose, the Commission often uses the following two criteria: (a) severity of the offense and (b) conduct of the utility.

A. Severity of the Offense

Regarding the first factor (Severity of the Offense), the Commission held in our "Penalty Analysis Decision" (D.98-12-075), that the size of a fine should be proportionate to the severity of the offense.[78] To determine the severity of the offense, the Commission will consider: (1) physical harm; (2) economic harm; and (3) harm to the regulatory process.[79]

First, we have no evidence here that any physical harm to consumers resulted from SoCalGas' action(s) of extending the billing period of approximately 140,000 customers in November and December 2015, and over 13.57 million customers from 2014 to 2016.

As pointed out by CPED, SoCalGas' violations may have caused economic harm. "Economic harm consists of the amount of expense imposed on victims and any unlawful benefits gained by the utility."[80] While, there is no evidence here showing that SoCalGas gained any unlawful benefits by its actions herein, and while economic harm (to consumers) is often hard to quantify, this (quantification difficulties) does not, in itself, diminish the severity of the offense

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[77] D.98-12-075 at 35.

[78] D.09-09-005 at 29.

[79] D.98-12-075 at 36.

[80] Referencing D.98-12-075 at 36.

or the need for sanctions.[81] The Commission also received customer complaints during this time which supports a finding that some customers were adversely affected.[82]

Based on this record, it is reasonable to conclude that certain consumers receiving extended bills with higher than normal amounts to be paid (as SoCalGas conceded) would have experienced some economic/financial hardship, especially if they are low or fixed income customers. Accordingly, we conclude that some consumers, in all likelihood, suffered economic harm as a result of SoCalGas' action in extending their bills.

We also find that SoCalGas' action in extending the billing period of over 13.57 million customers from 2014 to 2016 harmed the regulatory process, as public utilities are required to comply with Commission's rules and regulations. Such compliance is "absolutely necessary to the proper functioning of the regulatory process."[83] In addition, the Commission considers tariff violations to be harmful to the integrity of regulatory processes.[84] Harm to the regulatory process can be a significant factor in the Commission's determination to impose penalties.[85]

Lastly, we observe that widespread violations that affect a large number of consumers are more severe offenses than violations that are limited in scope in

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[81] D.98-12-075 at 36.

[82] *See* the Staff Report at 4.

[83] D.98-12-075 at 36; *see* Pub. Util. Code § 702.

[84] *See* D.07-09-041 at 42.

[85] *See* D.17-03-017 at 8.

the numbers of customers affected.[86] Here, SoCalGas' violations of Rules 12.A, 14.A and 14.C affected a very large number of customers, the billing delay was quite extensive, and it occurred over a very long time (about 3 years). This reflects a practice/pattern of widespread and sustained violations of its tariff rules, which supports a significant penalty.

B. Conduct of the Utility

The Commission has held that the size of a fine should reflect the conduct of the utility[87] based on the following factors: (1) the utility's actions to prevent a violation; (2) the utility's actions to detect a violation; and (3) the utility's actions to disclose and rectify a violation.[88]

First, we acknowledge that SoCalGas took mitigating steps to contact the Commission, with respect to about 140,000 impacted customers receiving bills containing more than 35 billing days. SoCalGas also took mitigating steps to contact the 140,000 customers to explain the cause of such bills; to assure customers that subsequent bills would return to the typical billing period at the next cycle; and to inform customers that they could contact SoCalGas in the event they had trouble paying their bill.[89]

However, there is no evidence in the record to suggest that SoCalGas took action to prevent the more widespread bill extension violations, involving 13.57 million bills. SoCalGas justifies the extended billing period on the basis

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[86] *See* D.98-12-075 at 37.

[87] *See* D.98-12-075; also D.09-09-005 at 31.

[88] D.98-12-075 at 37-38.

[89] SoCalGas Reply Brief on ALJ Issues at 4; Stipulated Facts 20, 22, and 23.

that it is not always possible to read meters in less than 35 days.[90] Despite knowing that some months do not accommodate its normal 21 work day meter reading schedule, SoCalGas failed to make the changes necessary to its internal procedures to address the violations that result from this inconsistency.[91] SoCalGas acknowledges that extended bills could result in higher than normal bills and the potential of economic harm to its customers.[92]

Based on this record, SoCalGas' action in extending the billing period of approximately 140,000 customers in November and December 2015, and over 13.57 million customers from 2014 to 2016 showed that SoCalGas did not review its own operations to ensure that it was in full compliance with its Tariff Rules.[93]

Also, as mentioned above, utilities are expected to diligently monitor their activities;[94] and promptly bring a violation to the Commission's attention.[95] Steps taken by a utility to promptly and cooperatively report and correct violations may be considered in assessing any penalty.[96]

While SoCalGas took prompt action to disclose and rectify 140,000 instances of extended billing,[97] there is no record that SoCalGas took any

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[90] Stipulated Facts 16-19.

[91] *See* Stipulated Facts, 16-19 (Data showing that SoCalGas issued high numbers of extended bills during the holiday months as far back as 2010 and through 2016).

[92] *See* Stipulated Facts 23.

[93] *See* D.02-06-077 at 26.

[94] D.98-12-075 at 37.

[95] D.98-12-075 at 38.

[96] D.98-12-075 at 38.

[97] On January 22, 2016, SoCalGas notified the Commission that it extended the billing period to approximately 140,000 customers in November and December of 2015. SoCalGas notified customers of the extended billing period and advised customers to contact the utility if they had

Footnote continued on next page

steps to rectify the conditions leading it to issue the majority of the 13.57 million extended bills from 2014 to 2016. Moreover, SoCalGas only disclosed 140,000 delayed bills to the Commission, while the vast majority of the 13.57 million delayed bills were discovered subsequently during CPED's investigation. If SoCalGas was diligently reviewing its billing activities, promptly bringing violations to the Commission's attention; and taking steps to promptly correct violations of its tariffs, SoCalGas would have addressed those conditions leading to its Rule 14.A violations, and rectified or attempted to rectify them prior to the initiation of this OII. The record in this case fails to establish that SoCalGas met these obligations, or that SoCalGas took reasonable actions to prevent, disclose, or rectify the vast majority of the violations, and the Commission considers these factors as weighing in favor of imposing a significant penalty.

5.2.6.2. Analysis (and Commission Precedents)

Analogous to this case is the Commission's findings and determinations in D.07-09-041 (PG&E Backbilling Decision). In that case, the Commission found that receiving accurate bills issued at regular intervals is a basic consumer right. Further, the Commission found that "[c]ustomers, particularly those with low or fixed monthly incomes must have accurate monthly bills in order to properly budget their expenses."[98]

In D.07-09-041, the Commission found that PG&E violated its tariff Rule 17.1 by issuing backbills related to: 1) periods of no bills (delayed bills) and 2) periods of estimated bills, where the cause for the estimation was within

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trouble paying their bill (*see* Stipulated Facts 22 and 23).

[98] D.07-09-041 at 8.

PG&E's control, beyond the time limits permitted under the tariff.[99] Like the PG&E Backbilling Decision, the present matter involves SoCalGas' failure to perform its core functions of meter reading and timely and accurate billing. While the Commission did not impose penalties on PG&E in D.07-09-041 because Commission staff had "acquiesced in PG&E's interpretation that such delayed bills did not violate PG&E's tariffs" (*see* D.07-09-041 at 3), the Commission did impose other sanctions on PG&E including ordering PG&E to issue refunds to customers.

This OII is distinguishable from D.07-09-041 in these important ways: (1) Commission staff did not condone or affirm SoCalGas' practice of issuing extended bills; (2) SoCalGas did not take action to report or to rectify the vast majority of the ongoing and widespread issuance of extended bills; and (3) SoCalGas was aware that its issuance of extended bills for 34 or more days did not comport with the "regular billing period" set forth in Rule 14.A, and that issuing bills for 34 or more days without proration did not comply with Rule 14.D.[100]

SoCalGas is responsible for establishing billing protocols that achieve compliance with its tariff rules, and failure to achieve this represents a failure of its core responsibility, neglect of this core function, and disregard for Commission rules protecting consumer rights, thereby harming the public.[101]

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[99] D.07-09-041 at 2.

[100] SoCalGas agreed that "monthly," as used in its Rule 14.A means "27 and 33 days." Accordingly, SoCalGas interprets "regular billing period" as used in Rule 14.A to mean 27-33 days of gas usage. (*See* Response of Southern California Gas Company (U904G) to Order Instituting Investigation and Order to Show Cause, June 5, 2017 at 8, fn. 23.)

[101] *See* D.07-09-041 at 9-10; *see also id.* at 8 (finding that "receiving accurate bills issued at regular

Footnote continued on next page

The facts here support a conclusion that SoCalGas' action in issuing 13.57 million extended bills and failing to prorate 153,358 bills harmed the regulatory process, and a significant penalty is appropriate to act as a deterrent to future violations. Harm to the regulatory process, including tariff rule violations, is accorded a "high level of severity"[102] and is a significant factor in the Commission's determination to impose penalties.[103] Thus, we agree with CPED's recommendation that based on the totality of the circumstances here, significant penalties are warranted. It is also likely that SoCalGas' violations of its Tariff Rule 14.D will continue since SoCalGas' billing system is programmed to only prorate bills of longer than 35 days. Thus, a penalty will deter SoCalGas from future violations.

In the Penalty Analysis Decision, the Commission held that a fine should be tailored to the unique facts of each case,[104] including facts that mitigate or exacerbate the utility's degree of wrongdoing while considering public interest.[105] Further, the Commission has held that the size of a fine should reflect the financial resources of the utility and that fines should be set at a level that deters future violations.[106] Based on SoCalGas' operational and financial data in possession of the Commission, SoCalGas is a large and well-capitalized utility with adequate financial resources to meet the penalties and/or fines imposed

intervals is a basic consumer right. Customers, particularly those with low or fixed monthly incomes, must have accurate monthly bills in order to properly budget their expenses").

102 D.98-12-075 at 36; *see* D.07-09-041 at 42.

103 *See* D.17-03-017 at 8.

104 D.98-12-075 at 39.

105 D.98-12-075 at 39.

106 D.98-12-075 at 38-39.

herein without compromising its operational capabilities. We also find that the imposed fines are adequate to deter SoCalGas from future violations.

In addition to the utility's ability to pay a fine or penalties, the Commission also considers aggravating and mitigating factors in each case before determining whether to impose penalties, and how much to impose. In its opening brief, CPED identified the following mitigating facts: (1) SoCalGas caused no physical harm to the public; (2) there is no evidence of quantifiable economic harm to consumers; (3) SoCalGas appeared to believe that in order to protect customers from paying more for certain annual charges, it may not prorate bills with 34 or 35 days; and (4) customers received the economic benefit of energy usage for which they were charged.

For aggravating factors, CPED identified the following: (a) SoCalGas admitted that it issued over 13.57 million bills with 34 to 60 billing days from 2014 to 2016, and did not prorate 153,358 of those bills that required proration pursuant to its approved tariffs; (b) customers (e.g. low or fixed incomes) may have been economically harmed; (c) SoCalGas harmed the regulatory process by violating its tariffs; (d) SoCalGas' internal practices are inconsistent with its tariff rules and its own interpretation of "regular billing period'" (e) SoCalGas did not take action to prevent significant portion of its Rule 14.D and the associated Rule 14.A violations; and (f) SoCalGas did not rectify the widespread violations, and the violations may be ongoing.

5.2.6.3. Recommended Penalty and Rationales

We have considered the conduct of the utility, the severity of the violations, the need for deterrence and mitigating factors. As noted above, here, we treat each violation as a separate offense pursuant to Pub. Util. Code § 2108,[107] and the Commission may impose a penalty of $500 - $50,000 for each violation/offense pursuant to Pub. Util. Code § 2107. Thus, each extended bill SoCalGas sent to a customer in violation of its Tariff Rules is a separate and distinct offense, punishable under Pub. Util. Code § 2107.

Nonetheless, CPED has recommended that the Commission count SoCalGas violations (issuing over 13.57 million extended/delayed bills between 2014 and 2016, and failing to prorate 153,358 bills) as a single continuous violation over a period of three years (2014-2016), and thus impose a fine of $1,000 per day, for three years, for a total penalty in the amount of $1,095,000.[108] In making its recommendations, CPED took into account the large number of violations and affected customers, but recognized that counting each affected bill as a separate and distinct offense would result in very large potential fines of between $76,679,000 (at $500 per day, per violation) and $7,667,900,000 (at $50,000 per day, per violation), which CPED believes has the potential to negatively impact the utility's ability to adequately continue to serve its customers.

We agree with CPED's analysis and considerations, except that we find that a penalty of $1,000,000 for each of the three years during which these violations occurred, for a total penalty of $3,000,000, is appropriate based on the

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[107] *See* also, D.98-12-075 at 37.

[108] That is, ($1000 per violation X 365 days X 3 years) = $1,095,000.

totality of the circumstances in this case, including the need for deterrence and the financial resources of the utility.[109]

We also direct SoCalGas to review its meter reading processes and billing processes, as CPED recommends, to determine how it will comply with Rules 12.A, 14.A, 14.C and 14.D going forward. As discussed above, SoCalGas must inform the Commission how it will comply with its Tariff Rules, unless and until the Commission has approved modifications to the Tariff Rules.

5.2.7. Should the Commission impose penalties and/or other remedies on Respondent for its failure to issue timely monthly bills to approximately 47,000 customers during the winter of 2015-2016?

As found in Issue 3 above, SoCalGas violated its Tariff Rule 12.A when it delayed bills (for multiple months) to approximately 47,000 of its customers during the winter (months) of 2015-2016 due to a variety of factors including issues with its bill-validation system.[110]

In Issue 6 (5.2.6 above), we discussed Commission penalty authority, criteria and precedents. We will not repeat the same discussion here. Instead, we will focus on the application of the applicable criteria to these violations.

First, regarding the severity of the offense criteria, we found no evidence of physical harm to consumers as a result of SoCalGas' action in delaying issuance of bills to approximately 47,000 of its customers during the winter of 2015-2016.

[109] This translates to a penalty of approximately \$2739.726 per violation per day (i.e. \$2739.726 x 1095 days (365 x 3 years) = \$3,000,000, approximately).

[110] Stipulated Facts 25-27.

Nonetheless, (as found in Issue 6 above and based on the same analysis) we found that SoCalGas' failure to issue timely bills to approximately 47,000 customers during the winter of 2015-2016 may have caused economic harm because the affected customers received bills that include several months of natural gas usage. This resulted in higher than normal bills and most likely creating financial and/or budgeting issues for some customers,[111] particularly those with low or fixed incomes.[112] The fact that the Commission received complaints about late bills during this time period supports a finding that some customers were adversely affected by SoCalGas' actions herein. We find that the scope of these violations and the impact on consumers is significant, given that the SoCal Gas' Rule 12.A violations here affected 46,932 customers, 41,561 of which are residential customers who are more likely to suffer economic hardship if they do not receive timely monthly bills.[113] The potential economic harm to customers is a factor that weighs in favor of imposing a penalty.

Further, as found under Issue 6 above, tariff violations harm the regulatory process.[114] Here, SoCalGas violated Rules 12.A and 14.A when it issued approximately 47,000 delayed bills during the winter months from 2015 to 2016, and deprived its approximately 47,000 customers of their basic right to receive accurate bills at regular (monthly) intervals.[115]

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[111] Stipulated Facts 31.

[112] *See* D.07-09-041 at 8 ("Customers, particularly those with low or fixed incomes, must have accurate bills in order to properly budget their expenses").

[113] Stipulated Facts 25; *see* D.07-09-041 at 8.

[114] *See* D.07-09-041 at 42.

[115] D.07-09-041 at 8; *see also* SoCalGas Tariff Rule 12.A.

Regarding the conduct of the utility criteria, we find that SoCalGas took mitigation actions, by reporting this problem to the Commission Energy Division, and meeting the Director and Staff of the Energy Division and staff from the Commission's CAB. SoCalGas worked to resolve this problem by reducing the numbers of exceptions flagged due to the billing validations; sent notices to its customers who received a delayed bill, and offered assistance to customers who may have wanted more time to pay their higher than normal delayed bills; and proactively worked to reduce the number of customers with delayed bills.

Additionally, SoCalGas assigned a project manager to coordinate resources to reduce delayed bills, increased staffing in billing operations, hired and trained additional full-time billing analysts, authorized overtime to all billing analysts, made "significant enhancements" to its process to reduce volume of incoming work, and improved management tools allowing flexibility to re-allocate work where needed.[116] Accordingly, we find that SoCalGas took mitigation actions to rectify these violations. We further find that these violations did not cause physical harm and that consumers received the economic benefit of energy usage and pro-active communication, and offers of assistance by SoCalGas, all of which are mitigating factors in this case.

Lastly, we look at SoCalGas' financial resources under Criterion 3, and its ability to pay penalties. As provided above, SoCalGas is a large utility, and has adequate financial resources. According to SoCalGas' Application for authority to update its gas revenue requirement and base rates effectively on

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[116] Stipulated Facts 30-31.

January 1, 2012, SoCalGas has total assets and other debits of $7.7 billion, net operating income of $252 million, and retained earnings of $1 billion as of September 30, 2010.[117] Although this information is several years old, we have no reason to conclude that SoCalGas' financial status is significantly worse at this time than it was in 2010. Accordingly, this factor supports the need to impose a penalty that is sufficient to deter SoCalGas from future violations.

We find that given the high number of delayed bills and affected customers, counting each delayed bill/affected customer as a separate and distinct offense results in very significant fines ($23,500,000 to $2,350,000,000) that might adversely impact SoCalGas' ability to serve its customers. Accordingly, we accept CPED's recommended total penalty of $5,058,200 for these approximately 47,000[118] Tariff Rule violations. As recommended by CPED, $365,000 of the $5,058,200 total penalty shall be paid to the State's general fund,[119] and the remaining $4,693,200 shall be paid as a one-time $100 bill credit[120] to each customer who received delayed bills during the winter of 2015-2016.[121]

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117 *See* Application 10-12-006 "Appendix D ("Southern California Gas Company Balance Sheet Assets and Other Debits," as of September 30, 2010, attached thereto)."

118 Based on Stipulated Fact 25, the actual number of impacted customers is 46,932, rather than 47,000. Thus, counting each delayed bill as a single and distinct violation over a one-year period (365 days (2015-2016)), CPED recommends a total penalty of $5,058,200. Of the $5,058,200 total penalty, a fine of $1,000 per day ($1,000 x 365 days =$365,000 total fine will be paid to the State's general fund); and the remaining $4,693,200 shall be paid to each customer that received delayed bills during the winter of 2015-2016 as a $100 bill credit ($100 x 46,932 customers).

119 ($1,000 per violation X 365 days) = $365,000.

120 In D.15-04-024, regarding the San Bruno incident, the Commission ordered $400 million in a one-time bill credit spread across PG&E's gas customers (PG&E has approximately 4.3 million gas customer accounts).

121 ($100 per customer X 46,932 customers) = $4,693,200.

5.2.8. Whether Respondent violated its gas Tariff Rule 14.D by issuing bills for 34 or more days of gas usage without proration?

This issue relates to the Respondent's failure to issue over 13.57 million bills based on a monthly duration between 2014 and 2016 resulting in higher than normal customer bills. As discussed above, we found that 153,358 of these bills were not prorated in violation of Tariff Rule 14.D. Penalties for this violation were included in the $3,000,000 penalty imposed jointly for the 13.57 million delayed bills and 153,358 bills that were not prorated. Therefore, we will not impose additional penalties for this violation.

Also as discussed under Issue 5.2.6 above, we direct SoCalGas to review its billing processes and notify the Commission how it plans to comply with Rule 14.D going forward. As discussed earlier, SoCalGas may propose relevant revisions to its tariffs to address proration requirements pertaining to bills for 34-35 days, but it must comply with the existing rule unless and until the Commission approves a tariff modifications regarding the Tariff Rules 14.A and 14.D violations herein.

6. Category of Proceeding/Need for Evidentiary Hearing

According to the Order Instituting Investigation, the Commission preliminarily determined the category for this Investigation as adjudicatory, and preliminarily determined that this proceeding requires an evidentiary hearing. The Commission's preliminary categorization of this proceeding as adjudicatory is confirmed.

However, the Commission's preliminary determination that this matter requires evidentiary hearings is changed to indicate that no evidentiary hearing is required in this proceeding for the following reasons: (1) the parties agreed that few or no factual disputes exist in this proceeding regarding the underlying facts relied upon by the Commission in opening this OII; and (2) the parties have jointly submitted Stipulated Facts (dated July 21, 2017), and SoCalGas' Responses to CPED's "Data Requests DR-GAS-00006-5 and DR-GAS-00006-6," to be relied upon by the Commission in issuing a decision in this proceeding. Accordingly, no evidentiary hearing is required, and none was held, in this proceeding.

7. Appeal and Review of Presiding Officer's Decision

Pursuant to Rule 14.4 (Commission's Rules of Practice and Procedure), any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served. In addition, any Commissioner may request review of the presiding officer's decision by filing a request for review within 30 days of the date the decision is served. Appeals and requests for review shall set forth specifically the grounds on which the appellant or requestor believes the presiding officer's decision to be unlawful or erroneous. Vague assertions as to the record or the law, without citation, may be accorded little weight.

8. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner, and Adeniyi A. Ayoade is the assigned ALJ to the proceeding.

Findings of Fact

1. On May 4, 2017, the Commission instituted this OII to determine whether SoCalGas violated any provision(s) of the Public Utilities Code, Commission General Orders or decisions, or other applicable rules or requirements pertaining to billing practices between 2014-2016 by repeatedly failing to issue timely monthly bills; extending the billing period for a significant number of customers; and by issuing over nine million estimated bills.

2. The Commission opened the OII in response to nearly 700 billing-related complaints received by the Commission's CAB, and an informal investigation of

the complaints by staff of the Commission's CPED.

3. The Commission received comments and/or responses to the OII from SoCalGas, Cal Advocates, Shell, TURN, and reply to the comments on the OII from SoCalGas and CPED.

4. On July 21, 2017, SoCalGas, Cal Advocates, TURN and CPED submitted Stipulated Facts to the Commission, upon which all agree the Commission may rely, to resolve the issues presented in the OII.

5. On January 5, 2018, SoCalGas, TURN and CPED submitted a joint motion to accept "Southern California Gas Company's Responses to the Consumer Protection and Enforcement Division's Data Requests DR-GAS-00006-5 and DR-GAS-00006-6" (Responses) regarding the issue of potential Rule 14.D violations (Issue 8 in the Scoping Memo) into the evidentiary record of this proceeding. The parties agreed that the responses may additionally be relied upon, as an evidentiary basis, by the ALJ in issuing a decision resolving the issues in this proceeding.

6. Evidentiary hearings are not required in this proceeding, as the parties have jointly submitted Stipulated Facts, and SoCalGas' Responses to Data Requests DR-GAS-00006-5 and DR-GAS-00006-6, upon which parties agreed the Commission may rely upon in issuing a decision in this OII.

7. On April 26, 2018, the Commission extended the statutory deadline in this investigation to October 27, 2018 for good cause.

8. On August 27, 2018, the Commission reopened the evidentiary record in the proceeding and directed the parties to provide written comments, regarding Issue 4 in the Scoping Memo, to the Commission by September 14, 2018, and reply comments by October 1, 2018.

9. Due to the reopening of the evidentiary record and the requested

comments from the parties, on October 25, 2018 the Commission extended the statutory deadline in this investigation until April 27, 2019.

Facts Relating to the 9.29 Million Estimated Bills

10. SoCalGas issued over 9.29 million gas bills based on estimated usage rather than actual usage from January 2014 through December 2016. The number of estimated bills increased from January 2014 to October 2015, and began decreasing in November 2015.

11. SoCalGas had a high number of estimated bills or delayed bills for 34 or more days of gas usage from 2014 to 2016. 2014-2016 was a period of high advanced meter installation, and during this period, SoCalGas converted 4.525 million analog meters to advanced meters..

12. SoGalGas' transition to advanced meters led to a dismantling of analog meter routes, and a resulting greater inefficiency in its meter-reading routes than in the past.

13. SoGalGas' high turnover amongst newly hired meter readers contributed to the meter-reading inefficiency problem. From 2014 to 2016, the turnover rate amongst meter readers was 111% in 2014, 160% in 2015, and 159% from January through May in 2016.

14. SoCalGas took several measures to mitigate the meter-reading problem, including: hiring and training new employees needed as replacement meter readers and thus limiting estimated bills. SoCalGas provided data on meter reading hires from 2014 through May 2016 to CPED and supplemented that data with data from 2010 through 2013 and the remainder of 2016.

15. There are inconsistencies in the tariff rule language of large electric and gas utilities regarding estimated billing, leading to inconsistencies in the estimated billing practices among these utilities.

16. SoCalGas complied with its tariffs in issuing 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016 (based on monthly billing requirement in its tariffs), when accurate usage data was not available for those customers during the specific billing periods involved.

17. SoCalGas did not fail to comply with the billing adjustment requirements in Rule 16.C, other than as may be discussed herein. The data for billing adjustments shows that the average billing adjustments to correct for an estimate for any reason is refunds between $14.71 and $37.81 for residential customers. On average, the adjustment was a refund of $22.36 for residential customers. The median adjustment was a refund of $21.84 for residential customers.

Facts Relating to the 13.57 Million Bills Extended/Delayed Bills

18. SoCalGas'Tariff Rule 12.A.1 requires SoCalGas to render bills for gas service monthly, or as may otherwise be provided under applicable tariff schedule.

19. SoCalGas' Tariff Rule 14.A provides that regular billing period for residential service shall be one month, except for certain exceptions involving residential customers who have opted-out of the Advanced Meter Program – whose regular meter reads will occur bi-monthly (every two months) as directed by D.14-12-078.

20. Based on the Stipulated Facts, SoCalGas typically reads meters over the course of 21 work days, and while most 30/31 day months will accommodate a 21 work day meter reading schedule, some months do not. Additionally, extended bills (bills of more than 35 days) do occur due to extended temporary breaks in service by some customers, and in some occasions, due to issuance of first bills of the heating season for heat-only customers.

21. SoCalGas issued over 13.57 million bills with 34-60 billing days from 2014

to 2016, with most being issued during the November to January holiday season, inclusive of 7.97 million bills with 34 billing days, 4.9 million bills with 35 billing days, and 822,182 bills with more than 35 billing days.

22. Of the 13.57 million extended bills issued, SoCalGas admitted that it did not prorate 153,358 bills that required proration (where the billing period was 34 or 35 days). SoCalGas admitted that its billing system has been programmed since 1996 to only prorate bills longer than 35 days. Therefore, bills with 34 or 35 days do not get prorated despite the requirements of its Rule 14.D.

23. SoCalGas re-aligned meter reading dates for approximately 400,000 of its 5.4 million customers. This change in meter reading dates impacted the number of billing days for the first bill issued after the change was made and caused 140,000 customers to receive a bill containing more than 35 billing days.

24. On January 22, 2016, SoCalGas notified Energy Division that approximately 140,000 customers had billing day periods longer than 35 days in November and December 2015, due to the re-organizing of its meter routes for efficiency.

25. SoCalGas sent letters to the 140,000 customers affected, informing them that this was a one-time event; their bills may be higher than normal due to the delayed billing in addition to cold weather usage hikes; subsequent bills will reflect a typical bill cycle of 29-32 days; customers could contact SoCalGas if they had trouble paying their bills.

26. During its investigation, CPED discovered that SoCalGas sent 13.57 million bills to customers with billing periods of 34 days or more from 2014 to 2016. SoCalGas did not inform the Commission about the vast majority of the bills it sent with billing periods of 34 days or more.

27. Given the high number of delayed bills, imposing the penalty authorized

in statute for each bill that was delayed and/or not prorated may result in very significant and unreasonable fines, and may negatively impact the utility's ability to pay the fine or penalties, and/or its ability to adequately continue to serve the consumers given the high number of extended bills and/or bills not prorated.

28. Based on the totality of the circumstances in this case, including the conduct of the utility, severity of the violations(s), harm to consumers, harm to the regulatory system, the financial resources of the utility, and aggravating and mitigating factors, it is reasonable to impose a total penalty of $3,000,000 for the 13.57 million delayed bills, including the 153,358 bills that were not prorated when required.

29. SoCalGas hired 147 incremental meter readers from 2014 to 2016 and incurred a cost totaling $542,152 related to the incremental meter readers over a three-year period in order to address issues relating to the estimated and/or delayed billing. SoCalGas agreed that it is operating within its authorized revenue requirement, and will not to seek costs related to the incremental meter readers.

Facts Relating to the 47,000 Customers With Delayed Bills

30. SoCalGas issued 47,000 delayed bills to customers for the winter of 2015-2016 due to its bill validation process.

31. On May 9, 2016, SoCalGas reported to Energy Division that approximately 47,000 customers were affected by the delayed billing due to a variety of factors. SoCalGas had a follow-up meeting with Energy Division and CAB on May 16, 2016 to discuss the delayed billing.

32. The 47,000 delayed billings were caused in part by SoCalGas' billing validations system it had in place to ensure the accuracy of its customers' bills, and by other factors that cause billing delays. Despite this problem

(approximately 47,000 delayed bills), SoCalGas issued bills for more than 99% of its nearly 6 million customers within the month.

33. SoCalGas worked to resolve the billing validation problem by assigning a project manager to coordinate resources to reduce delayed bills, increasing staffing in billing operations, hiring and training more than a dozen additional full-time billing analysts, authorizing overtime to all billing analysts, making 21 significant enhancements to the process to reduce volume of incoming work by more than 37% from an average of 6,250 to 4,000 incoming work, and improving management tools allowing flexibility to re- allocate work where needed. Due to its system enhancements efforts, SoCalGas was able to reduce to less than 2,000 the daily average of exceptions flagged to its billing validation, and SoCalGas reduced the number of customers with delayed bills from the 47,000 initially reported in May 2016 to less than 12,000 by September 2016.

34. SoCalGas informed the affected 47,000 customers about the problem by sending notices informing them of the cause of the problem, explaining that their "upcoming bills may include charges for multiple months," and as a result the bill may be "higher that you are used to seeing on a single month's bill." The notice invited customers to call SoCalGas if customers needed more time to pay, and would like to make payments arrangements, among others.

35. Given the high number of affected customers, the totality of the circumstances in this case, including the conduct of the utility, severity of the violations(s), harm to consumers, harm to the regulatory system, the financial resources of the utility, and aggravating and mitigating factors, and given the fact that nearly all customers affected by delayed bills are residential customers, support a significant and deterring penalty in the amount $5,058,200 for this Rule 12.A violation.

36. It is reasonable to require SoCalGas to pay $365,000 of the $5,058,200 total penalty to the State's general fund, and the remaining $4,693,200 to be paid as a one-time $100 bill credit to the account of each customer that received delayed bills during the winter of 2015-2016.

37. SoCalGas incurred costs associated with hiring a temporary workforce to address issues related to the 47,000 delayed bills issued from 2014 to 2016 due to its bill validation system problems. The cost of the temporary workforce was $150,000. SoCalGas agreed that it is operating within its authorized revenue requirement, and it shall not seek relief for the $150,000 costs related to the temporary workforce.

Conclusions of Law

1. Pursuant to Rule 5.1 of the Commission's Rules of Practice and Procedure, the Commission has the authority to institute this formal investigation by opening an OII, on its own motion, to determine whether SoCalGas violated any provision(s) of the Public Utilities Code, Commission General Orders or decisions, or other applicable rules or requirements pertaining to billing practices between 2014-2016, among others.

2. SoCalGas is subject to the Commission's jurisdiction by virtue of its acceptance of those conditions that governed its formation in addition to several provisions of the Public Utilities Code that give the Commission broad authority to act to protect ratepayers in a variety of circumstances, to enforce the constitution, statutes, and Commission rules, orders, and decisions, and to remedy violations thereof.

3. Pursuant to D.98-12-075 at 36 and Pub. Util. Code § 702, public utilities are required to comply with Commission's rules and regulations, and "compliance is absolutely necessary to the proper functioning of the regulatory process."

Further, the Commission has required strict adherence to tariff rules.

4. SoCalGas'Tariff Rule 12.A.1 requires SoCalGas to render bills for gas service monthly, or as may otherwise be provided under applicable tariff schedule.

5. SoCalGas' Tariff Rule 14.A requires regular billing period for residential service every one month, except for certain exceptions involving residential customers who have opted-out of the Advanced Meter Program – whose regular meter reads will occur bi-monthly (every two months) as directed by D.14-12-078.

6. SoCalGas' Tariff Rule 14.C.1 and Tariff Rule 14.C.3 require SoCalGas to issue an estimated bill to a customer when "the meter serving the customer cannot be read on the scheduled reading date or accurate usage data are not available" during the regular billing period.

7. SoCalGas' tariff rules do not permit a deviation from the requirement that SoCalGas issue bills to customers monthly.

8. SoCalGas did not deprive its consumers of their right to receive accurate bills at regular intervals when it issued over 9.29 million gas bills based on estimated usage rather than actual usage from 2014 to 2016.

9. The Commission should not require revision of SoCalGas' Tariff Rule 14.C in this proceeding, in order to limit the circumstances under which Respondent can issue estimated bills. Rather, due to inconsistent languages in various large electric and gas utilities' estimated billing tariff rules leading to inconsistencies in the estimated billing practices among these utilities, the Commission should consider opening a rulemaking (or expanding an existing rulemaking) to evaluate the question of whether these utilities should be made to revise their tariff rules so that each utility's tariffs are consistent, easily understood, and the

circumstances under which a utility may issue estimated bills are clarified or limited

10. SoCalGas violated Section A of its Gas Tariff Rule 14 by failing to issue over 13.57 million bills based on a monthly duration between 2014 and 2016, and by extending the billing period of approximately 140,000 customers in November and December 2015, resulting in higher than normal customer bills.

11. Despite the mitigating efforts, it is reasonable to impose penalties and/or other remedies on Respondent for extending the billing period of approximately 140,000 customers in November and December 2015, issuing over 13.57 million delayed bills to customers from 2014 to 2016, and failing to prorate 153,358 of these extended bills when proration was required.

12. The Commission should impose penalties and/or other remedies on SoCalGas for the combined Tariff Rule 14.A violation (extending the billing period of approximately 140,000 customers in November and December 2015, and issuing over 13.57 million customers from 2014 to 2016) and Tariff Rules 14.D violation (failing to prorate 153,358 bills that required proration).

13. It is reasonable to count SoCalGas violations (issuing over 13.57 million extended/delayed bills between 2014 and 2016; and failing to prorate 153,358 bills that required proration) as a single continuous violation over a period of three years (2014-2016). We find that counting each affected bill/customer as a separate and distinct offense may result in very significant and unreasonable fines, and may negatively impact the utility's ability to pay the fine or penalties, and/or its ability to adequately continue to serve the consumers given the high number of affected customers, extended bills and/or bill not prorated.

14. For the combined Tariff Rule 14.A violation (delayed/extended billing for

13.57 million bills) and Tariff Rule 14.D violation (failure to prorate 153,358 bills), the Commission should impose total penalties of $1,000,000 per year, for three years, for a total penalty in the amount of $3,000,000. The totality of the circumstances in this case, including the conduct of the utility, severity of the violations(s), harm to consumers, harm to the regulatory system, the financial resources of the utility, and aggravating and mitigating factors support this penalty as reasonable and deterring.

15. It is reasonable for the Commission to direct SoCalGas to review its meter reading processes and Tariff Rule 14.D language to determine how it plans to comply with Tariff Rules 14.A and 14.D going forward, and/or require SoCalGas to propose relevant revision to its tariffs, or otherwise address proration requirements pertaining to bills for 34-35 days; and holiday billings schedules, among others.

16. The Commission should direct SoCalGas to review its meter reading processes, and its Tariff Rules 14.A and 14.D languages and determine how it plans to comply with these tariff rules going forward. The Commission should require SoCalGas to propose relevant revision to Tariff Rules 14.A and 14.D, or otherwise address proration requirements pertaining to bills for 34-35 days (Rule 14.D); and holiday billings schedules impacting monthly billing requirement under Tariff Rule 14.A, among others through a Tier 2 advice letter to the Energy Division within 60 days of the issuance of this decision.

17. SoCalGas violated Section A of its Tariff Rule 12 by failing to issue timely monthly bills to approximately 47,000 customers during the winter months of 2015-2016 because of delays in its bill validation process, despite its mitigation efforts, weighted and addressed above.

18. The Commission should impose penalties and/or other remedies on

SoCalGas for its failure to issue timely monthly bills to approximately 47,000 customers during the winter of 2015-2016, as discussed herein.

19. The Commission should count each of 47, 000 violations as a single continuous violation over a period of three years (2014-2016) given the high number of delayed bills and affected customers.

20. Based on the totality of the circumstances, including the fact that nearly all customers affected by delayed 47, 000 bills are residential customers, a significant and deterring penalty for this Tariff Rule 12.A violation is warranted.

21. Accordingly, the Commission should require SoCalGas to pay penalty in the amount $5,058,200 for this Rule Tariff 12.A violation. The Commission should require SoCalGas to pay $365,000 of the $5,058,200 total penalty to the State's general fund, and the remaining $4,693,200 paid as a one-time $100 bill credit to each customer who received the 47, 000 delayed bills during the winter of 2015-2016.

22. The Commission should adopt and admit into the evidentiary record of this OII, the July 21, 2017 Stipulated Facts and SoCalGas' Responses to CPED's Data Requests DR-GAS-00006-5 and DR-GAS-00006-6.

23. The Commission should make SoCalGas absorb the $542,152 cost of incremental meter readers, and the $150,000 cost of the temporary workforce (related to bill validation issues) within its currently authorized revenue requirement; and should not allow SoCalGas to include these costs in its future General Rate Case revenue requests.

24. SoCalGas did not fail to comply with the billing adjustment requirements in Rule 16.C, other than as discussed herein.

25. Evidentiary hearings are not required in this proceeding.

26. Subject to the appeals and review process under Rule 14.4, this Presiding Officer's Decision closes this OII.

ORDER

IT IS ORDERED that:

1. For Southern California Gas Company's combined Tariff Rule 14.A violation (delayed/extended billing for 13.57 million bills) and Rule 14.D violation (failure to prorate 153,358 of those bills), Southern California Gas Company shall pay a penalty of $1,000,000 per year of violation for a total penalty in the amount of $3,000,000 for the three years of violation.

2. Southern California Gas Company shall review its tariffs, including its meter reading processes, and determine how it plans to immediately comply with Rules 14.A (monthly billing requirement) and 14.D (pertaining to proration of bills with 34-35 days) going forward. In addition, within 60 days of the issuance of this decision, Southern California Gas Company shall propose, by a Tier 2 advice letter to the Energy Division, relevant revision to its tariffs, or otherwise address how it is complying with Rules 14.A and Rules 14.D requirements, including those relating to bills with 34-35 days of usage, holiday billings schedules and issuance of first bills of the heating season for heat-only customers.

3. Southern California Gas Company shall pay a penalty in the amount of $5,058,200 for its Tariff Rule 12.A violation pertaining to the delayed 47,000 bills. Southern California Gas Company shall pay $365,000 of the $5,058,200 total penalty to the State's general fund, and the remaining $4,693,200 shall be paid to each of customer that received the 47, 000 delayed bills during the winter of 2015-2016, as a one-time $100 bill credit.

4. Southern California Gas Company must pay a fine of $3,365,000 ($3,000,000 for its Tariff Rule 14.A and 14.D violations; and $365,000 for its Tariff Rule 12.A violation) by check or money order payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 90 days of the effective date of this order. Southern California Gas Company shall write on the face of the check or money order "For deposit to the General Fund per Decision ______ or I.17 04 021."

5. For the customer credit ordered herein, Southern California Gas Company must pay $4,693,200 to the approximately 47, 000 customers that received delayed bills during the winter of 2015 2016. Specifically, Southern California Gas Company must pay a one-time bill credit of $100 per customer to each of the 46,932 customers impacted (per section 5.2.7 herein) within 90 days of the effective date of this decision. Southern California Gas Company shall include information showing that the one-time bill credit ordered herein is a "One-time Customer Credit per Decision ______ or I.17 04 021," when paid, sent, remitted or credited to each impacted customer.

6. Southern California Gas Company shall absorb the $542,152 cost of incremental meter readers, and the $150,000 cost of the temporary workforce (related to bill validation issues) within its currently authorized revenue requirement; and Southern California Gas Company shall not request recovery of these costs in its future General Rate Cases.

7. The July 21, 2017 Stipulated Facts and Southern California Gas Company's Responses to the Consumer Protection and Enforcement Division's Data Requests DR-GAS-00006-5 and DR-GAS-00006-6 (regarding the issue of potential Rule 14.D violations (Issue 8)) are admitted into the evidentiary record of this

proceeding.

8. Investigation 17-04-021 is closed.

This Order is effective today.

Dated ____________________________, at San Francisco, California.