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MAR 16 1982

ORIGINAL

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's)
own motion into adoption of)
procedures for termination of)
electric and gas service.)

OII 49
(Filed May 27, 1979; Petition for
Clarification filed November 25, 1981)

O P I N I O N

Toward Utility Rate Normalization (TURN) seeks clarification of Decision (D.) 93533 by petition served on all parties. Responses were filed by Southern California Edison Company (Edison), Southern California Gas Company (SoCal), and the staff. TURN believes two subjects require clarification: (1) Timing of termination notices to master-metered customers and users, and (2) distinguishing disputed bill cases from cases of inability to pay. We will discuss each subject in order.

Termination Notices to Master-Metered Customers and Users

In its petition TURN alleges that the procedure established in D.93533 to give notice of termination to master-metered customers and actual users is not clear. Specifically, TURN contends that the decision does not answer these questions:

- 1.a. "Does a minimum requirement of a 10-day notice period to master-metered users take the place of the 24- and 48-hour final notice periods referred to elsewhere in the decision?"
- b. "If so, does this single notice so far in advance of the scheduled termination date fully and reasonably apprise them [the users] of impending service cutoff?"

- 2.a. "What shall be the minimal period of days between presentation of the bill to the master-metered customer and date of scheduled service termination?"
- b. "Between notice to user and date of scheduled termination?"
3. "What, if any, procedures might a utility use if it elects not to follow that of SoCal (as suggested by the first full paragraph on page 13)?"

SoCal and Edison contend that D.93533 adequately answers each of these questions and therefore requires no clarification. Answering question 1.a., they argue that the 10-day notice to users required by Public Utilities (PU) Code § 777(a) does take the place of the 24- and 48-hour notices mentioned elsewhere in D.93533. They reason that 24- and 48-hour notices would not provide adequate time for the actual users to avoid termination by arranging "to become utility customers without being required to pay the amount due on the account" as contemplated by § 777(a). A notice period shorter than 10 days would not satisfy § 777(a) and any requirement to provide both the 10-day and the 24- or 48-hour notice would simply cause the utilities to incur a redundant and needless expense.

The staff concurs that the 10-day notice period applies to actual users and that the 24- and 48-hour notice requirements do not. The staff distinguishes, as does D.93533, between "customers", to which the 24- and 48-hour notices apply, and "users", to which the 10-day notice applies.

We agree with SoCal, Edison, and staff that for users in master-metered contexts the 10-day notice applies and the 24- and 48-hour notices do not. D.93533 is sufficiently explicit on this point and therefore no clarification is needed.

In question 1.b., TURN asks whether the 10-day notice fully and reasonably apprises users of impending service cutoff. By this question TURN in effect seeks reconsideration of the issue of adequate notice of termination to users in master-metered residential complexes. In D.93533 we found that SoCal's notice procedure (including the 10-day notice) was reasonable and are unwilling to reconsider that finding in the context of a petition for clarification, especially where no facts have been alleged which would show such reconsideration to be necessary.

TURN next asks what shall be the minimum number of days between notice to the master meter customer and user and service termination. As staff and SoCal demonstrate, D.93533 is explicit on this point. At page 13 the decision states:

"...a minimum of 34 days will elapse from the date a bill is mailed [to the master meter customer] before service may be discontinued."

The notice period for the users or tenants is also explicit.

D.93533 states:

"The 10-day statutory period [required by § 777(a)] between notice of termination [to users] and possible termination is reasonable..." (Page 13.)

No clarification of D.93533 is required on these issues.

Finally, TURN asks: What, if any, procedures a utility might use if it elects not to follow SoCal's? In D.93533 we found that SoCal's procedure for notifying master meter customers by mail and users by posting on the premises was reasonable. We are not required merely by TURN's curiosity to speculate about other procedures that might or might not be reasonable. When cases raising questions about other notice procedures are brought before us, we will deal with them. In the meantime gas and electric utilities must observe at a minimum the 34- and 10-day notice periods. No clarification is needed on this point.

Termination Disputes and the
Deposit Requirement

TURN asserts that D.93533 is ambiguous in that it continues the requirement of payment of the disputed bill to the utility or deposit with the Commission of the disputed sum in billing dispute cases; that it dispenses with the pay or deposit requirement in termination disputes involving inability to pay; but that in cases involving both a dispute and inability to pay the decision does not discuss whether the pay or deposit rule will be required.

While acknowledging that Ordering Paragraph 5 of D.93533 states that "[t]he utility shall not require a customer to deposit with the Commission the amount on the overdue bill in a termination dispute," TURN nevertheless, insists that the discussion be amended to state what the ordering paragraph has already stated unequivocally. This is unnecessary. A person who both disputes his bill and is unable to pay may bring himself under the protection of our procedures for termination disputes (D.93533, p. 16) if he chooses to do so. We agree with SoCal when it states:

"Under this decision, such a person has the same rights and obligations as any customer who is unable to pay."

Staff Proposals

In its response to TURN's petition the staff makes four proposals for language changes. These changes are shown in the appendix. Proposed deletions are struck over; proposed additions are underscored. All of the proposed changes are to the discussion section of D.93533 in the parts dealing with master-metered customers and termination disputes. Pages 12 through 16 of D.93533 are included in the appendix in order to provide the context for the changes proposed by staff.

In light of the commentary in the earlier sections of this opinion we believe that the language changes suggested by the staff are unnecessary. D.93533 was issued September 15, 1981. At this late date no purpose would be served by fine-tuning the discussion in D.93533. From the point of view of the customers and users the operative facts are the utility bills and notices and the utilities' practices in administering the termination procedures. Those documents and practices will concern them, not D.93533. If a claim is made that those documents and practices do not comply with our intent in D.93533, then we can deal with that claim when it is made.

Conclusions of Law

1. D.93533, read as a whole, does not require clarification on the points raised by TURN.
2. The petition should be denied.

O R D E R

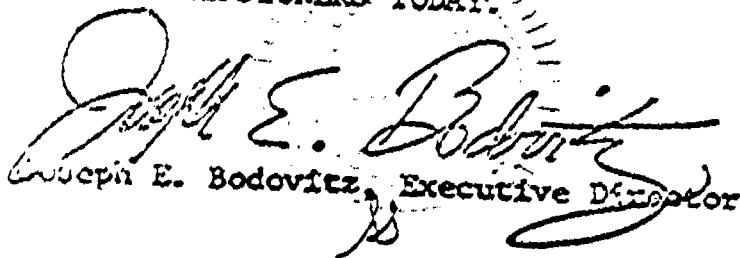
IT IS ORDERED that the petition is denied.

This order becomes effective 30 days from today.

Dated MAR 16 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. CREW
Commissioners

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


Joseph E. Bodovitz, Executive Director

APPENDIX A
(D.93533, p. 12)

"Where utility service is provided to residential users through a master meter, the public utility shall make every good faith effort to inform the actual users of the utility services when the account is in arrears that service will be terminated in ten days. The notice shall further inform the actual users that they have the right to become utility customers without being required to pay the amount due on the account."
[PU Code § 777(a).]

The staff recommends that notices of termination be posted conspicuously in a common area of the dwelling, believing that such posting is current utility practice. The staff also recommends that the length of time between presentation of the first notice and possible termination should be extended from 10 to 12 days. The staff would not require that the utility make contact with the tenants, reasoning that it would not be clear to the utility representative who should be visited. TURN and other consumer representatives support the staff recommendation. We note that the staff recommendation substantially follows the DOE voluntary guideline. The guideline differs by requiring individual notice to tenants.

SoCal objects to staff's proposal and believes that its current procedure is reasonable. SoCal's procedure provides that:

"...the first (termination) notice is mailed to master-metered customers (landlords) only after the 15-day period following presentation of the bill expires. As a courtesy to landlords, SoCal sends the first notice, along with a notification of the proposed posting, only to the landlords to allow them adequate opportunity to pay the bill before the tenants are apprised that the bill is past due. If a second (termination)

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(D.93533, p. 13)

notice (to tenants) is required, ... (it) is then posted on the premises eight days after presentation of the first notice, and not less than ten days prior to the date of termination. The posted notice informs tenants of their right to become utility customers, as required by section 777(a)..."

SoCal's notice procedure for master-metered customers except that utilities which give individual is reasonable and should be followed/~~by all utilities which~~ notice to tenants, as opposed to posting of notices, may continue to do so ~~use a two-termination-notice-procedure.~~ We see no reason to alarm tenants by posting the first termination notice. However, in order to be consistent with standards adopted for individually metered customers, we will require that the first notice of termination should issue on the nineteenth instead of the fifteenth day from the date the bill is mailed. The 10-day statutory period between notice of termination and possible termination appears reasonable, but should begin to run at least five days after the notice of termination is mailed. Thus, a minimum of 34 days will elapse from the date a bill is mailed before service may be discontinued.

II. Reasonable Opportunity to Dispute Termination

A. Notice of Rights and Remedies

Along with reasonable notice of possible termination of service, a customer should be provided a reasonable opportunity to

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(D.93533, p. 14)

dispute such termination. The opportunity to dispute is a function of the customer's knowledge of his rights and remedies under the law.

Before examining procedures for challenging termination it is necessary to distinguish the case of a disputed monthly bill from the case of the inability to pay a monthly bill. In the former, the customer may agree that he owes a certain amount but claims that he was billed incorrectly. In the latter situation, the customer agrees that he owes the entire amount, but he simply cannot pay it. A third case may be a combination of the two.

The current practice of utilities is to print a statement on each bill which summarizes the so-called disputed bill procedure under state law. State law currently provides that customers who formally dispute a bill by filing a complaint, will not experience termination pending the outcome of the complaint proceeding. Section 779 of the Public Utilities Code provides that a customer must file a complaint with the utility or request an investigation by the utility within five days of receiving a contested bill. The utility will then review the complaint and attempt to resolve the dispute. If the utility's review is adverse to the customer, he may then file a complaint with the Commission, pursuant to Section 1702 of the Public Utilities Code.

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(D.93533, p. 15)

During the utility's review, the customer may be permitted to amortize over four months the unpaid balance of his account. If amortization is permitted, no termination shall occur provided the customer keeps current his account for subsequent billings. If he does not, at least seven-days' notice of termination must be made under Section 779(a) of the Code.

Pending investigation and review, utility tariffs further provide that the customer may deposit the disputed amount with the Commission/ in lieu of paying the disputed bill. Termination will not occur during the pendency of this review. (See e.g. PG&E's Rule 10 (B) (2).) This procedure has proven adequate and should be continued for disputed bills.

Whether the disputed bill procedure should be applied to the case where the customer is simply unable to pay his bill is debatable. Most of the utilities would apply the disputed bill procedure to a termination dispute, including the requirement that a deposit be made if a formal complaint is filed with the Commission. The staff would also support a deposit requirement. Consumer groups opposed this requirement on the basis that a deposit would place the customer who is delinquent on payment in an untenable position. If he cannot pay his bill, he most likely cannot make a deposit. The utilities, however, assert that if no deposit is required, they may be faced with spurious claims of inability to pay.

In balancing these competing claims, we think that in most cases customers will act in good faith in claiming an inability to pay. We will, therefore, not require the customer who is unable to pay his bill to make a deposit with the Commission if he complies with the following procedure which is adopted for termination disputes: ~~however, adopt the following procedure for termination (as opposed to billing) dispute:~~

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(D.93533, p. 16)

1. After receipt of a termination notice, the customer must first contact the utility within the termination notice period to make special payment arrangements to avoid discontinuance of service. (Note: A customer with an ongoing billing dispute who receives a termination notice must again contact the utility before seeking relief from the Commission.)

2. After contacting the utility, if the customer alleges to the Commission an inability to pay and that lawful payment arrangements have not been extended to him, he should write to the Commission's Consumer Affairs Branch (CAB) to make an informal complaint. It is the responsibility of the customer to timely inform CAB to avoid discontinuance of service.

3. Within 10 business days after receiving the informal complaint, the CAB will report its proposed resolution to the utility and the customer by letter.

4. If the customer is not satisfied with the proposed resolution of the CAB, he shall file within 10 business days after the date of the CAB letter a formal complaint with the Commission under Section 1702 on a form provided by the CAB. The complaint shall be processed under the expedited complaint procedure.

5. Failure of the customer to observe these time limits shall entitle the utility to insist upon payment, or upon failure to pay, to terminate the customer's service.

This procedure should be clearly spelled out along with the disputed bill procedure on or with the termination notice. In addition the termination notice should advise a customer that a more complete statement of termination policy including a statement of customer's rights and remedies may be obtained upon request

(END OF APPENDIX A)