

Decision No. 93533 SEP 15 1981

ORIGINAL

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.)
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OII No. 49
(Filed May 22, 1979)

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Lloyd Burton, for the Center for Independent Living; Barney Feldman, for himself and others; Frank Freeland, for the American Association of Retired Persons and National Retired Teachers Association; Frank Gallagher, for CAB, Inc., Energy Conservation Program Board of Directors; Ann Murphy, Attorney at Law, for Toward Utility Rate Normalization; Daniel P. Murphy, Attorney at Law, for the California Rural Legal Assistance; J. M. Covington, for himself; James Hodges, for California/Nevada Community Action Association; and Herman Mulman, for Political Action; interested parties.

Kathryn L. Christy, for Citizens/Labor Energy Coalition, intervenor.

Thomas F. Grant, Attorney at Law, and John Dutcher, for the Commission staff.

O P I N I O NBackground

On November 9, 1978, the President of the United States signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA).^{1/} Among other things, PURPA requires each state regulatory authority to adopt, or explain its failure to adopt, certain standards for the termination of gas and electric utility service. Specifically, PURPA provides that:

- "(1) No electric (gas) service to an electric (gas) consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination and
- (2) During any period when termination of service to an electric (gas) consumer would be especially dangerous to health as determined by the State regulatory authority (with respect to an electric (gas) utility for which it has ratemaking authority) or nonregulated electric (gas) utility and such consumer establishes that --
 - (A) He is unable to pay for such service in accordance with the requirements of the utility's billing or
 - (B) He is able to pay for such service but only in installments.

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for the elderly and handicapped consumers." 46 Fed.Reg.

No.255
(Dec.28, 1979)

^{1/} Public Law 95-617; 16 USC 2601; 92 Stat. 3117.

Introduction

By this decision we have established minimum standards and procedures for termination of gas and electric service. The revised standards generally reflect the termination practices which utilities are currently applying. These practices, in many cases, are substantially more lenient than the minimum standards set forth in utility tariffs. We note that it is because of the utilities' responsible and liberal practices that the reasonableness of termination procedures has not been a significant issue before this Commission.

Notwithstanding the above, we have taken this opportunity to review present tariff procedures and utility practices for termination of service in response to the enactment of the Public Utility Regulatory Policies Act (PURPA). PURPA requires, among other things, that each state adopt reasonable termination standards for gas and electric service. On balance, we have found current utility practices to be fully compatible with PURPA and the Department of Energy (DOE) Voluntary Guidelines to implement PURPA. The minimum termination procedures that we have prescribed are designed to standardize and/or refine many of these practices.

In essence, these standards address four major issues of termination policy: (1) reasonable prior notice of termination; (2) reasonable opportunity to dispute termination, including notice of rights and remedies; (3) protection during health emergencies; and (4) special provisions for the elderly and handicapped.

On December 28, 1979, the Department of Energy (DOE) issued voluntary guidelines to assist regulatory authorities in implementing the PURPA standards. Prior to the issuance of these guidelines, on May 22, 1979, the Commission issued Order Instituting Investigation 49 (OII 49) to provide a vehicle for inquiry into PURPA standards for the termination of gas and electric service. OII 49 required each of the respondent gas and electric utilities to file "proposed standards and procedures for service termination, including any proposed revisions to existing tariffs, within 60 days of the issuance of this OII." Responses were filed by each of the gas and electric utilities subject to PURPA. ^{2/} Toward Utility Rate Normalization (TURN) then replied to the responses of the utilities.

Administrative Law Judge (ALJ) Robert T. Baer issued his proposed report on April 23, 1980 and mailed it to several hundred parties, persons, and consumer groups. Two documents were attached to the proposed report at the time of mailing.

- (1) The Economic Regulatory Administration's Voluntary Guideline on Procedures for Termination of Electric Service and Gas Service Under the Public Utility Regulatory Policies Act of 1978 (Guideline)^{3/}, and

^{2/} CP National (CPN), Pacific Gas and Electric Company (PG&E), Pacific Power & Light Company (PP&L), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCal), Sierra Pacific Power Company (SPP), Southwest Gas Corporation (SW Gas), and Southern California Edison Company (Edison).

^{3/} The Guideline was not available when the ALJ prepared his proposed report and was not considered in it.

(2) A notice of hearing

In addition to the hearing notices mailed by the Commission, the gas and electric corporations mailed notices of hearings to their customers.

Hearings were held July 28, and August 1, 1980, in San Francisco and Los Angeles. The staff mailed its report on August 29, 1980,^{4/} and several parties filed closing comments on or about October 3, 1980.^{5/} In addition to those filing closing comments, we particularly wish to acknowledge the participation of several intervenors, including the director of Consumer Affairs for the County of Los Angeles, the Center for Independent Living (CIL), California Rural Legal Assistance (CRLA); the spokesman for the California State Legislative Committee of the National Retired Teachers Association and the American Association of Retired Persons; the spokesman for a group of senior citizen and community organizations in Santa Cruz County; the spokesman for Seniors for Political Action; the spokesman for Seniors of Ventura County; spokesmen for other community and senior citizen groups; and several individuals. These participants have helped us to understand the circumstances of many persons and families, particularly those who are poor, elderly, handicapped, or ill as they struggle to adjust their life styles to rising energy costs. With this understanding

^{4/} The staff report is marked Exhibit No. 12.

^{5/} SDG&E, SoCal, SPP, CPN, Edison, PG&E, TURN, CIL, CRLA, and Citizen/Labor Energy Coalition (CLEC).

We have adopted uniform minimum standards for service termination for all gas and electric utilities and have afforded remedies in the face of termination to those who, from time to time, need temporary help in adjusting to increasing costs for gas and electric service.

In determining reasonable policy for termination of service, we must remember that the provision of electric and gas service is a necessity for all customers. Because these services are critical, minimum standards for terminating them must be carefully drafted to assure protection from unnecessary service interruption. We are confident that by revising present service termination standards, we will provide reasonable protection to the majority of customers who in good faith intend to pay their utility bills.

The discussion which follows will address the four major areas of termination policy in turn.

1. Reasonable Prior Notice

Prior to termination of electric utility service a customer should be afforded reasonable notice of imminent termination and reasonable opportunity to submit payment to the utility. Current utility tariffs provide that customers have fifteen days after the date of presentation within which to pay their bills. Section 779(a) of the Public Utilities Code^{6/} requires that the utility also provide at least seven day notice by first class mail prior to termination of service. In addition, Section 280 of the Code provides that the utility may not terminate service on any weekend, legal holiday or after the close of business. Thus

^{6/} All Section references are to the Public Utilities Code unless otherwise indicated.

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under present rules, a minimum of twenty-two days may elapse prior to actual termination.

Variation in actual practice stems from a more liberal application of minimum statutory and tariff rules by the utilities. These practices allow from 22 to 34 days from the date of billing before service is finally cut off. Some utilities provide one written notice of termination, others provide two. In some cases a personal contact is also made.

The threshold issues inherent in determining reasonable prior notice of termination concern the period of time allowed after billing before termination may occur, and the number of notices required prior to termination.

A. Minimum Days Notice

Current tariff rules provide that a customer must pay his monthly bill fifteen days from the "date of presentation" to avoid receiving a seven-day notice of termination. The seven-day notice period likewise begins to run from the "date of presentation." The "date of presentation" is presumed to be the date of mailing. In his proposed report the AIC recommended that the utilities redefine the phrase to mean two days after the bill or termination notice is mailed. This would allow the customer seventeen calendar days within which to pay his monthly bill. A termination notice would issue on the seventeenth day if payment is not made, but is presumed presented to the customer on the 19th day. On the 29th day, or after eight business days plus one weekend, termination could potentially occur, assuming it would not take place on a weekend, holiday, or after the close of business. The AIC's suggested revision thus adds seven days

to the minimum amount of time allowed under the present procedure.

The respondent utilities concurred with the AIC's proposed definition. Several other parties, particularly consumer groups, suggested more liberal terms.

The DOE guideline provides that notice of termination be sent by first class mail at least ten calendar days prior to the date after which termination could occur. If the utility receives no response, a second notice would then be delivered by first class mail or by personal contact with an adult on the premises. The DOE guideline provides no recommendation for when payment must initially be made by the customer.

The Commission staff in particular proposes to allow nineteen instead of fifteen days, within which to pay a bill, and recommends that fifteen instead of seven days notice be given before termination can occur. A minimum of 24 days would then elapse from the date the bill is mailed to the date service could be cut off. Los Angeles County, CIL and CRIA support the staff proposal. TURN concurs with staff except with regard to notice for elderly and handicapped customers, which will be discussed later.

In determining what constitutes reasonable prior notice we must consider procedures which protect ratepayers from unreasonable interruption without imposing undue costs which would be associated with such procedures. We believe the staff's recommendation for the minimum period of time allowed between billing and possible termination is the most equitable one. Customers are afforded no less than 34 days before service could be discontinued.

The four additional days for initial payment of the bill and the five extra days for notice of termination realistically allow for delays in mailing both to and from the customer, and permit flexibility in making other payment arrangements with the utility. We point out that the additional flexibility could result in fewer terminations where customers intend in good faith to make payment.

We will therefore adopt the 34 day time period between the date of billing and date of termination as a reasonable minimum notice standard for all utilities. We observe, however, that PG&E, CP National and SCE have adopted more liberal notice periods. PG&E's practice is to print a reminder notice on the face of a monthly bill that includes the previous month's unpaid balance. After the two-month bill is past due, PG&E issues a seven-day notice of possible service termination. A minimum of nine calendar days elapse before PG&E follows-up on this notice. Follow-up takes the form of a personal contact with the customer by telephone or visit. Thus, a minimum of 54 days elapses before actual termination may occur. CP National also prints the past due balance on the following month's bill. A ten day discontinuance of service notice is mailed thereafter. While not as specific as to the mechanics of its termination procedure, SCE allows approximately 45 days between billing and discontinuance of service.

With respect to these three utilities we commend their generous treatment of customers in providing more than twice the time required by current tariffs between bill receipt and possible termination. We presume that the additional flexibility provided by these utilities has greatly assisted their customers who have come to rely upon this

practice. We can also assume that these practices are cost-effective. We would therefore strongly encourage PG&E, SCE and CP National to continue to follow their current practices. Although we will not require these utilities to formalize their practices in tariffs, we will expect a showing by advice letter from each if these practices are abandoned in favor of the minimum standards required by this decision.

3. Number of Notices Required

In addition to prescribing the time period between billing and discontinuance of utility service, present tariff rules provide that one seven-day written notice of possible termination be sent. Actual practice by some utilities again varies. PG&E, as already indicated, provides a reminder notice on the following month's bill to advise of a prior unpaid bill. A seven-day notice and personal contact then follow. SoCal also uses a two-notice system but has not specified its current procedure in its filing. In its proposed procedure, described in the record, SoCal would issue a delinquent notice to the customer on the 24th day from the date the customer receives the bill. On the 31st day, the notice would expire. On the 34th day a second notice would issue which would expire on the 38th day. At that point a personal contact would be attempted.

The staff recommends that three notices of termination be given to the customer. Two written notices would be given

followed by a good faith attempt to personally contact the customer by telephone or visit on or before the date of termination. SDG&E, PG&E, SPP&L and SCE oppose the staff's recommendation on the ground that it would involve substantial additional billing and collecting expense to the ratepayers in general. SCE estimates the annual additional costs of the staff's proposed notice procedure to be approximately \$2,087,000.

The DOE guideline provides for two notices of termination. The second notice would be delivered in writing by first class mail or made by personal contact by telephone or visit with an adult on the premises.

The proposed report of the AIC does not require a second notice of termination.

Perhaps more significant than the number of notices a customer receives prior to service termination is the actual time allowed for the customer to make necessary arrangements to pay his bill. Under the staff proposal, which we will adopt, nineteen days will initially elapse from the date a bill is received before payment is due. A termination notice would issue on the nineteenth day, and would allow for another fifteen days to make payment. Because we are greatly increasing the amount of time under current tariffs before termination could occur, we do not believe there is a need for both second and third written notices within this time frame. The sending of two more notices does not appear to outweigh the potential added administrative burden of doing so. We also agree with PG&E that multiple notices may reduce the effectiveness of each preceding notice.

Although we will not require a second written notice,^{7/} we will require that the utility make reasonable attempts to personally contact an adult on the customer's premises either by telephone or by visit at least 24 hours prior to termination. We believe that a personal contact may result in full payment of the outstanding balance, or other payment arrangement with the utility.^{8/} Personal contact may also assure that unnecessary interruption of service does not occur.

We base this requirement on our staff's proposal and the DOE Voluntary Guideline. We are also aware of current practice among most of the utilities which provides that the utility may, in its discretion, give a final^{9/} 24-hour notice before termination results. This notice is either delivered personally to the customer, posted at the customer's residence, telephoned or mailed to the customer. While a contact is not necessarily given to every customer about to be terminated, we do not know the percentage of customers which actually receive it. We believe, though, that utilities should give 24-hour notice to all customers without discrimination as a final step before termination. The mechanisms to give 24-hour notice appear already in place so that we have no reason to believe that this requirement would create an undue cost burden.

^{7/} We note that PG&E and SoCal have adopted second notice procedures as a matter of practice. We will, therefore, expect these utilities to continue current practices, and to advise us, formally, if these practices are abandoned in favor of the minimum standards adopted herein.

^{8/} The presentation of SoCal indicated that in two-thirds of the contacts made, either all or partial payment was rendered.

^{9/} SDG&E and SoCal give 48-hour notice.

C. Notice to the Elderly and Handicapped

In establishing notice procedures for termination of service, sensitivity and special consideration should be given to the needs of the elderly and handicapped. The CIL, among others, described very articulately the special needs and conditions of the disabled and elderly. The extended notice periods which we have already described and will adopt recognize these particular needs by significantly increasing the time in which to make payment or alternative arrangements.

In addition to the extended time frame applicable to all customers, we will provide, in accordance with DOE guidelines, that a personal visit to the residence must be made with the elderly or handicapped customer, or his representative, at least 48 hours before termination. If personal contact cannot be made, a notice should be posted in a conspicuous location at the service address at least 48 hours prior to termination. This added protection will avoid severe hardship which may uniquely befall the elderly or handicapped customer if termination of service occurs.

A discussion of definitions of elderly and handicapped persons and special provisions on their behalf appears later in this decision.

D. Notice to Master-Metered Customers

Section 777(a) of the Public Utilities Code provides that:

"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."

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 ten to twelve 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)

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 is reasonable and should be followed by all utilities which 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 ten-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

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.

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. Termination will not occur during the pendency of this review. (See e.g. PG&E's Rule 10 (8) (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 files a complaint under Section 1702. We will, however, adopt the following

procedure for termination (as opposed to billing) disputes:

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.
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 ten 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 ten 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 a customer's rights and remedies may be obtained upon request

of the utility. The notice should also describe procedures for reconnection of service.

We believe that the procedures outlined above will reasonably inform a customer of his rights and provide ample remedy from unnecessary interruption of service. In adopting these procedures we wish to clarify, however, that the utility may continue its practice under current tariff rules to terminate service temporarily where hazardous conditions exist, where unauthorized use is demonstrated or when the consumer has unlawfully tampered with utility property. In addition, if the utility has extended to the customer the full benefit of payment arrangements in accordance with the standards defined in this decision, and the customer does not, or cannot pay, then the utility should be allowed to terminate the customer after proper notice.

B. Bilingual Notices

We must next address whether bilingual billings and notices should be required. The DOE guideline specifically provides that where a substantial percentage of the population does not speak English, statements, bills and notices should be printed in the second language. Unfortunately, DOE does not define the term "substantial" in its guideline.

SoCal proposed to define the phrase "substantial percentage of a population" to mean where at least 20 percent of the population in a utility's service area speaks a common second language. The basis for this standard was not clarified, however. Moreover, no analysis was made

of the costs associated with printing notices, bills and statements in a second language. We are therefore reluctant to require the printing of bilingual statements or notices at this time. However, we do believe that some form of bilingual services should be offered where Spanish or some other language is widely spoken within a county of a utility's service area. In these areas, we will require the serving utility to employ a reasonable number of persons who can communicate with customers in their own language to advise them of termination policy and their rights and remedies. We believe that in these population centers the utility already employs multi-lingual individuals.

iii. Protection During Health Emergencies

PURPA specifically provides that special procedures for termination of service should be adopted when termination of service would be "especially dangerous to health and the customer is either unable to pay for service or can only pay by installment." The DOE guideline recommends that the Commission define periods when postponement of termination should be granted for those unable to pay. The guideline goes on to suggest that the Commission specify the steps required of a customer to establish danger to health and inability to pay, and the steps required of a utility to make installment payments available upon a determination that the customer qualifies for these payments.

A. Periods When Health is Endangered

Various approaches have been offered by consumer organizations and by the utilities to bring tariff rules and practices into harmony with the provisions of PURPA. Some utilities propose to

define periods when termination would be especially dangerous to health as those periods "during freezing temperatures (below 32 F)." The staff would define danger periods as those "when the temperature in the immediate area of the customer's residence is ... 32 F (or less) or ... 101 F (or more)."

SPPC objects to definitions of temperature extremes as determinative of danger periods by pointing out that a great portion of its service territory is located in the Lake Tahoe area where temperatures fall below 32° F at night during a large part of the year. A strict construction of staff's proposal could preclude termination of service during at least five or six months of the year.

CP National also warns that disputes will arise whether the temperature in the immediate area of a terminated residence was within the temperature range allowed and whether the utility should use the actual temperature at the time of disconnect or the average daily temperature.

CIL varies the theme by proposing that the Commission adopt a standard which directs that service not be terminated during any month when past climatic data show that these extremes (32 F. and 101 F.) are reached on more than half the days of that month. This would assure that service would not be terminated during a temporary lull in an otherwise extremely hot or cold period.

CIL's proposal at least recognizes the practical difficulties inherent in administering a standard such as the staff

proposes. What is lacking, however, in all of these proposals is climatic data. We do not see how it is possible to establish temperature sensitive periods without daily temperature data for the various regions of the State. Moreover, we note that PURPA and the Guideline are directed primarily to cold climates. Although California has regions with cold winters, the overwhelming majority of Californians live on or near the coast where extremes of heat and cold occur infrequently. We see no purpose in adopting in California a system of regulation which may be appropriate to the east coast, the midwest, or the mountain states, but largely unnecessary in our climate.

We conclude that there is insufficient support in this record for adopting temperature sensitive standards for defining periods when termination may be especially dangerous to health.

PG&E has suggested an alternate approach to establishing climatic standards which has appeal. Instead of defining specific periods dangerous to a customer's health, PG&E would place the burden upon customers themselves to demonstrate that termination would endanger their health. PG&E's Proposed Tariff Rule 11.A.2h. would provide:

- "h. Electric (gas) service to a residential customer will not be discontinued for non-payment when the customer has established to the satisfaction of the utility that such termination would be especially dangerous to

to the health of the consumer"; or the customer has established to the satisfaction of the utility that the consumer is among the elderly (over 65 years of age) or handicapped; and the customer establishes to the satisfaction of the utility that he or she is unable to pay for such service in accordance with the provisions of the utility's tariffs; and the customer is willing to arrange installment payments, satisfactory to the utility, including arrangements for prompt payment of subsequent bills.

*Certification from a licensed physician may be required by the Utility."
(PG&E Response, pp 4-5)

The ALC's proposed report supported PG&E's suggested tariff for the reason that it does not restrict periods dangerous to health to periods of temperature extreme. As the report pointed out, certain customers may be endangered at any time because of illness or due to reliance upon powered life support systems. We agree and will therefore adopt PG&E's proposal as reasonable, but will amend the definition of elderly to mean persons over 62 years of age. (See further discussion below.)

3. Entitlement to Exemption from Termination

The ALC's proposed report also deems it reasonable to place the burden upon the customer to prove entitlement to exemption from payment, and to make the utility, at least initially, the arbiter of the entitlement issue. Both of these recommendations raised objections from several parties, including the CIL, California Labor Energy Coalition (CLEC) and TURN. CIL, in particular, contends that such an arrangement

represents the assumption of administrative authority by a private company which should be exercised only by an impartial regulatory agency, i.e., the Public Utilities Commission. We disagree. The utilities are required by law to abide by the tariff rules approved by the Commission. The utilities and their employees must manage the distribution of their services subject only to our broad oversight. Were we called upon to make every initial judgment regarding service termination or eligibility for exemption from the general rules, we would be overwhelmed. The guidelines we approve herein will be sufficient to ensure reasonable service, and we stand ready to intervene in special cases of alleged noncompliance.

In showing entitlement to exemption from termination of service, a customer must demonstrate that (1) he has a health condition which temporarily justifies continuation of service and (2) he is unable to pay his bill, or may only pay by installment.

1. Certification of Health Condition

All parties generally agree with PG&E's proposal that the customer desiring to prevent termination of service because of a health condition must present certification to the utility of his condition. Certification of the health or handicapped status of a customer may be made by a licensed physician, a public health nurse or a social worker. We also recognize that a health condition might arise in response

to termination of service because the customer is elderly. We will define an elderly customer as a person over 62 years of age, based upon present eligibility for social security, and will require that certification of age by driver's license, birth certificate, passport, or other reliable document. Evidence of either status should be presented to the utility if special services are desired.

2. Inability to Pay

In addition to establishing that termination may be dangerous to health, PURPA requires that the customer must also establish that he is unable to pay for service or that he is only able to pay by installment. We do not believe that Congress intended that a customer should be excused permanently from paying the lawful tariff charges for his utility services if he should find himself financially embarrassed during a period when termination of service would be especially dangerous to his health. The dilemma is that those who pay their utility bills, rich or poor, sick or well, old or young, must ultimately pay the bills of those customers who do not pay in addition to the collection costs caused by those customers who are sporadic or unreliable in their payment practices. We also point out that permanently relieving some customers from payment may cause discrimination.^{10/} Therefore, we will not permanently excuse a customer from payment. We will, however,

^{10/} The DOE guideline itself recognizes the problem of uncollectible expense but contemplates that late payment charges will offset increases in uncollectibles. This assumption however is not true for Californian utilities. At this time we are not inclined to impose late payment charges on customers. Late payment charges, if adopted, would most likely fall upon the poor, elderly and handicapped, or upon those least able to pay and upon those whose burdens the guideline intends to ease. We also point out that there is nothing in the record which would support the establishment of late-payment charges.

encourage utilities to offer extended payment plans in their tariffs, and direct each utility to furnish information on the availability of financial assistance to those customers unable to pay their bills. Many utilities already provide both services as a matter of practice.

IV. Reasonable Provisions for the Elderly and Handicapped

PURPA specifically directs that termination procedures should take into account the need to include reasonable provisions for the elderly and handicapped.^{11/}

Concerning notice of termination, we have previously discussed the requirement that the utility give at least 48 hours advance notice by personal contact before terminating the service of an elderly or handicapped customer. This requirement is derived from the DOE guideline. The guideline, however, also provides that the utility be required to notify the Commission or an alternate agency designated by the Commission before any termination to determine if that agency requires any further action.

^{11/} See pp. 22-23 of this opinion for definition of elderly and handicapped.

Such notification must be made at least 48 hours prior to termination. At a time when our resources are strained to provide the services now required by law, it would be inappropriate for our staff to undertake the duty of monitoring the relations of utilities with each of their elderly and handicapped customers. We will therefore not adopt this procedure.

We will, however, allow the elderly or handicapped customer, at his option, to designate a third party representative, such as a friend, family member, or public or private agency to receive notice on his behalf. The customer should inform the utility if he desires third party notification. To further this end, we will direct the utility to establish procedures to ensure that third parties consent to receive notice on behalf of a customer and that notices are sent directly to the third parties. We will also require the utilities to inform all customers at least once annually of the availability of this service for the elderly and handicapped. The first notice should be included in the billing envelope during the first full billing cycle after the effective date of this order and annually thereafter. Those customers who certify that they are elderly or handicapped will be entitled to third-party notice of termination. We doubt that those who do not need the service will apply for it.

V. Miscellaneous IssuesBudget Billing

The proposed report suggested that the utilities should comment during the hearings on a proposal to average bills over the entire year. Budget billing would allow consumers to spread the high costs of their gas or electric services during the winter or summer over the entire year. PG&E has recently been authorized to experiment with budget billing. Edison experimented with budget billing between 1966 and 1973, but discontinued it because of an adverse ruling of the Internal Revenue Service. The ruling would have imposed excessive recordkeeping requirements upon Edison, costing an estimated \$15 per consumer. Edison also stated that a minimal number of consumers were enrolled in the plan and that participation declined 30.3 percent between 1969 and 1973. Edison is also concerned that budget billing may be anti-conservation because of the inaccurate price signals sent to the consumers by usage-insensitive, equal monthly bills. SDG&E concurs with Edison and does not support budget billing. SoCal has had budget billing under study since 1979 and is scheduled to offer it to its consumers in June, 1981.

We will not require the respondents which have not already done so to offer or experiment with budget billing. When data are available from PG&E's experiment and SoCal's 1981 offering it may be appropriate to study budget billing more closely. On this record the advantages and disadvantages seem closely balanced.

Collection Charge

By Advice Letter 517-E (Exhibit 10) filed March 30, 1980, Edison sought authority to amend its tariff Rule 11, Discontinuance and Restoration of Service, to establish a collection charge of \$5.00. The charge would only apply when an Edison representative makes a final field call for the sole purpose of discontinuing service for nonpayment, and in lieu of disconnection, the customer makes acceptable payment or payment arrangements. The intent of the charge is to reduce the number of final field collection calls and to collect their cost from the customer who causes them to be made. The average cost per field call is \$5.12, which will produce estimated annual revenues of \$285,000, or less than one-tenth of one percent of Edison's 1980 estimated gross revenues of \$3,462,100,000. The Commission did not act upon the advice letter but ordered that it be considered in this proceeding.

No opposition to this new charge has been expressed and it will not increase any existing rate or charge, cause withdrawal of service to any consumer, nor conflict with any other rate schedules or tariff rules. The collection charge should be adopted as proposed by Edison.

Conclusion

By this decision, several minimum termination standards are liberalized in order to assure adequate protection to all customers from unnecessary discontinuance of vital electric and gas

services. Significantly, many of the standards adopted reflect actual practice of several utilities. It is our observation that few, if any, of the respondent utilities follow the letter of their written tariffs. Accordingly, we believe that the minimum standards set forth herein will not be unduly burdensome or costly.

In adopting more lenient termination policies, we realize that some customers may take unfair advantage; we are confident, however, that the vast majority of customers will pay their bills on time or make other payment arrangements with the utility. The actions of a few should not result in less protection of those who faithfully meet their obligations. We also believe that more lenient termination policies may result in payment in cases where previously none was made and thereby reduce uncollectible expenses. The minimum termination standards which we will adopt reflect our weighing the risk that utility expenses may increase against the benefit that a customer may be protected from premature termination. On balance, we favor additional protections that these minimum standards will afford.

Findings of Fact

1. Sections 113 et seq. of PURPA require the Commission to adopt reasonable procedures for termination of gas and electric service.

2. The DOE voluntary guidelines for implementation of Sections 113 et seq. of PURPA recommend specific standards, terms and conditions for terminating utility gas and electric service.

3. A 34-day notice period between the date of billing and date of termination allows sufficient opportunity for the customer to make payment or other arrangements with the utility.

4. The actual practices of PG&E, SCE, and CP National allow at least twice the amount of time between date of billing and date of termination than the 22 days allowed under current tariffs.

5. There is insufficient support in the record for requiring two or more written notices of termination when the time between date of billing and service termination is extended from 22 to 34 days, even though many utilities already furnish two or more notices as a matter of practice.

6. Reasonable attempts to personally contact a customer either by telephone or visit at least 24 hours prior to termination may result in full payment of the overdue bill or other acceptable payment arrangement with the utility.

7. It is reasonable to require a minimum 48-hour notice before termination by actual personal contact by telephone or visit to the elderly and handicapped customer who may be more detrimentally affected by service termination than other customers.

8. Master-metered customers are entitled to the same period of time between date of billing and service termination as individually-metered customers.

9. A customer who is unable to pay his utility bill is unlikely to make a deposit of the unpaid amount with the Commission if he disputes the termination by filing a formal complaint.

10. Procedures for disputing termination and reconnecting service after termination will assist the customer in exercising his rights and remedies in the face of potential service termination.

11. The DOE voluntary guideline contemplates that some form of bilingual services will be furnished to utility customers where a substantial portion of a utility's service area speaks a foreign language.

12. SoCal has determined that "a substantial portion" of the population which speaks a common second language is 20 percent of the population.

13. It is consistent with the policy of the DOE Voluntary Guidelines to require each utility to provide multilingual individuals to advise customers of termination policy where Spanish or some other language is widely spoken within a county of a utility's service area.

14. The need to establish climatic periods when termination would be especially dangerous to health has not been established.

15. The customer himself will know when termination will be especially dangerous to his health, and therefore is best able to support his claim before the utility for continued service when he is unable to pay his bill.

16. Elderly persons are generally defined as persons who qualify for social security, or persons at least 62 years of age.

17. The needs of the handicapped and elderly are better served by requiring them to certify to the utility the state of their health through licensed physicians, public health nurses or social workers.

18. Some customers may be able to meet their payment obligations if payment by installment is allowed.

19. Some customers may be able to pay their utility bills if the utility provides them with information about public and private sources of funding.

20. The elderly and the handicapped customer may be better able to make payment to the utility if a third party, such as a consenting friend, family member, or public or private agency, is notified of the impending termination on the customer's behalf.

21. The collection charge proposed by SCE is reasonable to help defray the costs of final field calls to discontinue service in circumstances where the customer makes acceptable payment in lieu of disconnection.

Conclusion of Law

The tariff modifications for minimum termination standards for gas and electric utilities which are set forth in the order which follows are just and reasonable and should be adopted by the respondent utilities.

IT IS ORDERED that:

1. Each utility shall provide a minimum of nineteen (19) days within which to pay a monthly bill, and a minimum of fifteen (15) days notice before termination can occur. Thus, a minimum 34-day period between the date of billing and service termination should be given.

2. PG&E, CP National and SCE shall continue to follow their current practices in defining the period between the date of billing and date of termination.

3. Each utility shall make reasonable attempts to personally contact an adult on the customer's premises either by telephone or by visit at least 24 hours prior to termination. For elderly and handicapped customers, the utility shall provide at least 48 hours notice by telephone or visit. For these customers, if a personal contact cannot be made, a notice shall be posted in a conspicuous location at the service address at least 48 hours prior to termination.

4. For master-metered customers, a minimum of 34 days shall elapse between the date of billing and date of termination.

The notice of termination shall issue on the nineteenth day from the date the bill is mailed. The ten-day statutory period for termination notice shall begin to run at least five days after the termination notice is mailed.

5. The utility shall not require a customer to deposit with the Commission the amount on the overdue bill in a termination dispute.

6. Each utility shall inform the customer of procedures for termination disputes, and should provide the customer with a complete statement of the utility's termination policy, including a statement of his rights and remedies, upon request. The following procedure for termination disputes shall be adopted:

(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.

(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 ten 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 ten 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.

7. Each utility shall provide a reasonable number of multilingual individuals to advise customers of termination policy where Spanish or some other language is widely spoken within a county of a utility's service area.

8. Each utility shall offer installment payment plans and shall furnish information on the availability of financial assistance to those customers unable to pay their bills.

9. Each utility shall allow the elderly and handicapped customer to designate, at his option, a third party representative to receive notice on the customer's behalf. The utility shall establish procedures to ensure that third parties consent to receive notice on a customer's behalf, and that notices are sent directly to the third parties. The utility shall inform all customers at least once annually of the availability of this service. The first notice should be included in the billing envelope during the first full billing cycle after the effective date of this order.

10. SCE is authorized to establish a collection charge of \$5.00 which can be assessed when SCE's representative makes a final field call to actually terminate service for non-payment.

11. The respondent utilities shall file tariffs as required by this Order. These tariffs shall be filed within five (5) days after the effective date of this Order, in compliance with the requirements of General Order No. 96-A, and are effective the date filed.

The effective date of this order shall be thirty days after today.

Dated SEP 15 1981, San Francisco, California.

John E. Gynn
Richard D. Gypalle
Victor Calvo
Priscilla C. Gynn