

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 DIVISION OF RATEPAYER ADVOCATES ON  
RULEMAKING TO CONSIDER REVISING ENERGY UTILITY TARIFF  
RULES RELATED TO DEPOSITS AND ADJUSTING BILLS AS THEY AFFECT  
SMALL BUSINESS CUSTOMERS**

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THEY AFFECT SMALL BUSINESS CUSTOMERS**

**I. INTRODUCTION**

In accordance with Rule 6.2 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure and with the procedural schedule established for this proceeding, the Division of Ratepayer Advocates ("DRA") offers these reply comments regarding the Commission's order instituting rulemaking ("Rulemaking") to consider treating specified small business customers the same as residential customers for purposes of billing errors and deposits with regard to service provided by investor-owned energy utilities.

DRA concurs with other parties' opening comments that it is timely and important for the Commission to improve utility rebilling rules for small business customers.<sup>1</sup> As several parties point out, the last time the Commission considered

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<sup>1</sup> See Southern California Edison Company's Opening Comments on the Order Instituting Rulemaking to Consider Revising Energy Utility Tariff Rules Related to Deposits and Adjusting Bills As They Affect Small Business Customers ("SCE OC"), p.2; Opening Comments of San Diego Gas & Electric Company and Southern California Gas Company ("Sempra Utilities OC"), p.2; Opening Comments of the Greenlining Institute ("Greenlining OC"), p.1.

these rules was in 1986 and a second look is warranted at this time. Parties' opening comments identify several meaningful yet simple changes the Commission can make to ensure small business customers are not unduly harmed by utility-side metering and billing errors. The opening comments provide the Commission ample options for adjusting the rules to protect the small business customers without causing or shifting costs to the utilities or ratepayers.

Specifically, DRA addresses the following proposals:

- Reduce the re-billing period from three years to three months for small business customers.
- Eliminate reestablishment of credit deposits caused in whole or in part from a backbill.

These modifications should not cause any additional costs and are within the utilities' normal scope of operations. Nonetheless, if the utilities identify any such costs, these should be presented in the utilities' General Rate Case ("GRC") applications. This proceeding should not be diverted to utility cost recovery issues from its primary focus on creating appropriate rules for small business customers.

The Commission can further strengthen small business assistance by having the utilities identify and share common practices designed to help small business customers better manage their energy bills.

## **II. DISCUSSION**

### **A. Small business customers should be backbilled for no more than three months of utility-side billing and metering errors.**

There is widespread agreement among the Parties that small business customers should be treated similar to residential customers with respect to backbilling caused by utility billing and metering errors. Utilities should backbill small business customers for no more than three months of utility-side billing and metering errors. San Diego Gas & Electric Company and Southern California Gas Company (jointly, "Sempra Utilities") of their own initiative propose limiting

backbills to three months for customers using less than 40,000 kilowatt hours per year or 10,000 therms per year.<sup>2</sup> Southern California Edison Company (“SCE”) also suggests reducing the backbill period to three months for customers in its GS-1 rate group.<sup>3</sup> Bear Valley Electric Service is generally in favor of treating small business customers the same as residential customers as proposed in the Rulemaking.<sup>4</sup> The Utility Reform Network and the Greenlining Institute, as well as DRA, describe the necessity of reducing backbills from three years to three months, and recommend doing so.<sup>5</sup>

**B. Reestablishment of credit deposits caused in whole or in part from a backbill should be eliminated.**

On the basis of fair and balanced treatment, both Pacific Gas and Electric Company (“PG&E”) and the Sempra Utilities propose eliminating deposits to small business customers that stem in whole or in part from backbills.<sup>6</sup> DRA commends this step forward on the initiative of the utilities. Even if backbills are reduced from three years to three months, no small business should be assessed a deposit stemming from an unexpected backbill that a small business could have no way of expecting or planning for.

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<sup>2</sup> See Sempra Utilities OC, p.8.

<sup>3</sup> See SCE OC, p.2. Customers in the GS-1 rate group all have actual or expected electric demand of 20 kw or less (see SCE OC, p.7) and 467,000 of SCE’s 689,000 commercial customers are schedules in the GS-1 rate group (see SCE OC, p.8).

<sup>4</sup> See Bear Valley Electric Service Opening Comments, p.8.

<sup>5</sup> See Opening Comments of The Utility Reform Network in Rulemaking 10-05-005, p.4; Opening Comments of the Division of Ratepayer Advocates on the Order Instituting Rulemaking to Consider Revising Energy Utility Tariff Rules Related to Deposits and Adjusting Bills As They Affect Small Business Customers, p.2.

<sup>6</sup> See Sempra Utilities OC, p.8; Pacific Gas and Electric Company’s Opening Comments (“PG&E OC”), p.6.

**C. The Sempra Utilities’ and PG&E’s claims for cost recovery should be denied.**

The Sempra Utilities suggest that the Commission establish a method for the utilities to recover costs stemming from this proceeding.<sup>7</sup> PG&E takes a more limited approach, saying, “In the event the Commission makes major changes limiting the collection of deposits, PG&E would seek to recover the incremental write-off costs.”<sup>8</sup>

**1. Treating small business fairly should not impose costs.**

Removing burdens to small business for utility-side metering and billing errors should not cause any costs. The utility should be at risk for its errors. It is difficult to understand how rebalancing rules to create more fair and equitable treatment for small business causes costs. In the case of a utility undercharge due to a utility-side metering or billing error where the utility is not able to catch the error within three months and collect the entire amount for energy consumed, the utility, not the overall body of ratepayers and certainly not the unfortunate customer, should bear the cost.

**2. Granting cost recovery for similar types of tariff revisions is unprecedented.**

The Commission has previously changed backbilling and deposit rules affecting small business customers without associated cost recovery. Decision (“D.”) 85-09-010 and D.86-06-035 undertook comprehensive review of retroactive billing by gas and electric utilities to correct alleged meter underbillings due to meter error and meter fraud. In addition, the Commission changed deposit requirements and associated tariffs in its approval of SCE Advice Letter 817-E and

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<sup>7</sup> See Sempra Utilities OC, pp. 9-10.

<sup>8</sup> PG&E OC, p.6.

Resolution E-3159; no cost recovery was authorized. Similarly, utilities should not be granted cost recovery in this proceeding.

The Commission should direct utilities to include any claims for cost recovery in their GRC applications if they still contend that cost recovery is warranted. In this way, such claims can be properly considered in the context of overall utility operations.

**3. General Rate Cases are the appropriate proceedings in which to consider the cost and benefit impacts to utilities and all ratepayers.**

The utilities present the potential costs of reducing backbilling to three months but do not present the potential savings such as reducing complaints and call time associated with longer and larger backbills. Nor do they explain how re-programming systems to change deposit policies is incremental to any changes they make to systems to adjust deposits in the normal course of credit and collections activities. These are just two examples of why cost recovery is most appropriately considered in the context of GRCs.

**D. To better assist small businesses, the utilities should identify and promote deposit alternatives and flexible payment schedules for deposits.**

SCE indicates that it offers Direct Pay as an alternative to paying a deposit and allows the deposit to be billed over time.<sup>9</sup> The Sempra Utilities also describe offering alternatives to paying cash credit deposits. And each utility's Tariff Rule 6 states that a customer may establish credit by furnishing a guarantor in lieu of paying a cash deposit. These types of existing options are a win-win-win for ratepayers, utilities and the small business customers. Deposit alternatives still protect ratepayers and the utilities from any bad debt that is incurred from unsecured accounts. The small business customer is not required to come up

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<sup>9</sup> See SCE OC, p.14.

immediately with cash that may be critical to keeping the business afloat at that particular time. DRA recommends that the Commission determine specifically how these options are presented to small business customers and encourage greater promotion of these types of options, if needed. Additionally, the Commission may wish to direct the utilities to allow these types of alternatives to cash deposits to be used both for establishment and reestablishment of credit, in the event they are not already offered in both situations.

**E. The procedural schedule should provide adequate opportunity to fully utilize the data to be provided by the utilities on July 9.**

The Commission today added several key dates to the schedule for this proceeding, and propounded a data request soliciting valuable information from the utilities. The schedule now provides for the utilities' data responses to be due on July 9, a workshop report to be available July 28, and opening and reply comments on the workshop report to be due August 9 and 19, respectively. DRA appreciates the data already provided in some of the parties' opening comments and looks forward to analyzing the additional data sought by the Commission today. DRA is supportive of the Commission's intent to fully develop the record and resolve the issues as expeditiously as possible, and DRA will work quickly to assimilate the information exchanged in the workshop and data request responses within the timeframe laid out by the Commission. DRA, however, requests that the Commission permit adequate time to review and incorporate the pending data into the record of this proceeding.

**III. CONCLUSION**

DRA believes this Rulemaking can bring swift relief to small business customers through the changes identified in DRA's opening and reply comments. DRA respectfully requests that its recommendations in this Rulemaking be adopted.

Respectfully submitted,

/s/ MARION PELEO

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June 28, 2010



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON RULEMAKING TO CONSIDER REVISING ENERGY UTILITY TARIFF RULES RELATED TO DEPOSITS AND ADJUSTING BILLS AS THEY AFFECT SMALL BUSINESS CUSTOMERS**” to the official service list in **R.10-05-005** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

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

/s/ ALBERT HILL

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Albert Hill

**SERVICE LIST**  
**R.10-05-005**

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