

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.

R. 10-05-005

***OPENING COMMENTS OF CALIFORNIA SMALL BUSINESS ROUNDTABLE
AND CALIFORNIA SMALL BUSINESS ASSOCIATION ON
PROPOSED DECISION***

Pursuant to Rule 14.3, California Small Business Roundtable (CSBRT) and California Small Business Association (CSBA) submit the following comments on the Proposed Decision of Commissioner John A. Bohn issued on September 28, 2010 in this matter. CSBRT/CSBA commend Commissioner Bohn for his work to initiate this proceeding and develop a set of reasonable changes that will aid California small business customers.

The rulemaking proceeding is significant in several respects. First, the OIR recognizes the importance of small businesses to the California economy. Second, the OIR examines critical, but often-overlooked aspects of how electric and gas utilities serve small businesses: the terms of establishing new service and, once service is established, terms for billing in arrears. Third, the OIR recognizes the Commission's role in ensuring that utility policies regarding deposits and back billing are fair and reasonable to small business customers. Fourth, CSBRT/CSBA appreciate the Commission's efforts to reach out to the small businesses community by inviting CSBRT/CSBA and other small business groups to attend the Workshop held on July 6, 2010.

I. Definition of Small Business

CSBRT/CSBA support the definition of "small business" in the Proposed Decision. (Proposed Decision, pp. 6-7.) Use of the demand and usage-based definition (20 kw/40,000

kwh per year for electric customers, 10,000 therms per year for gas customers) will: (a) establish a uniform definition for all utilities and thereby minimize confusion, (b) be practical and cost-effective for utilities to implement, (c) avoid the need for most small business owners to complete additional forms and submit gross receipts and payroll information to utilities, and (d) cover the vast majority of businesses in utility service areas (90 to 95%). Customers of dual commodity utilities would qualify separately as electric “small business” electric customers and/or “small business” gas customers. (*Id.*, p. 7.) This seems reasonable.

The Proposed Decision also states:

Alternatively, we agree that non-residential customers may qualify as a small business customer if they qualify as a micro-business under Section 14837. In order to qualify under Section 14837 a non-residential customer must provide the utility with necessary documentation. The utility shall accept as appropriate documentation an affidavit signed by the owner of the business certifying and declaring that the business qualifies under Section 14837. (*Id.*)

CSBRT/CSBA agree that while applying to fewer customers, this would be a reasonable alternative for small businesses that are new and, therefore, do not have a usage history.

II. Back-Billing

The Proposed Decision provides that (a) like residential customers, small business customers should not be back-billed for more than three months, (b) the refund period for overcharges should be three years regardless of whether the overcharges are due to billing or metering errors, and (c) small businesses should not be required to pay deposit due to non-payment of any back-billed amounts. (*Id.*, pp. 7-9)

CSBRT/CSBA support the Proposed Decision on these points. These changes will prevent small business owners from being surprised by large bills going back many months and even years, jeopardizing their credit and business. Standardizing the refund period at three years will also avoid disputes on whether overcharges were due to billing errors or meter errors. Back billing due to billing or metering errors should not trigger deposit requirements.

III. Deposits

The Proposed Decision provides that utilities charge only up to twice the average monthly bill, instead of twice the maximum monthly bill. (*Id.*, pp. 8-9.) CSBRT/CSBA agree that this change is needed. CSBRT/CSBA is not opposed to reasonable deposit requirements when necessary, but believe that requiring deposits of twice the maximum monthly bill is excessive.

The Proposed Decision also states:

BCO staff also recommends development of other utility payment plans and programs as an alternative to a deposit. We encourage and support these alternative credit mechanisms, including automatic or direct pay plans, which provide an alternative to a deposit. We will not direct utilities to offer specific types of alternative credit mechanisms, but will allow utilities to develop their own alternative credit mechanisms in lieu of deposits, and give customers the choice of making a deposit or using an alternative credit mechanism. (Proposed Decision, p. 9.)

We hope that in addition to offering automatic or direct pay plans, utilities will consider additional credit criteria that may obviate the need for customer deposits in specific cases, for example, where the small business customer:

- Has prior service and good pay record with another utility;
- Good credit documented by credit reports; or
- Is a sole proprietorship and the individual owner has good credit and provides a personal guarantee.

Use of these criteria would provide utilities with additional means of assessing customer credit to avoid or minimize uncollectibles.

IV. Notice to Customers

The Proposed Decision provides that after the first late payment, small business customers receive a warning letter informing them that the next time that there is a late payment within a calendar year, the utility may require a deposit to reestablish credit. (*Id.*, p. 10.)

CSBRT/CSBA agree that customers should receive prior notice so they can take steps to avoid

future late payments and having to make deposits. For such notices to be most effective, we recommend that the warning letter be prominently labeled (both the notice itself and envelope) and state the dollar amount of the deposit that may be required and alternative credit arrangements that the small business customer could avail itself of.

V. Proposed Sunset Provision

The Proposed Decision correctly rejects the proposal to sunset the rule changes in January 2012. (*Id.*, pp. 10-11.) As the Proposed Decision points out, becoming a successful small business is difficult even in normal economic times. Perhaps, more importantly, the rule changes are not just meant to provide economic relief in recessionary times, but also to bring about needed equity between the back billing rules for small business and residential customers. As the Proposed Decision notes, “Moreover, it is appropriate to treat small businesses like residential customers in terms of back-billing. Like residential customers, small businesses do not usually have the ability pay large back-bills on short notice and they do not, as a general matter, have the expertise to be able to prevent and detect potential billing or meter errors.” (*Id.* p. 11.) The tariff changes in the Proposed Decision also address inconsistencies between refund periods for different types of errors, and conform deposit amounts to average bill amounts instead of maximum bill amounts. None of these reasonable changes call for a sunset provision.

Indeed, a January 2012 sunset would not serve any purpose, other than to create the need for another proceeding covering the same issues on which parties have reached consensus in this proceeding. If the Proposed Decision were adopted in October 2010, the tariff changes would not be implemented until December 2010. As a result, in January 2012, the rules would have been in place only for approximately 12 months. Because of time lags in collection and reporting of data, there would be less than 12 months of data on the impact of the

rule changes on utility operations, costs and uncollectibles. Such data is unlikely to be conclusive.

In view of the absence of sufficient reasons to reconsider the rule changes and lack of sufficient data as of the proposed sunset date, opening another proceeding to re-examine the same issues would not be an efficient, economical or effective use of Commission resources. Under these circumstances, the Proposed Decision correctly rejects the proposed sunset provision.

VI. Cost Recovery

Regarding cost recovery, the Proposed Decision states

The revised small business tariff measures adopted in this decision are new and there is little information available to estimate the costs of implementing these measures. Therefore, it would be premature to either estimate such costs or include them in a cost recovery mechanism such as a memorandum account. We do not anticipate there will be a significant impact on the utilities as a result of the changes set forth in this decision. However, utilities have the opportunity to request changes in their GRCs. (Proposed Decision, pp. 11-12.)

CSBRT/CSBA agree. The actual cost of the changes will be due to a number of factors including the frequency and amount of undercharges to customers, whether the undercharges are for usage during or before the three-month limit established in the Proposed Decision, the frequency and amount of overcharges to customers, whether the overcharges are for billing errors or metering errors, whether the overcharges for metering errors occurred before the six-month refund period for metering errors in current rules, the amount of deposits collected from small business customers due to the change from twice the maximum bill amount to twice the average bill amount, and the amount of deposits collected from small business customers due to changes in the back billing rules.

Furthermore, attributing costs to the rule changes would be difficult because there are fluctuations in these factors even apart from the rule changes. For example, San Diego Gas & Electric Company (SDG&E) and Southern California Gas Company (SoCalGas) previously

noted that SDG&E's rebillings due to undercharges were 1,172 in 2007, 1,021 in 2008 and 753 in 2009 (a swing of 55%) and SoCalGas's rebillings due to undercharges were 1,683 in 2007, 1,577 in 2008 and 1,799 in 2009 (a swing of 14%). (Opening Comments of San Diego Gas & Electric Company and Southern California Gas Company, R. 10-05-005, June 14, 2010, p. 3.) Also, overall economic conditions and business activity would affect the amount of deposits and uncollectibles.

Conclusion

For the foregoing reasons, CSBRT/CSBA support the Proposed Decision.

Dated: October 18, 2010

Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

Re. 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 (OIR 10-05-005).

I hereby certify that on this day I served a copy of the attached **OPENING COMMENTS OF CALIFORNIA SMALL BUSINESS ROUNDTABLE AND CALIFORNIA SMALL BUSINESS ASSOCIATION ON PROPOSED DECISION** on all known parties by (i) emailing a copy to each party with an email address appearing on the official service list for the above proceeding and (ii) mailing by first class mail to all others. (Pursuant to Rule 1.9, a list of the names of the persons and entities served is attached to the original certificate filed with the Commission.)

Dated in Larkspur, California on October 18, 2010.



Carl K. Oshiro

R.10-05-005		
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