

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into Transfer
of Master-Meter/Submeter Systems at
Mobilehome Parks and Manufactured
Housing Communities to Electric and Gas
Corporations

Rulemaking 11-02-018
(Filed on February 24, 2011)

**REPLY BRIEF OF THE DIVISION OF RATEPAYER ADVOCATES, THE UTILITY
REFORM NETWORK, SOUTHERN CALIFORNIA EDISON COMPANY, SAN DIEGO
GAS & ELECTRIC COMPANY, SOUTHERN CALIFORNIA GAS COMPANY,
PACIFICORP, BEAR VALLEY ELECTRIC SERVICE, AND CALIFORNIA PACIFIC
ELECTRIC COMPANY, LLC**

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I. INTRODUCTION

Pursuant to Rule 13.11 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure and in accordance with the November 13, 2012 Administrative Law Judge’s (“ALJ”) Ruling Memorializing Schedule Changes, the Division of Ratepayer Advocates (“DRA”), The Utility Reform Network (“TURN”), Southern California Edison Company (“SCE”), San Diego Gas & Electric Company (“SDG&E”), Southern California Gas Company (“SoCalGas”), PacifiCorp, Bear Valley Electric Service (“BVES”), and California Pacific Electric Company, LLC (“CalPeco”) (collectively, “Joint Parties”) respectfully submits its reply brief in response to the opening briefs of Pacific Gas and Electric Company (“PG&E”), Western Manufactured Housing Communities Association (“WMA”), Southwest Gas Corporation (“Southwest Gas”), California Coalition of Utility Employees (“CUE”), and Golden State Manufactured Home Owners League (“GSMOL”) (collectively, “Opposing Parties”).

II. ISSUES

A. The record in this proceeding does not support PG&E’s proposal.

PG&E’s program is based on the premise that all mobile home parks (“MHPs”) have safety and reliability issues, but the massive and expensive conversion program proposed by

PG&E is unsupported by the record in this proceeding. In its opening brief PG&E asserts, “No one in this proceeding has disputed that, as a general rule, the utility systems in master-metered MHPs are characterized by safety, reliability, and capacity issues,”¹ but PG&E has not supported its assertions with any evidence. In fact, as was stated in the opening brief of the Joint Parties, there is nothing on the record to indicate that a significant number of MHP owners have failed to maintain their master-metered systems, or that the master meter discount is insufficient to provide for such maintenance.² The evidence on the record actually indicates the opposite of PG&E’s assertion: that the vast majority of master-metered MHP utility systems do not have safety issues. Analysis performed by the Commission’s Safety and Enforcement Division (“SED”), formerly known as the Consumer Protection and Safety Division (“CPSD”), and presented to the California State Assembly Committee on Utilities and Commerce indicates that 93% of master-metered MHPs do not require additional safety inspections, and that in fact 50% of MHPs are candidates for less frequent safety inspection.³ Even Southwest Gas, which supports PG&E’s proposal, states that it is “not aware of any imminent safety and reliability issues in the MHP community as a whole.”⁴ PG&E’s assertions regarding safety are simply unsupported given the record in this proceeding.

WMA also cites safety issues as a reason to subsidize the full cost of converting *all* MHPs to direct utility service.⁵ According to the data provided by SED to the State Assembly, however, for the majority of MHPs, such safety issues do not exist. Further, one should not

¹ R.11-02-018, Opening Brief of Pacific Gas and Electric Company (henceforth “PG&E Opening Brief”), filed December 14, 2012, p. 2.

² R.11-02-018, Opening Brief of the Division of Ratepayer Advocates, The Utility Reform Network, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company, PacifiCorp, Bear Valley Electric Service, and California Pacific Electric Company, LLC (henceforth, “Joint Parties Opening Brief”), filed December 14, 2012, pp. 3-4.

³ Bill Analysis presented to the California State Assembly Committee on Utilities and Commerce on April 9, 2012, found at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1651-1700/ab_1694_cfa_20120405_164525_asm_comm.html. The Commission may take judicial notice of these public documents as per Rule 13.9 of the Commission’s Rules of Practice and Procedure.

⁴ R.11-02-018, Opening Brief of Southwest Gas Corporation, filed December 14, 2012, p. 4.

⁵ R.11-02-018, Opening Brief of the Western Manufactured Housing Communities Association in the Rulemaking Insto Issues Concerning Transfer of Electric and Natural Gas Master-Metered Service at Mobilehome Parks and Manufactured Housing Communities to Direct Service by Electric and Natural Gas Corporations (henceforth, “WMA Opening Briefs”), filed December 14, 2012, pp. 6-7.

forget that WMA's members are currently responsible for the ongoing maintenance of the current master-metered utility systems in California. If in fact these are "uninspected, inadequate and unsafe"⁶ as asserted by WMA, the responsibility to correct these problems lies squarely with the members of WMA and, indeed, all MHP owners.

B. The results of the MHP survey refute PG&E and WMA's claims regarding the desire and need to convert MHPs to direct utility service.

In its opening brief, WMA claims, "The near universal preference for all member owners is to have the sub-metered residents directly served by the IOU."⁷ While it may be true that WMA members may all want to convert their utility service to direct utility service, WMA only represents about 40% of the MHPs in the state. The survey conducted in this proceeding indicates that only 64% of the MHPs surveyed (380 out of 592) actually want to convert their service to direct utility control.⁸ In addition, while cost has widely been discussed throughout this proceeding as a major impediment to converting service, the survey indicates that other factors may actually take precedence over costs. Out of the 212 MHPs that were not interested in converting their utility systems, 65 MHPs have already replaced their system and do not want to convert service, 113 MHPs want to maintain control over all utility service, and 33 MHPs do not want to disturb their tenants. Only 81 MHPs out of the 212 that said they do not want to transfer indicated that the cost to transfer was too uncertain or too high to convert their systems.⁹

C. PG&E's Proposal lacks any mechanism for targeting problem mobile home parks

While the data available about the actual condition of MHPs in California is extremely limited, there is no dispute that action must be taken with regard to the MHPs with provable safety issues. Ideally any future conversion program should have a way of targeting these

⁶ *Id.* at 12.

⁷ WMA Opening Brief, p. 3.

⁸ R.11-02-018, Administrative Law Judge's Ruling Regarding 3rd Prehearing Conference, Attachment, Summary of Responses: Questionnaire to Mobilehome Parks And Manufactured Housing Communities, filed August 10, 2011 (Question #19, p. 3 - 380 parks said yes to transfer of service and 212 said no).

⁹ *Id.*

problem MHPs. Rather than present a workable plan to target these MHPs, PG&E and the Opposing Parties propose that the Commission simply hope that every problem MHP volunteers for conversion and that ratepayers can afford to write a blank check to cover the program.

Within the constraint of a completely voluntary program, the most effective way to target MHPs with safety issues is a two-tiered approach to outreach as developed by the Joint Parties. The Joint Parties have proposed a plan whereby utilities would use standard outreach practices with most MHPs, but, additionally, have a second tier of enhanced outreach for problem MHPs, as determined by the appropriate government authorities. This enhanced plan would prioritize outreach to MHPs with safety issues so that each owner of a MHP with safety issues will be presented with accurate information about conversion options, and be given the opportunity to make an informed decision about whether or not to convert to direct utility service.

CUE argues that, “The Joint Parties do not claim that their proposal would end the sorry state of MHP electric and gas service in California”¹⁰ and, given the voluntary approach proposed by Joint Parties, “high priority MHPs won’t be the ones to come forward.”¹¹ CUE argues that voluntary conversion will result in only the best-maintained MHPs converting. The point that CUE seems to miss is that CUE’s objections to the Joint Parties’ proposal can be equally applied to PG&E’s proposal, which is also a voluntary program. Within the context of a voluntary program any prioritization scheme will result in a self-selection bias in those who choose to participate. To mitigate this problem, the Joint Parties have proposed priority outreach to the small number of MHPs with known safety issues. PG&E and the Opposing Parties have failed to propose any solution to target the MHPs with known safety issues.

D. PG&E and CUE mischaracterize the Joint Parties’ proposal with regard to safety inspections.

PG&E dramatically opines that the Joint Parties are irresponsible for not including specific language in testimony referring to safety inspections, stating, “Shockingly, the Joint Parties’ proposal does not include a requirement for an inspection of existing gas and electric

¹⁰ R.11-02-018, Opening Brief of The Coalition of California Utility Employees (henceforth “CUE Opening Brief”), filed December 14, 2012, p. 5.

¹¹ *Id.* at 9.

metering facilities.”¹² CUE also expresses concern that “Joint Parties do not include a requirement for an inspection of existing gas and electric metering facilities.”¹³ At no point in the testimony of Joint Parties is there any language indicating that the proposal outlined therein precludes safety inspections, and PG&E and CUE’s assertions greatly mischaracterize the Joint Parties’ proposal. The Joint Parties support the continued inspections of gas and electric facilities and have never suggested that SED, California Department of Housing and Development (“HCD”) or the relevant local government entities cease their inspections or abdicate their responsibilities to do so under the Joint Parties’ proposal.

E. WMA mischaracterizes the benefits of converting MHP service to direct utility control.

In its opening brief, WMA mischaracterizes the benefit that the general body of ratepayers will receive from paying to convert MHPs’ utility service to direct utility control.

WMA states,

As an important aspect, all utilities (i.e., ratepayers) will recover some portion of their cost through reduction of the submeter discounts that they are now required to provide to master meter customers in lieu of providing direct service to MHP residents.¹⁴

WMA attempts to argue that ratepayers will be obtain a new benefit by no longer providing the submeter discount. However, under the master-meter discount, the MHP owner is able to charge the park residents the same rate that would be applicable if the utility were to provide direct service while the utilities (i.e., ratepayers) must charge the MHP a reduced rate to reflect the lower costs the utilities incur by having the MHP owner bill tenants and maintain their systems, including replacements of facilities. Once MHPs are converted to utility control, ratepayers will no longer be paying for the sub-meter discount but will now incur the costs to provide direct utility service to the MHP residents, canceling out any savings.

¹² PG&E Opening Brief, p. 13.

¹³ CUE Opening Brief, p. 8.

¹⁴ WMA Opening Brief, p. 9.

F. The current master meter discount has been sufficient to fund adequate maintenance and replacement of MHP utility systems.

WMA seeks to evade responsibility on the part of MHP owners for any of the costs of converting service to utility control, and essentially attempts to re-litigate issues on which the Commission has already ruled.¹⁵ WMA claims that the master meter discount does not provide for the cost of system replacement, but instead provides only for “1) return on past investment and 2) maintenance and billing,”¹⁶ and that “No amount of maintenance will keep them in service in perpetuity.”¹⁷ WMA has been unsuccessfully fighting this issue for the last seventeen years. The Commission has repeatedly held that the replacement costs are included in the master meter discount,¹⁸ and have most recently held that “WMA’s calculation to explicitly add replacement costs to the submeter discount would result in double counting. Replacement costs are already implicitly included in the submeter discount through the RECC factor.”¹⁹ WMA filed a motion for rehearing to further argue the point but was denied.

Furthermore, return on investment is not collected indefinitely. Utilities collect a return on investment for undepreciated capital over the useful life of the asset. As capital is depreciated, the rate of return diminishes. WMA essentially argues that, in the special case of master-metered MHPs, the return on investment should continue indefinitely and that at no point should the asset be fully depreciated. Data provided by SED to the California State Senate indicates that 88% of the MHPs in the state are more than 40 years old.²⁰ WMA’s proposal would have the average MHP owner still receiving full rate of return on a capital expenditure made 40 years ago. The vast majority of MHP owners have seen an adequate return on their initial capital investment, and should have already begun planning for removal and replacement of systems reaching the

¹⁵ *Id.* at 3.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *See, for example*, D.95-02-090.

¹⁹ D.11-12-053, p. 44 (“We conclude that WMA’s calculation to explicitly add replacement costs to the submeter discount would result in double counting. Replacement costs are already implicitly included in the submeter discount through the RECC factor.”); *see also Id.*, Finding of Fact 31.

²⁰ Bill Analysis presented to the California State Senate on June 26, 2012, found at http://leginfo.ca.gov/pub/11-12/bill/asm/ab_1651-1700/ab_1694_cfa_20120626_141611_sen_floor.html. The Commission may take judicial notice of these public documents as per Rule 13.9 of the Commission’s Rules of Practice and Procedure.

end of their useful lives. Under the current master meter discount mechanism, the Commission did not implement a policy that would ensure that the discounts were used for their intended purpose, a policy that TURN has proposed in the past but has been opposed by WMA. That being said, the fact that MHP owners may not have ever planned to actually replace their systems does not absolve MHP owners of their responsibility to do so nor does it mean that all other ratepayers should have to pay to convert all MHPs to utility service.

San Luis Rey Homes (“SLRH”) and CUE also argue that “it’s unrealistic to expect senior citizen homeowners on marginal fixed incomes to be held responsible for this huge amount of capital,”²¹ but the record shows that SLRH has collected a significant amount of money over the years through the master-meter discount that has allowed it to maintain its systems and could be used to significantly offset the cost of converting its utility service. Over the park’s 20 years of operation, SLRH has collected \$1,382,680 from the master-meter discount and currently has a reserve of \$408,240 remaining after subtracting the costs of maintenance and upgrades over the last 20 years.²² Rather than spending this reserve on replacing or converting its service, however, SLRH indicates that it intends to use the money collected from the master-meter discount for solar installations and would have all ratepayers subsidize the full cost of converting its service to utility control.²³ Ratepayers have been paying significant amounts of money towards the master-meter discount over the years, and the mere fact that some MHP owners, such as SLRH want to use the money for something other than its intended purpose does not mean that ratepayers should once again pick up the tab.

G. The Joint Parties’ proposal will allow the Commission to collect more accurate cost information.

PG&E’s proposal calls for the utilities to completely replace, at ratepayer expense, the gas and electric systems of potentially every MHP in the state, with zero regard for total costs. PG&E’s justification for these open-ended costs is the lack of current information about MHP gas and electric systems, and that utilities have had little experience with converting occupied

²¹ Exh. 7, Rebuttal Testimony of San Luis Rey Homes, p. 2; *see also* CUE Opening Brief, p. 7, citing SLRH Rebuttal Testimony.

²² Exh. 10, San Luis Rey Homes Responses to TURN Data Request, Exhibit 1.

²³ *Id.*

MHPs to direct utility service.²⁴ PG&E's proposal can be boiled down to the following: ratepayers should fully fund the conversion of every MHP whose owner requests conversion, and, because we lack information about conversion costs, ratepayers should shoulder the burden of any and all costs.

The Joint Parties agree that there is a lack of information about conversion costs that must be addressed. For instance, PG&E's forecast of conversion costs are an order of magnitude greater than recorded costs. For conversions since 1997, according to Exhibit 1- Joint Cost Report, PG&E recorded total costs of \$3,414 for both natural gas and electric service per space, \$1,980 per space for electric and \$1,434 per space gas.²⁵ SCE recorded \$1,212 per space, SDG&E recorded \$1,534 per space for electric and \$553 per space for gas, and SoCalGas recorded \$901 per space. In contrast, PG&E proposes that its ratepayers spend \$24,500 per space to convert.²⁶ PG&E's forecasted costs are an order of magnitude greater than its recorded costs and this discrepancy is one indication that the Commission needs better cost information. Another indication that better cost data is necessary is the wide range in costs per space to convert across the different utilities. Contrary to WMA's assertion that "the utility cost estimates are wide ranging but in the same order of magnitude,"²⁷ utility cost estimates range from approximately \$2000 per space to \$24,500 per space.

While the Joint Parties agree there is currently a lack of information on costs, the Joint Parties disagree with PG&E that the way to address the problem is by simply having ratepayers pay for whatever it may require to convert the MHPs. Under such a program, program costs could reach \$10 billion.²⁸ There would be little incentive to keep costs low and no method for targeting problem MHPs. The Joint Parties' proposal, on the other hand, would allow the

²⁴ PG&E Opening Brief, pp. 1-5.

²⁵ Exh. 1, Joint Cost Report, pp. 46-51.

²⁶ See Exh. 3, Prepared Testimony of Pacific Gas & Electric Company, Southwest Gas Corporation, Western Manufactured Housing Communities Association, Golden State Manufactured Home Owners League, Coalition of California Utility Employees, and San Luis Rey Homes, filed November 20, 2012, Chapter 4, Attachment A, MHP Conversion Program Cost Estimates (\$24,500 per space includes capital expenditures, customer connection processing expenses, and O&M).

²⁷ WMA Opening Brief, p. 7.

²⁸ Joint Parties Opening Brief, pp. 10-12.

Commission to target those MHPs that are most in need of infrastructure replacements while collecting the necessary information on costs. The Joint Parties' proposal will also give the Commission time to collect additional information on many other topics including feasibility of conversions, difficulty of hiring sufficient numbers of contractors, best practices for converting MHPs, and tenant response.

H. PG&E and the Opposing Parties fail to justify changing current Commission and utility policy in regard to work beyond the meter.

PG&E's proposal to require ratepayers to fully fund beyond-the-meter work for MHPs is unprecedented, and nothing in its opening brief justifies changing current Commission and utility policy on work conducted beyond the meter.²⁹ If the issue under consideration were multifamily apartment buildings in which the owner had allowed the beyond-the-meter electric and gas distribution systems to decay, the Commission would not consider spending ratepayer money to mitigate the issue even if there may be concerns about "safety, reliability, and capacity,"³⁰. To do so would serve only to reward the owner's negligence and to drastically increase the value of the owner's property at ratepayer expense. Similarly, it is almost certain that there are some single family, owner occupied homes in PG&E's service territory experiencing safety, reliability, and capacity issues due to beyond the meter problems. If PG&E requested to spend ratepayer funds to remedy this, the request would almost certainly be rejected.

Traditionally, utility involvement has typically ended at the meter. This is recognized in PG&E's Tariff rules, as well as those of the utility members of the Joint Parties. PG&E's Gas Rule 16 states that the "Applicant shall be solely responsible to plan, design, install, own, maintain and operate facilities and equipment beyond the Service Delivery Point."³¹ The rule then goes on to define the service delivery point as "Where PG&E's Service Facilities are connected to Applicant's pipe (house line), normally adjacent to the location of the meter(s)."³² PG&E's Electric Rule 16 has similar language, the intent of which is clear: customers are

²⁹ See PG&E Opening Brief, pp. 11-12.

³⁰ PG&E Opening Brief, p. 2.

³¹ PG&E Gas Rule 16, p.7.

³² *Id.* at 16.

responsible for all aspects of planning, installing, and maintaining infrastructure past the service delivery point. If a customer elects to perform work beyond the meter that work is performed at the expense of the customer.

If a customer requires upgraded infrastructure in order to “fully enjoy the new electric system capacity,”³³ tariff rules allow for such an upgrade, at the sole expense of the customer. Electric Rule 16 further states that the “Applicant shall, at its sole liability, risk, and expense, be responsible to furnish, install, own, maintain, inspect, and keep in good and safe condition, all facilities of any kind or character on Applicant's Premises that are not the responsibility of PG&E but are required by PG&E for Applicant to receive service.”³⁴ There is no justification for treating the new utility customers created during conversion to utility service inconsistently with any other utility customer with regard to equipment on customer premises and owned by the customer.

As explained in the Joint Parties’ opening brief, in electing to make the utilities responsible for work beyond the meter, PG&E’s proposal opens the utilities to potential liability.³⁵ The utilities should not be put in a position where ratepayers may be liable should there be an accident or other problem with customer-owned equipment on customer property or within a customer’s home. MHP owners are currently, and should remain, liable for the condition of infrastructure on their own property and should remain so. Under no circumstances should ratepayers bear the costs of upgrading facilities on MHP property regardless of their condition. MHP owners have received a master meter discount which the Commission has deemed sufficient to meet their responsibility to provide proper maintenance to MHP-owned distribution systems.

Responsibility for beyond the meter work should remain with the MHP owner, and should safety or service concerns necessitate the replacement of beyond the meter equipment the replacement should be at the MHP owner’s expense, consistent with current utility practices.

³³ Exh. 3, pp. 2-14

³⁴ PG&E Electric Rule 16, p. 8

³⁵ Joint Parties’ Opening Brief, p. 13.

III. CONCLUSION

The Opposing Parties proposes a conversion program that, by its own estimates, would cost more than \$2.5 billion in ratepayer money³⁶ but that, in fact, may cost California IOU ratepayers upwards of \$10 billion.³⁷ The Opposing Parties are requesting an open-ended balancing account, and makes it clear that costs may well exceed estimates. The Opposing Parties want to hold new customers to different standards for work on customer premises, and for the purposes of establishing credit; again at ratepayer expense.

The Opposing Parties' reason for requesting this program to convert *all* MHPs in the state to direct utility service is that it is possible that *some* MHPs may have safety issues. Essentially the Opposing Parties claim that all MHPs must be converted to direct utility service because we cannot prove that there are no safety issues with the majority of MHPs. The fact that our inability to disprove this negative would result in PG&E earning a rate of return on more than \$2.5 billion in ratepayer funded capital spending is surely just a happy accident.

The Joint Parties take issues of safety in MHPs very seriously. There is no question that MHPs proven to have safety issues must be made safer for the sake of the residents, however thus far in this proceeding there has been no evidence that current inspection and enforcement measures are not adequate to the task of ensuring that master-metered MHPs are in compliance with safety standards. The issue must be understood before an adequate solution can be found. There simply is not enough evidence at this time to justify the Opposing Parties' program. If ratepayer money is to be spent dealing with this issue, it should be spent in a limited fashion on gathering hard data about both the condition of MHP master-metered systems and on actual conversion costs. This is the program that Joint Parties have proposed, and this is the only program that can be justified under the circumstances.

For the reasons stated above, the Joint Parties recommend that the Commission adopt the program proposed in the testimony and opening brief of the Joint Parties.

³⁶ Exh. 3, p. 1-6.

³⁷ Joint Parties Opening Brief, pp. 10-12.

Dated: January 18, 2013

Respectfully submitted,

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