

**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 PACIFICORP (U-901-E) ON PROPOSED DECISION ON
REVISING TARIFF RULES FOR SMALL BUSINESS CUSTOMERS**

Michelle Mishoe
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, OR 97232
Telephone: 503-813-5977
Facsimile: 503-813-7252
Email: Michelle.Mishoe@pacificorp.com

Date: October 18, 2010

Attorney for PacifiCorp

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I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, PacifiCorp d.b.a. Pacific Power (PacifiCorp or Company) submits these comments on the proposed decision (PD) of Commissioner Bohn. PacifiCorp is a multi-jurisdictional utility that provides electric service to 1.6 million retail customers in six states, including California, Idaho, Oregon, Utah, Washington and Wyoming. PacifiCorp serves approximately 46,500 customers located in Del Norte, Modoc, Shasta and Siskiyou counties in California.

PacifiCorp generally does not oppose the conclusions reached in the PD. PacifiCorp offers these comments to clarify certain factual statements and to seek clarification on certain points raised in the PD.

II. DISCUSSION

A. Annual Review of Qualification as a Small Business

Section 4.1 of the PD contains a requirement that utilities annually review usage of small business customers or qualification through Section 14837.¹ Utilities will be able to track usage by reviewing a customer's account. Customers wishing to qualify as a small business by meeting the definition of "micro business" contained in Section 14837 must provide an affidavit signed by the business owner certifying and declaring that the business qualifies as such.²

In its June 14, 2010 written comments and its August 6, 2010 comments submitted on the Report, PacifiCorp noted that it did not philosophically object to certain small business customers being subject to the same deposit and backbilling requirements as residential customers, but did express concern with using Section 14837 to define "small business" for utility billing purposes.³ In its comments on the Report, PacifiCorp stated that it did not agree with using Section 14837 as a means to qualify as a small business for certain aspects of customer service.⁴

Conducting an annual review for customers qualifying as a "small business" by certifying that they meet Section 14837 presents challenges based on the PD as written. The onus is on the utility to determine whether the customer continues to qualify, when in reality the customer holds the information necessary to make the determination. Because

¹ PD, p. 7, first full paragraph.

² PD, p. 7, middle of the continued paragraph from p.6.

³ Opening Comments of PacifiCorp, pp. 2-3 (June 14, 2010), Comments of PacifiCorp on Small Business Program Staff Report Regarding the Workshop on Backbilling & Deposits, p. 3 (August 6, 2010).

⁴ Comments of PacifiCorp on Small Business Program Staff Report Regarding the Workshop on Backbilling & Deposits, p. 3 (August 6, 2010).

the customer holds the information necessary to determine whether or not it meets the definition of small business in Section 14837, the customer should be required to annually certify such qualification. To effectively conduct such an annual review for these customers, it would be helpful if the Commission provided additional guidance.

B. Warning Letters

Section 4.6 of the PD contains a brief discussion of the Commission's Business and Community Outreach Staff's recommendation that prior to assessing a deposit for late payment, utilities send a warning letter to customers to notify them that the utility may require a deposit if an additional late payment is received in the same calendar year.⁵ The PD accepts this recommendation and requires utilities to include a provision in their tariffs to address the warning letter. Ordering paragraph 1(e) of the PD requires utilities to establish that a small business customer must receive a warning letter after the first late payment during any calendar year. PacifiCorp uses late payments as one of its criteria for assessing deposits. Such a warning letter may be perceived by customers as a threat. PacifiCorp would prefer to send a "warning" letter to small business customers only in situations where the Company intends to charge a deposit. It would be helpful to allow flexibility in sending "warning" letters to better match utilities' intentions in assessing deposits. PacifiCorp respectfully requests that Ordering paragraph 1(e) be revised to specify that only those customers that the utility intends to charge a deposit should receive the "warning" letter.

⁵ PD, p. 10.

C. Findings of Fact

The PD contains a Findings of Fact section, showing 17 findings.⁶ Findings of Fact numbers 13, 14 and 16 would benefit from clarification to be more consistent with the record developed in this proceeding.

Finding 13 notes that the National Bureau of Economic Research (NBER) declares the beginning and end of recessions and uses that as the basis for determining the inclusion of a sunset date on the measures adopted in the PD is not appropriate. A review of the NBER website revealed an announcement dated September 20, 2010⁷ stating that the most recent recession ended in June 2009. PacifiCorp respectfully suggests that if the Commission intends to reject the use of a sunset provision that a different rationale be used.

Finding 14 states, “Small businesses continue to face a severe cash and credit shortage problem.” The Commission initiated this proceeding due in part to the economic crisis in California.⁸ The Commission’s Business and Community Outreach Staff had been receiving calls from small business customers seeking to avoid foreclosure.⁹ Throughout this proceeding, the parties have discussed the effects of the current economic conditions on small business customers. As noted above, NBER recently declared an end to the most recent recession and noted that the economy is in recovery. If the economy is in recovery, the cash and credit shortage issue should improve as well. To better reflect the discussion about current economic conditions, Finding 14 should be

⁶ PD, pp. 12-14.

⁷ <http://www.nber.org/cycles/sept2010.html>.

⁸ Order Instituting Rulemaking to Consider Revising Energy Utility Tariff Rules Related to Deposits and Adjusting Bills as They Affect Small Business Customers, p. 1 (May 6, 2010).

⁹ *Id.*, p 5.

revised to note that small business customers face a cash and credit shortage problem due to the economic crisis present during the review of the rules at issue in the rulemaking.

Finding 16 states, "It is reasonable to treat small business customers like residential customers." The purpose of this proceeding is to examine whether small business customers should be subject to the same deposit and backbilling rules as residential customers. This rulemaking did not examine any other aspects of customer service for small business customers. PacifiCorp respectfully suggests that Finding 16 be revised to clarify that it is reasonable to treat small business customers like residential customers for certain deposit and backbilling practices.

III. CONCLUSION

PacifiCorp respectfully requests that the PD be revised as recommended in these comments.

Respectfully submitted this 18th day of October, 2010 at San Francisco, California.

By 

Michelle Mishoe
PacifiCorp
825 NE Multnomah, Suite 1800
Portland, OR 97232
Telephone: 503-813-5977
Facsimile: 503-813-7252
Email:
Michelle.Mishoe@pacificorp.com

Attorney for PacifiCorp

APPENDIX A

Proposed Modifications to Findings of Fact and Ordering Paragraphs

Finding 13

~~The National Bureau of Economic Research declares the beginning and end of recessions retroactively, and therefore it is premature to sunset small business tariff revisions.~~

Finding 14

Due to the economic conditions present during the prior to and during the pendency of this proceeding, Ssmall businesses continue to face a severe cash and credit shortage problem.

Finding 16

For certain deposit and backbilling issues, fit is reasonable to treat small business customers like residential customers.

Ordering Paragraph 1(e)

establish that a small business customer, as specified above, shall receive a warning letter, if the utility intends to require a deposit for late payment or non-payment, after the first late payment or non-payment during any calendar year, which informs that a deposit to re-establish credit may be required if a second late payment occurs within the same calendar year; and

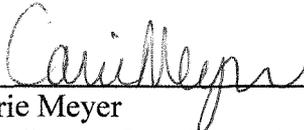
Certificate of Service

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have provided via electronic mail or US Mail if an E-mail address has not been provided, a true and correct copy of the **Comments of PacifiCorp (U-901-E) on Proposed Decision on Revising Tariff Rules for Small Business Customers** to the following parties:

Service List R.10-05-005

catherine.mazzeo@swgas.com	fadia.khoury@sce.com	nquan@gswater.com	KHassan@SempraUtilities.com
map@cpuc.ca.gov	nsuetake@turn.org	DFC2@pge.com	michelle.mishoe@pacificcorp.com
GHealy@SempraUtilities.com	stephaniec@greenlining.org	don.soderberg@swgas.com	valerie.ontiveroz@swgas.com
brooks.congdon@swgas.com	tdillard@sppc.com	kderemer@semprautilities.com	case.admin@sce.com
rkmoore@gswater.com	KSwitzer@gswater.com	regrepcuccases@pge.com	CPUCCASES@pge.com
cem@newsdata.com	bkc7@pge.com	Mike@alpinenaturalgas.com	ROJ3@pge.com
aliciam@greenlining.org	oshirock@pacbell.net	westgas@aol.com	joyw@mid.org
Ralf1241a@cs.com	cmkehrein@ems-ca.com	kwz@cpuc.ca.gov	californiadockets@pacificcorp.com
ddm@cpuc.ca.gov	bmd@cpuc.ca.gov	sjg@cpuc.ca.gov	kho@cpuc.ca.gov
lwt@cpuc.ca.gov	zaf@cpuc.ca.gov	F.E. John Southern California Gas Company 720 W 8 th Street Los Angeles, CA 90017	

DATED: October 18, 2010, at Portland, Oregon



Carrie Meyer
Coordinator, Regulatory Operations