

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

Rulemaking 10-05-005
(Filed May 6, 2010)

**REPLY COMMENTS OF
SOUTHWEST GAS CORPORATION
(U 905 G)**

Catherine M. Mazzeo
Senior Counsel
Southwest Gas Corporation
5241 Spring Mountain Road
Las Vegas, NV 89150-0002
Phone: (702) 876-7250
Fax: (702) 252-7283
Email: *catherine.mazzeo@swgas.com*

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10 **I.**
11 **INTRODUCTION**

12 On May 12, 2010, the California Public Utilities Commission ("Commission") issued
13 an Order Instituting Rulemaking on the Commission's Own Motion to Consider Revising
14 Energy Tariff Rules Related to Deposits and Adjusting Bills as They Affect Small Business
15 Customers ("OIR") and Preliminary Scoping Memo, to determine if utility tariff rules should
16 be revised and/or updated. The proposed revisions consider whether micro-businesses,
17 as defined by Government Code Section 14837¹, should be treated the same as residential
18 customers for specific billing and deposit purposes. The Commission requested that
19 parties file opening comments on or before June 14, 2010, and reply comments on or
20 before June 28, 2010². Southwest Gas Corporation ("Southwest" or "Company") submits
21 the following Reply Comments in response to the comments filed by the other parties to
22 this rulemaking.

23
24
25 ¹ Although footnote 1 of the OIR defines micro-businesses as having average annual gross receipts of two million
26 seven hundred and fifty thousand dollars (\$2,750,000) or less over the previous three years, Southwest is informed
27 and believes that in 2009 the Department of General Services ("DGS") increased this amount to three million five
28 hundred thousand dollars (\$3,500,000) in accordance with Government Code Section 14837(3). For purposes of
these comments, Southwest will assume the Commission intends for the \$3,500,000 figure to apply.

² Initially, the Commission requested that opening comments be filed by June 7, 2010, with reply comments filed on
or before June 21, 2010. However, on May 27, 2010, the Commission's Executive Director granted the parties a
seven (7) day extension in order to accommodate any utility and/or Commission staff working simultaneously on this
docket and docket 10-02-005.

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**II.
REPLY COMMENTS**

The Commission's Preliminary Scoping Memo requests that the parties comment on the primary question of whether it is "good and fair policy to treat a 'micro-business'...the same as residential customers only in terms of back-billing and deposit requirements", by way of changes to each utility's tariff rule 1 (Definitions), as well as each utility's tariff rules concerning bill adjustments (Rule 17 of Southwest's tariff) and deposit requirements (Rule 7 of Southwest's tariff)(collectively, "proposed tariff changes")³. The proposed tariff changes would require utilities to only back-bill micro-business customers for periods of up to 3 months, rather than 3 years, consistent with back-billings for residential customers. Further, the proposed tariff changes would prevent the utilities from charging micro-business customers additional deposits to re-establish credit upon slow-payment or non-payment of bills, or following a disconnection.

1) Identifying Micro-business Customers.

A majority of the other parties suggest that utilities should identify micro-business customers according to their energy usage, rather than following the established definition set forth in the California Government Code and utilizing the mechanisms developed by DGS to determine if a customer has been certified as a micro-business. Essentially, a customer class would be created that affords any business customer (regardless of its revenues) the benefit of residential treatment for back-billing and deposits, based upon the number of kilowatts or therms it uses in a given period. However, because there is no connection between a customer's revenues and its energy usage, this proposal appears to generate more problems than it solves.

a) Risk of over-inclusion.

A significant risk associated with the "customer class" approach is that it will almost certainly extend beyond the scope of the OIR by including businesses that would not

³ The Preliminary Scoping Memo also addresses the Commission's desire to explore, through the workshop, the rationale for refunding billing errors for a period of up to three (3) years of bills, and refunding metering errors for a period of only six (6) months.

1 otherwise satisfy the micro-business definition.⁴ This is especially true for Southwest who,
2 based on usage, has little diversity amongst its non-residential customers. For instance,
3 using a model that creates a customer class based upon annual usage of 10,000 therms or
4 less⁵, the proposed tariff changes would apply to 94% of the non-residential customers in
5 Southwest's California service territories. Similarly, a model that creates a customer class
6 based upon usage of 4,000 therms or less per month⁶ would encompass 99% of the non-
7 residential customers located within Southwest's California service territories.

8 Southwest does not believe that the Commission intends for the proposed tariff
9 changes to apply so broadly that virtually all non-residential customers are treated the
10 same as residential customers for the purposes of back-billing and deposits. To do so
11 would not only lessen the benefit that the Commission seeks to provide to a specified
12 group of small businesses, but would potentially increase the utilities' bad debt and create
13 an undue burden on other ratepayers.

14 **b) Other questions raised by this approach.**

15 Creating a customer class based on usage poses many other issues for
16 consideration including, but not limited to, the following:

- 17 1. How to treat a customer that qualifies for the new customer class under
18 one utility's criteria, but not another's.⁷
- 19 2. How to address customers who frequently move in and out of the
20 customer class due to their usage, and/or seasonal customers who might
21 be in the new customer class for several months while usage is low and
22

23 _____
24 ⁴ To a lesser degree, a customer class based on usage also has the potential to exclude qualifying micro-business
25 customers from the proposed tariff changes. Under the "customer class" approach, which does not consider
26 revenue, it is possible that some small business customers who are struggling financially will be unaffected by the
27 proposed tariff changes for the sole reason that they use more energy than other small business customers.

28 ⁵ Opening Comments of San Diego Gas & Electric Company and Southern California Gas Company, at pg. 8.

⁶ Opening Comments of Pacific Gas & Electric Company, at pg. 3.

⁷ A possible resolution to this issue would be to establish data sharing between the electric and gas utilities so that
once a customer is confirmed to be a micro-business for one utility's purposes, the customer's account can be
flagged accordingly in the other utility's records.

1 then move out of the new class for several months as their usage
2 increases.

- 3 3. How to treat customers with multiple meters. Since multiple meters are
4 generally treated as individual customers for billing purposes, a customer
5 may be included within the new customer class based upon readings from
6 one meter when, in actuality, its usage may be much greater.

7 **2) Implementing the Proposed Tariff Changes.**

8 As discussed in its Opening Comments, Southwest does not believe that blanket
9 tariff changes are necessary or appropriate in this instance, given the unique aspects of
10 each utility's customer base and service territories. With specific regard to the proposed
11 deposit rule (that would require utilities to waive deposits to re-establish credit for micro-
12 business customers upon slow-payment or non-payment of bills, or following a
13 disconnection), Southwest believes that those utilities not subject to the Proposed Interim
14 Decision in R.10-02-005, should not be subject to the application of a similar rule in this
15 OIR. Although it appreciates the Commission's efforts to provide assistance to this target
16 group of small business customers, Southwest reiterates its position that, in lieu of the
17 proposed tariff changes, utilities should be allowed the continued flexibility to work with
18 their micro-business customers on an individual basis to resolve specific back-billing and
19 deposit concerns. This position is shared by several other respondent utilities.

20
21 **III.
CONCLUSION**

22 Southwest appreciates the opportunity to provide Reply Comments regarding the
23 issues raised in this rulemaking. As set forth in its Opening Comments, Southwest
24 believes that the California Government Code provides a clear and workable definition of a
25 micro-business, and that the DGS has mechanisms already in place that will enable the
26 utilities to identify their micro-business customers in a uniform manner that is consistent
27 with the definition. However, irrespective of how micro-businesses would be identified,
28 Southwest continues to oppose the idea of tariff changes that apply to all of the utilities in

1 the same manner. Southwest believes that, given its success in working with its customers
2 on a case-by-case basis to resolve back-billing and deposit concerns, it should be exempt
3 from any rules adopted by the Commission as a result of this rulemaking. Southwest will
4 continue to actively participate in this docket and looks forward to working with the
5 Commission and the other parties at the upcoming workshop.

6 Dated this 28th day of June, 2010 at Las Vegas, Nevada.

7 SOUTHWEST GAS CORPORATION
8

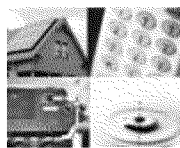
9 /s/ Catherine M. Mazzeo
10 Catherine M. Mazzeo
11 Senior Counsel
12 Southwest Gas Corporation
13 5241 Spring Mountain Road
14 Las Vegas, Nevada 89150-0002
15 Phone: (702) 876-7250
16 Fax: (702) 252-7283
17 E-Mail: *catherine.mazzeo@swgas.com*
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I have this day served the foregoing REPLY COMMENTS OF
3 SOUTHWEST GAS CORPORATION (U 905 G) upon the individuals on the established
4 service list in proceeding R.10-05-005 by electronic mail (email) service. Those individuals
5 without an email address were served by regular, first-class mail.

6 Dated this 28th day of June, 2010 at Las Vegas, Nevada.

7
8
9 /s/ Valerie J. Ontiveroz
10 Valerie J. Ontiveroz
11 State Regulatory Affairs
12 Southwest Gas Corporation
13 5241 Spring Mountain Road
14 Las Vegas, Nevada 89150-0002
15 Phone: (702) 876-7323
16 E-mail: *valerie.ontiveroz@swgas.com*
17
18
19
20
21
22
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24
25
26
27
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Parties

CATHERINE MAZZEO
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510
FOR: SOUTHWEST GAS CORPORATION

FADIA RAFEEDIE KHOURY
ATTORNEY
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVE., PO BOX 800
ROSEMEAD, CA 91770
FOR: SOUTHERN CALIFORNIA EDISON COMPANY

NGUYEN QUAN
MGR - REGULATORY AFFAIRS
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BOULEVARD
SAN DIMAS, CA 91773
FOR: GOLDEN STATE WATER COMPANY

DANIEL A. KING
SEMPRA GENERATION
101 ASH STREET, HQ 14
SAN DIEGO, CA 92101
FOR: SEMPRA GENERATION

KIM F. HASSAN
SOUTHERN CALIFORNIA GAS COMPANY
101 ASH STREET, HQ-12
SAN DIEGO, CA 92101
FOR: SOUTHERN CALIFORNIA GAS COMPANY

MARION PELEO
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214
FOR: DIVISION OF RATEPAYER ADVOCATES

NINA SUETAKE
THE UTILITY REFORM NETWORK
115 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94104
FOR: THE UTILITY REFORM NETWORK

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

Information Only

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6/28/2010
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GREGORY HEALY
SOCALGAS/SDG&E
EMAIL ONLY
EMAIL ONLY, CA 00000

STEPHANIE C. CHEN
THE GREENLINING INSTITUTE
EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: THE GREENLINING INSTITUTE

DONALD L. SODERBERG
VP - PRICING & TARIFFS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD / BOX 98510
LAS VEGAS, NV 89150
FOR: SOUTHWEST GAS CORPORATION

VALERIE J. ONTIVEROZ
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150

BROOKS CONGDON
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

TREVOR DILLARD
SIERRA PACIFIC POWER COMPANY
6100 NEIL ROAD, MS S4A50 / PO BOX 10100
RENO, NV 89520-0024
FOR: SIERRA PACIFIC POWER COMPANY

F. E. JOHN
VP - REGULATORY AFFAIRS
SOUTHERN CALIFORNIA GAS COMPANY
720 WEST 8TH STREET
LOS ANGELES, CA 90017
FOR: SOUTHERN CALIFORNIA GAS COMPANY

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

RONALD MOORE
SR. REGULATORY ANALYST
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BLVD.
SAN DIMAS, CA 91773
FOR: GOLDEN STATE WATER COMPANY

KEITH SWITZER
VA - REGULATORY AFFAIRS
GOLDEN STATE WATER COMPANY
630 EAST FOOTHILL BOULEVARD
SAN DIMAS, CA 91773-9016
FOR: GOLDEN STATE WATER COMPANY

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

CPUC FILE ADMINISTRATION
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

CALIFORNIA ENERGY MARKETS
425 DIVISADERO ST. STE 303
SAN FRANCISCO, CA 94117-2242

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

CASE COORDINATION
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B9A
SAN FRANCISCO, CA 94177

RONALD JANG
PACIFIC GAS AND ELECTRIC COMPANY
PO BOX 770000; MC B10B
SAN FRANCISCO, CA 94177

ALICIA MILLER
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, 2ND FLOOR
BERKELEY, CA 94704

JEAN CHUNG
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, 2ND FLOOR
BERKELEY, CA 94704

MIKE LAMOND
CHIEF FINANCIAL OFFICER

JOY A. WARREN
MODESTO IRRIGATION DISTRICT

ALPINE NATURAL GAS OPERATING CO. #1 LLC 1231 11TH STREET
 PO BOX 550 MODESTO, CA 95354
 VALLEY SPRINGS, CA 95252
 FOR: ALPINE NATURAL GAS OPERATING
 COMPANY

JOHN DUTCHER
 MOUNTAIN UTILITIES
 PO BOX 205
 KIRKWOOD, CA 95646
 FOR: MOUNTAIN UTILITIES

RAYMOND J. CZAHAR
 CHIEF FINANCIAL OFFICER
 WEST COAST GAS COMPANY
 9203 BEATTY DRIVE
 SACRAMENTO, CA 95826
 FOR: WEST COAST GAS COMPANY

CATHIE ALLEN
 DIR., REGULATORY AFFAIRS
 PACIFICORP
 825 NE MULTNOMAH STREET, SUITE 2000
 PORTLAND, OR 97232
 FOR: PACIFICORP

State Service

DRISHA MELTON
 CALIF PUBLIC UTILITIES COMMISSION
 CONSUMER SERVICE AND INFORMATION DIVISIO
 320 WEST 4TH STREET SUITE 500
 LOS ANGELES, CA 90013

BRUCE DEBERRY
 CALIF PUBLIC UTILITIES COMMISSION
 DIVISION OF ADMINISTRATIVE LAW JUDGES
 ROOM 5043
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

KAREN WATTS-ZAGHA
 CALIF PUBLIC UTILITIES COMMISSION
 ENERGY PRICING AND CUSTOMER PROGRAMS BRA
 ROOM 4104
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

LEE-WHEI TAN
 CALIF PUBLIC UTILITIES COMMISSION
 ENERGY PRICING AND CUSTOMER PROGRAMS BRA
 ROOM 4102
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

MARZIA ZAFAR
 CALIF PUBLIC UTILITIES COMMISSION
 PUBLIC ADVISOR OFFICE
 ROOM 2-B
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

STEPHANIE GREEN
 CALIF PUBLIC UTILITIES COMMISSION
 PUBLIC ADVISOR OFFICE
 AREA 2-B
 505 VAN NESS AVENUE
 SAN FRANCISCO, CA 94102-3214

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