

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the
Commission's Own Motion to Consider
Revising Energy Utility Tariff Rules Related to
Deposits and Adjusting Bills as They Affect
Small Business Customers.

R. 10-05-005
(filed May 6, 2010)

**PACIFIC GAS AND ELECTRIC COMPANY'S
REPLY COMMENTS REGARDING WHETHER THE CPUC SHOULD
REVISE TARIFF RULES AFFECTING SMALL BUSINESS CUSTOMERS**

LISE H. JORDAN
DANIEL F. COOLEY

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-6646
Facsimile: (415) 973-0516
E-Mail: DFC2@pge.com

Dated: June 28, 2010

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

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I. INTRODUCTION

Pursuant to Rule 6.2 of the Commission's Rules of Practice and Procedure, Pacific Gas & Electric Company (PG&E) submits the following Reply Comments in this Order Instituting Rulemaking concerning back-billing and deposit practices, as applied to micro businesses. This filing responds to opening comments submitted by Southern California Edison Company (SCE), SoCalGas and San Diego Gas and Electric Company (Sempra), as well as comments submitted by Southwest Gas. PG&E also responds to the non-utility pleadings submitted by the Division of Ratepayer Advocates (DRA), the Greenlining Institute (Greenlining), and The Utility Reform Network (TURN).

In summary, PG&E responds as follows:

- using the Government Code to define small business is viable, and could be used for back-billing purposes;
- utilizing consumption data to define small businesses creates some difficult issues for dual commodity utilities;
- any tariff changes initiated in this proceeding should be primarily limited to back-billing, and the deposit rules should remain intact; and

- meter error and billing error refunds should be aligned, as proposed by Greenlining.

Each of these points will be discussed in more detail below.

II. GOVERNMENT CODE SECTION 14837 REPRESENTS A VIABLE METHOD FOR IDENTIFYING SMALL BUSINESSES, AND OBSTACLES CAN BE SUCCESSFULLY ADDRESSED

PG&E and Southwest Gas support the use of micro business qualifications established under Government Code Section 14837. SCE and Sempra support a usage-based threshold as a basis for defining a micro business. While PG&E does not have a strong opposition to usage-based criteria, it would be difficult to develop consistency among the utilities based on usage. This is discussed in more detail below.

SCE opposes the use of the Government Code as a way to define small businesses because the list is not comprehensive. Sempra's opposition to the use of the Government Code is based on the following rationales. PG&E responds to each rationale below:

Sempra's first rationale: *Relying on customers to self-certify does not afford the utilities an opportunity to easily identify small business customers and effectively promotes the new small business customer service options.*

Rate schedules and financial assistance information would not be contingent upon whether a customer qualifies as a small business for purposes of back-billing and deposits. Therefore, it does not seem that self-certification will impede the utilities' ability to promote programs aimed at small business customers.

Sempra's second rationale: *Self-certification could only be done on a post-hoc basis and requires the utilities to suspend further processing of transactions on the customers' account, which could adversely affect service to the customers.*

Rules would need to be developed to address the self-certification process. While this is a very good subject for the workshop, PG&E's initial perspective is that a customer would be assumed not to qualify, and thus subject to the deposit and back-billing obligations. Only when the customer responded to a deposit or back-billing request with a declaration of qualification under the Government Code would the deposit or back-billing request be reduced. Therefore, one way of addressing this issue is to simply place the burden on the customer to seek and demonstrate the appropriateness of the more lenient treatment.

An alternative approach would be to have the utilities utilize the existing list under Government Code 14837, as made available on the internet, and allow, as a second method of qualification for those customers not on the government's list, a declaration of self-certification following the issuance of the deposit or back-billing.

Sempra's third rationale: *A self-certification requirement may deter many potentially eligible small business customers. It has been Sempra's experience that often times customers simply do not initiate contact with utilities, even if it is to their benefit.*

Customers facing a long back-bill or significant deposit would simply have an opportunity to minimize their financial exposure by virtue of the self-certification process. While there is no substantial data to confirm or deny Sempra's statement with regard to customer participation, clear communication with customers should help alleviate this issue.

Sempra's fourth rationale: *Self-certification also would impose an administrative burden on the utilities, who would be tasked with the time and expenses associated with collecting, maintaining, and storing the customer data, as well as the time and expenses associated with analyzing customer financial records to determine eligibility.*

Collecting, maintaining, and storing customer data will be an issue for the Commission and the IOUs to consider in workshops.

III. A CONSUMPTION-BASED QUALIFICATION IS VIABLE, BUT RAISES ISSUES OF INEQUITY

Sempra proposed a usage-based qualification criteria. Sempra and SCE propose utilizing consumption/usage and demand as a substitute for the Government Code criteria, referenced in the rulemaking scoping memo. Specifically, Sempra proposes "that 'small business customers' be defined as those customers who use no more than 40,000 kWh/year or 10,000 therms/year." (Sempra Opening Comments, p. 6-7).

SCE's proposal would determine qualification based on the rate schedule of each customer. Specifically, SCE proposes "to apply the three-month back-billing rule to its commercial customers in the GS-1 rate group, all of whom have actual or expected maximum demands of 20 kW or less." (SCE Opening Comments, p. 7). SCE explained "Only those small business customers whose demand is 20 kW or less can be in the GS-1 rate group, so no additional verification of 'eligibility' or other process is required." (SCE Opening Comments,

p. 8). Therefore, while both SCE and Sempra propose consumption data, Sempra's proposal will rely on kWh or therms usage, while SCE's proposal will be based on specific rate schedules selected by or assigned to the customer.

PG&E is open to exploring consumption as a basis for defining small businesses. However, the issue of participation becomes complicated when a customer receives two commodities and even more complicated when a customer receives two commodities from two different providers. A customer could very well qualify under one commodity, and not the other. Thus, definitions would need to be developed that would provide reasonable and equitable treatment for all potentially qualifying entities.

IV. ANY TARIFF CHANGES FOR SMALL BUSINESSES SHOULD BE LIMITED TO BACK-BILLING, WITH DEPOSIT RULES LEFT RELATIVELY INTACT

Sempra, SCE, and PG&E appear to all be in agreement that if any new rules are adopted for small businesses, they should be applied only to back-billing parameters. (Sempra Opening Comments, p. 7-8; SCE Opening Comments, p. 3-5; PG&E Opening Comments, p. 3-4). In other words, the IOUs are in agreement that any new definition ultimately adopted should be utilized only to limit back-billing to such customers. Deposit protocols should remain relatively intact. Each of these parties agrees that deposits are a very important part of the utilities' business model. (Sempra Opening Comments, p. 8-9; SCE Opening Comments, p. 12-13; PG&E Opening Comments, p. 5-7). However, in those few instances where back-billing can impact the small business customer, deposits should be waived for the pendency of the repayment of the back-billing.

V. THE COMMISSION SHOULD CONSIDER EXTENDING FAST METER REFUNDS TO THREE YEARS

Greenlining opposes the present 6-month limitation on refunding of overcharges due to meter error. Greenlining disagrees with the present IOU tariff provisions, which allow for billing error refunds up to three years, but meter error refunds limited to six months. Greenlining states "It is not clear why these two periods are so different. In the absence of an exceedingly persuasive justification for this discrepancy, it should be eliminated." (Greenlining Opening

Comments, p. 7). PG&E agrees that there would be substantial benefits to extending the maximum fast meter refund period to match those provided when billing errors occur.

By way of background, there are eight different scenarios associated with meter and billing errors: overbilling and underbilling, residential and commercial. Below are the various parameters, with an analysis of the overcharge scenarios (a-d) thereafter:

- a) Meter Error, Commercial – 6-month Refund*
- b) Meter Error, Residential – 6-month Refund*
- c) Billing Error, Commercial – 3-year Refund*
- d) Billing Error, Residential – 3-year Refund*
- e) Meter Error, Commercial – 3-year Back-billing*
- f) Meter Error, Residential – 3-month Back-billing*
- g) Billing Error, Commercial – 3-year Back-billing*
- h) Billing Error, Residential – 3-month Back-billing*

The parameters associated with overcharges are the same whether residential or non-residential. Therefore, the refund methodology, which is the subject of the modifications proposed by Greenlining, would not be altered by any definition of small commercial customer adopted in this proceeding. Again, this is so because only the refunding rules are proposed for modification, and these do not vary between residential and commercial customers.

PG&E Tariff Rule 17 refunds following discovery of a fast meter are limited to 6 months. However, the refunds following the discovery of billing errors are generally limited to 3 years.

While this has been a long standing provision in each of the IOUs' tariffs, stemming back to D.86-06-035 and the Commission's investigation into meter and billing errors, there is no clear explanation, from PG&E's perspective, for such differentiated treatment. While there are not a large number of fast meters, and in fact this is a very small percentage of all meter errors, it does create an equity issue to customers receiving the shorter refunds following the discovery of a meter error. If a customer had been overcharged as the result of a billing error, they would have received up to three years' refund. The overcharged customer experiencing the meter error can

simply not understand why they are receiving a shorter refund period, particularly when commercial customers who have been underbilled receive up to a 3-year back-bill. In other words, if there was a meter error, they are responsible for up to 3 years of charges, while the IOU is only responsible for up to 6 months of charges under PG&E's Tariff Rule 17.

In order to provide a greater level of parity and to eliminate any ambiguity that might exist when it is not completely clear whether the issue is a meter error or billing error, both refund parameters should be identical. While there has been a longstanding practice to differentiate billing errors and meter errors, the customers and the utilities would ultimately benefit from the simplified process proposed by Greenlining and supported by PG&E.

The Commission should consider ending this relatively harsh billing treatment. Because all of the IOUs have similar rules with respect to meter and billing errors, any changes in this area should be instituted on a statewide level. This proceeding provides such an opportunity for this Commission.

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VI. CONCLUSION

PG&E appreciates the thoughtful comments that have been submitted by the parties. Defining the micro business in a manner that can be easily explained and tracked should be a priority for the Commission in this proceeding. PG&E continues to believe that self-certification is a preferred methodology. However, PG&E stands ready and prepared to work with the Commission and the other parties in an effort to reach consensus on a methodology that is acceptable to all concerned parties, while still advancing the goals identified above.

Respectfully Submitted,

LISE H. JORDAN
DANIEL F. COOLEY

By: _____ /s/
DANIEL F. COOLEY

Pacific Gas and Electric Company
77 Beale Street
San Francisco, CA 94105
Telephone: (415) 973-6646
Facsimile: (415) 973-5520
E-Mail: DFC2@pge.com

Dated: June 28, 2010

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

CERTIFICATE OF SERVICE BY ELECTRONIC MAIL

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the party to the within cause; and that my business address is 77 Beale Street, B30A, San Francisco, California 94105. I hereby certify that I have this day electronically served the foregoing document(s) upon each member of the official service list of **R.10-05-005** pursuant to Rule 2.3 of the California Public Utilities Commission's Rules of Practice and Procedure:

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and if no e-mail address was available, the party was served by U.S. Mail.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **June 28, 2010**, at San Francisco, California.

/s/

René Anita Thomas

**THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
EMAIL SERVICE LIST**

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aliciam@greenlining.org; bkc7@pge.com; bmd@cpuc.ca.gov;
brooks.congdon@swgas.com; case.admin@sce.com; catherine.mazzeo@swgas.com;
cathie.allen@pacificcorp.com; cem@newsdata.com; CPUCCASES@pge.com;
DAKing@SempraGeneration.com; ddm@cpuc.ca.gov; DFC2@pge.com;
don.soderberg@swgas.com; fadia.khoury@sce.com; GHealy@SempraUtilities.com;
jeanc@greenlining.org; joyw@mid.org; kderemer@semprautilities.com;
KHassan@SempraUtilities.com; KSwitzer@gswater.com; kwz@cpuc.ca.gov;
lwt@cpuc.ca.gov; map@cpuc.ca.gov; Mike@alpinenaturalgas.com;
nquan@gswater.com; nsuetake@turn.org; Ralf1241a@cs.com;
regrelcpuccases@pge.com; rkmoore@gswater.com; ROJ3@pge.com; sjg@cpuc.ca.gov;
stephaniec@greenlining.org; tdillard@sppc.com; valerie.ontiveroz@swgas.com;
westgas@aol.com; zaf@cpuc.ca.gov

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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CPUC DOCKET NO. R1005005

Total number of addressees: 37

CPUC FILE ADMINISTRATION
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE ST, B30A
SAN FRANCISCO CA 94105
Email: CPUCCASES@pge.com
Status: INFORMATION

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B9A
SAN FRANCISCO CA 94177
Email: regrelcpuccases@pge.com
Status: INFORMATION

DANIEL F. COOLEY STAFF COUNSEL
PACIFIC GAS AND ELECTRIC COMPANY
BOX 7442, MC B30A / 77 BEALE ST.NO3161
SAN FRANCISCO CA 94120
FOR: Pacific Gas and Electric Company
Email: DFC2@pge.com
Status: PARTY

Stephanie Green
CALIF PUBLIC UTILITIES COMMISSION
PUBLIC ADVISOR OFFICE
505 VAN NESS AVE AREA 2-B
SAN FRANCISCO CA 94102-3214
Email: sjg@cpuc.ca.gov
Status: STATE-SERVICE

Lee-Whei Tan
CALIF PUBLIC UTILITIES COMMISSION
ENERGY PRICING AND CUSTOMER PROGRAMS
BRANCH
505 VAN NESS AVE RM 4102
SAN FRANCISCO CA 94102-3214
Email: lwt@cpuc.ca.gov
Status: STATE-SERVICE

Marzia Zafar
CALIF PUBLIC UTILITIES COMMISSION
PUBLIC ADVISOR OFFICE
505 VAN NESS AVE RM 2-B
SAN FRANCISCO CA 94102-3214
Email: zaf@cpuc.ca.gov
Status: STATE-SERVICE

CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. STE 303
SAN FRANCISCO CA 94117-2242
Email: cem@newsdata.com
Status: INFORMATION

BRIAN K. CHERRY VP - REGULATORY RELATIONS
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000 / 77 BEALE ST., MC B10C
SAN FRANCISCO CA 94177
FOR: Pacific Gas & Electric Company
Email: bkc7@pge.com
Status: INFORMATION

RONALD JANG
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B10B
SAN FRANCISCO CA 94177
Email: ROJ3@pge.com
Status: INFORMATION

Bruce DeBerry
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
505 VAN NESS AVE RM 5043
SAN FRANCISCO CA 94102-3214
Email: bmd@cpuc.ca.gov
Status: STATE-SERVICE

Drisha Melton
CALIF PUBLIC UTILITIES COMMISSION
CONSUMER SERVICE AND INFORMATION DIVISION
320 WEST 4TH ST STE 500
LOS ANGELES CA 90013
Email: ddm@cpuc.ca.gov
Status: STATE-SERVICE

Karen Watts-Zagha
CALIF PUBLIC UTILITIES COMMISSION
ENERGY PRICING AND CUSTOMER PROGRAMS
BRANCH
505 VAN NESS AVE RM 4104
SAN FRANCISCO CA 94102-3214
Email: kwz@cpuc.ca.gov
Status: STATE-SERVICE

MIKE LAMOND CHIEF FINANCIAL OFFICER
ALPINE NATURAL GAS OPERATING CO. #1 LLC
PO BOX 550
VALLEY SPRINGS CA 95252
FOR: Alpine Natural Gas Operating Company
Email: Mike@alpinenaturalgas.com
Status: INFORMATION

Marion Peleo
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
505 VAN NESS AVE RM 4107
SAN FRANCISCO CA 94102-3214
FOR: Division of Ratepayer Advocates
Email: map@cpuc.ca.gov
Status: PARTY

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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Total number of addressees: 37

RONALD MOORE SR. REGULATORY ANALYST
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS CA 91773
FOR: Golden State Water Company
Email: rkmoore@gswater.com
Status: INFORMATION

NGUYEN QUAN MGR - REGULATORY AFFAIRS
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD
SAN DIMAS CA 91773
FOR: Golden State Water Company
Email: nquan@gswater.com
Status: PARTY

JOHN DUTCHER
MOUNTAIN UTILITIES
PO BOX 205
KIRKWOOD CA 95646
FOR: Mountain Utilities
Email: Ralf1241a@cs.com
Status: INFORMATION

KENNETH J. DEREMER DIR., TARIFF & REGULATORY
ACCTS
SAN DIEGO GAS & ELECTRIC CO.
8330 CENTURY PARK COURT, CP32C
SAN DIEGO CA 92123-1548
FOR: San Diego Gas & Electric Company
Email: kderemer@semprautilities.com
Status: INFORMATION

TREVOR DILLARD
SIERRA PACIFIC POWER COMPANY
6100 NEIL ROAD, MS S4A50 / PO BOX 10100
RENO NV 89520-0024
FOR: Sierra Pacific Power Company
Email: tdillard@sppc.com
Status: INFORMATION

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE
ROSEMEAD CA 91770
Email: case.admin@sce.com
Status: INFORMATION

F. E. JOHN VP - REGULATORY AFFAIRS
SOUTHERN CALIFORNIA GAS COMPANY
720 WEST 8TH ST
LOS ANGELES CA 90017
FOR: Southern California Gas Company
Status: INFORMATION

KEITH SWITZER VA - REGULATORY AFFAIRS
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD
SAN DIMAS CA 91773-9016
FOR: Golden State Water Company
Email: KSwitzer@gswater.com
Status: INFORMATION

JOY A. WARREN
MODESTO IRRIGATION DISTRICT
1231 11TH ST
MODESTO CA 95354
Email: joyw@mid.org
Status: INFORMATION

CATHIE ALLEN DIR., REGULATORY AFFAIRS
PACIFICORP
825 NE MULTNOMAH ST, STE 2000
PORTLAND OR 97232
FOR: PacifiCorp
Email: cathie.allen@pacificorp.com
Status: INFORMATION

DANIEL A. KING
SEMPRA GENERATION
101 ASH ST, HQ 14
SAN DIEGO CA 92101
FOR: Sempra Generation
Email: DAKing@SempraGeneration.com
Status: PARTY

GREGORY HEALY
SOCALGAS/SDG&E
EMAIL ONLY
EMAIL ONLY CA 0
Email: GHealy@SempraUtilities.com
Status: INFORMATION

FADIA RAFEEDIE KHOURY ATTORNEY
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE., PO BOX 800
ROSEMEAD CA 91770
FOR: Southern California Edison Company
Email: fadia.khoury@sce.com
Status: PARTY

KIM F. HASSAN
SOUTHERN CALIFORNIA GAS COMPANY
101 ASH ST, HQ-12
SAN DIEGO CA 92101
FOR: Southern California Gas Company
Email: KHassan@SempraUtilities.com
Status: PARTY

THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA SERVICE LIST

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Total number of addressees: 37

BROOKS CONGDON
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS NV 89193-8510
Email: brooks.congdon@swgas.com
Status: INFORMATION

DONALD L. SODERBERG VP - PRICING & TARIFFS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD / BOX 98510
LAS VEGAS NV 89150
FOR: Southwest Gas Corporation
Email: don.soderberg@swgas.com
Status: INFORMATION

STEPHANIE C. CHEN
THE GREENLINING INSTITUTE
EMAIL ONLY
EMAIL ONLY CA 0
FOR: The Greenlining Institute
Email: stephaniec@greenlining.org
Status: INFORMATION

ALICIA MILLER
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVE, 2ND FLR
BERKELEY CA 94704
Email: aliciam@greenlining.org
Status: INFORMATION

RAYMOND J. CZAHAR CHIEF FINANCIAL OFFICER
WEST COAST GAS COMPANY
9203 BEATTY DRIVE
SACRAMENTO CA 95826
FOR: West Coast Gas Company
Email: westgas@aol.com
Status: INFORMATION

VALERIE J. ONTIVEROZ
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS NV 89150
Email: valerie.ontiveroz@swgas.com
Status: INFORMATION

CATHERINE MAZZEO
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS NV 89193-8510
FOR: Southwest Gas Corporation
Email: catherine.mazzeo@swgas.com
Status: PARTY

JEAN CHUNG
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVE, 2ND FLR
BERKELEY CA 94704
Email: jeanc@greenlining.org
Status: INFORMATION

NINA SUETAKE
THE UTILITY REFORM NETWORK
115 SANSOME ST, STE 900
SAN FRANCISCO CA 94104
FOR: The Utility Reform Network
Email: nsuetake@turn.org
Status: PARTY