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Decision 90-12-071 December 19, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902-M) for an Ex Parte Order Granting Authority to Increase Expenditures to Support Demand Side Management Programs; to Implement Balancing Account Treatment for New DSM Program Expenditures; to Recover Increased Expenditures in Future Rates; and to Implement Incentive Mechanisms.

ORIGINAL

Application 90-04-034  
(Filed April 19, 1990)

In the Matter of the Application of Southern California Edison Company (U 338-E) for an Ex Parte Order Authorizing Expenses, Implementation of Incentive and Performance Mechanisms, and Revision of Rates.

Application 90-04-036  
(Filed April 24, 1990)

In the Matter of the Application of Southern California Gas Company for authority to expand Demand Side Management Programs. (U 904 G)

Application 90-04-037  
(Filed April 25, 1990)

Application of Pacific Gas and Electric Company for Authority to Adjust its Electric and Gas Rates Effective January 1, 1991 to Implement an Expanded Customer Energy Efficiency Program Resulting From the Statewide Collaborative Process. (U 39 M)

Application 90-04-041  
(Filed April 25, 1990)

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FINAL OPINION

I. Background and Summary

In Decision (D.) 90-08-068, we approved most of the terms of the settlements proposed to us in Application (A.) 90-04-034 of San Diego Gas & Electric Company (SDG&E), A.90-04-036 of Southern California Edison Company (SCE), A.90-04-037 of Southern California Gas Company (SoCal), and A.90-04-041 of Pacific Gas and Electric Company (PG&E). By so doing, we put into place expanded energy efficiency programs focused on the customer side of the utility meter, referred to as demand-side management (DSM) programs. The programs include rate increases to pay for them, as well as financial incentives for the utilities to manage these programs effectively.<sup>1</sup>

D.90-08-068 was issued as an interim decision because it made some modifications to the settlements and invited parties to comment on those changes, in accordance with our Rule 51.7. The settlements and D.90-08-068 also made provision for certain updates of program expenditures and design by SoCal and SCE.

Today's decision on these applications completes the implementation and approval of these DSM programs, addresses the update of the SoCal and SCE program in accordance with the settlements and D.90-08-068, and finds Toward Utility Rate Normalization (TURN) eligible for compensation for its participation in the proceeding.

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<sup>1</sup> For a complete background and description of these applications and settlements, see D.90-08-068.

## II. Program Updates for SoCal and SCE

The settlements of their respective applications authorized SoCal and SCE to file updated program expenditures and goals. D.90-08-068 set a deadline for filing these updates where the settlements failed to establish such a deadline. Implementation of updates for these two utilities is addressed below.

### A. Update of SoCal's Program

The settlement of SoCal's application specified that SoCal should be authorized to spend \$7.484 million for 1990, subject to reduction if the application was not decided by August 1, 1990. Ordering Paragraph 4 of D.90-08-068 established a 15-day deadline for SoCal to file an update reflecting this reduction. On September 13, SoCal served on all parties a letter addressed to the assigned Administrative Law Judge (ALJ), with two pages of attached tables, setting forth program revisions and changes to expenditure levels in compliance with the settlement and the decision. This September 13 revision is designated as Exhibit 12.<sup>2</sup>

At the request of the ALJ, SoCal prepared and served on all parties additional tables that clarified the reduction of expenditure levels reflected in Exhibit 12. This further revision also took the form of a letter to the ALJ, dated November 9, 1990, with four pages of attached text and tables, which was served on all parties. This second revision is designated Exhibit 13. Tables I, II and III from Exhibit 13, which clearly describe SoCal's requested rate changes to take effect January 1, 1991, are attached as Appendix B to this decision.

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<sup>2</sup> An updated Exhibit List, showing all exhibits in the record of this proceeding, is attached as Appendix A to this decision.

Exhibit 12 indicates that SoCal's 1990 DSM program goals were reduced by one-third for programs where the goals were jeopardized by the timing of D.90-08-068. Table II of Exhibit 13 proposes a reduction of \$461,000 in 1990 DSM program expenditures to reflect these reduced goals. This table also reflects a corresponding reduction of \$563,000 in projected shareholder incentive payments. With these changes and adjustment for inflation, SoCal's final DSM program costs for 1990 would be \$5.031 million.

No party responded or objected to SoCal's Exhibits 12 and 13. This reduction in 1990 expenditures and goals is in conformance with the settlement and D.90-08-068, and we find it to be reasonable. SoCal's authorized 1990 DSM expenditures pursuant to the program we approved in D.90-08-068 should be changed to \$5.031 million, and SoCal's goal reductions should also be approved.

Table III of Exhibit 13 updates SoCal's 1991 DSM program costs to reflect conversion of 1990 dollars to 1991 dollars, in conformance with the terms of the settlement and also applies escalator factors pursuant to D.90-01-016 and Advice Letter 1985, which brings the 1991 costs to \$10.930 million in 1991 dollars. Table I of Exhibit 13 shows the total increased revenue requirement \$16.297 million for DSM expenditures to be effective in rates January 1, 1991, reflecting the total updated 1990 and 1991 program costs, adjusted for franchise fees and uncollectible accounts expense. These updates were unopposed and we find them to be reasonable. Implementation of these rate changes is discussed below.

#### B. Update of SCE's Program

The terms of the settlement of SCE's application, as approved by D.90-08-068, required two separate updates. First, SCE was required to file an advice letter containing updated program goals within five days of D.90-08-068. (D.90-08-068, mimeo.

p. 15/). Second, the settlement requires the revision of DSM program expenditure levels and performance targets "on prorated basis" to reflect the difference between the effective date of D.90-08-068, August 29, 1990, and July 1, 1990, the date upon which the agreed-upon goals and expenditures were based. SCE filed Advice Letter No. E-879 on September 5, 1990, requesting a decrease of \$2,375,000 to its Authorized Level of Base Rate Revenue (ALBRR) under the Electric Revenue Adjustment Mechanism (ERAM). This is greater than the original \$1,141,000 decrease to the ALBRR requested in the application and reflects reduced 1990 authorized expenditures level. The rate changes contemplated by the settlement will be implemented with the January 1, 1991, rate change ordered in SCE's ECAC A.90-06-001.

### III. Comments of Parties on D.90-08-068

In D.90-08-068, we approved the proposed settlements of the four utilities' applications with the following clarifications and modifications, as set forth in Ordering Paragraph 1:

- "a. SoCal's incentive for resource programs shall be changed from 16.6% to 14%, and its incentive for new construction programs shall be changed from 12% to 10%.
- "b. SoCal's 10% environmental adder shall be eliminated.
- "c. PG&E shall be eligible to receive incentive/penalty payments for expenditures incurred between the establishment of their tracking accounts pursuant to Resolution E-3194 (effective June 27, 1990) and the date of this decision.
- "d. Interest on incentive/penalty payments shall accrue in the same manner for SDG&E, SoCal, and PG&E and shall begin to accrue on July 1 following the filing of the annual DSM report explaining the basis for the claimed incentive/penalty and shall

continue to accrue until the payments are reflected in rates.

"e. SDG&E, SCE, SoCal, and PG&E shall file any requests for rate recovery under these expanded DSM programs in the ECAC proceeding for electric rate recovery and the ACAP proceeding for gas rate recovery.

"f. SDG&E may reflect these rate changes in its 1991 ACAP and ECAC applications, as the settling parties recommended.

"g. We will rely on the litigation process in the rate recovery proceedings to evaluate the March 31 utility filings."

A 20-day comment period and five days for reply comments was established for parties to respond to these modifications. Comments on the settlement modifications were filed by only three parties: SDG&E, SoCal, and PG&E. The comments were filed on September 18, 1990. Reply comments were filed by PG&E on September 24, 1990. SDG&E filed a motion for acceptance of reply comments filed one day late, on September 25, 1990. SDG&E's motion cites late receipt of SoCal Gas's comments as the reason for its own lateness. SDG&E's motion for acceptance of late-filed reply comments was unopposed and is granted. The comments of these three parties are summarized below.

A. SDG&E's Comments

SDG&E's comments urge that reasonableness review of SDG&E's incentive payments for both its gas and electric DSM programs should be centralized in the Annual Cost Adjustment Proceeding (ACAP). SDG&E points out that the then-current



schedule<sup>3</sup> for filing its ACAP application provided for a March filing date, with a decision at the end of September. Even if the incentives are examined in the ACAP proceeding, SDG&E suggests that the rate changes should be implemented with the other year-end rate changes associated with operational and financial attrition. SDG&E indicates that this would simplify administration of the three-year amortization of incentive rewards/penalties in SDG&E's DSM program. As an alternative, SDG&E suggests that the gas rate changes could be made in conjunction with the ACAP and the electric rate changes could be made with the next year's Energy Cost Adjustment Clause (ECAC) proceeding.

SDG&E also comments that the interest on incentive reward/penalty payments should begin to accrue on March 31 of each year, at the same time that the utilities file their reports of incentive mechanism results. SDG&E states that the July 1 date established in D.90-08-068 was tied to the proposed staff review schedule, which the Commission altered, and thus there is no basis for delaying the accrual of interest to July 1.

SDG&E further argues that the incentive mechanism policy should not be examined in its modified attrition filing for 1992, which is to be filed in March 1991. Nor does SDG&E believe that the general rate cases of individual utilities are appropriate forums for examining incentive policies. Instead, SDG&E would prefer to see any far-reaching examination of statewide incentive mechanism policy occur in a generic proceeding. SDG&E believes that its current incentive mechanism should remain in place until such a generic review has been completed.

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3 Since the issuance of D.90-08-068 and the filing of SDG&E's comments, the ACAP proceeding has been discontinued and replaced with a biennial proceeding, by D.90-09-089 in our gas procurement rulemaking, R.90-02-008. The effect of this change is addressed below.

In its reply comments, SDG&E responds to SoCal's comments urging the implementation of forecast 1991 DSM expenditures in its 1990 ACAP filing. SDG&E states that any inclusion of these program expenses in ACAP rates should exclude SDG&E from the allocation of the costs of SoCal's conservation programs.

#### **B. SoCal's Comments**

SoCal comments that D.90-08-068 requires clarification as to how program expenses are to be recovered in rates. SoCal quotes its application and settlement, which specified that program expenses incurred through the first three quarters of 1991 (i.e., the 1990 ACAP period) should be recovered in the rates established in the 1990 ACAP. SoCal points out that by the time D.90-08-068 was issued, it was too late to file a request for rate recovery in the 1990 ACAP. SoCal suggests that the Commission may still determine that such recovery should occur in those rates, and by way of precedent points to D.89-09-044 authorizing the inclusion of the Low Income Ratepayer Assistance program expenses "in the next utility rate change decision."

#### **C. PG&E's Comments**

PG&E's comments argue that the already-adopted revenue changes approved in D.90-08-068 should be reflected in PG&E's attrition filing and that presently unknown rate changes, such as proposals to make any further changes in the DSM funding levels, and implementing rate changes due to the shareholder incentive mechanism, be made in the ECAC and ACAP proceedings.

PG&E's reply comments respond to SDG&E's proposal that all DSM expenditures be reviewed in a single proceeding. PG&E states that it has no preference as to whether review occurs in a single proceeding, but if review is to be in a single proceeding, PG&E would prefer its review to occur in the ECAC proceeding.

PG&E also endorses SDG&E's suggestion that interest on incentive/penalty payments should begin to accrue on March 31.

Finally, PG&E disagrees with SDG&E's position that review of incentive mechanisms should occur only in a generic proceeding. PG&E argues that each utility's DSM program should be tailored to the individual utility and should be individually reviewed, while a more uniform approach may be adopted for the next generation of energy efficiency programs, as indicated in D.90-08-068.

#### IV. Implementation and Review of DSM Programs

##### A. Overview

Based on the comments and some changes in circumstances since the adoption of D.90-08-068, some revision and clarification of the planned implementation of these programs set forth in Ordering Paragraphs 1(e) and (f) of D.90-08-068 is needed. The most pressing issue raised in the comments is how and when the incremental 1990, 1991, and 1992 DSM program costs, or expenditure levels, authorized in D.90-8-068 are to be put into rates. The second issue requiring a second look is the proceedings in which as-yet-unauthorized DSM program costs will be reviewed and, if approved, put into rates. The other issues raised in the comments require no revision of the approved programs.

##### B. Implementation of Approved Program Costs in Rates

Ordering paragraph 1(e) of D.90-08-068 states that each of the four utilities "shall file any requests for rate recovery under these expanded DSM programs in the ECAC proceeding for electric rate recovery and the ACAP proceeding for gas rate recovery." The comments of both SoCal and PG&E indicate that this language is perceived as a barrier to the recovery of authorized 1990 and 1991 expenditures in rates to take effect January 1, 1991. This unfortunate perception results from a lack of clarity in the ordering paragraph. The relevant discussion in D.90-08-068 is found on page 39 (mimeo.) and specifically addresses only rate

recovery for program cost adjustments and the incentive/penalty payments. It does not specifically state whether it also addresses rate recovery for program costs actually authorized in the decision. The discussion was intended to address future rate change requests rather than those already approved in D.90-08-068. However, as the comments of SoCal point out, even the method of rate implementation proposed in its settlement for 1990 and 1991 expenditures, which was recovery in the pending ACAP, created administrative difficulties because the record of that proceeding was closed by the time D.90-08-068 was adopted.

With respect to rate changes that the settling parties agreed would take effect January 1, 1991, the interim decision was not intended to alter that agreement. The rate changes contemplated by each settlement are addressed below.

1. SDG&E

For SDG&E, Ordering Paragraph 1(f) of D.90-08-068 expressly permits SDG&E to "reflect these rate changes in its 1991 ACAP and ECAC applications, as the settling parties recommended." The settlement explicitly described the method for rate recovery (see D.90-08-068, mimeo. pp. 9-10) and requested the Commission approval granted in Ordering Paragraph 1(f). This treatment eliminates any January 1, 1991, rate implementation problems for SDG&E, but the elimination of the ACAP proceedings by D.90-09-089 appears to create a problem in SDG&E's method of implementing these approved changes. SDG&E's comments were filed before D.90-09-089 was issued and do not address the effect of the elimination of ACAPs. As an alternative to recovery in the 1991 ACAP as contemplated in the settlement, we will authorize SDG&E to request recovery of the already-approved 1990 and 1991 expenditures for its gas DSM program in an alternate 1991 proceeding, such as the biennial cost adjustment proceedings (BCAP), gas reasonableness review proceeding or the 1991 year-end attrition proceeding, in which other gas rate changes are made. D.90-08-068 authorized the

expenditure of up to \$25.5 million in 1990 and 1991 to fund new DSM programs.

SDG&E's program ends at the end of 1991, so there are no authorized 1992 program expenditures.

2. SCE

SCE's application and settlement contemplated a January 1, 1991, implementation of rate changes associated with its 1990 and 1991 program expenditures, reflected in the ALBRR under the ERAM. Implementation of SCE's authorized expenditure levels in rates is complicated by SCE's program which treats DSM expenditures as a DSM asset to be amortized in rates over five years. The net effect of its 1990 and 1991 authorized revenue changes was to be a \$7,398,000 increase of the ALBRR under the ERAM effective for service rendered on or after January 1, 1991. (D.90-08-068, mimeo. p. 13.) However, as discussed above, SCE filed an advice letter reflecting reduced 1990 program expenditures, which reduces the total authorized revenue change for January 1, 1991. SCE is authorized to reflect its reduced authorized DSM expenditures in rates to take effect on January 1, 1991, in the manner contemplated by the settlement. These rate changes may be put into effect coincident with the rate changes approved by SCE's ECAC A.90-06-001.

SCE's approved program ends at the end of 1991, so there are no authorized 1992 program expenditures.

3. SoCal

SoCal indicated in its comments that it had expected to be able to put its DSM expenditures into its 1990 ACAP rates and was prevented from doing so by the relative timing of the DSM and ACAP (A.90-03-018) proceedings. Both SoCal's DSM program application and the settlement requested that SoCal's 1990 and 1991 program expenses, through September 30, 1991 would be reflected in SoCal's 1990 ACAP rates, expected to take effect January 1, 1991. (D.90-08-068, mimeo. pp. 18 and 20.) When SoCal's comments brought

this timing problem to our attention, we were advised by our CACD that a more efficient and equally effective solution to adding the DSM program costs into the ACAP rates after the close of the record was to authorize SoCal to implement these rate changes as part of its year-end attrition filing. SoCal's year-end attrition Advice Letter No. 1985 is currently pending before us, and we will authorize SoCal to reflect its authorized 1990 and 1991 DSM program expenses, of \$5.031 million and \$10.930 million, adjusted for franchise fees and uncollectibles, through advice letter compliance filing, for inclusion in either the year-end attrition or the ACAP proceeding rates. We give no weight to SDG&E's protest of inclusion of these expenses in the ACAP rates, because SDG&E should have raised this as an objection to either the application or the settlement, both of which explicitly contemplated this method of implementation.

SoCal's program continues through 1992, and expenditures of \$14.575 million in constant 1990 dollars are already authorized by D.90-08-068 for 1992. SoCal's application and the settlement of it did not specify the proceeding in which these rates would be recovered.

#### 4. PG&E

Consistent with its application and settlement agreement, PG&E has requested in its comments that its approved 1991 DSM program expenses, \$37 million in constant 1990 dollars, be recovered in its year-end attrition adjustment (Advice Letter Nos. 1319-E and 1614-G) to take effect January 1, 1991. No rate increase was requested for its 1990 DSM program expenditures. This treatment is consistent with the treatment requested in the settlement, and we will authorize it. We note that PG&E also requested rate recovery for these expenditures in its ECAC A.90-04-003. Because we expect a single, unified rate increase encompassing both the attrition and ECAC amounts to be put into

effect January 1, 1991, we will in the alternative authorize PG&E to recover these rates coincident with its ECAC rate increase.

An additional \$35.1 million in constant 1990 dollars for 1992 DSM program expenditures was also authorized by D.90-08-068. PG&E's application and settlement do not specify the method of recovery of these approved 1992 expenditures in rates.

**C. Review and Implementation of Future Rate Recovery Requests**

In the preceding section, we have clarified the treatment for rate recovery of the DSM expenditures as authorized in D.90-08-068 or as updated in this decision. In this section, we will address the question of where other DSM-related costs will be reviewed and may be recovered in rates. The two most likely types of costs that fall in this category are the review of requests for incentive/penalty payments and any proposed changes in the approved program costs or design that are not explicitly contemplated in the settlements. Our primary concern here is ensuring adequate and efficient review of these costs, rather than the specific timing or proceeding in which any approved rate changes are implemented.

In D.90-08-068 we stated that all such rate changes would be reviewed and litigated in ECAC and ACAP proceedings, in order that we would have the benefit of proceedings where the proposals would be fully open to scrutiny and evidentiary hearing, on the same basis for each utility. The only opposition to this proposal was received from SDG&E, which would prefer to have review centralized in its ACAP. PG&E indicated that if review is to be centralized, it should be in the ECAC.

We are forced to reconsider this issue due to the elimination of ACAPs in favor of BCAP in D.89-09-089 in our gas procurement rulemaking, R.90-02-008. This leaves us with no easy solution that will satisfy either the concerns of the parties or our original goals in designating the ECACs and ACAPs as the review vehicle for DSM proposals. There is no longer an annual gas

proceeding with a fixed timeline for review and implementation of the proposed rate changes. However, there is another annual gas rate proceeding, which is the annual gas reasonableness review. In order to come as close as we can to meeting our goals of consistency and administrative simplicity, we will set up a somewhat more complicated and more flexible system.

The primary review vehicles for DSM program cost change proposals and recovery of incentive/penalty payments will be the ECAC for electric DSM programs and related incentive/penalty payments and the annual gas reasonableness review for gas DSM programs and related incentive/penalty payments. The combined electric and gas utilities may elect to consolidate the requests for both electric and gas DSM programs in either the ECAC or the annual gas reasonableness review. D.90-09-089 indicated that ACAP filing filed in late 1990 by PG&E would remain an ACAP. If PG&E included DSM review issues in that filing in reliance on D.90-08-068, those issues should be reviewed in this last ACAP. For future filings in the annual gas reasonableness review proceedings, the parties and the assigned ALJ are encouraged to consider whether the DSM issues should be dealt with in a separate phase to provide more timely review and recovery of approved costs in rates.

Each utility may elect whether to postpone DSM program-related rate changes authorized in the ECAC or gas reasonableness decision, including incentive/penalty payments, until a subsequent year-end rate adjustment, provided that sufficient notice of such intent is provided at the time the request for approval of the costs is filed.

#### D. Miscellaneous Implementation Issues

SDG&E and PG&E recommended in their comments on D.90-08-068 that the date for accrual of interest on the shareholder incentive/penalty payments be rolled back from July 1 to March 31. We will not adopt that change. One of the reasons we



set the July 1 date was because two out of the three utilities affected had already agreed to this interest accrual treatment. We changed SDG&E's settlement to make it uniform with SoCal and PG&E. It would violate the spirit and the letter of the PG&E and SoCal settlements to back-track on the interest accrual treatment at this late date. Furthermore, as TURN's comments on SoCal's original proposal for March 31 accrual of interest argued, there should be some reasonable opportunity for review of the requested payments before interest begins to accrue, and this logic holds true even if the actual review extends beyond July 1.

SDG&E also opposes the review of the basis for its incentive payment program in its upcoming modified attrition proceeding, in which its entire expanded DSM program is up for review. SDG&E proposes that such review wait until after some future generic review of incentive payments is concluded. We cannot let the underlying basis for SDG&E's DSM program go unexamined so long. As D.90-08-068 made clear, the purpose for so quickly reviewing and approving these DSM proposals with their innovative shareholder incentive programs was to begin reaping the immediate benefits of increased energy efficiency and to avoid losing opportunities to capture those benefits. That did not mean that we are unconcerned about the soundness of the programs. On the contrary, SDG&E and each utility will be expected to fully justify whatever DSM program they propose to institute at the conclusion of these experimental programs authorized by D.90-08-068.

#### V. TURN's Eligibility for Compensation

On July 16, 1990, TURN filed a request for finding of eligibility for compensation for its participation in this consolidated proceeding. The request is made under Rule 76.54 of the Commission's Rules of Practice and Procedure.

Rule 76.54 requires filing of a request for eligibility within 30 days of the first prehearing conference or within 45 days after the close of the evidentiary record. TURN filed its request within the 30 day window after the first prehearing conference in this case.

Rule 76.54(a) sets out four requirements for a request for finding of eligibility:

- "(1) A showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. A summary of the finances of the customer shall distinguish between grant funds committed to specific projects and discretionary funds....;
- "(2) A statement of issues that the customer intends to raise in the hearing or proceeding;
- "(3) An estimate of the compensation that will be sought;
- "(4) A budget for the customer's presentation."

#### A. Significant Financial Hardship

Rule 76.54(a)(1) eliminates the need for redundant showings that participation in the proceeding will pose a significant financial hardship for the customer:

"If the customer has met its burden of showing financial hardship in the same calendar year, ...the customer shall make reference to that decision by number to satisfy this requirement."

TURN states that it previously made a showing of financial hardship for calendar year 1990 in A.89-08-024, which had not been decided by the time this filing was made. The Commission found in D.90-09-024 (on PG&E's ACAP A.89-08-024) that TURN met its burden of showing significant financial hardship for 1990. Thus, TURN has met the intent of the requirement of Rule 76.54(a)(1). Ordering Paragraph 2 of D.90-09-024 stated that the determination

of significant financial hardship should carry over to TURN's participation in other proceedings in 1990.

**B. Statement of Issues**

Rule 76.54(a)(2) requires the party to submit a statement of issues that the party intends to raise. TURN states that it participated extensively in the drafting and editing of the collaborative's report and addressed issues that included the structure and level of shareholder incentive mechanisms, the need to make energy efficiency programs available to all customers, the type and extent of residential conservation programs and general representation of the consumer interest during the collaborative. TURN states that its request for compensation will detail the specific contributions made by TURN to the ultimate resolution of these applications.

TURN's statement of issues is adequate for the purpose of our finding it eligible for compensation. The issues identified are the issues TURN raised in its comments on the settlements. However, we caution TURN to keep in mind as it prepares its request for compensation that it may be compensated only for participation in Commission proceedings. We question whether its participation in the collaborative process itself, which occurred prior to the filing of these applications, is participation in a Commission proceeding. However, we need not decide that issue at this time, so we leave TURN to make its best case for compensation.

**C. Estimate of the Compensation**

Rule 76.54(a)(3) requires an estimate of the compensation to be sought.

TURN states that it may request approximately \$79,000 for its work in this case, based on an assumed 500 hours of attorney time at an hourly rate of \$150, and up to \$4,000 for other costs, primarily telecommunications and copying expenses.

**D. Budget**

Rule 76.54(a)(4) requires a budget for the party's presentation. TURN refers to its estimate of the compensation it may seek as its budget. The resulting budget is \$79,000.

**E. Common Legal Representative**

Rule 76.54(b) allows other parties to comment on the request, including a discussion of whether a common legal representative is appropriate. Under Rule 76.55, our decision on the request for eligibility may designate a common legal representative. No party commented on the appropriateness of a common legal representative, and we find no need to designate such a representative in this proceeding.

**F. Determination of Eligibility**

We have determined that TURN has met the four requirements of Rule 76.54(a). In addition, no party has responded to TURN's request or raised the issue of the appropriateness of a common legal representative. Therefore, TURN is eligible for compensation for its participation in this case.

**VI. Conclusion**

With this decision we conclude our examination of these four applications and close this consolidated proceeding. In order to ensure that the rate changes addressed in this decision may be implemented by January 1, 1991, this decision should take effect today. However, the proceeding will be held open for six months from the date of today's decision, during which time CACD has the discretion to hold workshops to address the implementation of today's decision, if CACD determines that such workshops are necessary.

Findings of Fact

1. D.90-08-068 was issued as an interim decision, because it made some modifications to the settlements proposed to us in A.90-04-034 of SDG&E, A.90-04-036 of SCE, A.90-04-037 of SoCal, and A.90-04-041 of PG&E, and invited parties to comment on those changes.

2. The settlements of their respective applications authorized SoCal and SCE to file updated program expenditures and goals, and D.90-08-068 set a deadline for filing these updates where the settlements failed to establish such a deadline.

3. SoCal served on all parties two separate updates by letter.

4. SoCal's updates indicate that SoCal's 1990 DSM program goals were reduced by one-third for programs where the goals were jeopardized by the timing of D.90-08-068, and propose a reduction of \$461,000 in 1990 DSM program expenditures to reflect these reduced goals. With these changes and adjustment for inflation, SoCal's final DSM program costs for 1990 would be \$5.031 million.

5. No party responded or objected to SoCal's updates.

6. SoCal's second update shows the total increased revenue requirement of \$16.297 million for DSM expenditures to be effective in rates January 1, 1991, reflecting the total updated 1990 and 1991 program costs, adjusted for franchise fees and uncollectible accounts expense, and this updates was unopposed.

7. The terms of the settlement of SCE's application, as approved by D.90-08-068, required SCE to file an advice letter containing updated program goals within five days of D.90-08-068 and required the revision of DSM program expenditure levels and performance targets "on prorated basis" to reflect the difference between the effective date of D.90-08-068, August 29, 1990, and July 1, 1990.

8. SCE filed Advice Letter E-879 on September 5, 1990, revising expense levels to \$2,375,000.

9. For SDG&E, Ordering Paragraph 1(f) of D.90-08-068 expressly permits SDG&E to "reflect these rate changes in its 1991 ACAP and ECAO applications, as the settling parties recommended." ACAPs were eliminated in favor of biennial proceedings in D.90-09-089, which appears to create a problem with SDG&E's plan to implement rate changes in ACAPs.

10. For SDG&E, D.90-08-068 authorized the expenditure of up to \$25.5 million in 1990 and 1991 to fund new DSM programs.

11. SCE's application and settlement contemplated a January 1, 1991, implementation of rate changes associated with its 1990 and 1991 program expenditures, reflected in the ALBRR under the ERAM.

12. SoCal indicated in its comments that it had expected to be able to put its DSM expenditures into its 1990 ACAP rates and was prevented from doing so by the relative timing of the DSM and ACAP (A.90-03-018) proceedings.

13. SoCal's program continues through 1992, and expenditures of \$14.575 million in constant 1990 dollars are already authorized by D.90-08-068 for 1992.

14. PG&E requested in its comments that its approved 1991 DSM program expenses, \$37 million in constant 1990 dollars, be recovered in its year-end attrition adjustment (Advice Letter Nos. 1319-E and 1614-G) to take effect January 1, 1991.

15. No rate increase was requested for PG&E's 1990 DSM program expenditures.

16. An additional \$35.1 million for PG&E's 1992 DSM program expenditures was also authorized by D.90-08-068.

17. In D.90-08-068 we stated that all requests for rate changes not already approved by D.90-08-068, (or by today's decision), would be reviewed and litigated in ECAC and ACAP proceedings, but we are forced to reconsider this issue due to the elimination of ACAPs in favor of BCAPs, in D.89-09-089 in our gas procurement rulemaking, R.90-02-008.

18. D.90-09-089 indicated that PG&E's ACAP filing filed in late 1990 by PG&E would remain an ACAP.

19. SDG&E and each utility will be expected to fully justify whatever DSM program they propose to institute at the conclusion of these experimental programs authorized by D.90-08-068.

20. TURN's request for eligibility was timely filed and addresses all four elements required by rule 54(a) of the Commission's Rules of Practice and Procedure.

21. In D.90-09-024, the Commission found that TURN had demonstrated that its participation would pose a significant financial hardship as defined in Rule 76.52(f).

22. It is not necessary at this time to designate a common legal representative for the interests TURN represents in this proceeding.

#### Conclusions of Law

1. SoCal's proposed reduction in 1990 DSM expenditures and goals is in conformance with the settlement and D.90-08-068, and it is reasonable.

2. SoCal's updated program goals and expenditures are reasonable and should be approved.

3. SDG&E's motion for acceptance of late-filed reply comments should be granted.

4. SDG&E should be permitted to file its request for recovery of its already-approved gas DSM expenditures in an alternate proceeding, since ACAPs have been eliminated.

5. SCE should be authorized to reflect its authorized DSM expenditures in rates to take effect on January 1, 1991, in the manner contemplated by the settlement.

6. SoCal should be authorized to reflect its authorized 1990 and 1991 DSM program expenses, of \$5.031 million and \$10.930 million, adjusted for franchise fees and uncollectibles, through advice letter compliance filing, for inclusion in either the year-end attrition or the ACAP proceeding rates.

7. PG&E should be authorized to recover its approved 1991 DSM program expenses coincident with either its year-end attrition adjustment or its ECAC A.90-04-003, to take effect January 1, 1991.

8. The primary review vehicles for DSM program cost change proposals and recovery of incentive/penalty payments should be the ECAC for electric DSM programs and related incentive/penalty payments and the annual gas reasonableness review for gas DSM programs and related incentive/penalty payments.

9. The combined electric and gas utilities may elect to consolidate the requests for both electric and gas DSM programs in either the ECAC or the annual gas reasonableness review.

10. Each utility should be permitted to elect whether to postpone DSM program-related rate changes authorized in the ECAC or gas reasonableness decision, including incentive/penalty payments, until a subsequent year-end rate adjustment, provided that sufficient notice of such intent is provided at the time the request for approval of the costs is filed.

11. If PG&E included DSM review issues in its currently pending ACAP filing in reliance on D.90-08-068, those issues should be reviewed in this last ACAP.

12. The date for accrual of interest on the shareholder incentive/penalty payments should not be rolled back from July 1 to March 31.

13. TURN should be ruled eligible to claim compensation for its participation in this proceeding.

14. In order to ensure that the appropriate rate changes addressed in this decision may be implemented by January 1, 1991, this decision should take effect today.



1991 hearings will be **FINAL ORDER**. Therefore, the biennial DSM program cost recovery and penalty after prohibition proceedings regarding NED 1991 **IT IS ORDERED** that NED 90-08-068 and its amendments be

1. Southern California Gas Company's (SoCal) proposed revisions of its 1990 demand-side management (DSM) program goals and expenditures are approved.

2. Ordering Paragraph 1(f) of D.90-08-068 is modified to also permit SDG&E to request recovery of its already-approved 1990 and 1991 DSM expenditures in alternate 1991 proceedings, such as the biennial cost adjustment proceeding, gas reasonableness review, or 1991 year-end attrition proceeding.

3. SoCal is authorized to incorporate through compliance advice letter filing into any rate change ordered in either its year-end attrition advice filing or Annual Cost Adjustment Proceeding (ACAP) Application (A.) 90-03-013 its authorized 1990 and 1991 DSM program expenditures of \$5.031 million and \$10.930 million, adjusted for franchise fees and uncollectibles, to become effective January 1, 1991.

4. Pacific Gas & Electric Company (PG&E) is authorized to incorporate the \$37 million in constant 1990 dollars in DSM expenditures approved by D.90-08-068 into any rate change ordered in either its year-end attrition adjustment through Advice Letter Nos. 1319-E and 1614-G or its Energy Cost Adjustment Clause (ECAC) A.90-04-003, to become effective January 1, 1991.

5. Review of DSM program cost or design change proposals not explicitly contemplated in the settlements and review of requests for recovery of incentive/penalty payments or any other costs attributed to DSM programs approved in D.90-08-068 and not already approved in D.90-08-068 or this decision shall occur in the ECAC for electric DSM programs and related incentive/penalty payments and the annual gas reasonableness review for gas DSM programs and related incentive/penalty payments. PG&E and SDG&E may elect to consolidate their requests for both electric and gas DSM programs

in either the ECAC or the annual gas reasonableness review. If PG&E or another utility has already included DSM review issues in a pending ACAP filing in reliance on D.90-08-068, those issues shall be reviewed in the ACAP. This Ordering Paragraph replaces Ordering Paragraph 1(e) of D.90-08-068.

6. Toward Utility Rate Normalization is eligible to claim compensation for its participation in this proceeding.

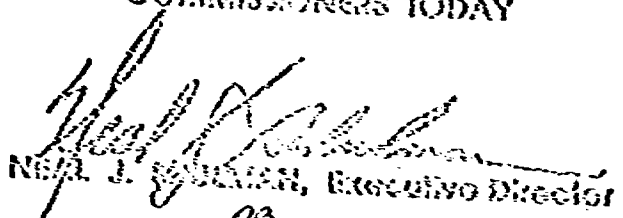
7. This proceeding will be held open for six months from the date of today's decision, during which time Commission Advisory and Compliance Division has the discretion to hold workshops to address the implementation of today's decision, if CACD determines that such workshops are necessary.

This order is effective today.

Dated December 19, 1990, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
STANLEY W. HULETT  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

I CERTIFY THAT THIS DECISION  
WAS APPROVED BY THE ABOVE  
COMMISSIONERS TODAY

  
NEIL J. GORMAN, Executive Director

APPENDIX A  
Page 1

Exhibit List

A.90-04-034, A.90-04-036,  
A.90-04-037, A.90-04-041

<u>Exhibit Number</u>	<u>Sponsor</u>	<u>Description</u>	<u>File Date</u>
1	PG&E	A Side-by-Side Comparison of the applications of SDG&E, SCE, SoCal, and PG&E -- as corrected by revision dated 7/11/90	7/6/90
2	SDG&E	Response to ALJ's Request for Information	7/6/90
3	SCE	Individual Response to ALJ's Ruling	7/6/90
4	SoCal	Response to ALJ's Ruling for Additional Information -- as corrected by revision dated 8/22/90	7/6/90
5	PG&E	Information on DSM Program Requested by ALJ	7/6/90
6	NRDC	Decline of Conservation at California Utilities	6/26/90
7	PG&E	An Energy Efficiency Blueprint for California: Report of the Statewide Collaborative Process	7/6/90
8	PG&E	Appendix A to Energy Efficiency Blueprint	7/6/90
9	PG&E	Appendix C to Energy Efficiency Blueprint	7/6/90
10	SCE	Index to SCE Settlement	8/13/90 (mailed)
11	SoCal	Revised Tables 3-A, 3-B, & 3-C of Exhibit 1	8/22/90

APPENDIX A  
Page 2

Exhibit List

A.90-04-034, A.90-04-036,  
A.90-04-037, A.90-04-041

<u>Exhibit Number</u>	<u>Sponsor</u>	<u>Description</u>	<u>File Date</u>
12	SoCal	Modified Goals & Expenditures (Letter and 2 pages of tables)	9/13/90 (mailed)
13	SoCal	Detailed Clarification of of 9/13/90 Update (Letter and 4 pages of attach.)	11/9/90 (mailed)

(END OF APPENDIX A)

A.90-04-034 et al. /ALJ/CLM/dyk Page 1.  
APPENDIX B  
SOUTHERN CALIFORNIA GAS COMPANY  
1991 REVENUE REQUIREMENT  
D. 90-08-068  
(amounts in \$000)

TABLE I

1990 Adopted Costs - See Table II	\$5,031
1991 Adopted Costs - See Table III	<u>\$10,930</u>
Sub-Total	\$15,961
 Add:	
Franchise Fees & Uncollectible Accounts Expense - See Advice Letter 1985 Dated October 11, 1990.	<u>2.1076%</u>
 Total Revenue Requirement for Rates to be Effective January 1, 1991.	<u><u>\$16,297</u></u>

**SOUTHERN CALIFORNIA GAS COMPANY**  
**1990 COSTS -- D. 90-08-068**  
(1990 amounts in \$000)

	<u>DSM PROGRAMS</u>	<u>MEASUREMENT</u>	<u>SHAREHOLDER EARNING (EST.)</u>	<u>TOTAL</u>
Amounts Per Application 90-04-037 and 6/27/90 Settlement. CPUC Measurement \$ (D.90-08-068 p.20)	\$3,246	\$2,200  \$46	\$2,038	\$7,484  \$46
Settlement Modification with TURN filed 8/20/90 discussed in D.90-08-068.	- 0 -	- 0 -	(\$141)	(\$141)
Sub-Total	\$3,246	\$2,246	\$1,897	\$7,389
Comments Dated 9/13/90 for reduction in goals by one-third pursuant to D. 90-08-068.	(\$461)	- 0 -	(\$563)	(\$1,024)
Sub-Total	\$2,785	\$2,246	\$1,334	\$6,365
Exclude Shareholder Incentives for 1990 until earned			(\$1,334)	(\$1,334)
Inflation adjustment pursuant to D. 90-08-068.	- 0 -	- 0 -	- 0 -	- 0 -
Final Total-1990	<u>\$2,785</u>	<u>\$2,246</u>	<u>\$0</u>	<u>\$5,031</u>

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## SOUTHERN CALIFORNIA GAS COMPANY

1991 COSTS — D. 90-08-068

(1990 \$000's Converted to 1991 amounts in \$000's)

	<u>DSM PROGRAMS</u>	<u>MEASUREMENT</u>	<u>SHAREHOLDER EARNING (EST.)</u>	<u>TOTAL</u>
Amounts Per Application 90-04-037 and 6/27/90 Settlement. PUC Measurement \$ (D.90-08-068 p.20)	\$8,151	\$2,200  \$46	\$4,224	\$14,575  \$46
Settlement Modification with TURN filed 8/20/90 discussed in D.90-08-068.	<u>- 0 -</u>	<u>- 0 -</u>	<u>(\$542)</u>	<u>(\$542)</u>
Sub-Total	\$8,151	\$2,246	\$3,682	\$14,079
Exclude shareholder incentives for 1991 until earned.	<u>- 0 -</u>	<u>- 0 -</u>	<u>(\$3,682)</u>	<u>(\$3,682)</u>
Sub-Total	\$8,151	\$2,246	\$0	\$10,397
Conversion of above amounts stated in 1990 dollars to 1991 dollars pursuant to Application 90-04-037 and 6/27/90 Settlement:		<u>Labor</u>	<u>Non Labor</u>	<u>Total</u>
Components of Total:		\$1,222	\$9,175	\$10,397
Escalator factors pursuant to D.90-01-016 Appendix D and Advice Letter 1985 dated October 11, 1990		<u>5.29%</u>	<u>5.10%</u>	
Total Amounts stated in 1991 dollars:		<u>\$1,287</u>	<u>\$9,643</u>	<u>\$10,930</u>

(END OF APPENDIX B)