

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

Order Instituting Rulemaking on the Commission's Own Motion
to Address the Issue of Customers' Electric and Natural Gas
Service Disconnection.

Rulemaking 10-02-005
(Filed February 4, 2010)

**OPENING COMMENTS OF THE GREENLINING INSTITUTE
ON THE ADMINISTRATIVE LAW JUDGE'S RULING PROVIDING OPPORTUNITY FOR
COMMENTS AND ADDRESSING OTHER PHASE II ISSUES**

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I. INTRODUCTION

The Greenlining Institute (“Greenlining”) hereby files the following opening comments as directed by the Administrative Law Judge’s Ruling Providing Opportunity for Comments and Addressing Other Phase II Issues (the “Ruling”).¹ Greenlining commends the Commission for its leadership during this rulemaking proceeding. Much progress was made during the first phase of this proceeding, which culminated with an Interim Decision² that revised and implemented the various consumer protection measures of the Order Instituting Rulemaking (“OIR”).³ The Interim Decision also described those issues which would be addressed during the second phase of this proceeding.⁴ The Ruling however, significantly narrowed the scope of the issues to be addressed in this second phase (“Phase II”).⁵ The three issues the Ruling opened for comment are: (a) allowing customers to choose a monthly billing date; (b) defining sensitive customers; and (c) providing exceptions to deposit rules for certain customers.⁶ At the outset however, Greenlining would like to note that it is discouraged that the scope of Phase II has been so narrowly circumscribed by the Ruling. The Commission should take advantage of the momentum generated by its progress thus far and address all issues raised in the OIR and further specified in the Interim Decision.

¹ Administrative Law Judge’s Ruling Providing Opportunity for Comments and Addressing Other Phase II Issues, Rulemaking 10-02-005 (Aug. 26, 2010) (hereinafter “Ruling”).

² Interim Decision Implementing Methods to Decrease the Number of Gas and Electric Utility Service Disconnections, Decision 10-07-048 in Rulemaking 10-02-005 (July 30, 2010) (hereinafter “Interim Decision”).

³ Order Instituting Rulemaking to Establish Ways to Improve Customer Notification and Education to Decrease the Number of Gas and Electric Utility Service Disconnections, Rulemaking 10.02.005, Filed February 4, 2010 (hereinafter “OIR”).

⁴ Interim Decision, *supra* note 2, at 27-28.

⁵ Ruling, *supra* note 1, at 3-4.

⁶ *Id.* at Attachment A.

II. DISCUSSION

As noted above, Greenlining is concerned that two crucial issues, benchmarks and in-language access, are outside the scope of Phase II. Due to the importance of these two issues they will be discussed first. Specifically, the Commission should seek to correct the discrepancies between the disconnection rates of the Investor Owned Utilities (“Utilities” or “IOUs”) and between California Alternative Rates for Energy (“CARE”) customers and non-CARE customers by establishing a benchmark during Phase II. Moreover, the Commission should take this opportunity to ensure the IOUs provide adequate service for their non-English speaking customers.

Greenlining welcomes the opportunity to comment on the three issues which are included within the scope of Phase II, and will discuss each in turn. First, we will explain why customers should be allowed to choose their billing date and argue that the associated costs will be minimal or offset by fewer late or non-payments. Next, when a customer is considered to be in good standing, and thus exempt from further deposit requirements, must be clarified. Finally, Greenlining recommends the commission expand the definition of sensitive customers to protect a broader group of vulnerable customers.

A. Two Crucial Issues are Excluded from Phase II and Will Not Be Adequately Addressed in Alternate Fora.

Greenlining is concerned that two issues are excluded from the scope of Phase II and will not be adequately addressed in alternate fora. First, Greenlining notes the significant discrepancies in disconnection rates between customers who qualify for CARE and those who do not, as well as the discrepancy in disconnection rates between the IOUs. Greenlining was encouraged that the Interim Order acknowledged these two discrepancies and committed to address them in Phase II.⁷ However, the Ruling unfortunately defers consideration of these issues until the individual IOUs’ general rate cases (“GRCs”). Secondly, Greenlining has repeatedly stressed the need for better communication with customers with limited English proficiency.⁸ The Interim Decision indicated that both language access and the role of customer service representatives (“CSRs”) in assisting customers complete CARE applications would be addressed during Phase II.⁹ However, the Ruling indicates these issues will instead be considered in the

⁷ Interim Decision, *supra* note 2, at 27.

⁸ Opening Comments of the Greenlining Institute on the Proposed Decision of Commission Grueneich Entitled Interim Decision Implementing Methods to Decrease the Number of Gas and Electric Utility Service Disconnections 7, R.10.02.005 (July 7, 2010) (hereinafter “Greenlining OC on PD”); Reply Comments of the Greenlining Institute on the Commission’s Own Motion to Address the Issue of Customers’ Electric and Natural Gas Service Disconnections 8-10, R.10.02.005 (April 2, 2010) (hereinafter “Greenlining Reply Comments”); Joint Opening Comments of The Greenlining Institute and Disability Rights Advocates 8-11, R.10.02.005 (March 12, 2010).

⁹ Interim Decision, *supra* note 2, at 17-18, 27.

context of a “Pilot Program.”¹⁰ Greenlining recommends the Commission address these issues during Phase II, rather than deferring them to alternate fora for the following reasons.

1. The Commission should take steps to correct the discrepancies in disconnection rates by establishing a benchmark during Phase II of this proceeding.

The Ruling’s treatment of the discrepancies in disconnection rates is inadequate for a number of reasons. First and foremost, the Ruling overlooks the discrepancies between the various IOUs. Simply put, an individual Utility’s GRC cannot address the discrepancy among the several IOUs’ disconnection rates. Secondly, a GRC does not appear to be an adequate and timely forum to address the underlying factors causing the CARE/non-CARE discrepancy. For example, Pacific Gas and Electric Company is currently in the midst of its GRC, so the earliest the discrepancy could be addressed would be 2013. This does nothing to assist the most vulnerable customers at the time when they need it most: during this ongoing recession. Finally, the Interim Decision specifically stated that the causes of *and* solutions for the two discrepancies would be evaluated.¹¹ In contrast, the Ruling does not address these discrepancies with the same level of specificity.¹² Merely recognizing the two discrepancies is insufficient. The Commission should take this opportunity to take steps to ameliorate them.

The current economic recession is far from over. The Commission must have the ability to continue to monitor disconnection rates and act swiftly in the face of another spike. Greenlining has previously suggested that the Commission establish a benchmark for utility shutoffs in order to measure and track disconnection rates.¹³ DRA has repeatedly recommended the Commission use disconnection benchmarks as it seeks to lower service disconnections.¹⁴ Disability Rights Advocates agreed that benchmarks are appropriate and urged the Commission to address them if not in Phase I, then in Phase

¹⁰ Ruling, *supra* note 1, at 2.

¹¹ Interim Decision, *supra* note 2, at 27 (asking “How can we limit this discrepancy?” and whether certain policies or practices that should be adopted “in order to further decrease the number of customer service disconnection in the PG&E and SCE service territories?”).

¹² Ruling, *supra* note 1, at 2.

¹³ Reply Comments of the Greenlining Institute on the Proposed Decision of Commissioner Grueneich Entitled Interim Decision Implementing Methods to Decrease the Number of Gas and Electric Utility Service Disconnections at 1-2, R.10.02.005 (July 12, 2010) (hereinafter “Greenlining RC on PD”); Greenlining OC on PD, *supra* note 8, at 11-12.

¹⁴ Reply Comments of the Division of Ratepayer Advocates on Proposed Decision of Commissioner Grueneich at 1-2, R.20.02.005 (July 12, 2010); Opening Comments of the Division of Ratepayer Advocates on Proposed Decision of Commissioner Grueneich at 2-6, R.10.02.005 (July 7, 2010); Reply Comments of the Division of Ratepayer Advocates on Rulemaking to Address Electric and Natural Gas Service Disconnections at 5, R.10.02.005 (April 2, 2010) (hereinafter “DRA Reply Comments”).

II.¹⁵ TURN concurred with DRA and Greenlining and urged that the Commission should adopt benchmarks either in the Interim Decision or Phase II.¹⁶ These pleas regrettably went unanswered.

A benchmark will allow the Commission to know when a problem arises and could also specify the remedial consumer protection measures that should be implemented if the benchmark is exceeded. As Greenlining has previously pointed out, this will increase transparency, enable the IOUs to know in advance what measures it must implement, improve customer education and outreach, and spare the Commission another lengthy ad hoc proceeding.¹⁷ At what level to set a benchmark and which, if any, consumer protective measures exceeding it would trigger are issues that the Commission should address in Phase II. As such, Greenlining again urges the Commission to establish a benchmark so that it may continue to monitor and encourage lower rates of disconnection.

2. The Commission should ensure the IOUs provide adequate service for their non-English speaking customers.

Greenlining regrets that the Ruling declines to further the goals of the Interim Decision with respect to the role of the IOUs' CSRs and effective communications. The Interim Decision specifically found that "it is desirable that utilities offer to communicate with customers using the customer's language of choice."¹⁸ As such, the Interim decision stated that both in-language communication and the role of CSRs in educating and assisting customers complete CARE applications would be addressed in Phase II.¹⁹ As noted above however, the Ruling punts these two issues into a "Pilot Program."²⁰ Based on discussions with advisors, we understand this program will be an expansion of the Telecommunications Education and Assistance in Multiple Languages ("TEAM") Program into the electric and gas sectors.

Greenlining supports the expansion of the TEAM program and looks forward to working with the Commission to bring this to fruition. Greenlining recognizes the importance of working with community and faith based organizations, as they have preexisting ties and direct access to the communities they serve. Customers and utilities alike will benefit by relying on the expertise and relationships that community organizations have with the populations that they target. However, expansion of the TEAM program simply does not go far enough, as it is only one of many steps that should be taken. Specifically,

¹⁵ Disability Rights Advocates' Reply Comments on Interim Decision Implementing Methods To Decrease the Number of Gas and Electric Utility Service Disconnections at 4-5, R.10.02.005 (July 12, 2010).

¹⁶ Reply Comments of the Utility Reform Network on the Proposed Decision of Commissioner Grueneich 3, R.10.02.005 (July 12, 2010).

¹⁷ Greenlining RC on PD, *supra* note 13, at 2. Greenlining OC on PD, *supra* note 8, at 12.

¹⁸ Interim Decision, *supra* note 2, at 30 (finding of fact ¶ 11).

¹⁹ *Id.* at 27.

²⁰ Ruling, *supra* note 1, at 2.

it will not address the role of the utilities' customer service representatives in customer education and outreach. Instead, focusing only on TEAM will divert the onus and expense of customer outreach and relations from the well-funded IOUs to community based organizations, many of whom are also struggling in this tight economic climate. Moreover, it completely fails to address the question of whether customers should be able to choose their preferred language for utility communications. Having community organizations translate a bill for a customer is a valuable corollary, but should not be a replacement for in-language communications. The utilities, not community based organizations, bear the responsibility for educating and effectively communicating with their consumers.

Moreover, the expansion of TEAM does not address other language access issues which the Commission noted would be analyzed during Phase II. Specifically, the Commission recommended that the utilities investigate a single third-party language service entity for outsourced services. It appears that many of the utilities utilize the AT&T Language Line.²¹ Perhaps this is an acceptable solution, but other options should be considered. Greenlining has previously suggested a number of different practices, which would assist the IOUs meet customers language needs.²² For example, the utilities should consider the translation of all stock forms into the top six languages, as determined by Senate Bill 120.²³ Ideally, this would encompass all written communications to the customer, but at a minimum should include all forms relevant to disconnections. Moreover, while in-language billing capacities are being developed, the utilities should include on their bills and notices an in-language notification of where to receive help.²⁴ Finally, the utilities should train their field personnel to communicate effectively with non-English speaking customers. These and other solutions must be addressed by the Commission in the context of this proceeding. In-language communication is not just a preference; it is a necessity.

B. Customers Should be Able to Request Alternate Billing or Payment Dates.

In the OIR, the Commission inquired about what happened when a customer requests a monthly billing date that is different from the date assigned by the utility.²⁵ Greenlining is pleased that the Ruling

²¹ Interim Decision, *supra* note 2, at 18.

²² Greenlining Reply Comments, *supra* note 8, at 10 (suggesting a list of seven different practices ranging from media outreach to collection of language preference data).

²³ These languages are: English, Spanish, Chinese, Vietnamese, Tagalog, and Korean. CA Senate Bill 120 (2009) at 3, available at <http://info.sen.ca.gov/pub/09-10/bill/sen/sb_0101-0150/sb_120_bill_20091011_chaptered.pdf> (amending various provisions of the CAL. PUB. UTIL. CODE).

²⁴ Greenlining recommends that multiple language (consistent with SB 120) notice inserts and/or leave behind documents (if a customer is not home during an in-person field visit) contain the following language: "You are at risk for disconnection. We can help. You may be eligible for a payment plan. Please call [insert appropriate CSR number for that language]."

²⁵ OIR, *supra* note 3, at 9.

included this issue within the scope of Phase II.²⁶ The Ruling broke this issue into several sub-parts, each of which will be addressed in turn.

1. There are known advantages to allowing customers to select their own billing or payment date.

Many Californians are struggling to make ends meet. Allowing them to choose their billing or payment date will have significant advantages, both for the consumers and the utilities. The California Budget Project recently found that the “hourly wage needed to earn the basic family budget for families with children is three to four times the state’s minimum wage (\$8.00 per hour).”²⁷ Moreover, in California, a single parent must earn \$64,239 to support a family, and a two-working-parent family must earn \$75,500.²⁸ In contrast, the median household income in California is \$61,021.²⁹ This demonstrates that many customers live paycheck-to-paycheck, and thus their ability to pay is likely to depend on whether they have money available at the time the bill comes due.

This hypothesis is also borne out by real world examples. TURN noted that participants in a recent PG&E focus group indicated they have struggled to avoid disconnections in the past because of the “mismatch between their income cycles and utility billing cycles.”³⁰ If customers were permitted to align their income and billing cycles, they would be much less likely to face chronic late-fees and eventual disconnection. A number of consumer groups have recognized the advantages of allowing a customer to choose their billing or payment dates, and urged the Commission to implement rules accordingly.³¹ Greenlining likewise recommends that the utilities be required to: (i) inform customers negotiating payment plans that they may choose their billing or payment dates; and (ii) permit all customers, not just those whose account is in arrears or who are at risk of a disconnection, to choose their billing or payment dates.

²⁶ Ruling, *supra* note 1, at 2, att. A at ¶ 1.

²⁷ CALIFORNIA BUDGET PROJECT, MAKING ENDS MEET: HOW MUCH DOES IT COST TO RAISE A FAMILY IN CALIFORNIA? 5 ((2010) (this budget was based the amount families need to earn in order to achieve a modest standard of living without assistance from public programs and assumes full time employment for 40hrs per week, 52 weeks per year), *available at* <http://www.cbp.org/pdfs/2010/100624_Making_Ends_Meet.pdf>.

²⁸ *Id.* at 19.

²⁹ U.S. Census Bureau, 2008 American Community Survey 1-Year Estimates: California, http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=04000US06&-qr_name=ACS_2008_1YR_G00_DP3&-context=adp&-ds_name=&-tree_id=308&-_lang=en&-redoLog=false&-format= (last visited Sept. 13, 2010).

³⁰ Opening Comments of The Utility Reform Network at 32, R.10.02.005 (March 12, 2010) (hereinafter “TURN Opening Comments”).

³¹ DRA Reply Comments, *supra* note 14, at 11-12; TURN Opening Comments, *supra* note 30, at 32; Opening Comments of the National Consumer Law Center 9, R.10.02.005 (March 12, 2010); Comments of the City and County of San Francisco on the Order Instituting Rulemaking on the Commission’s Own Motion to Address the Issue of Customers’ Electric and Natural Gas Service Disconnection 4, R.10.02.005 (March 12, 2010).

2. Allowing customers to select their own billing or payment dates would result in fewer late payments and non-payments.

Based on the aforementioned advantages, it is intuitive that allowing customers to align their income and billing cycles would result in less late payments and non-payments. In fact, TURN has “received complaints from customers who have a history of paying late because the due date falls in between their pay periods and they are living paycheck to paycheck.”³² If late payments are caused by due dates that fall between pay-periods, it stands to reason that aligning these two cycles will reduce late and non-payments. Moreover, one utility has even noted that the timing of the bill and timing of the paycheck is the biggest factor in reducing write-offs.³³ Therefore, allowing customers to select their billing or payment dates will likely result in less slow or non-payments and will in turn reduce write-offs. This will inure to the benefit not only of the IOUs but to all ratepayers.

3. The potential complications and disadvantages of allowing customers to select their own billing or payment dates are *de minimis*.

Historically, billing dates were driven by when field personnel could physically read the meter to determine monthly usage. Moreover, some utilities have indicated that billing calculation and generation concerns restrict the ability to offer customized billing cycles.³⁴ Advanced Meter Infrastructure (AMI) and other technological advances should eliminate many of these concerns.

With the advent of AMI, the date of meter read and bill calculation issues should no longer be as pressing a concern. Presumably a consumer would be able to set the date upon which their “meter is read” and thus the date their bill is calculated from with very little complication. This could occur either by the consumer going to their online account and personally setting the billing date or calling a customer service representative to request a change in billing date. Moreover, AMI allows the utilities to bill customers for actual usage, rather than an estimated forecast of usage. This should be a much simpler automated process, thus removing much of the burden of billing estimation and calculation. This will enable the utilities to process more customer accounts per day.

Moreover, other technological advances will ensure that bill generation will become less administratively burdensome. These technologies include paperless billing and automated payment

³² TURN Opening Comments, *supra* note 30, at 32.

³³ DRA Reply Comments, *supra* note 14, at 11 (citing Southern California Edison, *Credit Scoring-Supporting Documents*, Credit and Payment Services, November 2002).

³⁴ Southern California Edison Company’s (U 228-E) Opening Comments On the Order Instituting Rulemaking to Establish Ways to Improve Customer Notification and Education to Decrease the Number of Gas and Electric Utility Service Disconnections 15, R.10.02.005 (March 12, 2010); Pacific Gas & Electric Company’s (U 39 M) Response to Questions Posed Scoping Memo and Related Issues 23, R.10.02.005 (March 12, 2010).

options. Rather than generating a physical bill, the utility need only post the balance to a customer's online account and/or automatically generate an email or text message as appropriate.

Greenlining acknowledges that billing calculation may indeed still be a concern for customers who do not yet have AMI technology. However, the simple solution to this problem would be to vary the payment date rather than the bill date. If the utility either lengthens the payment period or permits the customer to choose their payment date³⁵ the burden of shifting either the meter read or bill calculation date are alleviated. Simply put, there are numerous ways to offer customers flexibility with respect to billing and/or payment dates. If the utilities want to reap the rewards of advanced technologies, they must make these advantages available to customers as well.

4. The costs to the IOUs of offering flexible billing cycles should be minimal.

As noted above, while altering billing cycles may have historically imposed greater administrative costs, advances in technology should limit these costs. In addition, the costs of fewer slow payments and non-payments should offset, at least in part, any costs incurred by offering this added flexibility. Since associated costs will be minimal or offset, the IOUs should offer flexible billing and/or payment dates to all customers, not just those at risk of disconnection.

5. The costs to the IOUs of allowing only customers at risk of disconnection to select their own billing date should be negligible.

If the utilities demonstrate that the costs of allowing all customers to select their billing or payment dates are in fact significant and are likely to remain so, they should still offer this option to those customers at risk of disconnection. Customers at risk of disconnection are more likely to be living paycheck to paycheck and struggling to make ends meet. Allowing this limited class of customers to choose their bill or payment dates will increase the chances that payment plans are adhered to and reduce the likelihood of default.

C. The Commission Should Clarify When a Customer is Considered to be in “Good Standing” and the Waiver of Deposit Exceptions.

The Ruling posed three specific questions related to whether customers qualify as being in good standing. First, under what terms should a customer be considered to be in “good standing”? Second, under what terms should a customer no longer be considered to be in “good standing”? Finally, for customers no longer in “good standing,” which programs and exceptions should they no longer be

³⁵ Of course this could be limited to a date within a reasonable range. For example, a customer would be permitted to choose a payment date that falls within 30 days of the bill date. This would alleviate the burden for most customers who get paid on a bi-weekly or even monthly basis.

allowed to participate in? This discussion will be greatly informed by the IOUs' responses describing their current practices. However, Greenlining offers the following suggestions as a minimum standard for when a customer should be considered to be in good standing.

A preliminary issue is how to distinguish the different classes of customers. For the purposes of this discussion, Greenlining distinguishes between a new customer, a current customer, and a returning customer. A "New Customer" is one who has never held an account with the relevant utility before. A "Current Customer" is one who held their account in good standing for a period of twelve months, irrespective of whether that account is currently in arrears, the customer is on a payment plan, or the customer has been disconnected involuntarily. A "Returning Customer" is one who either: (i) has been disconnected voluntarily; or (ii) has been disconnected involuntarily and the break in service exceeds five months.

1. Terms under which a customer is considered to be in "good standing."

A New Customer should be considered to be in good standing if the customer either: (1) pays the establishment of credit deposit; (2) enrolls in an automatic payment plan ("APP"); (3) has a sufficient personal credit history; or (4) provides a letter confirming good standing from the customer's prior utility. A Current Customer shall be considered to be in good standing for so long as that customer does not fall within any of the categories listed below, Section II.C.2. A Returning Customer who voluntarily disconnected service should be considered to be in good standing if the customer was in good standing at time of disconnection and break in service is less than two years.

2. Terms under which a customer is no longer considered to be in "good standing."

A New Customer who establishes good standing by remitting a deposit should only be considered to not be in good standing if the cumulative amount in arrears exceeds the amount held in deposit for three consecutive months and the customer has not arranged a payment plan. A New Customer who establishes good standing by enrolling in an APP may be considered to no longer be in good standing if during the first twelve months any of the following occurs. First, if they voluntarily discontinue participation in such plan. Second, in the case of an automatic payment via a credit card, the card is declined on more than three occasions and the customer does not remit timely payment after notice thereof. Third, in the case of automatic payment from a bank account, there are insufficient funds in the bank account on more than three occasions and the customer does not remit timely payment after notice thereof. A New Customer who establishes good standing by having adequate personal credit or providing a letter of good standing from their prior utility should be treated like a Current Customer for the purposes of determining good standing.

Late or slow payment is not sufficient to deem a Current Customer not in good standing, unless there is a clear pattern of fraud. A Current Customer who was disconnected involuntarily but who pays their outstanding balance in full within five months should be considered to be in good standing and an additional reestablishment of credit deposit should not be required. If however a Current Customer is involuntarily disconnected more than twice in any twelve month period, an additional deposit may be required. A Current Customer who files for bankruptcy may be considered to no longer be in good standing however, the utility may only require a deposit if it is consistent with the Bankruptcy Code³⁶ and assessed in a manner that is reasonable and nondiscriminatory.

A Returning Customer who voluntarily disconnected service more than two years ago or was not in good standing at the time of disconnection should be treated like a New Customer for the purposes of determining good standing. A Returning Customer who was involuntarily disconnected and the break in service exceeded five months shall not be considered in good standing unless they arrange a payment plan to repay any amounts then owing and either remit an establishment of credit deposit or enroll in an APP.

3. Repercussions of no longer being considered in “good standing.”

A customer who is no longer in good standing may be required to pay an additional deposit, unless they qualify as CARE or FERA customer. Any customer assessed a deposit must be allowed to amortize the deposit over a period of three months. If a customer is no longer in good standing that customer should still be eligible for payment plan participation and automatic payment signup. Disallowing customers from such flexible payment options decreases the likelihood that they will be able to pay amounts due and owing. In fact, for some customers, this will be the only way they may be able to address arrearages and reestablish good standing.

4. APPs provide a partial but incomplete alternative to cash deposits.

APPs appear to provide a worthwhile alternative to cash deposits and Greenlining supports the Commission’s decision to require the utilities to maintain or implement APPs.³⁷ However, Greenlining has a number of concerns related to APPs. As discussed above, many customers live paycheck to paycheck and must be able to determine when an automatic debit to their account is posted. APPs will offer very little actual relief if the utility debits the customers account a day or two before a paycheck clears, providing the necessary funds. As such, if APPs are offered, they must be accompanied with additional customer education and outreach. Moreover, customers enrolling in an APP must be able to choose their payment date. Greenlining also notes that many households, especially low-income

³⁶ 11 U.S.C. § 366.

³⁷ Interim Decision, *supra* note 2, at 32-33 ¶¶5-7.

households, may not have a bank account. Consequently, APPs may not be able to help all customers who cannot afford a deposit at the time of reconnection or after late payments. As such, APPs present a partial, but not complete solution to the deposit exception question.

D. “Sensitive Customers” Should be Defined More Broadly.

The Interim Decision implements to measures intended to protect “sensitive customers” which are defined as customers on medical baseline or life support.³⁸ First, no sensitive customer “shall be disconnected without an in-person visit from a utility representative.”³⁹ Second, the utilities must provide “a field person who can collect on a bill during an in-person visit prior to disconnection” for sensitive customers.⁴⁰ Finally, remote shutoff technology is prohibited for sensitive customers.⁴¹ Greenlining agrees with the other parties that these protections should apply more broadly and thus, the definition of “sensitive customers” is too narrow.

“Sensitive Customers” should be defined to include not only customers on medical baseline or life support but also the following vulnerable groups. First, elderly customers should be protected and defined as follows: *customers who self identify that they or a full-time resident of the customer’s household are elderly (age 62 or older) and that disconnection of service could be life threatening to that individual.* Secondly, disabled customers should be included within this definition and defined as follows: *customers who self-identify that they or a full time resident of the customer’s household are a person with a disability, including but not limited to those customers who the Utility identifies in order to reach the D.08.11.031 Low Income Energy Efficiency Goal.* Finally, other vulnerable customers should be protected and defined as follows: *Customers who self-certify that they or a full-time resident of the customer’s household have a serious illness, which could become life threatening if service is disconnected.* Expanding the definition to include these three additional groups will protect crucial health and safety needs and safeguard against unnecessary injury or loss of life resulting from an uninformed disconnection.

Utilizing self certification should reduce some of the outreach and administrative costs of the IOUs. However, it does have one drawback: the consumer must be made aware that they may qualify for heightened protections if they self-certify as a sensitive customer. This is particularly relevant in the case of a newly or temporarily disabled person, such as someone recovering from a serious injury. As such,

³⁸ Interim Decision, *supra* note 2, at 20-22, 23.

³⁹ *Id.* at 32 ¶ 2.b.

⁴⁰ *Id.* at 34 ¶¶ 11-12.

⁴¹ *Id.* at 23. We note that this prohibition was included in the discussion of Remote Disconnections (§7.2.7) but was not included in a specific ordering paragraph.

the utilities should ensure that their CSRs are aware of and capable of educating consumers about the heightened protections that sensitive customers receive. In addition, information regarding the same should be conspicuously posted on the utilities' websites. These moderate consumer outreach methods should not be unduly burdensome for the utility.

III. CONCLUSION

The Commission's Interim Decision is commendable in implementing measures that will quickly reduce disconnection rates. However, the Interim Decision implements only temporary measures which may sunset before the California economy has fully recovered. As such, the Commission should take this opportunity to create a more lasting consumer protective legacy. This should include not only allowing customers to choose their billing date, expanding flexible payment options, and defining sensitive customers more broadly, but also addressing the issues of benchmarks and in-language communication. Greenlining respectfully requests that the Commission timely address the full panoply of issues which were outlined in the OIR.

Respectfully submitted,

Dated: September 15, 2010

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The Greenlining Institute

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion
to Address the Issue of Customers' Electric and Natural Gas
Service Disconnection.

Rulemaking 10-02-005
(Filed February 4, 2010)

CERTIFICATE OF SERVICE

I, Alicia Miller, am 18 years of age or older and a non-party to the within proceeding. I hereby certify that I have this day served a copy of

**OPENING COMMENTS OF THE GREENLINING INSTITUTE
ON THE ADMINISTRATIVE LAW JUDGE'S RULING PROVIDING OPPORTUNITY FOR
COMMENTS AND ADDRESSING OTHER PHASE II ISSUES**

on all known parties to R.10.02.005 by transmitting an e-mail message with the document attached to each party named in the official service list and by faxing or mailing a properly addressed copy by first-class mail with postage prepaid to those whose e-mail address is not available.

I certify that the foregoing is true and correct.

Executed in Berkeley, California on September 15, 2010.

/s/ Alicia F. Miller

Alicia F. Miller

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