

**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 12, 2010)

**OPENING COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY
(U 902 E) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) TO THE
DECISION REVISING TARIFF RULES FOR SMALL BUSINESS CUSTOMERS**

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October 18, 2010

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I. INTRODUCTION

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (the "Commission"), San Diego Gas & Electric Company ("SDG&E") and the Southern California Gas Company ("SoCalGas"), (collectively, the "Joint Utilities"), provide their Opening Comments to the Proposed Decision Revising Tariff Rules for Small Business Customers ("PD").

The Joint Utilities again commend the Commission for instituting this rulemaking to address the billing and deposit requirements for small business customers. Small business customers, like many residential customers, are facing severe financial hardship due to the recent recessed economy. The Joint Utilities recognize the importance of small businesses to the overall health of the State's economy and promote the Commission's overall goal of assisting small business customers. To that end, SDG&E and SoCalGas generally support the PD and propose the following revisions.

II. DISCUSSION

A. The PD Should Clarify the Definition of Small Business Customer.

With respect to the energy usage-based definition of small business customers, the PD should be revised to clarify that small business customers are defined as customers who use no more than 40,000 kWh/year or 10,000 therms/year. The PD, in footnote 1, erroneously defines uses the conjunction “and” rather than “or”, which could potentially result in the exclusion of many single-fuel small business customers.¹ In addition, with respect to the Government Code definition of small business, the PD should be revised to clarify that small business customers are defined as core non-residential customers with metered service and meet Section 14837 of Government Code’s definition of micro-business. This clarification would be helpful in removing any doubt that this provision does not apply to any non-core customers, including Marketers, Storage Brokers, or Energy Service Providers who do not directly utilize natural gas.

B. The Utilities Will Review the Status of Small Business Customers When Appropriate.

The PD anticipates that the “utilities will annually review the electric and gas usage of small business customers, or their qualification through Section 14837, and notify these customers if they no longer qualify.”² The PD’s proposal is inefficient because most of the small businesses are never subject to back-bills, and most are not subject to deposits more than once, if at all. As such, it would be a waste of utility time and ratepayer funds for the utilities to annually review the energy usage of all small business customers or their qualifications through Section 14837. Instead, the Joint Utilities propose to assess the energy usage-based status of

¹ With respect to the energy usage-based definition, the determination of small business customer will be made at the service point (meter) level and that treatment will vary by service point accordingly.

² PD, at p. 7.

customers or request small business customers to re-certify only if the customer is subject to a deposit or back-bill for greater than a 3 month period.³

C. Accurate Information Should Be Utilized to Determine Small Business Classification.

Section 4.2 of the PD should be clarified to ensure that utilities use accurate measurement information to classify customers as small business customers. The use of inaccurate information would interfere with the appropriate classification of customers as small business customers, including large energy intensive customers who do not meet the definition of micro-business as stated in Section 14837 of the Government Code. Corrected usage information should be used to help ensure that large, energy intensive customers who are much more aware of the consumption patterns of their operations are not provided an incentive to fail to notify utilities of obvious problems, or otherwise escape responsibility for paying for the energy which they have consumed. For these reasons, Section 4.2 should be modified to make certain that correct customer data is used to classify and identify customers as small business customers.

D. Customer's Most Recent 12 Month's of Consumption Should Be Utilized to Determine Small Business Customer Classification.

In footnote 6, the PD states that the energy usage-based definition of small business customers should be measured by electric and gas use ending in the most recent calendar year. However, use of calendar year information will likely prove problematic to determine the small business customer applicability under Section 14837 whenever less than 12 months of consumption is available.⁴ The Joint Utilities propose that the additional work and confusion caused by attempting to use a calendar year definition can easily be avoided by using customer

³ After analyzing the requirements needed to track and flag accounts as qualifying for small business treatment, SDG&E has determined that for billing and credit purposes, it will have to develop and implement an automated process that would allow for system-calculated qualifications and manual qualifications via section 14837. However, this will not be a small effort and will likely require an excess of 1000 hours of IT time.

⁴ See PD, at p. 7.

consumption from the most recent 12 monthly billing periods. In the event customers do not have 12 months of consumption, their available consumption should be used to estimate their consumption for a 12 month period and for purposes of small business customer classification. Use of customer consumption from the most recent 12 months will help to minimize the difficult process of determining classification based Section 14837 only for those few remaining customers whose adjusted consumption exceeds the established size limitation.

E. The Tariff Rules Should Sunset on January 31, 2012.

The Commission instituted this proceeding to reexamine back-bill and deposit rules for small businesses because of the concern that the economic recession was adversely affecting the welfare and development of these small businesses. The Joint Utilities, in their Opening Comments to the Rulemaking, requested that the Commission authorize that the small business tariff rules will be in effect until January 1, 2012, which is consistent with the timeframe adopted in the Residential Disconnection decision (D.10-07-048), which implemented similar measures for residential customers. The PD denies the request because “[t]he National Bureau of Economic Research declares the beginning and end of recessions retroactively, and therefore it is premature to sunset small business tariff revisions.”⁵ However, on September 20, 2010, the National Bureau of Economic Research (“NBER”) declared that the recent U.S. recession officially ended in June 2009—well over a year ago.⁶ As such, because the economy, as indicated by the NBER, has entered the recovery phase and because this proceeding addresses a temporal issue—the economic recession’s adverse effects on small businesses, the Joint Utilities request that the Commission establish a sunset date for the small business tariff revisions of

⁵ PD, at Finding of Fact 13.

⁶ See NBER Business Cycle Dating Committee Report (September 20, 2010) available at <http://www.nber.org/cycles/sept2010.html>; see also William C. Newberry “Recession Over, NBER Says” The Harvard Crimson, September 22, 2010, available at <http://www.thecrimson.com/article/2010/9/22/economic-recovery-stock-committee/>.

January 31, 2012. In the alternative, the Joint Utilities request that, at the very least, the Commission revisit this issue within the next two years to determine if the tariff rules are still warranted based on improvements in the economy and to small businesses.

III. CONCLUSION

The SDG&E and SoCalGas commend the Commission for its efforts to assist small business customers, and request that the Commission make the modifications detailed herein.

Respectfully submitted

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October 18, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **OPENING COMMENTS OF SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) AND SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) TO THE DECISION REVISING TARIFF RULES FOR SMALL BUSINESS CUSTOMERS** on all parties identified in Docket No. R.10-05-005 by U.S. mail and electronic mail, and by Federal Express to the assigned Commissioner(s) and Administrative Law Judge(s).

Dated at San Diego, California, this 18th day of October, 2010.

/s/ JOEL DELLOSA

Joel Dellosa