

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

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

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

**COMMENTS OF THE UTILITY REFORM NETWORK,
THE CENTER FOR ACCESSIBLE TECHNOLOGY, THE GREENLINING
INSTITUTE, AND THE NATIONAL CONSUMER LAW CENTER
ON THE PROPOSED DECISION ON PHASE II ISSUES**



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- The Proposed Decision Should Be Modified to Direct PG&E and SCE to File Advice Letters Explaining How They Will Implement Certain Directives.
- The Proposed Decision Should Be Modified to Extend the Reporting Requirements Indefinitely.
- The Proposed Decision Should Be Modified to Clarify That Disconnection Prevention Approaches Proposed But Not Addressed on the Merits Are Rejected Without Prejudice.
- The Proposed Decision Should Be Modified to Maintain a Forum for Any Interim Action That May be Appropriate.
- The Proposed Decision Should Be Modified to Revisit Certain Issues Regarding Remote Disconnections.
- The Proposed Decision Should Be Modified to Clarify Certain Issues With Regard to Its Adoption of Benchmarks.
- The Proposed Decision Should Be Modified to Provide Additional Guidance on Language Issues.
- The Proposed Decision Should Be Modified to Provide Additional Guidance on Disability Issues.

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**COMMENTS OF THE UTILITY REFORM NETWORK,
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INSTITUTE, AND THE NATIONAL CONSUMER LAW CENTER
ON THE PROPOSED DECISION ON PHASE II ISSUES**

I. INTRODUCTION

In accordance with Rule 14.3 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN), the Center for Accessible Technology (CforAT), the Greenlining Institute (Greenlining), and the National Consumer Law Center (NCLC) (collectively the “Consumer Groups”) submit these comments on Commissioner Florio’s *Proposed Decision on Phase II Issues: Adoption of Practices to Reduce the Number of Gas and Electric Service Disconnections* (PD), issued on January 9, 2012. Overall, the Consumer Groups support the proposed decision. However, certain aspects of the PD would benefit from additional clarification or modifications, as discussed in detail below.

II. COMMENTS ON THE PROPOSED DECISION

A. The PD Should Direct PG&E and SCE to File Advice Letters Explaining How They Will Implement Certain Directives.

The PD directs PG&E and SCE to modify their existing practices regarding service disconnections in several significant regards but does not always provide instruction as to *how* those directives should be implemented. The Consumer Groups recommend that the PD be modified to direct PG&E and SCE to file a single advice letter within 60 days of the effective date of the Commission’s final Phase II decision, explaining how they intend to implement each of the orders described below. This advice letter should be served on all parties to this proceeding.

1. Expanded Definition of “Vulnerable” Customers

The PD would modify the remote disconnection protocol adopted by the Commission in D.10-07-048 by expanding the definition of “vulnerable” customers who should receive enhanced protection. The PD would add “customers who certify that they have a serious illness or condition that could become life threatening if service is

disconnected” to the list of customers already entitled to receive an in-person visit from a utility representative, pursuant to D.10-07-048.¹ However, it is unclear how customers will know that they may be entitled to enhanced protection, unless they are informed by the utility. As a practical matter, the PD’s expansion of the definition of vulnerable customers will be ineffective unless PG&E and SCE invite customers to certify and alert them of special consumer protections that may be available. While the PD is silent as to the method of certification, the Consumer Groups recommend that the PD be modified to clarify that customers should be permitted to self-certify.

The Consumer Groups recommend that the PD be modified to direct PG&E and SCE to explain via advice letter how they intend to implement Ordering Paragraph 2(b). Hopefully the utilities’ implementation plans will provide the Commission with assurance that the expanded definition of “vulnerable” customers will make a difference in the lives of real consumers who would be “subject to severe hardship if they were disconnected.”² Additionally, this information should assist the consumer groups who work directly with utility consumers, such as TURN, in assessing whether the utilities are implementing the Commission’s directive.

2. Billing Date Flexibility

While the PD declines to require the utilities to offer all customers a choice of billing date, it would direct PG&E and SCE to “ensure that customers who are at risk for disconnection are made aware of how they can take advantage of” the option to align their “bill payment date with their income cycle, notwithstanding the due date notated on the bill.”³ The PD refers to existing utility practices, including PG&E’s practice of accommodating customer requests for specific billing dates, provided that there are no operational obstacles for the utility; the duration of each utility’s collection process; and the utilities’ late fee policies.⁴ The PD does not provide any direction to PG&E and SCE about how and when this communication should take place.

¹ PD at p. 29; PD, Ordering Paragraph 2(b); *see also* Ordering Paragraph 2(h).

² *See* PD at p. 29.

³ PD at p. 35.

⁴ PD at p. 33-34.

The Consumer Groups recommend that the PD be modified to direct PG&E and SCE to explain via advice letter how they intend to implement this directive to communicate with their customers about billing date flexibility. This explanation should include how the utility's communication approach will be effective for customers with limited English proficiency or disabilities impacting vision or hearing. The Commission will be better positioned to monitor compliance if the utilities' intended communication practices are known.

3. Review of Language Offerings on Bills and Notices

The PD would direct SCE and PG&E to take prospective steps to determine whether their language offerings on bills and notices should be expanded. According to the PD:

SCE should review and determine whether it would be appropriate to expand the list of languages for which this service [inclusion with bills and notices a section that directs customers speaking certain languages to specified customer service lines] is provided to include all those listed in SB 120. PG&E should undertake a review to determine whether it would be cost-effective to include such contact information with its bills and notices.⁵

Absent from the PD is any instruction about communicating the results of these reviews to the Commission or the parties to this proceeding, many of whom have expressed interest in ensuring that consumers without English proficiency understand utility bills and disconnection notices.

The Consumer Groups recommend that the PD be modified to require PG&E and SCE to explain the results of these reviews, or at least provide information about when they expect to be able to complete these reviews, in the same advice letter filing. This information should be made available to the Commission and stakeholders, lest these well-intended directives be overlooked.

⁵ PD at p. 24.

B. The PD Should Extend the Reporting Requirements Indefinitely.

The PD would order the utilities to continue filing monthly reports of disconnection and arrearage data required by D.10-07-048 until December 2013.⁶ The PD reasons that “disconnections are an ongoing problem, and it remains important for parties and our staff to monitor utility progress in addressing the problem...”⁷

Applying this same rationale, the PD should be modified to extend the reporting requirements indefinitely. The California Legislature has declared that “all residents of the State should be able to afford essential electricity and gas supplies.”⁸ Consistent with this policy, the Commission has an obligation to “ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.”⁹ Systematic reporting of data on arrearages and disconnections is needed for the Commission to better understand the extent to which energy prices, weather, and general economic conditions affect access to energy utility services.

Moreover, the Commission should have this data before it when considering the appropriateness of authorizing rate increases or assigning various costs to residential utility customers, or more generally, the appropriateness of regulatory policies in terms of their impact on affordability. As the PD recognizes, “rate levels and rate design impact affordability and ultimately are important to addressing the disconnection problem... We encourage parties to advance their concerns about affordability in all appropriate proceedings and look forward to addressing those concerns.”¹⁰ Yet without data on arrearages and disconnections after 2013, parties and the Commission will lose an important metric for assessing affordability.

The Consumer Groups urge the Commission not to go back to the prior era, where the onus fell to individual organizations and DRA to negotiate agreements with each utility for the provision of disconnection data. In the several years prior to the issuance

⁶ PD at pp. 43-44; Conclusion of Law 10; Ordering Paragraph.2(m).

⁷ PD at p. 44.

⁸ Cal. Pub. Util. Code § 382(b).

⁹ Cal. Pub. Util. Code § 382(b).

¹⁰ PD at p. 14.

of D.10-07-048, TURN and DRA obtained disconnection data from each of the utilities pursuant to a series of individual agreements.¹¹ The data was not standardized, as is the data provided by the utilities pursuant to D.10-07-048. It was also not publically available through the Commission. Having regularly reported and standardized data from all of the major energy IOUs, as D.10-07-048 required, should not be a luxury but a standard component of the Commission's oversight responsibilities.

While urging the indefinite continuation of the existing reporting requirements, the Consumer Groups are also amenable to discussing possible modifications after December 2013, such as in the frequency of reporting, to reduce the burden on utility employees responsible for generating these reports. For this reason, we recommend that the PD be modified to instruct the utilities that they may work with the parties to this proceeding to develop post-2013 reporting requirement revisions for presentation to the Commission, if changes to the existing requirements are desired in the future.

C. The PD Should Clarify That Disconnection Prevention Approaches Proposed But Not Addressed on the Merits Are Rejected Without Prejudice.

The PD determines that it is appropriate to close this proceeding without considering certain proposals for reducing disconnections, such as arrearage management plans.¹² The PD explains:

While we recognize some parties' requests for further proceedings including workshops to address topics such as arrearage management plans, we believe that the range of measures that we adopt today are adequate to address the issue of disconnections at this time. Accordingly, it is appropriate to close the proceeding.¹³

¹¹ See, Opening Comments of The Utility Reform Network, Mar. 12, 2010, at p. 19 (explaining that following the expiration of the short-lived disconnection reporting requirements adopted in D.0510-044 (from December 2005 through May 2006), "TURN began working with each utility individually and reached a series of agreements regarding the provision of shutoff and arrearage-related data. For instance, SCE and TURN entered into a settlement agreement in A.0803-002 (SCE's 2009 GRC phase 2), whereby SCE would provide TURN and the Commission with monthly and annual reports. ... TURN, DRA and the Sempra Utilities reached a similar agreement flowing from a settlement in their consolidated 2010 Cost of Service proceedings. PG&E has recently begun providing TURN, DRA and the Commission with the same data provided by the Sempra Utilities.").

¹² PD at p. 45.

¹³ *Id.*

The Consumer Groups recommend that the PD be modified to clarify that the Commission is declining to consider arrearage management plans at this time without prejudice to the future consideration of this disconnection prevention tool. The addition of the following sentence at the end of the paragraph would implement this modification: “We do so without prejudice to the Commission’s future consideration of arrearage management plans or other disconnection prevention tools proposed by parties in this proceeding but not addressed on the merits in this decision or in D.10-07-048.”

D. The PD Should Maintain a Forum for Any Interim Action That May be Appropriate.

While the PD would close this proceeding, it also contemplates a future proceeding on disconnection practices and the broader issue of affordability after 2013, explaining:

If, however, one or more of the utilities continue to report high disconnection rates through 2013, whether measured against the benchmarks we adopt today or comparable industry-wide disconnection data, then we intend to revisit the disconnection issue in a new rulemaking.¹⁴

Although the Consumer Groups appreciate the PD’s reservation of a future opportunity to act to reduce disconnections, we recommend that the PD be modified to also provide an available forum for addressing disconnections before the end of 2013. The benchmark mechanisms the PD would adopt provide opportunities for PG&E and SCE to be relieved of the interim measures required in R.10-02-005, if their disconnections stay below the benchmark throughout 2012 or for any 12-month period ending in 2013.¹⁵ However, if disconnections were to rise above the benchmark after the utility was relieved of such requirements, the Commission would have no open forum in which to respond by re-instating the interim measures or otherwise. Under the vision of the PD, the Commission would have to wait until 2014 to even consider taking action. For this reason, as well as to provide a forum in which to address any implementation issues that may arise (such as those discussed in Section II.A above), the PD should be

¹⁴ PD at p. 39; *see also id.* at p. 45.

¹⁵ PD at p. 39.

changed to provide for an open forum for addressing disconnections through the end of 2013.

E. The PD Should Revisit Certain Issues Regarding Remote Disconnections.

As discussed in Section II.A.1, above, the PD would expand the definition of vulnerable customers who are entitled to an in-person visit from the utility within 48 hours of, or at the time of, remote disconnection to include customers who “certify that they have a serious illness or condition that could become life threatening if service is disconnected.”¹⁶ At the same time, the PD would decline to require an in-person visit for all customers, as advocated by the Consumer Groups.¹⁷ The PD would likewise decline to adopt other alternatives, such as providing the same remote disconnection protections included in the settlement agreement between the Consumer Groups, the Division of Ratepayer Advocates, San Diego Gas & Electric Company and Southern California Gas Company, which was adopted by the Commission in D.10-12-051, to the customers of PG&E and SCE.¹⁸ The PD reasons, “Where customer health and safety concerns are not implicated, we find insufficient reason to forego the savings” associated with remote disconnections and reconnections.¹⁹ The PD errs in its reasoning.

First, the record is replete with uncontested evidence that loss of electricity jeopardizes the health and safety of a broader group of customers than those included in the expanded definition of “vulnerable” customers. For instance TURN demonstrated that “it is well established that elderly people, young children and people with disabilities are more sensitive than the general population to health and safety risks associated with loss of utility service, in part because they are at greater risk of hypothermia and

¹⁶ PD at p. 29; and Conclusion of Law 5.

¹⁷ PD at p. 28.

¹⁸ PD at pp. 27-28. These protections include an expanded list of protected categories of customers, including self-identified seniors and self-identified disabled customers, as well as a one-year transition process for customer education prior to implementation of remote disconnection. See, e.g., NCLC Phase II Comments (May 20, 2011) atpp. 9-11, 14; Greenlining Phase II Comments (May 20, 2011) atpp. 11-12; TURN Phase II Comments (May 20, 2011) atpp. 2-4; CforAT Phase II Comments (May 20, 2011) atpp. 6-7. See also DRA Phase II Reply Comments (May 31, 2011) atpp. 4-7.

¹⁹ PD at p. 28.

hyperthermia.”²⁰ TURN cited to publications by the U.S. National Institutes of Health’s National Institute on Aging, the National Safety Council, and Center for Disease Control and Prevention (CDC), among other sources.²¹ NCLC likewise presented evidence that disconnection of electric service can subject even relatively healthy customers to health and safety risks, such as inadequate cooling due to lack of air conditioning in the summer.²² NCLC pointed to CDC publications on hypothermia and hyperthermia and rules in other states protecting people who are disabled, elderly, and infants from injury from disconnection.²³ Also, under the PD’s approach, normally healthy customers may fail to self-identify themselves for protection as vulnerable customers, if injuries from an accident or a medical condition represent a new or sudden occurrence, or if they are unaware of the existence of the special protections. (This latter point is discussed in Section II.A.1 above.)

Second, the PD appears to overlook that providing a premise visit prior to a remote disconnection does not require foregoing all of the cost savings stemming from modern metering technology. Although the cost savings from the remote *disconnection* would be offset by the costs of the premise visit, costs savings would still result from the remote *reconnection*.²⁴ Thus, approximately half of the “substantial cost savings” that the PD finds would be enabled by “remote switching technology” would still occur.²⁵

As a result of these errors, the PD should be modified to require a premise visit for all residential customers.

Furthermore, the California Legislature has clearly indicated its expectation that the Commission will have protocols for the physical disconnection of electricity service by the utility. Cal. Pub. Util. Code § 394.4(b) provides, among other things: “Physical disconnection by electrical corporations subject to the commission's jurisdiction shall

²⁰ TURN Phase II Comments (Sept. 15, 2010), at pp. 13-16.

²¹ *Id.*

²² See NCLC Phase II Comments (Sept. 15, 2010) at pp. 47; NCLC Opening Comments (March 12, 2010) at pp. 14-18; TURN Phase II Comments (Sept. 15, 2010) at pp. 13-14.

²³ NCLC Phase II Comments (Sept. 15, 2010) at 47; *see also* NCLC Opening Comments (March 12, 2010) at pp. 14-18.

²⁴ See NCLC Phase II Reply Comments (May 31, 2011) at pp. 34; NCLC Phase II Reply Comments (Sept. 24, 2010) at pp. 4-5

²⁵ *See* PD at Finding of Fact 11.

occur only in accordance with protocols established by the commission.”²⁶ It is true that statutes and Commission regulations currently require utilities to provide disconnection notices and follow certain timelines. The “physical” aspect of disconnection has drastically changed, however, with the advent of remote disconnections. Consumer Groups submit now, as they have throughout this proceeding, that the disconnection protocols must be updated to reflect this change.²⁷

The existing practices preceding physical disconnection were developed at a time when an in-person visit from the utility was required to effectuate the disconnection. As such, the various notice requirements are all premised on the existence of a final “notice” that will occur when the utility representative visits the premise to disconnect service. Remote disconnections, however, require no such visits and provide no such final notice.

This new physical disconnection procedure merits a reconsideration of what are considered to be safe and adequate, minimum standards for remote disconnections for *all* customers. Whereas prior to the advent of remote disconnection, all customers benefitted from a visit from a utility representative at the time of disconnection, who could assess and monitor the situation for any risks to health and safety before deciding to terminate service, under the PD’s approach to remote disconnections, only a fraction of customers will receive this potentially vital service. A change in disconnection technology should not penalize California residents with the result that they experience lesser protection against erroneous or premature terminations of essential electric service than they experienced when disconnections were performed manually.

For all of these reasons, the Consumer Groups urge the modification of the PD to adopt an updated uniform disconnection protocol. This uniform protocol should include a universal premise visit requirement, in combination with a one-year transition period for customer education prior to the implementation of remote disconnection.

²⁶ This provision, added in 1997 by SB 477 as part of an effort to ensure that the customers of Electric Service Providers would still enjoy minimum standards of consumer protection, similar to those provided to customers of the jurisdictional utilities, also requires that physical disconnection only occur by the utility (investor owned or publically owned) providing distribution services.

²⁷ See, e.g., NCLC Phase II Comments (May 20, 2011) at 9-11, 14; Greenlining Phase II Comments (May 20, 2011) AT 11-12; TURN Phase II Comments (May 20, 2011) at 2-4; CforAT Phase II Comments (May 20, 2011) at 6-7. See also DRA Phase II Reply Comments (May 31, 2011) at 47. *See also* New York Public Service Commission, Case 05-E-0934, et al. (Dec. 19, 2007) (last knock policy before remote disconnection).

F. The PD Should Clarify Certain Issues With Regard to Its Adoption of Benchmarks.

The PD adopts DRA's proposed CARE customer disconnection benchmarks of 5% and 6% for PGE& and SCE, respectively, through December 31, 2013.²⁸ In so doing, the PD states that each utility must adhere to the Commission's interim disconnection requirements, unless the utility's disconnection rate is less than the established benchmark.²⁹ Specifically, for 2012, if the utility's CARE customer disconnection rate is at or below the benchmark, it may request permission via advice letter to discontinue the interim practices.³⁰ Subsequently, if the utility's CARE customer disconnection rate is below the benchmark for any 12 month period through 2013, it may request permission via advice letter to discontinue the interim practices.³¹

Several clarifications will assist in ensuring that this process serves its intended purpose. First, as noted above, the reporting requirement set forth in the PD should remain in place even if other obligations are discontinued. Second, several additional requirements created by the PD should remain in place independent of the interim measures and the benchmarks. Specifically, in keeping with the comments the Consumer Groups made in Phase II, live CSRs should be maintained where customers may require assistance with CARE enrollment procedures.³² The PD determined that SCE's success in using live CSRs to enroll customers in CARE demonstrates the value of the practice, and the PD therefore declines to allow PG&E to solely rely on PG&E's new automated enrollment system.³³ The Consumer Groups support the PD's determination that "customers should be given the option of enrollment through a live discussion with a

²⁸ PD at p. 38.

²⁹ PD at pp. 32-39.

³⁰ PD at p. 39.

³¹ In either case, the advice letter would become effective no sooner than 30 days after the filed date. PD at p. 39.

³² PD at pp. 18, 20 (referring to comments of CforAT, Greenlining, and NCLC). While this argument originated in Phase I and Consumer Groups addressed the topic in Opening Comments, the role of CSRs was specifically included for Phase II proceedings. See D.10-07-048 (Issue No. 3) and ALJ Phase II Ruling of April 19, 2011 (Issue No. 2) which established a new round of comments.

³³ PD at p. 20.

CSR,³⁴ and request that the Commission clarify that this provision is independent of the PD's discussion regarding benchmarks.

Similarly, the PD would adopt recommendations for communications with vision and hearing impaired customers,³⁵ and, as discussed above, the PD would enlarge the definition of "vulnerable customers" protected with a site visit before remote disconnection to include those customers who certify that they are seriously ill or have a condition that could be life-threatening if service is disconnected.³⁶ The Commission's final order should be explicit that none of these new requirements are tied to the benchmarks.

G. The PD Should Provide Additional Guidance on Language Issues.

1. Online Information In-Language Will Fail to Reach Customers Who Need It Most.

The PD notes that both SCE and PG&E offer access to their websites in languages other than English.³⁷ While this is helpful to those customers who have regular Internet access, many limited-English proficient customers who are vulnerable to disconnection will be unable to use this service. For example, while 82% of English-speaking Latinos in California use broadband, only 35% of Spanish-speaking Latinos use it.³⁸ As such, a significant portion of the customers who need this service the most will not have access to it. For these customers, a call center is the only source of direct, account-specific information they can access in their native language. Easily accessible information on how to receive in-language assistance is vital to ensuring that limited-English proficient customers are not relegated to second-class service.

While both PG&E and SCE provide language-specific call center numbers in their billing statements, this language is buried in the details of the bill, so that it is far less

³⁴ PD at p. 20.

³⁵ PD at p. 24 (citing CforAT recommendations). This issue is also discussed in greater detail below.

³⁶ PD at p. 29.

³⁷ PD at pp. 22-23.

³⁸ See *Just the Facts: California's Digital Divide* (June 2011) available at http://www.ppic.org/content/pubs/jtf/JTF_DigitalDivideJTF.pdf

likely to be seen than it would if it were on the first page of the bill. A customer who cannot read the first page of the bill is unlikely to continue to look through the remaining pages and any bill inserts, under the assumption that those pages too will be illegible. For this information to effectively reach the customers it targets, it must be prominently featured on the first page of the bill.

2. PG&E Should Review the Cost Implications of Providing Notices in Spanish and Chinese.

PG&E has proposed a Reformatted Customer Energy Statement which, if approved, will allow it to begin billing in the most commonly-spoken non-English languages in its service territory.³⁹ Assuming that application is approved, once PG&E's billing system is upgraded to translate into other languages it is likely that the cost of translating other documents, such as disconnection notices, will be incremental. This could significantly improve the cost-effectiveness of providing disconnection notices in Spanish and Chinese. The Consumer Groups thus respectfully urge that PG&E be instructed to review the cost-effectiveness not only of including language-specific contact information in its bills and notices, but also of providing the notices themselves in Spanish and Chinese.

H. The PD Should Provide Additional Guidance on Disability Issues.

The Consumer Groups strongly support the provisions of the PD that specifically address the need for utilities to use accessible forms of communication to inform their customers with disabilities regarding their risks of service disconnection.⁴⁰ While these provisions will help ensure that customers with disabilities understand any

³⁹ PD at p. 22.

⁴⁰ In particular, this includes Ordering Paragraph 2(j) (requiring written communications regarding service disconnection to provide key information in large print), subpart k (requiring utilities to use previously identified preferred forms of communication for disabled customers) and subpart l (requiring outgoing calls regarding disconnection to be made by a live representative for households identified as using nonstandard forms of telecommunication). Additional requirements that touch on disability issues include Ordering Paragraph 2(i), (requiring utilities to offer CARE enrollment by phone with a live CSR) and 2(b) and 2(h) (requiring in-person field visits by a representative who can collect payment prior to disconnection of a customer on medical baseline, life support or who certifies that someone in the household has a serious health condition).

communications they receive regarding the risk of service disconnection (and will reduce the risk of serious harm to a disabled customer based on service disconnection), additional clarifications would improve these requirements.

1. The PD Should Clarify that the Large Print Requirement Applies to the Communications Described in §3.11.

The PD specifically acknowledges the need for effective communication with customers who have disabilities, and adopts CforAT's recommendations regarding communication with these customers, including the requirement of large print for key information in written notices concerning the risk of service connection.⁴¹ This discussion is separate from the discussion of disconnection notices.⁴² The Consumer Groups recommend that the specific discussion of disconnection notices, set forth at 3.11 of the PD, expressly state that these notices are among those that require key information to be provided in large print.

2. The PD Should Clarify that the Utilities Cannot Be Excused From the Accessible Communication Requirements by Meeting the Benchmarks.

As set forth in Section II.F, above, the Consumer Groups recommend that the provisions of the decision regarding accessible communication with disabled customers should remain in place, even if the utilities bring their disconnection levels below the benchmarks. This is true because the utilities have independent legal obligations to communicate effectively with their disabled customers.⁴³ In addition, improvements in communications regarding service disconnections (which are high priority communications) are consistent with settlements signed by each of the utilities.⁴⁴ Finally,

⁴¹ PD at pp. 24-25 (noting that neither PG&E nor SCE raised concerns about the costs of these measures).

⁴² See PD at pp. 24-25 (discussion of need for accessible communication) and *id.* at pp. 40-42 (discussion of disconnection notice practices).

⁴³ See Cal. Civ. Code §§ 51 et seq. and 54 et seq.; Cal. Gov't Code §§ 11135 et seq. and 4450 et seq. See also Title III of the Americans with Disabilities Act and supporting regulations, and § 504 of the Federal Rehabilitation Act.

⁴⁴ See Memorandum of Understanding between Disability Rights Advocates and PG&E at §VII.F, signed by the parties and approved by the Commission in D.1105-018 in A.09-12-020; Settlement Agreement between Southern California Edison and Disability Rights Advocates at IV.F.1, signed by the parties and

maintaining these obligations even if the utilities meet the benchmarks is consistent with the obligations that have been accepted by the Sempra Utilities in the settlement that governs their practices regarding service disconnections.⁴⁵

III. CONCLUSION

TURN, CforAT, Greenlining, and NCLC greatly appreciate the attention the Commission has given to the urgent issue of assisting customers who are at risk of gas and/or electric utility service termination. We urge the Commission to adopt the PD with the modifications discussed herein.

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pending approval by the Commission in A.1011-015. Additionally, CforAT has executed an agreement with the Sempra utilities regarding similar issues in conjunction with their pending GRC, A.1012-005 et al., and is preparing to present it to the parties in a settlement conference and subsequently submit it for Commission approval.

⁴⁵ See Settlement Agreement Between San Diego Gas & Electric Company, Southern California Gas Company, Disability Rights Advocates, the Division of Ratepayer Advocates, the Greenlining Institute, the National Consumer Law Center, and The Utility Reform Network Resolving Issues in the Residential Disconnection Proceeding (Rulemaking No. 10-02-005) at §II.F, approved by the Commission in D.1012-051. The PD would approve the parties' request to add CforAT as a party to the settlement. PD at pp. 44-45.

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Appendix A

Proposed Modifications to Findings of Fact and Conclusions of Law

Findings of Fact

1. While there has been some success in achieving the objective of reducing the number of residential disconnections due to nonpayment, tens of thousands of California utility customers experience the hardship of disconnection every month.
2. Low income customers enrolled in the CARE rate program continue to experience rates of disconnection that are more than twice the disconnection rates for non-CARE customers.
3. SCE's experience is that having its CSRs perform online CARE enrollments during calls increased enrollment compared to the old mailing process by 50% when expanded to all SCE representatives in 2010 and improved the overall customer experience.
4. SCE's processing cost for phone enrollment is only \$0.89 per enrollment greater than the \$2.77 cost for mail applications.
5. PG&E's estimated cost of live CSR enrollments would have been \$455,909 in 2010.
6. There may be a subset of potential CARE enrollees who are not able to interface PG&E's automated enrollment system successfully.
7. PG&E and SCE offer comprehensive language assistance options.
8. It has not been shown that ordering the utilities to translate all printed forms into the languages specified in SB 120 would be cost-effective at this time, though future changes in the utilities' billing systems may warrant the reconsideration of this issue.
9. It is reasonable to take advantage of some of the significant cost savings that modern metering technology can provide while providing ~~enhanced~~ protection to all consumers whose health and safety might be jeopardized by a remote disconnection program.
10. Many households include disabled individuals who are not enrolled in programs such as medical baseline because they are unaware of them or because their disability does not cause them to use above-average levels of energy.
11. Remote switching technology enables substantial cost savings for performing disconnections and reconnections but the costs of these services are not reduced to zero.

12. In March 2011 unemployment exceeded the statewide average of 12.3% in 35 of 40 counties where PG&E provides service, and it exceeded 20% in six of those counties.
13. In March 2011, unpaid bills of two months or older totaled \$55 million among low-income customers, double what was owed a year earlier.
14. According to economic forecasts, it will take until 2015 - 2020 for unemployment to drop to 8% in California.
15. Although customer choice of billing date could be beneficial for some customers at risk for disconnection, it has not been shown to be cost-effective for PG&E or SCE.
16. PG&E and SCE offer considerable flexibility in bill payment and do not impose late fees (for CARE customers in SCE's case).
17. Annual CARE disconnection benchmark rates of 5% for PG&E and 6% for SCE would essentially require PG&E to maintain the progress it made in 2010 to reduce CARE customer disconnections encourage SCE to make changes in its treatment of CARE customers regarding disconnections.
18. A moratorium or a cap on the number of disconnections could potentially lead to an excessive increase in write-offs of bad debt, thereby imposing unreasonably high costs on all ratepayers.
19. To the extent that the utilities are able to manage their operations to keep CARE customer disconnections at or below a defined benchmark, there may not be a need for further regulatory oversight such as mandatory disconnection practices related to payment plans and deposits; however to the extent that CARE disconnections exceed the benchmark, that would indicate a need for further review or oversight to address the disconnection problem.
20. The utilities have safeguards in place to help prevent inappropriate crediting of payments.
21. Customer fraud and continued delivery of bad checks impose significant costs on utilities that are passed on to all customers.
22. Bankruptcy is a legal process to resolve debt, whereas perpetrators of fraud and bad check writers are not engaging in legitimate activities.

Conclusions of Law

1. Because tens of thousands of California's experience disconnection each month, the disconnection problem continues to warrant our attention and concern.
2. Because customers enrolled in the CARE rate program experience disconnection more than twice as often non-CARE customers, it is reasonable to design remedial measures that target the CARE disconnection rate.
3. PG&E should have its CSRs offer the option of live CARE enrollment in addition to the automated, paper, and online enrollment options it offers.
4. To accommodate the needs of vision- and hearing-impaired customers, the following measures should be adopted:
 - (a) Any written communication concerning the risk of service disconnection must provide key information, including the fact that service is at risk and a way to follow up for additional information, in large print such as 14 point sans serif font.
 - (b) For customers who have previously been identified as disabled and who have identified a preferred form of communication, all information concerning the risk of disconnection should be provided in the preferred format.
 - (c) For households identified as using non-standard forms of telecommunication, outgoing calls regarding the risk of disconnection should be made by a live representative.

If the Commission modifies the proposed remote disconnection protocols, as recommended herein:

5. PG&E and SCE should ~~continue to provide~~ on-site visits by a utility representative to protect all residential vulnerable or sensitive customers prior to disconnection via remote disconnection technology.

If the Commission declines to modify the proposed remote disconnection protocols:

5. PG&E and SCE should continue to provide on-site visits by a utility representative to protect vulnerable or sensitive customers, which should include not only medical baseline and life support customers but also customers who self-certify that they have a serious illness or condition that could become life threatening if service is disconnected.
6. Because difficult economic conditions including high unemployment are continuing, and at-risk customers continue to face the hardship of possible disconnection, the interim disconnection practices regarding payment plans and deposits that were ordered in the OIR, in D.10-07-048, and in this decision should remain in effect until December 31,

2013, provided, however, that in the event that the utility's disconnection rate does not exceed the benchmark adopted by this decision, the practices may be terminated earlier.

7. If the utility's annual CARE customer disconnection rate for 2012 exceeds the benchmark rate of 5% for PG&E and 6% for SCE, the disconnection practice requirements regarding payment plans and deposits adopted in this decision should continue in effect for that utility through 2013; however, if the utility does not exceed its CARE disconnection benchmark for 2012, it should be allowed to file a Tier 2 advice letter requesting authority to discontinue the practices prior to December 31, 2013. If filed, the advice letter should become effective no earlier than 30 days after the date filed pursuant to General Order 96-B.

8. If the utility exceeds the benchmark identified in Conclusion of Law 7 for 2012 but, for any month during 2013, the utility's CARE disconnection rate for the previous 12 consecutive months is less than the benchmark, the utility may file a Tier 2 advice letter requesting authority to discontinue the practices prior to December 31, 2013. If filed, the advice letter should become effective no earlier than 30 days after the date filed pursuant to General Order 96-B.

9. Exceptions to our otherwise applicable deposit waivers should be allowed for customers who have written three or more bad checks in a year and those involved in fraud.

10. Disconnection reporting requirements adopted in Ordering Paragraph 12 of the Order Instituting Rulemaking and Ordering Paragraph 14 of D.10-07-048 should be continued indefinitely until December 2013.

11. It is appropriate to keep open ~~lose~~ R.10-02-005 until December 2013.