

Mailed

OCT 23 1991

Decision 91-10-036 October 23, 1991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)  
 motion into the matter of competitive)  
 access to customer list information.)

ORIGINAL

1:90-01-033  
 (Petition for Modification  
 filed March 8, 1991)

And Related Matters.

Application 89-07-030  
 (Filed July 17, 1989)

(I&S)  
 Case 86-06-004  
 (Filed June 4, 1986)

O P I N I O NRequest

Pacific Gas and Electric Company (PG&E) filed a petition for an extension of time to comply with Ordering Paragraph 3 of Decision (D.) 90-12-121 on March 8, 1991. The stated ordering paragraph required PG&E to revise its "Third Party Inquiries Regarding Individual Customers" standard practice to prohibit the release of customer information to law enforcement agencies, except pursuant to legal process. It also required PG&E to file a copy of its revised standard practice in this proceeding by February 25, 1991.

PG&E did not file its revised standard practice with the Commission timely "due to the press of other important work" and due to PG&E's belief that the ordering paragraph needed to be modified. Accordingly, PG&E requested, belatedly, an extension of time to comply with the decision from February 25, 1991 to ten (10) days after the effective date of a decision on a petition to modify D.90-12-121.

Concurrent with its petition for an extension of time, PG&E filed a petition for modification (petition) of D.90-12-121. By its petition, PG&E requested that the Ordering Paragraph be

revised to permit PG&E to release customer information to law enforcement authorities without a subpoena in emergency situations where public safety is jeopardized. Attached to PG&E's petition for modification was a revised standard practice which incorporated PG&E's exception to the subpoena requirement.

PG&E clarified, by its August 1, 1991 letter, what it meant by emergency situations. Such situations consist of unpredictable events such as natural disasters, fires, explosions, criminal activities where the possibility of imminent violence or harm exists, hostage situations, and fugitive situations where a felon might be expected to flee or resist. PG&E also clarified that an emergency situation should apply in those instances where law enforcement authorities are not in a position to disclose the nature of the emergency for safety or security reasons.

In summary, PG&E concludes that its employees should rely on law enforcement agencies representation that an emergency situation exists and not require law enforcement agencies to obtain and serve a subpoena to obtain customer information.

#### Discussion

D.90-12-121 recognized that PG&E has traditionally responded to law enforcement authorities' requests for customer information without requiring a subpoena. However, the decision also recognized that PG&E's policy on this issue was not consistent with the other energy utilities' policy of releasing customer information to law enforcement agencies. Accordingly, PG&E was required to modify its standard practice to be consistent with San Diego Gas & Electric's, Southern California Edison Company's, and Southern California Gas Company's standard practice of not releasing information to law enforcement agencies, except pursuant to legal process.

Although PG&E asserted that public safety will be compromised if law enforcement agencies are required to obtain and serve a subpoena before obtaining customer information, it does not

explain what delay will actually occur by requiring law enforcement agencies to obtain and serve a subpoena or explain the nature of customer information that is vital to law enforcement agencies in emergency situations. Further, PG&E does not propose any controls to insure that an emergency condition actually exists or justify why its customer information policy should be different from the standard practice of other California energy utilities.

PG&E has not substantiated a need to modify D.90-12-121. Therefore, PG&E's petition should be denied. However, PG&E's motion for an extension of time to comply with Ordering Paragraph 3 of D.90-12-121 from February 25, 1991 to ten (10) days after the effective date of this decision on its petition to modify the ordering paragraph should be granted.

Findings of Fact

1. Ordering Paragraph 3 of D.90-12-121 prohibited PG&E from providing customer information to law enforcement agencies, except pursuant to legal process.

2. PG&E did not file its revised customer information standard practice pursuant to D.90-12-121.

3. PG&E seeks a belated extension of time to file its revised customer information standard practice.

4. PG&E seeks a modification of D.90-12-121 so that it may provide customer information to law enforcement agencies without a subpoena in emergency situations.

5. PG&E's proposed modification is not consistent with other California energy utilities' standard practice on providing customer information.

6. PG&E does not propose any controls to insure that an emergency condition actually exists.

7. PG&E does not justify why its customer information policy should be different from other energy utilities' policy on providing customer information.

Conclusions of Law

1. PG&E's petition should be denied.
2. PG&E's requests for an extension of time to comply with Ordering Paragraph 3 of D.90-12-121 should be granted.

O R D E R

IT IS ORDERED that Pacific Gas and Electric Company shall revise its Standard Practice on Third Party Inquiries Regarding Individual Customers to prohibit release of customer information to law enforcement agencies, except pursuant to legal process. A copy of the revised Standard Practice shall be filed in this proceeding with the Docket Office within ten (10) days of the effective date of this order.

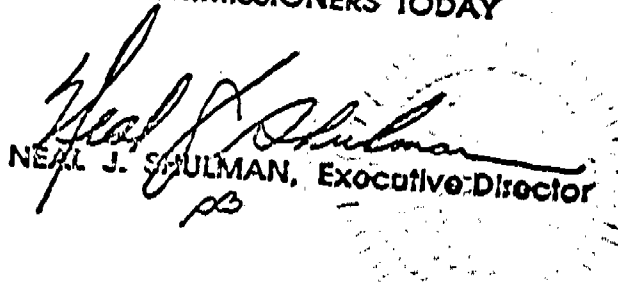
This order becomes effective 30 days from today.

Dated October 23, 1991, at San Francisco, California.

PATRICIA M. ECKERT  
President

JOHN B. OHANIAN  
DANIEL Wm. FESSLER  
NORMAN D. SHUMWAY  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
NEAL J. SCHULMAN, Executive Director