

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

Order Instituting Rulemaking to Examine the
Commission's Post-2008 Energy Efficiency Policies,
Programs, Evaluation, Measurement, and Verification, and
Related Issues.

Rulemaking 09-11-014
(Filed November 20, 2009)

**MOTION OF THE GREENLINING INSTITUTE
TO WITHDRAW ITS PETITION FOR MODIFICATION**

THE GREENLINING INSTITUTE
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December 20, 2012

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I. INTRODUCTION

Pursuant to Rule 11.1 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, The Greenlining Institute (Greenlining) hereby submits this Motion to Withdraw its Petition for Modification of D.12-05-015. Greenlining filed its petition on November 20th, 2012, urging the Commission to take up the question of background check policies for the utilities' energy efficiency contractors.

Since that time, Greenlining is happy to report that we have reached an agreement with PG&E on what both parties believe is a fair and reasonable background check policy, that addresses the critical concerns of customer safety and equitable access by all to jobs in this fast-growing economic sector. Greenlining considers this agreement to be a mutual victory for both parties, and heartily commends PG&E on their willingness to engage with Greenlining and address the concerns of our communities. We remain optimistic that Southern California Edison and the Sempra utilities will agree that PG&E's revised policy is fair and reasonable, and that they will adopt the same policy PG&E has, if they choose to adopt a background check policy. While we do not anticipate the need to raise the issue again with the Commission, Greenlining

reserves the right to do so in the unlikely event that conversations with Southern California Edison and the Sempra utilities do not prove fruitful.

II. A FAIR AND REASONABLE BACKGROUND CHECK POLICY

The following features are key to the fair balance PG&E's amended policy achieves between reducing risk and liability on the one hand, and ensuring equitable access to a growing job sector on the other. The items below correspond to the policy described in PG&E's Response to the Petition, being concurrently filed with this motion by PG&E.

1) Screen Only for Offenses Related to Customer Safety

Applicants and employees will be screened only for a discrete list of offenses related to customer safety, such as property or violent crimes. The list does not include misdemeanor drug convictions, which are the source of much of the disparate impact on communities of color about which Greenlining was initially concerned.¹

1) Number of Years Required for Look-Back Review is Tailored to the Offense

In recognition that not all offenses are equal in the risk implications they give rise to, PG&E has reduced the number of years required in the look-back review for DUI convictions to from seven to three years. Additionally, PG&E has added the requirement that multiple convictions must be found during that three years before the worker may be removed from the employment process. Given that many workers will need to drive as part of their job, and given that DUIs impact contractors' insurance costs as well as public safety, Greenlining and PG&E believe that this policy strikes a reasonable balance.

2) Appeals Process to Correct Mistakes

An alarming number of background checks come back containing mistakes – mistakes of identity, charges incorrectly recorded as convictions, expunged convictions remaining on the

¹ See Greenlining Petition for Modification, p. 9.

record, etc.² PG&E has committed to implementing an appeals process by which an applicant or employee whose check comes back containing a mistake can correct the record and move forward in the employment process. PG&E is seeking a third party background check agency that has experience in administering appeals processes of this nature.

3) Grandfathering Exemption for Certain Current Employees

Via the grandfathering clause, current employees whose background check triggers PG&E's screen will be exempt from exclusion if they have been working in a PG&E program for 12 months or more without incident.

4) PG&E and Greenlining Will Explore Whether a Special Circumstances Review is Reasonable

PG&E and Greenlining have committed to work together in the new year to explore the feasibility of a special circumstances review. The details of this review are still under discussion, but PG&E has already taken steps to identify background check implementers who have prior experience administering this kind of review. Such a review would allow an applicant the opportunity to explain the facts or circumstances surrounding the conviction, what has taken place since then (rehabilitation, training, education, work history, references, etc.), and the individual's current circumstances. While this portion of the policy is yet to be fully fleshed out, Greenlining is confident that the conversation between it, PG&E, and any other stakeholders will continue to be collaborative and fruitful.

VI. CONCLUSION

Given that Greenlining and PG&E have come to a successful, mutually beneficial agreement on the contested issues, Greenlining respectfully moves to withdraw its petition for modification regarding background check policies. However, Greenlining remains concerned

² See "Broken Records: How Errors by Criminal Background Checking Companies Harm Workers and Businesses," National Consumer Law Center, April 2012.

that fair policies are implemented statewide, to provide consistency and the broadest possible access to this growing job sector. Greenlining intends to work directly with Southern California Edison and San Diego Gas & Electric to ensure that their policies are consistent with the model policy PG&E has set forth.

Questions like these are never easy, and the concerns both parties brought to the table are very real indeed. However, the dialogue between Greenlining and PG&E was transparent and forthcoming, and we are confident that we have reached a place of mutual understanding on the issues arising before us. We commend PG&E for its commitment to creating an inclusive policy that reflects the needs of the communities it serves, and look forward to continuing work on this critical issue.

Respectfully submitted, Dated: December 20, 2012

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