

**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 THE UTILITY REFORM NETWORK
IN RULEMAKING 10-05-005**



June 28, 2010

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Pursuant to Rule 6.2 of the Rules of Practice and Procedure of the Public Utilities Commission ("Commission"), The Utility Reform Network ("TURN") hereby submits the following comments in reply to the opening comments of the Division of Ratepayer Advocates ("DRA"), Southern California Edison Company ("SCE"), San Diego Gas and Electric Company and Southern California Gas Company (collectively "Sempra"), Pacific Gas and Electric Company ("PG&E"), the Greenlining Institute ("Greenlining"), PacifiCorp, and Golden State Water Company ("Golden State").

1. The Commission should not primarily rely on the Government Code definition of "micro-business" to define small businesses.

In the opening comments, nearly all the parties stated their concern over the definition of small business to which the Commission would apply its proposed revisions to policies governing utility back-billing and deposit practices. Sempra and SCE both explained¹ that the use of the Government Code definition of "micro-business" for identifying small businesses to which this Rulemaking would apply is unworkable. PG&E, Golden State, and PacifiCorp similarly expressed their concerns regarding the proposed definition of small business.²

The opening comments indicate that the Government Code definition of micro-business³ is an impractical definition to apply to utility billing and deposit practices for

¹ Sempra Opening Comments, p. 4-6; SCE Opening Comments, p. 5-7.

² PG&E Opening Comments, p. 1-2; Golden State Opening Comments p. 6-8; PacifiCorp Opening Comments, p. 1-3.

³ Government Code Section 14837 defines a "micro-business" as a small business that, together with

several reasons. First, the Government Code definition classifies business based on gross income, business type and employee count, factors which have no relevance and application in the utility industry⁴ and the utilities do not currently collect such data on their business customers.⁵ Second, obtaining the required information from small businesses would require either the utilities to consult with the state's list of micro-businesses, which may be incomplete and out of date, or require customers to self-certify, which may create significant administrative burdens for the utilities and may deter some eligible businesses from certifying.⁶ Third, the potential for revenue and workforce numbers to fluctuate wildly over a short period would create additional difficulties for the utilities because it could mean that the eligibility of small business customers could shift on a yearly basis.⁷

TURN shares these concerns and urges the Commission to reconsider its proposal to use the Government Code definition of micro-business as the sole basis for their proposed rule changes. SCE, the Sempra, PG&E and PacifiCorp have suggested in their opening comments that, for the purposes of this proceeding, the Commission define "small business customer" according to energy usage. TURN does not oppose this approach, but recommends that the Commission define "small business customer" by the same energy usage for all regulated utilities under its jurisdiction so that all small business customers are treated the same throughout the state.

TURN is concerned that there may be some population of small business customers that, although truly micro-businesses, may be ineligible under a usage definition due to disproportionately high usage. To mitigate this problem, TURN proposes that customers should be able to qualify as small businesses even if their energy usage is higher than the threshold level chosen by the Commission for this proceeding if they otherwise meet the definition of "micro-business" provided in the Government Code.

affiliates, has average annual gross receipts of two million seven hundred and fifty thousand dollars (\$2,750,000) or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 25 or fewer employees.

⁴ Sempra Opening Comments, p. 4.

⁵ SCE Opening Comments, p. 6; Sempra Opening Comments, p. 5; PacifiCorp, p. 3.

⁶ SCE Opening Comments, p. 6; Sempra Opening Comments, p. 6; PG&E Opening Comments, p. 2.

⁷ SCE Opening Comments, p. 6-7.

2. The Commission should treat small businesses like residential customers for the purposes of back-bills.

TURN notes that while Sempra and SCE unambiguously proposed to limit back-bills to three months for eligible businesses, PG&E, in an attempt to thwart the proposed changes to its billing practices, throws out incredibly weak arguments of precedent and decades-old difficulties in re-defining customer eligibility. The Commission should not be swayed from its intent to assist California's small businesses by PG&E's arguments, and the Commission should limit back-bills for metering or billing errors for small business customers to three months.

TURN agrees with and shares Greenlining's concern over how SmartMeter errors will be classified for the purposes of issuing back-bills or refunds.⁸ TURN also agrees with Greenlining that the Commission should address whether the various types of SmartMeter related errors will be classified as billing, metering, or whether they should have a separate classification.

3. The Commission should treat small businesses like residential customers for the purposes of deposits.

TURN was pleased to note that both PG&E and Sempra indicated that they would eliminate re-establishment of credit deposits for small businesses that are caused by slow or late repayment of a back-bill.⁹ However, TURN urges the Commission to provide more assistance to small businesses by treating them the same as residential customers with respect to deposits. The Commission recently proposed revisions to the deposit policies for residential customers which would eliminate re-establishment of credit deposits for late payment and directs the utilities to collect a reestablishment of credit deposit following a disconnection based on twice the average monthly bill rather than twice the maximum monthly bill.¹⁰ Current rules for small business customer deposits place a significant financial strain on businesses that are already facing difficulties due to

⁸ Greenlining Opening Comments, p. 5-6.

⁹ PG&E Opening Comments, p. 6; Sempra Opening Comments, p. 8.

¹⁰ Proposed Decision of Commissioner Grueneich in R.10-02-005, The Commission's Order Instituting Rulemaking on the Commission's Own Motion to Address the Issue of Customers' Electric and Natural Gas Service Disconnection, mailed 6/17/2010.

economic conditions. TURN urges the Commission to apply these same policies to utility deposit practices for small businesses in order to alleviate some of the difficulties and protect the economic viability of California businesses.

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Respectfully submitted,

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