

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)

**REPLY COMMENTS OF
THE DIVISION OF RATEPAYER ADVOCATES ON
PROPOSED DECISION OF COMMISSIONER FLORIO**

CAMILLE WATTS-ZAGHA
Division of Ratepayer Advocates
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2881
Email: kwz@cpuc.ca.gov

MARION PELEO
Legal Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 702-2130
Fax: (415) 703-2262
Email: map@cpuc.ca.gov

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I. INTRODUCTION

In accordance with Rule 14.3(d) of the Rules of Practice and Procedure of the California Public Utilities Commission, the Division of Ratepayer Advocates (“DRA”) hereby submits its reply comments on the Proposed Decision (“PD”) of Commissioner Florio in the above-captioned rulemaking proceeding, adopting practices to reduce the number of gas and electric service disconnections.¹

Similar to many of the parties who provided opening comments, DRA supports the PD because it takes reasonable steps to minimize disconnection of essential gas and electric services. It does so by requiring refinement of customer notice and communication methods based on a thorough examination of best practices, and by preserving customer disconnection practices for the most vulnerable customers. Most significantly, the PD takes a cautionary yet optimistic view of the disconnection reductions in 2010. Specifically, if the trend of fewer disconnections continues in 2012 and 2013, the PD permits Pacific Gas and Electric Company (“PG&E”) and Southern California Edison Company (“SCE”) to request greater flexibility in their credit and collections practices.

In these reply comments, DRA responds in particular to the opening comments of PG&E.² PG&E does not identify any true errors in the PD and, accordingly, its comments should be accorded no weight.³

DRA supports the opening comments of The Utility Reform Network, National Consumer Law Center, Greenlining, and the Center for Accessible Technology

¹ See Rulemaking (“R.”) 10-02-005, Proposed Decision of Commissioner Florio, Decision on Phase II Issues: Adoption of Practices to Reduce the Number of Gas and Electric Service Disconnections (“PD”), Jan. 9, 2012.

² See R.10-02-005, Pacific Gas and Electric Company’s (U 39 M) Opening Comments on the Proposed Decision in the Phase II Disconnection OIR (“PG&E Opening Comments”), Jan. 30, 2012. DRA’s silence on any issue discussed in parties’ opening comments should not be deemed as agreement or disagreement.

³ See Rule 14.3(c): “Comments shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight.”

(collectively, the “Consumer Groups”). The Consumer Groups appropriately point to a need to clarify implementation details of various components of the PD’s continuing and new disconnection protections.

II. THE PD CORRECTLY ADOPTS DISCONNECTION BENCHMARKS FOR PG&E AND SCE.

The PD could not possibly err in setting disconnection benchmarks for PG&E and SCE, as PG&E claims, because the disconnection benchmark obligates PG&E and SCE to nothing. Instead, the benchmark in the PD provides PG&E an *alternative* to implementing the disconnection protections required in 2013 by the PD. In the words of the PD: “We tie the continuation of the interim practices to the benchmarking program that we adopt in Section 3.9 of this decision. The required practices shall remain in effect until December 31, 2013, provided, however, in the event that the utility’s disconnection rate does not exceed the benchmark, the practices may be terminated earlier.”⁴

In essence, the Proposed Decision’s implementation of a 5% benchmark for CARE customers is an affirmative response to PG&E’s contention in the proceeding that its disconnection rates are low enough now, and its credit and collections practices are sufficiently responsive, to merit eliminating the extra disconnection protections. The benchmark essentially places a number on PG&E’s contention in that it allows PG&E to petition to eliminate the additional disconnection protections that it requested if the disconnections of low-income customers do not exceed 5% of the PG&E’s low-income customers at the end of 2012.

III. ANY STATEWIDE CONSISTENCY IN A CARE DISCONNECTION BENCHMARK SHOULD FOLLOW EXISTING 3.44% BENCHMARK FOR DUEL-FUEL UTILITIES, IN LIGHT OF INCREASING PAYMENT PRESSURE ON CARE CUSTOMERS.

PG&E requests that the PD establish a “uniform disconnection benchmark” for CARE customers of 6%, to promote statewide consistency.⁵ DRA’s original benchmark

⁴ PD, p. 32.

⁵ PG&E Opening Comments, p. 3.

proposal adopted this uniform approach, recommending a uniform benchmark of 3% for non-CARE residential customers and 4% for CARE customers.⁶ To the extent that there is uniformity applied to the benchmark, the Commission should apply the highest standard, not the lowest common denominator (as PG&E proposes). Currently, the existing disconnection benchmark for the other major utility providing both gas and electric service, San Diego Gas & Electric Company, is 3.44% for CARE customers.

With PG&E’s implementation of higher CARE Tier 3 rates in November 2011, PG&E’s CARE customers, in 2012, are facing increased bills, making the Commission’s guideline to PG&E to manage CARE disconnections a modest tool. The PD cautiously reserves judgment on whether the reduction in disconnections of 2010 is likely to persist in 2011: “It even appears there is an uptick in disconnections for PG&E in 2011 based on 10 month counts in 2010 and 2011. Accordingly, we are not ready to conclude that the disconnection problem no longer warrants our attention and concern.”⁷ Indeed, it appears that PG&E’s disconnections crept upward in 2011.

PG&E Disconnections 2010 and 2011

	Annual CARE Disconnections	Annual CARE Disconnection Rate	Annual Non-CARE Disconnections	Annual Non-CARE Disconnection Rate	Annual Residential Disconnections	Annual Residential Disconnection Rate
2010	77,757	5.35%	101,314	2.65%	179,071	3.39%
2011	86,355	5.63%	102,401	2.71%	188,756	3.56%

⁶ DRA Opening Comments on Order Instituting Rulemaking 10-02-005, March 12, 2010.

⁷ PD, p. 13.

IV. THE PD DOES NOT ERR IN EXPANDING THE DEFINITION OF VULNERABLE CUSTOMERS BEYOND MEDICAL BASELINE AND LIFE SUPPORT, AND SHOULD AT LEAST REQUIRE THE UTILITIES TO MAKE CUSTOMERS AWARE THAT THIS PROTECTION IS AVAILABLE.

PG&E objects to the PD’s inclusion of seriously ill customers who are not on medical baseline and life support in the category of customers who must receive a field visit prior to disconnection. PG&E finds this expansion “extremely vague and prone to overly broad interpretation(s).”⁸ Yet the PD’s inclusion of protection for customers self-certifying their vulnerability is a small safety valve to permit customers who may not fit within PG&E’s established definitions to communicate their vulnerability to utility and to receive the important protection that comes with an in-person field visit. The PD unfortunately declines to explicitly include seniors within the definition of vulnerable, even though advanced age could arguably be a condition that could be life threatening if heating and cooling systems are unavailable due to service disconnection. At a minimum, the PD should incorporate the recommendation of the Consumer Groups for PG&E and SCE to detail implementation of this program component in an Advice Letter filing.²

IV. AS RECOMMENDED BY THE CONSUMER GROUPS, THE PD SHOULD MAKE CERTAIN DISCONNECTION PROTECTION REQUIREMENTS INDEPENDENT OF THE BENCHMARK.

Ordering Paragraphs 4 and 5 of the PD provide PG&E and SCE an avenue to file a Tier 2 Advice Letter “requesting authority to discontinue the customer service disconnection practices ordered in this decision....”¹⁰ The Consumer Groups recommend that the PD retain the following requirements regardless of the level of disconnections:

⁸ PG&E Opening Comments, p. 5.

² Consumer Groups Opening Comments, p. 2.

¹⁰ PD, Ordering Paragraphs 4 and 5.

- Reporting requirements.¹¹
- Definition of vulnerable customers.¹²
- Requirement to offer ‘auto-pay’ enrollment in lieu of credit deposit.¹³
- Uniform notice of disconnection procedures.¹⁴
- In-field visit requirements for vulnerable customers.¹⁵
- Establishing a CARE enrollment option via live Customer Service Representative.¹⁶
- Providing notices of impending service disconnection in large print.¹⁷
- Communicating with disabled customers regarding service disconnection in preferred communication format.¹⁸
- For identified households, ensuring outgoing calls regarding service disconnection are performed by live utility representative.¹⁹
- Continuing monthly disconnection reports (beyond 2013).²⁰

DRA points out that the PD selected these enhanced communication and payment options primarily because they are low-cost, best practices. It would be confusing and perhaps potentially costly to abandon these low-cost best practices after implementation.

V. THE PD CORRECT UPHOLDS THE DETERMINATION TO REVIEW COSTS IN PG&E’S AND SCE’S NEXT GENERAL RATE CASES.

The PD upholds the determination made in D.10-07-048 that costs being tracked in PG&E’s and SCE’s memorandum accounts will be reviewed in the next general rate

¹¹ PD, Ordering Paragraph 2m.

¹² PD, Ordering Paragraph 2b.

¹³ PD, Ordering Paragraph 2d & 2e.

¹⁴ PD, Ordering Paragraph 2g.

¹⁵ PD, Ordering Paragraph 2h.

¹⁶ PD, Ordering Paragraph 2i.

¹⁷ PD, Ordering Paragraph 2j.

¹⁸ PD, Ordering Paragraph 2k.

¹⁹ PD, Ordering Paragraph 2l.

²⁰ PD, Ordering Paragraph 2m.

case for each utility.²¹ PG&E and SCE's requests to pre-empt this determination should be denied as merely re-arguing their positions rather than identifying error in the PD.²²

VI. CONCLUSION

For the reasons set forth above, DRA respectfully recommends that the Commission adopt the PD with the clarifications described in the opening comments of Consumer Groups.

Respectfully submitted,

/s/ MARION PELEO

Marion Peleo

Attorney for the Division of Ratepayer Advocates

California Public Utilities Commission

505 Van Ness Avenue

San Francisco, CA 94102

Phone: (415) (415) 703-2130

Fax: (415) 703-2262

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²¹ PD, p. 9.

²² See PG&E Opening Comments, pp. 11-12; SCE Opening Comments pp. 7-8.