

ORIGINALDecision No. 88928 MAY 31 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
 motion into the establishing by)
 regulation or order necessary or)
 desirable requirements to implement)
 the HOME INSULATION ASSISTANCE &)
 FINANCING PROVISIONS of newly enacted)
 Public Utilities Code Sections 2781)
 through 2788, inclusive, as they apply)
 to electrical corporations and gas)
 corporations under the jurisdiction of)
 the Commission.)

Case No. 10032
 (Filed January 13, 1976;
 amended February 15, 1977)

ORDER MODIFYING DECISION NO. 88551
AND GRANTING LIMITED REHEARING

Petitions for Rehearing of Decision No. 88551 have been filed by San Diego Gas and Electric Company (SDG&E), Southern California Gas Company (So. Cal.), Pacific Gas and Electric Company (PG&E), California-Pacific Utilities Company, Sierra Pacific Power Company, Owens-Corning Fiberglas Corporation (O-C), Southern California Edison Company, Southwest Gas Corporation and General Motors Corporation. In addition we have received a letter of protest from the Institute of Heating and Air Conditioning Industries.

We have carefully considered all the allegations of legal error in each of these petitions and the protest. Some allege that the order exceeds our authority in that it requires, rather than merely permits, a residential insulation financing program. Although Section 2781 of the Public Utilities Code does speak in terms of our permitting utilities to carry on insulation financing programs, we do not understand that Section to derogate the authority we have in Section 702 to establish rules in any matter "...relating to or affecting [a utility's] business as a public utility..."

O-C has challenged the figures on page 31 of the Decision from which we determined the need to implement a financial assistance program. Although O-C sponsored evidence of a telephone survey which projected larger figures than those we relied on, O-C's projections did not match the recorded data shown in Table II of Exhibit 43, Exhibit 15, at page 7, Exhibit 22, at page 1 and on Page 313 of the

official transcript. We consider the actual experience of California's largest gas suppliers to be a more reliable measure of the success of their voluntary insulation programs than O-C's survey.

Several petitioners point out that the financing program appears to violate those provisions of Section 2786, 2787 and 2788 which allow participating utilities to utilize alternative financing methods and to recover their legitimate costs in rates. Such was not our intent (See Conclusion No. 3 and Ordering Paragraph No. 1). By this order we intend to modify Decision No. 88551 to clarify the extent to which we are requiring the implementation of the insulation program envisioned by Section 2781 et seq.

In addition, PG&E, So. Cal. and SDG&E have pointed out that the 8% interest rate specified in Ordering Paragraph 1 and the hardware incentive package required by Ordering Paragraph 3 raise antitrust questions which are not adequately addressed in the Decision.

As to the incentive package, because we are granting herein a limited rehearing to hear evidence and argument on the issue of the reasonableness of such an incentive program, we will deal with any antitrust aspects thereof in our order after rehearing.

With respect any antitrust implications of the 8% maximum interest rate, we shall by this order provide the necessary findings and conclusions to address this issue; a rehearing is not necessary for this purpose.

We are of the opinion that good cause has been shown to grant a limited rehearing for the purpose of receiving evidence and argument on the issue of the reasonableness of the incentive package described in Ordering Paragraph 3 of Decision No. 88551. Therefore:

IT IS HEREBY ORDERED that,

Decision No. 88551 be modified as follows:

1. Ordering Paragraph 1 is modified by adding thereto the following:
In implementing this program a utility may utilize the alternative financing provisions contained in Sections 2786 and 2787 of the Public Utilities Code, but may not thereby impose upon the insulation purchaser financing costs or conditions which do not comply with those specified in this paragraph.

2. Findings 7(a) and 7(b) are hereby added as follows:

7(a). A loan interest rate of 8 percent per annum is less than rates currently charged by lending institutions for home-improvement loans.

7(b). It is necessary for the success of a mandatory assistance program that the interest rate be kept low enough to encourage customers to use the financing plan. An 8% per annum rate will help to provide that encouragement.

3. Conclusions 6 and 7 are hereby added as follows:

6. Any antitrust or anticompetitive effects of requiring a utility to offer financing for home insulation at rates of interest less than current rates charged by other lenders for the same type of loan should not prevent us from setting a maximum interest rate which is necessary to carry out the regulatory program envisioned by Section 2781 et. seq. of the Public Utilities Code and to meet the urgent need to expand the home insulation program in California.

7. Inasmuch as Section 2788 of the Public Utilities Code provides that the respondents may recover in rates "... all expenses which the commission finds are reasonably related to the implementation and administration of the program, including commercial advertising ...," we conclude that specific authorization to recover all such expenses by means of appropriate filings with the Commission is not necessary in this order.

4. Finding 11 is amended to read in full as follows:

All reasonable implementive and administrative costs incurred by the utilities with respect to their insulation programs should be recovered through rates as items of current expense.

IT IS FURTHER ORDERED that:

Except for Ordering Paragraph 3 of Decision No. 88551, the suspension of the order of that Decision ordered by Decision No. 88855 is hereby terminated. The time for implementation of Ordering Paragraph 1 of Decision No. 88551 shall be within sixty days from the date hereof.

IT IS FURTHER ORDERED that:

A rehearing is granted limited to receipt of evidence and argument on the issue of the reasonableness of the incentive program delineated in Ordering Paragraph 3 of Decision No. 88551, said rehearing to be heard at such time and place and before such Commissioner or Administrative Law Judge as may hereafter be designated. The Executive Director is directed to cause appropriate notice of limited rehearing to be mailed to all parties at least ten (10) days before such limited rehearing.

Except as hereinabove provided, rehearing of Decision No. 88551 is hereby denied.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 31st day of MAY, 1978.

Robert Bateman
President

William S. ...

Vernon L. Sturgeon

Richard D. ...

Commissioners

Commissioner Claire T. Dodrick, being necessarily absent, did not participate in the disposition of this proceeding.