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Decision 91-07-040 July 24, 1991

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 Southern California Gas Company for)
 an order finding its expenditures)
 for the Conservation Cost Adjustment)
 Program for 1988 and 1989 to be)
 reasonable and for authorization to)
 include program expenditures in)
 rates.)

ORIGINALApplication 90-06-064
(Filed June 29, 1990)OPINION

This decision finds that Southern California Gas Company's (SoCalGas) expenditures for conservation activities under its Conservation Cost Adjustment (CCA) program during 1988 and 1989 were reasonable and authorizes SoCalGas to recover \$40.1 million for the two-year period. The CCA program was terminated by order of the Commission in SoCalGas' Test Year 1990 Rate Case (Decision (D.) 90-01-016, 35 CPUC 2d 80, 123, 158). Pursuant to that order SoCalGas refunded an \$81.54 million overcollection in the CCA balancing account in its 1989 Annual Cost Allocation Proceeding (ACAP). This decision distributes the remaining funds and abolishes the CCA balancing account.

Procedural History

SoCalGas filed this application on June 29, 1990. The assigned Administrative Law Judge (ALJ) convened a prehearing conference (PHC) on August 17, 1990. At the PHC the Division of Ratepayer Advocates (DRA) disclosed that it intended to contest SoCalGas' request for recovery of \$6.5 million in conservation-

related litigation costs from the CCA balancing account.¹ Pursuant to the schedule established by the ALJ for prehearing briefs, DRA filed a motion to strike those portions of the application pertaining to the \$6.5 million.

By ruling issued on October 17, 1990, the ALJ granted DRA's motion to strike. The ALJ's ruling concluded that the Commission had already determined in D.90-01-015, 35 CPUC 2d 3, that litigation expenses were not intended for inclusion in the CCA balancing account and could only be considered in a general rate case proceeding. SoCalGas appealed the ruling to the "full Commission" on October 29, 1990. SoCalGas had also requested recovery of the same litigation expenses in its 1990 ACAP Application (A.) 90-03-018. In D.90-11-023, the Commission's decision on the ACAP application, the Commission once again ruled that litigation expenses could not be recovered in the CCA balancing account. On rehearing of D.90-11-023, the Commission affirmed its position on the recovery of litigation costs and made it clear that SoCalGas had the option of requesting that its conservation related litigation expense be considered in establishing rates in its next general rate case. SoCalGas then abandoned its appeal of the ALJ's ruling.

A second PHC was convened on April 1, 1991 to schedule the taking of evidence on the reasonableness of the non-litigation costs of the CCA program. DRA filed its report on the reasonableness of SoCalGas' CCA activities on May 13, 1991. DRA concluded that SoCalGas' conservation costs during the 1988-89 period were reasonable. By ALJ ruling dated May 15, 1991, a period of 12 days was provided for comment on the report and requests for

¹ These litigation expenses included \$6.28 million for the costs of defending and settling a group of lawsuits filed by installation contractors known collectively as the "Angelus" suits and \$464,500 in other minor conservation-related litigation.

hearing by the parties to this proceeding. No comments or requests for hearing were filed. The matter stood submitted on May 27, 1991, with the record consisting of A.90-06-064, the rulings of the ALJ, and DRA's reasonableness report of May 13, 1991.

Background

In response to a Commission request, SoCalGas filed A.60447 on April 14, 1981, seeking authorization to implement a Weatherization Financing and Credits Program (WFCP). This program offered various incentives such as low-cost financing or cash rebates to SoCalGas customers who installed attic insulation or other weatherization improvements in their homes. In D.82-02-135, 8 CPUC 2d 167, issued on February 17, 1982, the Commission established the CCA balancing account to track the WFCP conservation costs and authorized SoCalGas to implement new programs which expanded the assistance and incentives available to ratepayers.

The Community Involvement Energy Programs (CIEP) became a part of the WFCP in 1982. As authorized in D.82-09-062, issued on September 22, 1982, the CIEP provided direct weatherization measures for eligible limited- and fixed-income customers at no cost. The WFCP and CIEP were continued and expanded during 1983 to 1985.

On October 17, 1985, the Commission issued D.85-10-053, 19 CPUC 2d 117, which established a funding limit for 1985 and 1986 of \$120 million for the financing and rebate activities of the WFCP. The WFCP loan and rebate activities were terminated on March 31, 1986. The low-income activities of the CIEP were provided with continual funding at a rate not to exceed \$10 million annually once the authorized WFCP spending limit of \$120 million was reached.

D.85-10-053 also authorized SoCalGas to implement a limited Furnace Repair and Replacement program. This pilot program, which was a component of the CIEP, offered repairs and

replacement of inoperative heating equipment at no cost to eligible low-income SoCalGas customers. D.87-05-074, 24 CPUC 2d 445, and D.88-10-055 issued on May 29, 1987 and October 26, 1988, respectively, found SoCalGas' conservation program expenditures during 1985 through 1987 to be reasonable and authorized SoCalGas to continue the no-cost weatherization activities and the Furnace Repair and Replacement pilot program through year-end 1989.

In SoCalGas' Test Year 1990 General Rate Case, D.90-01-016, issued on January 9, 1990, the Commission ordered SoCalGas to terminate the CCA balancing account as of December 31, 1989, and to present a plan to refund to ratepayers the overcollected revenues in the CCA balancing account. The CCA balancing account was replaced with a separate one-way interest bearing memorandum account for conservation expenditures for 1990 and afterward. The refund plan was to be presented in SoCalGas' 1988/89 CCA Reasonableness Review. In SoCalGas' ACAP, D.90-01-015, issued on January 9, 1990, the Commission adopted rates which included the amortization of the estimated December 31, 1989 overcollection over twelve months. In SoCalGas' second ACAP decision, D.90-11-023, issued on November 9, 1990, the revenue requirement associated with the amortization was revised to reflect the actual December 31, 1989 overcollection of \$81.54 million. SoCalGas did not include a refund plan in this application since the present ACAP rates are already amortizing the overcollection.

Reasonableness of the 1988 and 1989 Conservation Programs

D.88-10-055 established SoCalGas' total conservation program funding for 1988 at \$32.65 million and \$23.91 million for 1989. SoCalGas' actual costs in those years were \$20.9 million and \$19.2 million resulting in an overall underspending of \$16.5 million for the two-year period.

SoCalGas' conservation program during the review period consisted of its CIEP direct low-income assistance and the

continued administration of the WFCP programs which SoCalGas had essentially terminated before 1988. SoCalGas weatherized 40,437 dwelling units in 1988 and 32,483 in 1989. SoCalGas exceeded its goal for 1988, but reached only 69% of its target for 1989 due in part to the loss of two of its installing agencies that year. SoCalGas underspent its allocations in both years due to reductions in administrative costs and to the market preference for multi-family projects with fewer than expected attic insulation projects.

SoCalGas provided its pilot program for the no-cost repair and replacement of inoperative home heating equipment in low-income households during both 1988 and 1989. SoCalGas met 95% of its target level of service (572 units during the two-year period) by replacing or repairing 546 furnaces. SoCalGas expended \$493,504 or 95% of the \$518,236 approved funding.

Expenditures for the administration of the CIEP program included SoCalGas labor in processing reimbursements for the CIEP and the Furnace Repair and Replacement Program, inspection operations costs, communication and computer expenses, training, building rent, outside services, materials and supplies, and duplicating and microfiche services. The authorized expense requirements for CIEP administration was \$7,861,060 for 1988 and \$7,608,425 in 1989. SoCalGas actually incurred \$5,688,518 in 1988 and \$6,572,884 in 1989 resulting in a total underspending of \$3,208,083 in the two-year period. SoCalGas' underspending was in compliance with the Commission's D.88-10-055 and the Memorandum of Understanding (MOU), dated July 19, 1989, whereby SoCalGas and Cal-Neva representatives agreed to work together to reduce CIEP administrative costs. In complying with the MOU, SoCalGas implemented on-site inspections conducted at the time of furnace installation which significantly reduced inspection costs and also reduced costs resulting from reinspections. Additional reductions in administrative costs were achieved by consolidating clerical activities so that as vacancies occurred, positions were not filled

but activities were assumed by other employees. As a result of these efforts, SoCalGas was able to reduce its overall administrative costs with major savings in installation inspections and contract labor costs.

SoCalGas' underspending in the CIEP activity was reasonable in light of market conditions and the efficiency improvements which SoCalGas implemented in the course of administering the program.

SoCalGas did not offer any new WFCP loans or rebates after 1986, although existing loans still needed to be serviced. Activities included monitoring delinquent accounts, following up on customers who had moved and sold their weatherized property, and addressing bankruptcy claims. Other activities included processing address and name changes and responding to customer inquiries and complaints regarding installations and referrals to credit agencies.

Similarly, although the bulk of the Solar Demonstration Financing Program had been sold in 1987, and all solar rebates were issued, situations arose requiring SoCalGas' attention. Handling of rebate checks not received, requests for photocopies of cashed rebate checks in cases where customers believed they had not received rebates, and following up on equipment and installation problems were some of the activities still being processed in connection with the solar program during 1988 and 1989.

The WFCP maintenance category was underspent by \$368,294 in 1988 and \$251,033 in 1989. A total underspending of \$619,327 occurred over the two-year period. The underspending was primarily due to SoCalGas consolidating the loan collection activities in the Conservation Loan Center in 1988. In that year, SoCalGas made an increased effort to encourage its customers to bring their accounts up to date. Through this effort, write-offs of customer loans were substantially lower than estimated, resulting in the underspending. This underspending was reasonable because it is attributable to

SoCalGas' efficiencies in carrying out the maintenance portion of the WFCP.

Effect of the 1986 Tax Reform Act on the CCA Balancing Account

In SoCalGas' Test Year 1990 General Rate Case proceedings, A.88-12-047, SoCalGas recommended an adjustment (reduction) to the December 31, 1989 net overcollection in the CCA balancing account to reflect the effect on tax rates from the 1986 Tax Reform Act (TRA). The adjustment was needed to account for the difference between the tax rates in effect at the time the overcollection occurred and the time when the overcollection is refunded to the ratepayers. The tax rate in effect at the time the overcollection occurred was 39.95%. SoCalGas had to pay taxes at the rate of 39.95% of the overcollected revenues. At the time the overcollection was paid back (refunded) to the ratepayers in the ACAPs, the tax rate in effect was changed to 34% pursuant to the 1986 TRA. SoCalGas received a tax benefit of 34% of the overcollected and refunded revenues. A tax benefit results from SoCalGas reporting a lower taxable income in the year of payback to the Internal Revenue Service than SoCalGas otherwise would have reported if SoCalGas had not paid back the overcollection to the ratepayers. Since the taxes paid on the overcollection are greater than the tax benefit received, SoCalGas proposed to reflect the difference as an adjustment to the CCA balancing account.

In D.90-01-016, the Commission adopted SoCalGas' recommended adjustment to the CCA balancing account but ordered DRA to consider the impact on the CCA balancing account resulting from the 1986 TRA. Based on DRA's review of SoCalGas' adjustment to the CCA balancing account to reflect the tax effect, DRA concluded that the adjustment is reasonably calculated. The tax cost associated with the CCA overcollection at the time of the overcollection was \$750,205 and the tax benefit at the time of refund was \$638,472. Multiplying the difference of \$111,733 by the net to gross multiplier of 1.6705 approved by the Commission in SoCalGas' 1988

Attrition Year filing results in a \$186,650 impact (reduction) to the December 31, 1989 CCA balancing account overcollection.

Findings of Fact

1. SoCalGas' conservation activities in 1988-89 consisted of the Community Involvement in Energy Program for direct low-income assistance home improvement projects, a pilot program for no cost repair or replacement of inoperative home furnaces, and continued administration of SoCalGas' earlier programs for loans and rebates for conservation and solar installation projects.

2. The Commission authorized SoCalGas to spend \$32.65 million in 1988 and \$23.91 million in 1989 for conservation activities.

3. SoCalGas underspent its allocations for 1988 and 1989 by a total of \$16.5 million.

4. SoCalGas weatherized 40,437 homes in 1988 and exceeded its program target.

5. In 1989, SoCalGas weatherized only 32,483 units, meeting 69 percent of its target activity.

6. SoCalGas' weatherization program was slowed by the loss of two of its installation contractors in 1989.

7. In 1989, there were fewer program participants seeking attic insulation improvements.

8. SoCalGas met 95 percent of its target activity level and expended 95 percent of its allocated funds in the furnace repair and replacement program.

9. SoCalGas reduced its administrative costs for the low-income weatherization program by \$3.2 million during 1988 and 1989 through improvements in its inspection program and consolidating employee job functions.

10. The tax impact of the 1986 Tax Reform Act requires that the CCA balancing account overcollection be reduced by \$186,650.

11. The request in this application for recovery of \$6.28 million in conservation-related litigation costs was stricken.

ENCLOSURE
ENCLOSURE

Conclusions of Law

1. The funds spent and the activities undertaken in connection with SoCalGas' conservation program for 1988 and 1989 were reasonable.
2. SoCalGas' underspending for conservation programs in 1988 and 1989 was reasonable.
3. The CAA overcollection should be reduced by \$186,650.
4. SoCalGas should be authorized to recover \$40.1 million for its conservation costs during the two-year period 1988 to 1989.

ORDER

IT IS ORDERED that:

1. Southern California Gas Company is authorized to recover \$40.1 million from the Conservation Cost Adjustment balancing account.
2. The overcollection in the Conservation Cost Adjustment balancing account as of December 31, 1989, is reduced by \$186,000 to reflect the effect of the 1986 Tax Reform Act.
3. Subject to Ordering Paragraphs 1 and 2 herein, the Conservation Cost Adjustment balancing account shall be distributed as and, thereafter, immediately abolished.
4. This proceeding is closed.

This order becomes effective 30 days from today.

Dated July 24, 1991, at San Francisco, California.

PATRICIA M. ECKERT

President

G. MITCHELL WILK

JOHN B. OHANIAN

DANIEL W. FESSLER

NORMAN D. SHUMWAY

Commissioners

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

NEAL J. SHULMAN, Executive Director