

BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA

Authorization and Order Directing
Utilities to Extend Emergency
Customer Protections to Support
California Customers Through June 30,
2021 and to File Transition Plans for the
Expiration of the Emergency Customer
Protections

Draft Resolution M-4849
(Filed February 11, 2021)

**REPLY COMMENTS OF THE UTILITY REFORM NETWORK, NATIONAL
CONSUMER LAW CENTER, AND CENTER FOR ACCESSIBLE TECHNOLOGY ON
DRAFT RESOLUTION M-4849**

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I. INTRODUCTION

In accordance with the schedule set forth in Draft Resolution M-4849, issued on January 15, 2021, The Utility Reform Network, Center for Accessible Technology, and National Consumer Law Center (hereinafter referred to as “Joint Consumers”) file these reply comments addressing the opening comments of other parties. While the Draft Resolution addresses ongoing consumer protections for water, energy and communications services during the COVID pandemic and associated economic crisis, Joint Consumers focus here on issues relevant to water and energy.¹ Overall, Joint Consumers continue to support adoption of the Draft Resolution with the modifications and clarifications recommended here and in our opening comments.

II. DISCUSSION

A. Water Issues

1. **Joint Consumers Support Inclusion of a More Detailed Summary of Statutory Consumer Protections for Water Customers (SB 998) in the Draft Resolution**

In opening comments, the California Water Association (CWA) recommends that the Draft Resolution include more detailed discussion of the protections provided for water consumers in the Water Shutoff Protection Act (SB 998),² which was adopted in 2018 and had various provisions come into effect in early 2020, right as the COVID crisis was beginning.

¹ Only one party focused on communications issues, CTIA, filed opening comments on the Draft Resolution. These comments simply repeated arguments made repeatedly before by CTIA, and these arguments have previously been addressed by consumers. *See* Response of the Public Advocates Office, the Center for Accessible Technology, The Utility Reform Network and the National Consumer Law Center to the Applications for Rehearing of Resolution M-4842, filed on June 2, 2020 in A.20-05-007/A.20-05-008; *see also* D.20-09-012 (finding Commission jurisdiction to apply emergency relief efforts adopted in D.19-08-025 on wireless and VoIP Providers). Even so, Joint Consumers reiterate that there would be value in coordinating the moratorium on disconnections for telecommunications customers with the extended protections being considered in the Draft Resolution. *See* Joint Consumers Opening Comments at pp. 2-3.

² CWA Opening Comments at pp.1-2.

Joint Consumers recognize that the provisions of SB 998 were intended to provide some degree of consumer protections for customers served by public water systems that supply water to more than 200 service connections,³ and that these protections will be fully implemented for the first time following the lifting of California’s ongoing water shut off moratoria.⁴ We agree that it would be helpful for the Draft Resolution to be revised to provide more discussion of how SB 998 fits with the overall transition from the shutoff moratoria and ending of the protections under the Draft Resolution.

In particular, Joint Consumers note that the Water Shutoff Protection Act provides some standardized protections for covered water customers, including requirements that water utilities have in-language consumer protection policies⁵ and certain standardized disconnection procedures.⁶ However, these new protections, which were never fully implemented prior to the outbreak of the COVID pandemic, leave much to the utility’s discretion. Moreover, they were intended to create new protections in the context of disconnection concerns that were already substantial prior to our current situation, without any expectation of the need to transition economically precarious customers from a moratorium back to a situation where their service can be disconnected. For these reasons, and contrary to Great Oak’s assertion that the Water Protection Act is providing “all the consumer protections needed at this time,”⁷ the Act is

³ See Cal. Health & Safety Code §116902(d).

⁴ The moratorium was instituted by Governor Gavin Newsom via Executive Order N-42-20, issued on April 2, 2020.

⁵ See Cal. Health & Safety Code §116906 (requiring utilities to have in-language written policies regarding the utility’s plan for deferred or reduced payments; alternative payment schedules; a formal mechanism to contest or appeal a bill, and a phone number for a customer to call to discuss options for avoiding disconnection due to nonpayment).

⁶ See Cal. Health & Safety Code §116908 (includes a prohibition from disconnection until a customer payment is at least 60 days late; written or phone contact no less than 7 days before a disconnection for nonpayment that includes informing consumers of the utility’s disconnection policy and opportunity to discuss options to avoid disconnection).

⁷ Great Oaks Opening Comments at p. 3.

actually likely to only help a limited number of households, particularly low-income households.

The Act provides only limited ongoing protections from water service disconnection; the only households protected from disconnection under the Act are those that:

- (1) Provide “certification from a primary care provider” that discontinuance of service will be “life threatening to, or pose serious threat to the health and safety of, a resident of the premises;”
- (2) Demonstrate a financial inability to pay (those with incomes below 200% of poverty or who participate in certain assistance particular programs are deemed eligible); and
- (3) Have a willingness to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment.⁸

While the loss of water service arguably poses a serious health and safety threat to the vast majority, if not all residential households, it can be difficult for many households to secure documentation from a primary care provider, particularly if the primary care provider is overextended and unfamiliar with this protection, or if a household is uninsured and does not have a primary care provider. Even for customers who meet all three criteria for disconnection protection and who manage to obtain certification, the available relief is shaped by the utility,⁹ so there is no assurance that the bills the customer receives via the amortization agreement or other payment plan will be affordable and the arrearages will be manageable (e.g., the utility could offer only a short deferred payment plan period that is still unaffordable for the household).

Joint Consumers note that there are additional protections that were put in place by the Commission via Resolution M-4842, and that are available as a safety net should the water

⁸ See Cal. Health & Safety Code §116910.

⁹ See Cal. Health & Safety Code §116910(b)(2).

disconnection moratoria be lifted before the period of consumer protection coverage provided in M-4842 and this draft Resolution; these include the waiver of reconnection or facility fees and suspension of deposits for reconnecting customers. These protections need to be sustained.

Finally, Joint Consumers are concerned that without a careful transition plan in place, the water customers served by systems under the Commission's jurisdiction are at great risk of disconnection for non-payment due to arrears that have accrued during the water shut-off moratoria as the protections of the Water Shutoff Protection Act do not address the underlying affordability of the water bills and leave much in the utility's discretion regarding options to avoid a disconnection.

2. Should the Commission Allow an Extension of Time for Water Utilities to Develop and Submit Their Transition Plans, the Extension Should be No Longer than 30 Days

CWA seeks additional time for water utilities to submit their Advice Letters setting out their transition plans, arguing that two weeks is not enough time to develop robust and thoughtful plans.¹⁰ CWA also asks that the Commission work closely with the California State Water Resources Control Board (SWRCB) regarding best approaches for utilities. Joint Consumers support the call for the Commission to work closely with the SWRCB, and are open to a limited extension in the filing of the transition plan advice letters, in order to allow for more thorough planning which will necessarily include protections beyond implementation of the provisions of SB 998. This is important, given that there is a high risk of a wave of residential disconnections following the lifting of the water shut-off moratoria, and the provisions of SB 998 were not adopted in anticipation of the situation in which we find ourselves now. As noted above, the protections provided in the Water Shutoff Protection Act fail to address the underlying

¹⁰ CWA Opening Comments at p. 4.

affordability problem and the solutions provided are likely to just temporarily stave off a disconnection, particularly if the job market takes a long time to recover and households are coping with numerous debts (from housing, to healthcare to other utility services, etc.). Thus, the plans need to contain options to ease customers out of a moratorium and provide ways for them to remain connected to service before returning to a new status quo as required by SB 998.

B. Energy Issues

1. SDG&E's Misleading Assertion About Its Inability to Comply With Reporting Requirements Should Be Rejected

SDG&E misleadingly claims that due to its ongoing Customer Information System (“CIS”) system transition, it is unable to implement any additional reporting requirements.¹¹ However, SDG&E does not need to make changes to its CIS system during the system stabilization period in order to meet the additional reporting requirements contained in the Draft Resolution, which can be generated by performing queries via the existing system. This is consistent with practices in use by SDG&E for many years, as utility analysts perform queries that gather necessary data to produce required reports. Since queries to the CIS system do not alter the system in any way (they perform only read access), the CIS system can remain in its stabilization state without being modified. Thus, while SDG&E asserts that it is “unable to incorporate these changes in the CIS system until system stabilization is completed,” the reality is that the CIS system does not need to be changed in order for SDG&E to implement the additional reporting requirements. The Commission should reject SDG&E’s request because it is not accurate that reporting relies on changes to the CIS system.

¹¹ SDG&E Opening Comments at pp. 2-3.

2. While It May Be Reasonable to Grant The IOUs More Time To File The Advice Letters, SoCal Gas' Request To Delay Its Filing Until April 26, 2021 Should Be Rejected

Without providing any support, SoCalGas requests that the Commission extend the submittal date for the Tier 1 Advice Letter until 10 days after April 16, 2021.¹² The Draft Resolution sets the deadline for 10 days after the issuance of the final resolution, which will be heard at the Commission's voting meeting on February 11, 2021.¹³ While it may be reasonable to grant the IOUs more time to file the Tier 1 Advice Letter describing steps to extend the existing emergency customer protections, as well as use of memorandum accounts, SoCalGas' unsupported request to delay its filing until April 26, 2021 should be rejected. SoCalGas seeks approval to delay filing its Tier 1 Advice Letter until *after* the expiration of the current protection period, even though the purpose of the Tier 1 Advice Letter is to demonstrate how the utility will comply with the requirement to extend the Emergency Customer Protections to June 30, 2021. Not only would it be illogical to allow the IOUs to wait to submit their Tier 1 Advice Letters until after the protections expire, it would also fail to allow sufficient time for the Commission to review the filings and address beforehand potential noncompliance by the utility, if any. Thus, granting SoCalGas' extension would be nonsensical. Instead, the Commission should consider granting an extension of and additional 7 to 14 days following the adoption of a Final Resolution.

3. The IOU Transition Plan Must Be Substantive, Meaningful, and Subject to Review and Follow Up.

The Draft Resolution requires the IOUs to provide substantive transition plans that "map out a timeline of activities associated with programs or initiatives that assist customers in bill

¹² SoCalGas Opening Comments at p. 3.

¹³ Draft Resolution at p. 5.

management.”¹⁴ One key element of the transition plan is for the IOUs to “include a plan for reporting progress on activities in the timeline, and present metrics they will track and report to monitor success in achieving the goal of effectively easing customers through a transition off of Emergency Customer Protections....”¹⁵ In order for the transition to be successful, the provisions of the IOU transition plans must be meaningful and subject to review.

SoCalGas argues that “[g]iven the timing proposed in the Resolution, the IOUs may not have a fully developed draft transition plan,” and it therefore recommends that the IOUs submit only high level transition plans in an outline form to be developed into a more detailed plan.¹⁶ SoCalGas does not describe what would be contained in this “high-level outline,” nor does it discuss whether or not the outline would contain all the necessary elements for the LIOB to provide meaningful input, which would allow IOUs to submit a final plan incorporating LIOB’s input by April 1, 2021. Without any defined guideline for this “high-level outline,” it is conceivable that the IOUs could submit an outline that is devoid of any meaningful implementation information for the LIOB’s review. This could result in a final plan by the IOUs that is not subject to meaningful by the LIOB or other stakeholders prior to implementation, which would be an unacceptable result. Thus, if the Commission grants SoCalGas’ request to submit an outline initially, the Commission should at a minimum require the outline to contain all the elements and information required by the Resolution, which would enable the LIOB to conduct a meaningful review and provide feedback.

In addition to requesting that it be allowed to submit the Transition Plan in outline

¹⁴ Draft Resolution at p. 11.

¹⁵ Draft Resolution at p. 14.

¹⁶ SoCalGas Opening Comments at p. 4.

format, SoCalGas also argues that its Transition Plan should be “flexible.”¹⁷ In other words, not only does SoCalGas seek to avoid providing details up front, it also wants to have the ability to deviate from its Transition Plan. SoCalGas attempts to justify its request by asserting that without sufficient “flexibility,” the IOUs may not be able to “react to the evolving COVID-19 landscape and provide a transition plan that is helpful and instructive for its customers.”¹⁸ Granting SoCalGas’ request would defeat the purpose of the entire review and feedback process, and it would essentially allow SoCalGas to conduct its Transition Plan activities however it desires. Furthermore, the Commission needs to ensure that there is a consistent response to the COVID-19 pandemic across the state. SoCalGas’ request should be rejected.

Finally, PG&E requests clarification that the example metrics proposed for progress tracking and reporting are “only illustrative” and that the IOUs should have the flexibility to propose different or additional metrics.¹⁹ PG&E further explains that it “intends to coordinate with the other IOUs on the proposed metrics to promote consistency and to share the proposed metrics with stakeholders and Commission staff through engagement with the Low Income Oversight Board as described in the Draft Resolution.”²⁰ Joint Consumers would not oppose a brief, collaborative effort to ensure that stakeholders have a shared understanding of appropriate metrics for evaluating success, with the provisions of the Draft Resolution to be used as the starting point for this effort. However, the process for establishing a plan for progress tracking and reporting should not be delayed, and the Commission should retain the articulated standards

¹⁷ SoCalGas Opening Comments at p. 4.

¹⁸ SoCalGas Opening Comments at p. 4.

¹⁹ PG&E Opening Comments at p. 3.

²⁰ PG&E Opening Comments at p. 3 (citation to Draft Resolution omitted). While PG&E references a collaborative process among the IOUs, Joint Consumers are not clear whether the other IOUs are also supportive of this process.

as a backstop, to be implemented if a brief collaborative effort does not result in an alternative consensus set of metrics.

4. While Joint Consumers Do Not Object to Defining Indicators for The Projected Number of Customers Facing Disconnections, The Number Must Be Compared To A Modified Cap Due To The Disconnection Moratorium

The Draft Resolution would require the large energy IOUs to include in their transition plans “the number and percent of customers by zip code who are projected to be facing disconnection after June 30, 2021, and compare it to the monthly disconnection cap.”²¹ SoCalGas asks that the Commission provide clear definitions of the indicators that should be used to project the number of customers likely to be facing disconnections after June 30, 2021.²² PG&E asks that this requirement be eliminated, arguing that there is a distinction between customer who are “eligible for the possibility of disconnection” and those who are at “imminent risk” of disconnection.²³ In particular, PG&E asserts that some people who have not paid their bills might be able to respond once they are actually facing threat of disconnection.²⁴ While Joint Consumers do not object to having the Commission provide additional details on how the utilities should calculate the indicators of disconnection risk, or adopt alternative language to describe the indicators (e.g. identifying customers who will be facing disconnection unless they take action in response to warnings), the Joint Consumers stress that these projections should be retained to provide an understanding of the scope of disconnection risk. In addition, as noted in Joint Consumers’ Opening Comments, the projections should be compared to a modified monthly cap number that factors the lengthy stretch of zero disconnections into the adopted

²¹ Draft Resolution at p. 14.

²² SoCalGas Opening Comments at p. 5.

²³ PG&E Opening Comments at p. 3.

²⁴ PG&E Opening Comments at p. 4.

formulas for calculating the caps.²⁵ The Draft Resolution states that the IOUs shall include the “number and percent of customers by zip code who are projected to be facing disconnection after June 30, 2021, and compare it to the monthly disconnection cap.”²⁶ As previously noted, if the unmodified cap methodology were to be applied following the end of the disconnection moratorium, the formula would allow the IOUs to conduct nearly a year’s worth of disconnections within a single month without exceeding the cap.²⁷ Hence, it is crucial that the monthly disconnection cap be modified during the initial months after the end of the Emergency Customer Protections period until such time as the IOUs have sufficient non-zero disconnection data points to be used for the rolling cap methodology. The Joint Consumers proposed two options for the modified cap in our opening comments, but the Joint Consumers would also be open to other alternatives for modifying the disconnection cap, as long as the alternatives would reasonably avoid an immediate flood of disconnections at the end of the Emergency Customer Protections period.

III. CONCLUSION

Joint Consumers support adoption of the Draft Resolution with modifications consistent with our Opening Comments and with these Reply Comments.

Respectfully submitted,
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²⁵ Joint Consumers Opening Comments at pp. 9-10.

²⁶ Draft Resolution at p. 14.

²⁷ Joint Consumers Opening Comments at p. 9.