

**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 GREENLINING
INSTITUTE, THE CENTER FOR ACCESSIBLE TECHNOLOGY, PACIFIC GAS
AND ELECTRIC COMPANY (U39E), SOUTHERN CALIFORNIA EDISON
COMPANY (U 338-E), SAN DIEGO GAS & ELECTRIC COMPANY (U902M),
AND SOUTHERN CALIFORNIA GAS COMPANY (U904G) ON
THE PROPOSED DECISION OF COMMISSIONER FLORIO**

June 16, 2014

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SUMMARY OF RECOMMENDATIONS

1. Proposed Finding of Fact 2 Should Be Modified to More Accurately Characterize D.12-03-054.
2. Proposed Finding of Fact 6 Should Be Modified to Correct the Suggestion that D.10-12-051 Adopted Permanent Provisions.
3. The PD Should Be Modified to Provide Support for Finding of Fact 6 In the Discussion.
4. The PD Should Be Modified to Expand the Discussion of NCLC’s Concern About Payment Plan Flexibility in the Settlement Agreement.
5. The Provisions of D.10-12-051 Should Be Summarized Early On to Lend Additional Clarity to the Context for the Settlement Agreement that the PD Would Approve.

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I. INTRODUCTION

On May 27, 2014, the Commission issued the Proposed Decision (PD) of Commissioner Florio entitled “*Final Decision Approving Settlement Agreement on Credit, Collection and Disconnection Practices.*” Pursuant to Rule 14.3 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network, the Greenlining Institute, the Center for Accessible Technology, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company (the Settling Parties) submit these comments on the PD.¹ The Settling Parties appreciate the Commission’s remarkably prompt response to our proposed Settlement Agreement, which was filed less than two months before the issuance of the PD. In the sections that follow, we propose minor revisions to the PD to increase its clarity and accuracy. With these modifications, we urge the Commission to adopt the PD without delay.

II. COMMENTS ON THE PROPOSED DECISION

A. Proposed Finding of Fact 2 Should Be Modified to More Accurately Characterize D.12-03-054.

Proposed Finding of Fact 2 in the PD refers to “the settlement agreement approved for PG&E and SCE” that the Commission approved in D.12-03-054. However, that decision

¹ The Office of Ratepayer Advocates (ORA) is also a party to the Settlement Agreement at issue in the PD. TURN was unable to reach counsel for ORA to determine whether ORA would accept TURN’s invitation to join these opening comments.

addressed issues pertaining to PG&E and SCE that were fully litigated in Phase II of this proceeding and resolved by the Commission. The PD should be modified to correct this mischaracterization.

Proposed Finding of Fact 2 additionally includes a potentially confusing summary of the contents of D.12-03-054. According to that Finding:

In D.12-03-054, the Commission approved the settlement agreement for PG&E and SCE that required the utilities to permanently: (1) offer the option of immediate CARE enrollment during customer contact with the utility, and (2) perform on-site visits within 48 hours of remote disconnection for vulnerable customers. The settlement agreement also required these utilities, until December 31, 2013, to not categorize bankruptcy as fraud or bad check writing which precludes deposit waivers, continue in-field payment collection without cash deposit, allow customers to choose a billing date, as feasible, and to inform customers at risk of disconnection of that right to a payment plan.

This list is an incomplete accounting of the many requirements of D.12-03-054, which the PD accurately sets forth on pages 2 and 3. To avoid the implicit suggestion that Finding of Fact 2 contains a comprehensive summary of the elements of D.12-03-054, as opposed to a sample of the many requirements, the Settling Parties suggest that the Commission modify this Finding to provide a less detailed summary.

The following modifications to Proposed Finding of Fact 2 would alleviate all of these concerns.

In D.12-03-054, the Commission ~~approved the settlement agreement for~~ *resolved the Phase II issues pertaining to* PG&E and SCE ~~that and~~ required the utilities to permanently: (1) offer the option of immediate CARE enrollment during customer contact with the utility, and (2) perform on-site visits within 48 hours of remote disconnection for vulnerable customers. The ~~settlement agreement~~ *decision* also required these utilities, until December 31, 2013, to ~~not categorize bankruptcy as fraud or bad check writing which precludes deposit waivers, continue in field payment collection without cash deposit, allow customers to choose a billing date, as feasible, and to inform customers at risk of disconnection of that right to a payment plan~~ *continue or adopt a variety of policies regarding customer deposits, payments, and communication with customers.*

B. Proposed Finding of Fact 6 Should Be Modified to Correct the Suggestion that D.10-12-051 Adopted Permanent Provisions.

Proposed Finding of Fact 6 states, “The Settling Parties also confirmed their intent to continue the permanent provisions of the two Commission decisions related to field visits and immediate CARE enrollment.” Presumably, the PD is referring to D.10-12-051 and D.12-03-054, the two Commission decisions governing the utilities’ various disconnection-related practices over the last several years. However, only one of those decisions -- D.12-03-054 -- contained permanent provisions.² The settlement agreement adopted by D.10-12-051 expired by its own terms on December 31, 2013.³ Hence, the Commission should modify Finding of Fact 6 to refer to the “permanent provisions of D.12-03-054” related to field visits and immediate CARE enrollment.

C. The PD Should Be Modified to Provide Support for Finding of Fact 6 In the Discussion.

On page 4, the Proposed Decision discusses the response of the National Consumer Law Center (NCLC) to the Settling Parties’ proposed Settlement Agreement, as well as the Settling Parties’ reply to NCLC.⁴ In this discussion the PD omits any mention of the fact that the Settling Parties confirmed our intention that the Settlement Agreement would not disrupt the permanent provisions of D.12-03-054 regarding CARE enrollment and field visits for vulnerable customers. Then, without any prior discussion, the PD mentions this fact in Finding of Fact 6: “The Settling Parties also confirmed their intent to continue the permanent provisions of the two Commission decisions related to field visits and immediate CARE enrollment.” Settling Parties recommend

² D.12-03-054, Ordering Paragraphs 2 and 4.

³ See D.10-12-051, p. 7 (“Upon approval by the Commission, the Settlement Agreement is effective until December 31, 2013, unless the Settling Parties agree to extend the terms of the Settlement Agreement.”).

⁴ PD, p. 4 (mentioning only the following aspect of the Settling Parties’ reply: “On April 25, 2014, the parties to the Agreement supported the Center’s [NCLC’s] procedural proposal.”).

that the PD be modified to amend the discussion on page 4 to include this issue, thus ensuring that the evidentiary support for Finding of Fact 6 is obvious.

D. The PD Should Be Modified to Expand the Discussion of NCLC's Concern About Payment Plan Flexibility in the Settlement Agreement.

Also on page 4, the PD mentions NCLC's concern about a lack of flexibility in the terms of the payment plan pilot programs included in the Settlement Agreement.⁵ This concern likewise appears in Finding of Fact 7.⁶ Yet the PD does not respond to NCLC's concern. The Settling Parties recommend that the PD be modified to note that the Settling Parties, in reply, pointed to terms of the Settlement Agreement providing for individualized consideration by all utilities of customer needs regarding payment plans, despite the prescriptive approaches to be tested in the pilot programs.⁷ The Commission could also add a corresponding Finding of Fact to parallel the Finding of Fact addressing NCLC's concern.

E. The Provisions of D.10-12-051 Should Be Summarized Early On to Lend Additional Clarity to the Context for the Settlement Agreement that the PD Would Approve.

In Finding of Fact 1, the PD provides a good summary of D.10-12-051, which approved a settlement agreement governing the credit and collections practices of SDG&E and SoCalGas through December 31, 2013. The expiration of that agreement was one of the major drivers of the current Settlement Agreement under review in the pending PD. Perhaps by inadvertent omission, the PD does not provide any information about the contents of D.10-12-051 in the

⁵ PD, p. 4 (mentioning that NCLC sought "additional flexibility in the pilot payment plans.

⁶ PD, Finding of Fact 7 ("The National Consumer Law Center supported the pilot programs to assess effectiveness of payment plans as presented in the Residential Disconnection Settlement Agreement, but sought greater flexibility to address a customer's specific circumstances.").

⁷ Reply of the Settling Parties to the Response of NCLC to the Joint Motion for the Adoption of the Settlement, filed April 25, 2014, pp. 3-4.

“Background” section, where the PD discusses D.12-03-054 (which covered the practices of PG&E and SCE) at length. In fact, the first mention of D.10-12-051 is at the bottom of page 3, where the PD refers to the December 19, 2013, letter from the Commission’s Executive Director, requesting that the utilities maintain the policies adopted in D.10-12-051 and D.12-03-054 until March 3, 2014.

The Settling Parties recommend that the “Background” section of the PD be modified to include the summary of D.10-12-051 provided in Finding of Fact 1. Adding this information to the beginning of the decision would lend more clarity to the procedural history and context for the instant Settlement Agreement.

III. CONCLUSION

For the foregoing reasons, the Settling Parties recommend that the Commission adopt the PD with the modifications discussed herein.

Date: June 16, 2014

Respectfully submitted,

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On Behalf of the Settling Parties

Appendix A

Proposed Modifications to Findings of Fact and Conclusions of Law

Findings of Fact

2. In D.12-03-054, the Commission ~~approved the settlement agreement for~~ resolved the Phase II issues pertaining to PG&E and SCE that and required the utilities to permanently: (1) offer the option of immediate CARE enrollment during customer contact with the utility, and (2) perform on-site visits within 48 hours of remote disconnection for vulnerable customers. The ~~settlement agreement decision~~ also required these utilities, until December 31, 2013, to ~~not categorize bankruptcy as fraud or bad check writing which precludes deposit waivers, continue in field payment collection without cash deposit, allow customers to choose a billing date, as feasible, and to inform customers at risk of disconnection of that right to a payment plan~~ continue or adopt a variety of policies regarding customer deposits, payments, and communication with customers.

6. The Settling Parties also confirmed their intent to continue the permanent provisions of ~~the two Commission decisions D.12-03-054~~ related to filed visits and immediate CARE enrollment.

- New. The Settlement Agreement provides for individualized consideration by all utilities of customer needs regarding payment plans, despite the prescriptive approaches to be tested in the pilot programs.