

**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)

**COMMENTS OF THE UTILITY REFORM NETWORK ON THE SMALL
BUSINESS AND COMMUNITY OUTREACH STAFF REPORT IN
RULEMAKING 10-05-005**



August 6, 2010

Nina Suetake
Staff Attorney

THE UTILITY REFORM NETWORK
115 Sansome Street, 9th Floor
San Francisco, CA 94104
Phone: (415) 929-8876
Fax: (415) 929-1132
Email: nsuetake@turn.org

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I. INTRODUCTION

Pursuant to the Administrative Law Judge's Ruling Providing Opportunity for Comments on Staff Report issued on July 28, 2010 in Rulemaking 10-05-005, The Utility Reform Network (TURN) respectfully submits these opening comments on the Small Business Program Staff Report (Report) on the July 6, 2010 Workshop on utility back-billing and deposit practices. In the Report, the Commission's Business and Community Outreach Staff (Staff) summarized the comments made by parties during the workshop and provided the Staff's recommended modifications to utility back-billing and deposit practices.

II. BACK-BILLING

In the Report the Staff recommended that small businesses should only be back-billed up to three months, instead of the three years for which they can currently be back-billed.¹ The Staff also recommended that small businesses will not be required to re-establish credit resulting from slow payment of any back-billed amount.² Finally, the

¹ Small Business Program Staff Report on the Workshop on Back-billing and Deposits Rulemaking 10-05-005 (July 29, 2010), p. 18.

² *Id.*

Staff recommended that utility tariffs be updated to correct the discrepancy between treatments of refunds for overcharging due to metering errors and due to billing errors so that residential and commercial customers would receive three years of refunds for either type of error.³

TURN wholeheartedly supports all three of the Staff’s recommendations addressing back-billing policy. TURN believes that all three of these modifications are important to the continued viability of small businesses in California in the current economic climate.

III. DEPOSITS

After reviewing responses from the utilities to Staff data requests and information provided by DRA on the deposit practices of other states, the Staff concluded that the current rules allowing utilities to collect two times the maximum monthly bill as a deposit from small businesses is “too high to manage comfortably.”⁴ The Staff therefore recommended that the Commission change the deposit practices so that the utilities could only request two times the monthly average bill as a deposit.

While TURN generally supports this modification to utility deposit practices, TURN notes that the Staff Report did not specifically address TURN’s recommendation in its opening comments to prohibit the collection of deposits for re-establishing credit for late or non-payment or following a disconnection.⁵ In Decision 10-07-048, the Commission directed the utilities to waive re-establishment of credit deposits for late payment of bills for residential customers as part of the Commission’s effort to reduce the

³ *Id.* at 19.

⁴ *Id.* at 20.

⁵ Opening Comments of The Utility Reform Network in Rulemaking 10-05-005 (June 14, 2010), p. 5.

number of residential customer disconnections.⁶ As TURN explained in its opening comments, if a small business customer is struggling financially to manage an arrearage and avoid shutoff, being required to pay a re-establishment of credit deposit would only increase the financial strain on that customer.⁷ TURN, therefore, recommends that the Commission waive re-establishment of credit deposits for late payments for small businesses as it did in D.10-07-048 for residential customers.

Finally, TURN supports the Staff recommendation that the utilities actively pursue creative credit and payment policies related to small business customer deposits, but TURN notes that the Report does not contain many specific recommendations to the utilities to modify their practices. TURN recognizes that the utilities need some flexibility in dealing with different customers and instances of late or non-payment and does not suggest that the Commission limit the utilities' ability to creatively resolve payment issues with its customers to a set list of required actions. However, if the Commission does not require some limited set of actions on the part of the utility, the Staff's recommendation that the utilities merely pursue creative policies will not ensure that small business customers will get any relief from current utility deposit practices. The only clear modification that the Staff recommended was for the utilities to institute a series of warning notices whereby a small business customers would be permitted one warning within the calendar year prior to any request for a deposit for late payment, and, as stated above, TURN requests that the Commission direct the utilities to waive re-establishment of credit deposits for late payments.

⁶ Interim Decision Implementing Methods to Decrease the Number of Gas and Electric Utility Service Disconnections, Decision 10-07-048 in Rulemaking10-02-005 (July 29, 2010), p. 32, Interim Order 3 and 4.

⁷ Opening Comments of The Utility Reform Network in Rulemaking 10-05-005 (June 14, 2010), p. 4.

TURN recommends that the Commission direct the utilities to develop an automatic payment plan that allows new customers or reconnecting customers a payment option that is in lieu of cash deposit for credit as the Commission did for residential customers in D.10-07-048.⁸ TURN also recommends that the Commission direct utilities to allow small business customers to pay re-establishment of credit deposits following a disconnection over at least a three-month period in order to lessen the financial impact of the deposit.

IV. CONCLUSION

TURN appreciates the efforts of the parties and the Business and Community Outreach Staff to collaboratively address the issues facing small businesses. While TURN wholeheartedly supports the recommendations for modifying back-billing practices, TURN urges the Commission to ensure the viability of California's small businesses by further modifying the utilities' deposit practices as TURN recommended in its above discussion.

Date: August 6, 2010

Respectfully submitted,

By: _____/s/_____
Nina Suetake
Staff Attorney

The Utility Reform Network
115 Sansome Street, 9th Floor
San Francisco, CA 94104
Phone: (415) 929-8876 x 308
Fax: (415) 929-1132
Email: nsuetake@turn.org

⁸ *Id.* at 33, Interim Order 5 and 6.