

ORIGINAL

Decision No. 69931

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SOUTHWEST GAS CORPORATION

For a Certificate of Public Convenience and Necessity Under Article 1 of Chapter 5, Public Utilities Code of the State of California to construct, operate and maintain a natural gas distribution system, to exercise franchise rights, and to deviate from filed Main Extension Rules in the vicinity of Lake Tahoe, Placer County, California.

Application No. 47558
(Filed May 7, 1965)

Charles H. McCrea, Clark J. Guild, Jr., Earle W. White, Jr., and David W. Hagen,
for applicant.

Richard G. Campbell and Casey Vlautin, for Sierra Pacific Power Company; Philip P. Greuner, for A. J. Schilder, Secretary South Tahoe Gas Company and for H. H. Heidrick of Wilsey Ham & Blair; and William B. Layton, Jr., for Tahoe City Public Utility District; interested parties.
Arch Main, for the Commission staff.

O P I N I O N

Southwest Gas Corporation seeks a certificate of public convenience and necessity to construct, operate and maintain a natural gas system in the Lake Tahoe area of Placer County, California. It further seeks a certificate to exercise franchise rights under a franchise obtained from Placer County.^{1/}

1/ Placer County Ordinance No. 750-B.

Applicant also seeks authority to deviate from its main extension rule for a period of two years in order to construct the facilities required to serve the prospective customers and further seeks authority to file tariffs including a special condition which would implement a new type of marketing program.

Public hearing was held before Examiner Patterson on June 29 and 30 and July 1 and 2, 1965, at Tahoe City. Several witnesses supporting the application were called by applicant. No protests were entered to granting the application except that Sierra Pacific Power Company and the Commission staff both voiced strenuous objections to the proposed intensive marketing program. The staff also questioned the advisability of proceeding with any portion of the proposed system south of Tahoe City until its economic feasibility had been proven by signed applications for gas service from a sufficient number of prospective customers.

The natural gas supply for the proposed system is to be transmitted through a 21-mile 8-5/8-inch O.D. welded steel pipeline extending from a point on applicant's Northern Nevada system near Carson City, Nevada to the north end of Lake Tahoe near the California-Nevada state line. Authority to construct this 21-mile transmission line was obtained by an order of the Federal Power Commission issued June 3, 1965, in Docket No. CP65-333 (Exhibit No.2). From this transmission line applicant proposes to distribute natural gas in the first year of operation to approximately 400 customers principally in Washoe County, Nevada^{2/} and to approximately 2,500 customers in Placer County, California.

^{2/} Applicant was granted a certificate for the Nevada operation by an opinion and order of the Nevada Public Service Commission decided July 1, 1965 in CPC No. 661. The opinion shows that by stipulation the marketing program was withdrawn from the application.

The proposed pipeline system in California, intended to serve 2,517 customers in the first year of operation, will consist of 98,900 feet of 6-inch steel pipe, 6,300 feet of 4-inch steel pipe and 224,500 feet of 2-inch plastic pipe. The installed cost of this system including meters and services as summarized in Exhibit D is estimated to be \$1,228,155 which, along with \$40,549 of general plant facilities, results in a total investment for the first year of operation of \$1,268,704. Applicant estimates that 377 customers will be added in the second year of operation and 434 customers in the third year. On the assumption that additional distribution mains would be required for only half of these additional customers applicant estimates that the added facilities in the second year will amount to \$59,410 for mains, services and meters and \$934 for general plant and in the third year \$68,355 for mains, services and meters and \$4,547 for general plant.

The proposal to use polyvinyl chloride (PVC) Type II High Impact plastic pipe for 2-inch and smaller distribution mains and services is in accord with applicant's practice in recent years of utilizing such plastic material for the smaller sizes of pipe. Applicant's Vice President-Engineering testified as to the characteristics, performance and suitability of this material indicating that savings in installed costs of approximately 20 per cent for 2-inch mains and from 15 per cent to 20 per cent for services result from its use.

As shown by Exhibit No. 5, recent field inspections made on applicant's system at Big Bear Lake show no signs of deterioration in plastic pipe which has been in use for approximately three years. He testified that the same encouraging results have been obtained from inspections made of plastic pipe installed more than ten years ago.

A spokesman for the Tahoe City Public Utility District stated that the District was in favor of bringing natural gas into the area but was somewhat concerned about the use of plastic pipe. The record indicates however that from the discussion held between representatives of the District and applicant there is no serious point of disagreement and that the installation of plastic pipe will not interfere with the District's operations. The record shows that to facilitate location of the plastic pipe, and for reinforcement purposes, 4-foot steel sections will be installed at all street intersections and at all service takeoffs from the distribution mains.

The proposed piping system which will extend from the California-Nevada border around the northwest shore of Lake Tahoe to the Placer County-El Dorado County line is shown on three maps which constitute Exhibit B. The record shows that with respect to rights of way and easements very few property owners will have to be contacted as most of the pipe will be located within state highways, city roads and dedicated streets.

Exhibit E consists of flow diagrams which show operating pressures at various points on the system during estimated peak hours in the years 1966, 1967 and 1968.

The rates applicant proposes to charge are set forth in Exhibit No. 6. A rate for interruptible service Schedule No. G-60 is included, although there are no interruptible customers contemplated in the first three years of operation. The rate for General Natural Gas Service, Schedule No. G-10 is the same rate that is proposed for the Nevada extension and that is now charged throughout applicant's Northern Nevada service area. Applicant

contends that in order to make this level of rates available to customers in the Tahoe area it will be necessary to engage in an intensive marketing program. Although applicant's evidence, including Exhibit No. 12, demonstrates that natural gas service can be rendered under Schedule No. G-10 for commercial and domestic uses at charges which, in general, are significantly lower than those prevailing for other types of available fuel, applicant maintains that the price differential alone is not sufficient to induce the necessary number of customers to convert from other forms of fuel. This contention is based on applicant's experience that of the many customers who find it will be necessary to upgrade their house piping to meet building code requirements a significant number are unable or are reluctant to proceed because of the cash outlay required.

To encourage customers to convert to natural gas and to encourage a greater usage of natural gas at higher load factors applicant proposes under Special Condition 2 of Schedule No. G-10 to furnish and install upon request of the owner of the premises, such house piping as may be required by local plumbing codes and industry accepted safety standards for supplying natural gas to all gas appliances located in each single family dwelling unit which is separately metered on the premises. The charge for this service would be \$1.30 per month per house piping installation per dwelling unit for 120 months.

Also upon request of the owner applicant would furnish and install a water heater of adequate size for all domestic purposes except space heating. The charge for this service would be \$1.20 per month per water heater for 120 months.

In each case the tariff provides that the house piping or the water heater shall be and remain the property of the utility. The tariff also provides that the house piping or the water heater may remain on the premises served after payments have been made for the prescribed 120-month period but no charge would be made thereafter.

In the application as filed, applicant had proposed to offer the house piping and water heater at no cost to the customer. Applicant's Executive Vice President testified that this proposal was modified so as to incorporate the monthly charges explained above, because in Nevada where his company had pioneered this marketing program considerable opposition had been expressed by competing fuel interests, including utilities, and considerable sentiment had been found among regulatory commissions in favor of there being a specific charge for the specific service supplied rather than having the additional investment supported by all rate payers. He also testified that his company had been required to cease and desist from providing the free services by an order of the Nevada Public Service Commission and that the matter of this marketing program would be the subject of a rehearing before the Nevada Commission.

Applicant presented three exhibits in support of the economic feasibility of the proposed extension. Exhibit C attached to the application sponsored by applicant's Assistant Vice President in charge of rates and special studies contains the basic market data and analysis of estimated revenues and costs. The analysis was prepared upon the basis of not assigning any of the Northern Nevada transmission or system costs to the Tahoe project but including cost of gas at the

price paid the supplier at the Idaho-Nevada border and including in cost a rate of return of $7\frac{1}{2}$ per cent. The results of this study show that the project would contribute towards meeting overall system costs as estimated revenues would exceed costs in each of the first three years of operation, the excess being \$93,137 in 1966, \$109,656 in 1967 and \$143,921 in 1968.

The other two studies relating to economic feasibility were presented by applicant's engineering consultant. In Exhibit No. 7 he showed an estimated summary of earnings for the years 1966 through 1968 for applicant's entire Northern Nevada system including the Tahoe extension. The rates of return shown in Exhibit No. 7 are 5.77 per cent for 1966, and 7.08 per cent for each of the years 1967 and 1968.

In Exhibit No. 8 the consultant presented an analysis which he described as the North Tahoe project contribution to system costs above actual return for the years 1966 through 1968. In this study he priced gas to the distribution system at applicant's filed wholesale rate applicable to sales to South Tahoe Gas Company, and he included rate of return at the system return developed in Exhibit No. 7. The study shows that the California distribution system would contribute revenues which would exceed the Northern Nevada full system costs, including return, by \$24,295 in 1966, \$11,533 in 1967 and \$8,929 in 1968. Exhibit No. 8 also shows that for the year 1966 a reduction in the estimated number of residential customers to be served of 318 or a reduction in the estimated Mcf of sales of 38,630 Mcf would eliminate the excess revenues. Similarly, reductions to eliminate excess revenues for the years 1967 and 1968 are shown as 151 residential customers

or 18,338 Mcf for the year 1967 and 117 residential customers or 14,198 Mcf for the year 1968.

In Exhibit No. 9, applicant's consultant presented a summary of the results of 14 months of sales promotion and load development efforts in the Northern Nevada communities served by applicant. This exhibit shows in general that the percentage of customers using natural gas and their usage of gas increase with an increase in sales promotion contacts. ✓

Exhibit No. 10, a compilation of tariff schedules, shows that in the state of Washington it is not unusual for utilities to offer rental service for water heaters or for space heating conversion equipment.

In Exhibit No. 11, applicant's consultant presented support for the proposed monthly charge of \$1.30 for the house piping and \$1.20 for the water heater.

Exhibit No. 12 also prepared by applicant's consultant, presented a comparison of costs for residential usages of the various types of fuel energy available in the North Tahoe area. For space heating it shows an average cost per therm of 25.6 cents for propane, 13.9 cents for heating oil and 14.8 cents for natural gas at the proposed rate for the customer who uses gas only for space heating. The exhibit shows, however, that if the customer were to use natural gas also for water heating, and the water heating use is priced as a base load, the space heating cost drops to 11.5 cents per therm. The comparison of water heating costs, assuming water heating as the base load, is 23.9 cents per therm for natural gas as compared with 25.6 cents for propane and the average monthly bill for the natural gas water heating is \$5.81

as compared to \$7.99 for electric water heating.

The record shows that presently space heating requirements are supplied 86 per cent by propane and 14 per cent by oil, water heating 66 per cent by propane and 32 per cent by electricity and all other energy requirements including cooking are supplied predominantly by electricity.

Applicant's consultant testified that it would not be economically feasible to bring natural gas into the Tahoe area of Placer County unless applicant were to engage in the intensive marketing program as proposed. He further testified that the marketing program was designed to meet the particular circumstances at Tahoe and should not be compared with applicant's marketing program at Las Vegas where the selling and financing of appliances is directed at encouraging gas usage for new construction, nor with applicant's program at Big Bear Lake where the competition from other fuels is not as great and the wholesale level of gas rates is significantly lower, so that applicant's rate structure permits a higher rate for customers using gas for heating only as a means of encouraging multi-usage of gas. He also pointed out that at Big Bear Lake, although a high percentage of prospective customers have signed up for gas, many of them have not taken service due to the obstacle presented in completing arrangements to convert house piping so as to meet code requirements. He emphasized that, in his opinion, to make the Tahoe extension economically feasible, it would be necessary for applicant to convert a substantial number of existing customers from their present fuel uses to multi-usage of natural gas and such converted customers would include present electric customers of Sierra

Pacific Power Company. He could not specify, however, how many converted customers, either from electricity or from the other forms of fuel, were included in applicant's estimate of number of customers to be served.

He expressed his view that it is almost universally recognized that sales promotion expense, sales promotion efforts and a continuing program of encouraging the use of utility services are reasonable and proper activities of a utility and stated that the principal restrictions which have been imposed are those to assure nondiscriminatory treatment among the public at large and to assure that the activity would not be an undue burden on any one group of customers. He directed attention to this Commission's Decision No. 60614 at 58 Cal. P.U.C. 27 and Decision No. 60615 at 58 Cal. P.U.C. 57, involving rate proceedings, including sales promotion activities, of two major California gas utilities and stated that, in his opinion, the sales and marketing program proposed by applicant for the Lake Tahoe area is consistent with those two decisions and with generally accepted utility practices.

A Commission staff witness expressed an exactly opposite point of view, stating that, in his opinion, applicant's proposed sales promotion and marketing program would be inconsistent with those decisions and also with Decision No. 59011 at 57 Cal. P.U.C. 344, a decision which was concerned specifically with the extension practices of California gas and electric utilities. He presented in Exhibit No. 17, a summary of a recent survey of the sales promotion practices of the six major California gas and electric utilities showing that applicant is the only one that, as a general practice, sells and none leases appliances or finances sales of appliances to customers.

Sierra Pacific Power Company did not present any evidence and, although it did not oppose the granting of a certificate for applicant to serve natural gas, it took a strong position in opposition to applicant's marketing program as a utility operation and stated, through counsel, that if the program were to be authorized, Sierra Pacific would be forced to embark upon a similar program.

The record shows that sales from the proposed extension will assist applicant substantially in meeting the "take or pay" obligations in applicant's contract with its supplier, which begin in the contract year commencing January 1, 1966.

Applicant proposes to finance the cost of the proposed construction out of internal sources and/or temporary borrowing, which will be converted into permanent financing at a subsequent date pursuant to such proposals as applicant may submit to the Commission and the Commission may approve.

The main issue which is before the Commission in this proceeding is whether or not public convenience and necessity require the granting of a certificate to applicant to bring natural gas into the Lake Tahoe area of Placer County. The record clearly shows and we find that public convenience and necessity require such certification because there is a public demand for such service which applicant can adequately supply, the extension will benefit applicant under its gas purchase contract, applicant has the ability to construct and finance the proposed extension and application of the proposed rates for gas service is reasonable.

The principal issue which remains and which is highlighted by the opposing testimony and the strong positions taken by the parties, is whether or not applicant's marketing program

would be in the public interest. There is no question that applicant would be able to attract more customers and build load faster under its proposed marketing program than without it. The question which must be resolved, however, is whether such results would be in the public interest. This Commission has always viewed reasonable sales promotion efforts as a necessary and important part of a utility's obligations, but it has not condoned nor permitted sales or promotional activities which go beyond the customary utility service concepts and which would tend to force competing utilities to adopt similar activities to preserve and protect their own markets. In the decisions which were referred to by applicant and staff witnesses (Decisions Nos. 59011, 60614 and 60615) the Commission expressed its concern over the competition between straight gas utilities and straight electric utilities. The effect of those decisions was to authorize reasonable expenses for conventional sales promotion activities and to stop certain utilities from engaging in promotional activities which were adverse to the public interest. The competition under consideration here is of the type over which we have previously expressed concern and we are of the opinion that if it were allowed to develop and progress under the guise of public convenience and necessity it would not prove beneficial to the competing utilities nor to the bulk of their customers. We fail to see where any of the findings and conclusions reached in the decisions referred to above would in any way support applicant's proposed marketing program. Applicant and other utilities have successfully faced problems similar to those that exist here (bringing gas service into an area for the first time) without finding it necessary to resort to the expansive sales promotion activities suggested here.

In planning for and carrying out the development of its service areas in the vicinity of Big Bear and Las Vegas, the utility did not request the regulatory authorities to make the ownership and

maintenance of gas appliances and house piping on customers' premises a part of its utility operations. In these areas, it has had its subsidiary, Utility Financial Corporation, available to assist in meeting the competition of electric utility and other energy suppliers. In the Big Bear area, the assistance appears to have been minimal, as applicant's witness testified that the financing of only 11 appliances under 2-year contracts has been arranged for. In Las Vegas, a somewhat different program involving 7-year contracts was offered.

The Commission is aware that other public utilities in California encourage the use of their products through financing by subsidiary, non-utility organizations. Applicant presumably has available to it the use of its subsidiary to assist in its promotion program in the Lake Tahoe area by furnishing financing for potential customers' purchases of gas appliances. The status of such subsidiaries, however, could be the subject of Commission review.

We find therefore that the marketing program which would be implemented by Special Condition 2 in applicant's proposed Schedule No. G-10 would not be in the public interest and we conclude, therefore, that such condition should not be authorized.

Having reached the above finding and conclusion we do not find it necessary to rule upon the merits of applicant's proposal as it would relate to utility ownership of substantial facilities on the customer's side of the meter. We observe in passing, however, that this record leaves many questions unanswered concerning that proposed plan. The long established concept in gas and electric utility operations of utility ownership of facilities stopping with the meter, and the customer owning all facilities on his side of the meter is well founded, and because of the additional potential safety aspects involved in gas and electric service should not be compared with telephone service where the utility usually owns all of the facilities down to and including the telephone instrument.

Some concern might be expressed as to whether or not this extension will prove to be economically feasible absent the desired marketing program and if not feasible whether a burden will be cast on applicant's other customers. In considering this aspect we note the record shows that this extension would constitute less than 2 per cent of applicant's total revenue, that applicant's estimated rate of return is 7.08 per cent for its Northern Nevada system for 1967 and 1968 and that if the load estimates were to be fully realized the excess revenues from the extension would improve the system rate of return. Under these circumstances there is little likelihood of this extension casting an unreasonable burden on applicant's other customers.

As a matter of fact it could be argued that since Exhibit No. 8 shows that this extension would more than pay its own way, the decrease in estimated revenues which will result from elimination of the desired marketing program will serve only to bring the economies of the extension more into balance with the economies of applicant's existing system. Even if the decrease in estimated revenues were to bring the economies below the system average the project would not necessarily become infeasible for it is not unusual for a utility to extend into an area which at the outset does not stand on its own feet economically provided it has good growth potential. In this respect the record shows that the growth potential of the Tahoe area of Placer County is excellent.

The record indicates that in El Dorado County immediately beyond the southern end of the proposed extension there are prospective customers who could be served economically therefrom. These customers are a great distance from the present facilities of South Tahoe Gas Company which serves natural gas at the south end of the lake. Applicant's Executive Vice President pointed out that his company does not have a franchise nor has it applied for a certificate to serve in El Dorado County, but he made it clear that he would endeavor to work out a satisfactory arrangement with South Tahoe Gas Company so that these customers may be served.

The staff was of the opinion that applicant should have tested the economic feasibility of the proposed extension by obtaining signed applications for service from prospective customers, and particularly for that portion of the extension south of Tahoe City. Since this test was not made, the staff recommended that applicant be placed on notice that any imprudent investment made in connection with this system could be expected to receive adverse consideration in any rate making treatment by this Commission.

The staff made certain other recommendations relating to the keeping of separate records for the proposed extension, the submission of periodic reports concerning the condition of the plastic pipe and the submission of reports as to the adequacy of applicant's contractual supplies of gas to meet its demands. We find that these staff recommendations are reasonable and they will be incorporated in the order herein.

In addition to the foregoing findings and conclusions we further find that:

1. Applicant's proposal to deviate from its main extension rule No. 15 in the area certificated herein for a period of two years is reasonable.

2. Public convenience and necessity require that a certificate of public convenience and necessity be granted to applicant to exercise the rights and privileges granted by Ordinance No. 750-B of Placer County within the areas certificated hereinafter.

The certificates herein granted shall be subject to the following provision of law:

The Commission shall have no power to authorize the capitalization of this certificate of public convenience and necessity or the right to own, operate, or enjoy such certificate of public convenience and necessity in excess of the amount (exclusive of any tax or annual charge) actually paid to the State as the consideration for the issuance of such certificate of public convenience and necessity or right.

The authority granted herein shall not be construed hereafter to be a finding of the value of the property or a determination of applicant's results of operations for rate making purposes.

We conclude that the application should be granted to the extent as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Southwest Gas Corporation to construct and operate a natural gas distribution system in the Lake Tahoe area of Placer County, California, as described in Appendix A attached hereto, and as shown in detail on the maps in Exhibit B attached to the application.

2. (a) Southwest Gas Corporation is authorized to file after the effective date of this order, and in accordance with General Order No. 96-A, the tariff sheets substantially as set forth in Exhibit No. 6, but excluding in their entirety Special Condition No. 2 of Schedule No. G-10 and Rule No. 2-E as proposed,

and in addition thereto a revision of Rule No. 2 to provide for them billing procedures and a revision of the preliminary statement so as to include Placer County, said tariff sheets to be effective on or before the date natural gas service is first rendered to the public in Placer County.

(b) Such rate schedules and revised tariff sheets shall become effective upon five days' notice to this Commission and to the public after filing as hereinabove provided.

3. Southwest Gas Corporation is authorized to deviate as requested, for the period of two years from the effective date of this order from its Rule No. 15, Gas Main Extensions, for the purpose of constructing the gas pipeline system specified in the instant application and as shown on the maps in Exhibit B attached to the application.

4. Southwest Gas Corporation shall maintain its records in such form as may be required so that the investment in and operating results of the natural gas system serving the Tahoe area of Placer County may be separately and readily determined.

5. Southwest Gas Corporation shall file with this Commission by September 30 of the full year following the completion of the construction of the proposed extension and each September 30 thereafter for three years a written report summarizing the condition of plastic pipe installed in the Tahoe area as determined by the utility's regular procedure and practices, including leakage surveys and observations while installing service lines during the preceding July to June fiscal period.

6. Southwest Gas Corporation shall file with this Commission by July 1, 1966 and thereafter on each July 1 until such time as

additional contractual quantities of gas are obtained from the supplier, the estimated Northern Nevada system peak-day and peak-hour demands for the ensuing three heating seasons, together with a showing of the adequacy of the supply then contemplated to be available to meet those demands.

7. A certificate of public convenience and necessity is granted to Southwest Gas Corporation to exercise the rights and privileges granted by Ordinance No. 750-B of Placer County for the purposes and within the area certificated herein.

The authority herein granted shall expire if not exercised within two years.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 9th day of November, 1965.

[Signature] President

[Signature]

[Signature]
Commissioners

APPENDIX A

DESCRIPTION OF LAKE TAHOE SERVICE AREA

That portion of Sections 18, 19 and 30, Township 16 North, Range 18 East, M.D.B. & M. situate in Placer County, California; all of Sections 10, 11, 12, 13, 14, 15, 16, 21, 22, 28, 29, 31, 32 and 33 of Township 16 North, Range 17 East, M.D.B. & M.; all of Sections 5, 6, 7 and 18, Township 15 North, Range 17 East, M.D.B. & M.; all of Sections 12, 13, 24, 25 and 36, Township 15 North, Range 16 East, M.D.B. & M.; all of Sections 1 and 12, Township 14 North, Range 16 East, M.D.B. & M.; all of Sections 7 and 8, Township 14 North, Range 17 East, M.D.B. & M. All in Placer County, California.

We dissent to that portion of the decision which rejects applicant's proposed marketing program.

If, as between electricity and gas, one energy source costs 1¢ per unit, whereas the other costs 2¢ per unit, then a ratepayer should be permitted to choose the lower cost fuel; to a particular customer, sheer cost may well be critical. Financing charges - including the cost of wiring or piping - are merely a part of the total cost which a ratepayer faces; they should be considered in determining whether or not the tariffs of the utilities involved really do allow the ratepayer to choose the less expensive energy supply. In a utility transaction, no less than in the sale of a house or an automobile, the particular financial terms available may make a vital difference to a buyer in deciding which commodity to select.

Applicant, as a gas utility, is willing to assist ratepayers in the financial problems associated with converting from electric service to gas service. From all that appears, applicant is in a position to lend such assistance, and, so long as it does not impair its own financial stability, it should be permitted to do so. We would also approve if the competing electric utility were to offer similar incentives. In the end, the ratepayer would be able to obtain optimum financing - just as we hope he will be able to obtain optimum rates. It is no part of the function of this Commission to prop up a more expensive electric operation (if it is more expensive) than it is our function to perpetuate an admittedly more expensive propane operation. By arbitrarily prohibiting the financial assistance offered by applicant, the Commission majority has curtailed the right of the ratepayer to choose which service - electric or gas - is more advantageous to him. There is no reality in suggesting that the rate is all that matters; if a substantial capital investment is necessary to convert to gas, many homeowners will be forced to continue to use electricity, even if the rates are higher.

In view of the action of the Commission majority, it is not necessary to consider the specific details of applicant's proposal. It may be that the level or form of the special rates requested are not justified, or that

the financial assistance to be offered should not be repaid through rates at all. Similarly, it may not be in the public interest to depart from the longstanding practice whereby the ratepayer (or his landlord) holds title to gas appliances and to the interior piping. We do not reach these questions because the majority has not reached them.

What we do protest is the underlying philosophy of the majority opinion, which broadly condemns all competition between gas and electric utilities except for "conventional" sales promotion activities. When this same narrow attitude toward intermodal utility competition was advanced in a recent transportation case, the California Supreme Court unanimously rejected it as "economically unsound at the expense of the consuming public". (River Lines, Inc. v. Public Util. Com., 62 Cal.2d 244, 248.)

George G. Grover

Fredrick B. Hallock

Commissioners

November 16, 1965