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Decision 97-03-068 March 31, 1997

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) and SOUTHERN CALIFORNIA EDISON COMPANY (U 338 E) for Approval of Demand-Side Management Pilot Bidding Contract.	ORIGINAL Application 96-11-048 (Filed November 27, 1996)

OPINION ON NEGOTIATED CONTRACT UNDER SOUTHERN CALIFORNIA GAS COMPANY'S DEMAND-SIDE MANAGEMENT BIDDING PILOT

1. Summary and Overview

By today's order, we approve a contract negotiated jointly by Southern California Gas Company (SoCal) and Southern California Edison Company (SCE) with Winegard Energy Inc. (Winegard), subject to one condition. This contract has been negotiated as part of the demand-side management (DSM) pilot bidding programs required by Public Utilities (PU) Code § 747 and our adopted rules governing DSM.[1] Because this contract will be cost-effective only under a limited set of performance scenarios, we require that Winegard provide cost-effectiveness security in the amount of $200,000, consistent with other contracts we have approved under residential DSM bidding pilots.

Within thirty days from the effective date of this order, SCE and SoCal shall file a statement at the Commission Docket Office informing the Commission of whether Winegard accepts this condition, and if so, shall submit modifications reflecting this

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[1] Our rules governing the evaluation, funding, and implementation of DSM were developed in Rulemaking (R.) 91-08-003 and companion Investigation (I.) 91-08-002, which remain open for future consideration of modifications to those rules. The most recent copy of our rules is contained in D.94-10-059, as corrected by D.95-05-027 and D.95-06-016. DSM rules 7 and 8 were further modified by D.95-12-054.

additional security provision with their filing. This filing should be served on the service list in Rulemaking (R.) 91-08-003 and companion Investigation (I.) 91-08-002. The Energy Division will review the contract modifications for compliance with today's order in an expedient manner. Our Executive Director will notify SCE and SoCal of the results of our review by letter.

Our efforts to test various forms of DSM bidding began with our approval and refinements of DSM bidding pilot programs in Decision (D.) 92-02-028, D.92-09-080, D.92-12-050, and D.93-02-041. We then reviewed and approved various negotiated contracts entered into by Pacific Gas and Electric Company (PG&E), SCE, and San Diego Gas & Electric Company (SDG&E) for their respective pilot bidding programs. (See D.93-11-067, D.94-04-039, D.94-09-041, and D.95-02-042.) In D.95-10-038, we approved the first of SoCal's negotiated contracts under its pilot program. The negotiated contract with Winegard represents the second contract entered into by SoCal under its pilot, this time in collaboration with SCE. SoCal anticipates that it will request approval of its third, and final, contract later this year.

The DSM pilot bidding programs were initiated in order to test the impact of competitive bidding on utility procurement of DSM services. In general, the objective was to test the ability of third-party providers to replace certain utility DSM programs at a lower cost to ratepayers. The industry paradigm underlying the pilot testing envisioned by the Legislature, and our DSM rules, was one in which DSM was procured as an alternative to more costly utility generation services. In approving today's negotiated contract, we recognize that the industry paradigm has changed dramatically since the Legislature established the requirements of PU Code § 747 and since we first established our DSM rules. With electric industry restructuring, our goals for future energy efficiency activities in California are now quite different. No longer is our primary focus to influence utility decisionmakers, as monopoly providers of generation services. Instead, we now seek to transform the market so that individual customers and suppliers in the competitive generation market will be making rational energy service choices. By D.97-02-014, we adopted changes to the role of utilities in that transformation process.

The pilot bidding programs we established in response to PU Code § 747 did not anticipate these changes. Had we anticipated them, it is unlikely that we would require utilities to enter into a long-term contract for energy efficiency services today. Nonetheless, we believe that these pilots will yield useful information as they are monitored over time. The experience gained from observing the performance of winning bidders and responsiveness of customers to third-party offered DSM services should better prepare market participants in the future. As described further below, we find the payment terms under the negotiated contract between SoCal, SCE, and Winegard to be reasonable if modified to include cost-effectiveness security. In particular, the contract is a pay-for-performance agreement, which includes performance securities and detailed measurement and evaluation plans. As modified by today's decision, the contract sufficiently mitigates the risk that ratepayers might incur losses or pay for savings that do not materialize. In sum, even though circumstances have changed, we find it reasonable to approve this contract subject to the condition described above, as our pilot bidding program draws to a close.

2. Procedural Background

On August 7, 1991, the Commission issued an Order Instituting Rulemaking and companion Order Instituting Investigation to establish policy guidelines and rules governing DSM activities (R.91-08-003/I.91-08-002). One of the objectives discussed in this rulemaking was the competitive procurement of DSM programs, referred to generally as "DSM pilot bidding." The Commission directed utilities to develop and present pilot programs for consideration, consistent with the mandate of PU Code § 747. PU Code § 747 requires that one or more energy utilities implement pilot programs to test: (1) the ability of DSM bidding to deliver benefits to utility customers, separate from any generation resource bidding system; (2) the feasibility of an integrated bidding system that includes both generation resources and DSM programs; and (3) a program of competitive DSM auctions for gas utilities. For this purpose, the Commission endorsed the formation of a Bidding Advisory Committee, with representatives from utilities, consumer and environmental groups, energy service companies, and other interested parties.

By D.92-09-080, D.92-12-050, and D.93-02-041, the Commission approved a DSM-only pilot bidding program for SoCal. SoCal's bidding pilot represents one of several being conducted by investor-owned utilities and evaluated by this Commission. As we stated in D.92-02-075, "These bidding experiments will help us learn more about alternative DSM delivery mechanisms, and assess the role of DSM bidding to provide least-cost DSM services to ratepayers." (43 CPUC2d 316, 325.) In view of the experimental nature of the initial pilots, we modified certain aspects of SoCal's bid evaluation criteria to make them more objective and transparent.

The approved pilot program is designed to replace SoCal's planned single and multi-family portions of its residential weatherization retrofit and appliance efficiency incentive programs (45 CPUC2d 541, 548). SoCal's pilot was authorized at a level equal to approximately 32% of its 1992 budget for DSM resource procurement. We directed SCE to coordinate with SoCal in implementing the pilot, so that winning bidders could receive payments for both gas and electric savings in gas-heated homes (Id. at 546-547). Funding for this pilot was authorized in D.92-09-080 and D.96-01-011 for SoCal and SCE, respectively. We established a total resource cost (TRC) test of 1.0 as the cost-effectiveness threshold for bidders.[2]

SoCal's request for proposals (RFP) for its pilot program was approved on April 30, 1993 and issued on May 20, 1993. SoCal received 26 bids in response. After evaluating the submitted bids, SoCal announced a short list of four bidders in November 1993. One of the short-listed bidders subsequently decided to terminate its

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[2] Our general criterion was that the bidder's program must exceed the utility's own program TRC or 1.0, whichever was greater. However, because there were no comparable existing TRCs for the type of coordinated residential program we authorized for SoCal, we established the 1.0 threshold for SoCal's pilot program. We defined TRC for this purpose as the sum of utility payments to bidders or customers, customer contributions, utility administration costs and the ratepayer cost of shareholder incentives.

participation in the program. On October 18, 1995, the Commission approved SoCal's negotiated contract with Delta Pro-Tech, which was entered into on May 4, 1995. (D.95-10-038.) On November 27, 1996, SoCal and SCE jointly filed Application (A.) 96-11-048 ("joint application") requesting approval of the negotiated contract with Winegard. SoCal anticipates that it will request approval of its third, and final, contract later this year. According to SoCal, the course of negotiations for these contracts has not permitted a more consolidated filing schedule, as preferred by the Commission. (D.92-09-080, 45 CPUC2d at 586.) There were no responses or protests to the joint application.

In approving SoCal's bidding pilot program in D.92-09-080, we adopted the same procedure for reviewing SoCal's contracts as we had for PG&E when we stated that we expected "to review the reasonableness of the negotiated contracts, and associated payments, between PG&E and winning bidders." (43 CPUC2d 423, 450.) In the joint application, SoCal and SCE have provided information on the cost impacts of the negotiated contract by comparing year-by-year total project costs under the contract with long-run avoided costs. SoCal and SCE have also provided information on the costs and benefits of the contract under various performance scenarios.

3. Description of the Contract

SoCal's contract with Winegard is designed to provide DSM services in collaboration with SCE. The contract is for weatherization measures that provide for natural gas and electric energy savings. Specifically, the measures to be installed are attic insulation, duct sealing, infiltration reduction and duct insulation. The target market is any existing, non-low-income residence, including single family, multi-family and mobilehomes that are separately metered and served by both SoCal and SCE.

Eligible measures will be installed over a two-year implementation period. The contract will continue in effect for a term of eleven years for SoCal and six years for SCE. The contract contains specific project milestones and reporting requirements, detailed measurement, customer service and satisfaction assurance plans, as well as specifications of product standards. In addition, the contract contains a standard method of resolving disputes using arbitration.

The contract is expected to provide savings of 13,461,000 therms and 85,000 kWh over the life of the measures in return for $3.5 million from SoCal and $1.7 million from SCE, at the 100% performance level.[3] SoCal and SCE will pay up to 125% of estimated savings at a total cost of $6.5 million. The TRC test score of Winegard's program is 1.02, assuming 100% projected measures and 100% projected energy savings per measure. This TRC score includes an estimated value for shareholder earnings, which has been calculated in accordance with the shareholder incentive mechanism adopted in D.94-10-059. As discussed above, the contract meets the minimum cost-effectiveness requirement we established for SoCal's bidding pilot program.

The cost-effectiveness analysis is based on SoCal's and SCE's most recently filed avoided costs, which they use to evaluate their own 1997 DSM programs.[4] Consistent with our determinations in D.95-12-054, avoided costs in place for a particular program year are fixed for the duration of the contract and the recovery period for shareholder incentive calculations. However, SCE will update its avoided costs and adjust contract payments during the installation period, as required by D.95-12-054. SoCal is not required to update the avoided costs, since its pilot bidding program is the only component of its residential portfolio. (See D.95-12-054, mimeo., pp. 28-30; Conclusion of Law 8.)

Winegard will receive payments on a pay-for-performance basis, i.e., payments are tied to energy savings verified through the measurement and verification (M&V) process. Payments are "front-loaded," that is initial payments are higher than if the contractor recovered costs as energy savings actually accrued. For SoCal, Winegard

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[3] All dollar amounts represent the total amount the bidder will be paid over the life of the contract. Payments in each year are in nominal dollars.

[4] See letter dated January 3, 1997 from SoCal to assigned Administrative Law Judge Gottstein, correcting page 2-1 of Appendix 2 and page 6 of the application to reflect the use of avoided costs from SoCal's October 1, 1996 Advice Letter 2526. SCE used avoided costs from its October 1, 1996 Advice Letter 1186-E.

receives 40% of estimated lifecycle payments after measure installation, 20% after the first-year load impact study, 20% after the fourth-year persistence study and the final 20% after the ninth-year persistence study.

For SCE, Winegard receives 40% after measure installation, 40% after the first-year load impact study and the final 20% after the fourth-year persistence study. The contract requires a milestone security fund in the amount of $100,000 as security for Winegard's achievement of at least 75% of the target kWh savings during the installation period. The contract also requires Winegard to establish a performance security fund in the amount of $100,000 to ensure that ratepayers receive a reimbursement if the program results in less than 75% of the estimated lifecycle kWh savings. This estimate is based on the first-year load impact study.

4. Discussion

Our decision addresses the reasonableness of the negotiated contract terms and associated payments made under these contracts. This decision does not address the reasonableness of SoCal's and SCE's administration of the contract, which will be addressed in future Annual Earnings Assessment Proceedings (AEAP). We have developed a consistent framework to evaluate such contracts, which is discussed below.

In seeking approval of these contracts, SoCal and SCE must demonstrate that the benefits and costs of the contract are appropriately balanced without ratepayers bearing unreasonable risks. We must feel confident that any payments made under the contract will provide commensurate benefits to the ratepayers. Our analysis focuses on the cost-effectiveness of the contracts under various performance levels, from both a total resource and utility cost (UC) perspective. We must also assess the performance risks of the contract, particularly as they compare to the performance risks associated with tradition DSM rebate programs. In addition, SoCal and SCE must demonstrate that the negotiated terms of the contract are reasonable.

4.1 Cost-Effectiveness

Based on pre-installment estimates, the contract passes the Commission's applicable cost-effectiveness tests, the TRC and UC tests. The TRC test measures the net costs of a DSM program, including both the participants' and utility's costs and an estimate of shareholder incentives. Program benefits consist of the avoided supply costs of energy and demand—the reduction in transmission, distribution, generation and capacity costs valued at marginal cost—for the periods when there is load reduction. The UC test measures the net change in a utility's revenue requirement resulting from a DSM program and does not include any net costs incurred by program participants. The benefits side of the equation is the same as the TRC test.

If the contractor's program performs as expected, the benefits to ratepayers and society will outweigh the costs of the program, for the contract as a whole. However, we note that even under the 100% performance scenario the gas program element of the contract is not cost-effective, i.e., it has a TRC ratio of 0.90. It is the higher TRC ratio associated with kWh savings measures (1.13) that brings the contract as a whole up to the threshold cost-effectiveness requirement, resulting in a contract TRC of 1.02.

In prior evaluations of negotiated DSM pilot bid contracts, we have evaluated the question of what happens if the expected savings do not occur, due to underperformance of the contract. We have examined whether payments made under the contract will be cost-effective, from both the utility and total resource perspective, under the different performance scenarios. This type of scenario analysis is particularly important in this case, since the contract as a whole is only marginally cost-effective based on pre-installation estimates of energy savings.

In their joint application, SoCal and SCE present cost and benefit data for 20 performance scenarios for the contract, varying with the energy savings achieved. These variations could be a result of changes in the number of participants, installations, verified energy savings, or a combination of these factors. The scenarios are based on achieved savings from 25% to 125%, varying both the percentage of projected measures and percentage of energy savings per measure.

Attachment 1 summarizes the results of this scenario analysis. If Winegard installs 75-100% of the projected measures, and per unit savings are 100-125% of pre-installation estimates, then the program still passes the TRC threshold test. With one exception, the program fails the TRC test under all other sixteen scenarios.[5] The program passes the UC test under a wider range of assumptions, but does not pass it under nine scenarios.

In sum, the contract is marginally cost-effective from a TRC perspective under pre-installation assumptions of energy savings, but becomes non-cost-effective under several non-extreme scenarios. In order to fully evaluate the reasonableness of payments, given these scenario results, we must also consider the contractual safeguards for ratepayers if expected performance does not occur, including the M&V plan. We examine these issues below.

4.2 Performance Risk and Safeguards

As discussed above, payments to Winegard are based upon savings projections and then reconciled based upon actual verified savings. By linking payments to performance, ratepayers receive contractual protection against paying for savings that are not achieved.[6] However, the level of this protection is a function of the number of years that measurement studies are required and used to true-up payments. It is also a function of the degree of payment front-loading under the contract, and how potential overpayments can be recovered.

As discussed above, both SoCal and SCE provide upfront payments to Winegard, including a 40% installment after measure installation, but before completion of savings measurement studies. Although each utility has taken a slightly different approach, we believe that the contract terms adequately protect ratepayers from paying for savings that have not occurred. SoCal requires a longer measurement period (and

[5] The TRC is 1.0 if the contract performs at 50% of projected measures and 125% of per measure projected energy savings.

[6] We note that the risk of forecasting error associated with the value (avoided costs) of those savings falls on ratepayers, in terms of both potential upside and downside. We determined that this allocation of risk and reward was reasonable in D.95-10-038. Our discussion above relates to the risk of the kWh or therm savings not materializing as planned, and the allocation of that risk among affected parties.

withholds the final 20% payment longer), whereas SCE requires a minimum performance level and upfront security in conjunction with a shorter measurement period.

However, we are not satisfied that the contract adequately protects ratepayers from the risk that the program will not be cost-effective and that ratepayers will incur net losses from their investment in DSM. Unlike the other contracts we have examined in the past, this contract will be cost-effective only under a limited set of performance scenarios. Therefore, we are concerned that costs are likely to outweigh the benefits of the program even if ratepayers pay only for the energy savings actually achieved. Neither SoCal nor SCE has negotiated provisions for this potential risk, even though the performance scenario analysis clearly sets this contract apart from others we have previously considered and approved. (See D.95-10-038, mimeo. at 8; D.95-02-042, 58 CPUC2d 635, 639-641; D.94-09-041, 56 CPUC2d 50, 55; D.94-04-039, 54 CPUC2d 14; D.93-11-067, 52 CPUC2d 152, 157.)

In our judgment, this contract is unreasonable unless it is modified to address this concern. Under the shareholder incentive mechanism adopted in D.94-10-059, traditional utility rebate programs are subject to cost-effectiveness guarantees; i.e., utilities are accountable not only for achieving energy savings, but also for guaranteeing the cost-effectiveness of DSM activities, on a portfolio basis. We adopted this requirement because it is essential that ratepayers should fund DSM investments only if there is adequate protection against potential losses associated with performance risk.

We note that other successful bidders in our residential DSM pilots have been willing to negotiate cost-effectiveness deficiency payments, even when pre-installation program cost-effectiveness was much more robust than under this contract. For example, under its contract with SDG&E, SESCO Inc. will provide a corporate guarantee for approximately $300,000 as a cost-effectiveness security to ensure that the program will be within a range of cost-effectiveness based on original estimates. Similarly, Planergy Inc. provides similar security for an amount of approximately $125,000 under its contract with SDG&E. (See A.94-08-038.)

In sum, we find that this contract requires additional provisions designed to mitigate the risk of losses associated with nonperformance. We approve the contract subject to the condition that Winegard provide cost-effectiveness security in the amount of $200,000, which is within the range provided in contracts we have previously approved. This amount would be in addition to other security requirements of the contract. These funds will be forfeited by Winegard if the program as a whole (combined gas and electric) does not pass the TRC test after the fourth-year persistence studies have been completed under the contract.

Within 30 days from the effective date of this order, SCE and SoCal should file a statement at the Commission's Docket Office informing the Commission of whether Winegard accepts this condition, and if so, should submit contract modifications reflecting this additional security provision with their filing. This filing should be served on the service list in R.91-08-003/I.91-08-002. The Energy Division will review any submitted contract modifications for compliance with today's order in an expedient manner. Our Executive Director will notify SCE and SoCal of the results of this review by letter.

4.3 Reasonableness of the M&V Plan

We have recognized that inconsistencies between M&V plans proposed by bidders and measurement and evaluation protocols adopted by this Commission might occur. (D.92-09-080, 45 CPUC2d 541, 581.) Instead of mandating a particular approach to M&V, we allowed bidders to propose their own ex post M&V programs, including the baseline reference. As reiterated in our measurement and evaluation decision, D.93-05-063, "payments to winning bidders under the pilots do not need to be linked to the completion of specific ex post measurement studies in the same manner as utility earnings. The utilities are expected to apply the basis concepts..., but to allow reasonable differences between these protocols and bidders' measurement plans and payment schedules." (49 CPUC2d 327, 350.)

The contract delineates a specific ex post measurement plan to verify the level of savings achieved. The M&V plan in the submitted contract appears to be reasonably consistent with our adopted measurement and evaluation protocols. The major exceptions to the protocols is that kWh savings are assumed to persist based upon the fourth year persistence study, and no ninth-year study is required. The payment schedules are also different from the ones approved for utility administered programs.

We accept these variation from our adopted M&E protocols, provided that the contract is modified to include cost-effectiveness security, as described above. The M&V plan is rigorous, containing detailed requirements for sample design, survey development and model specifications for the statistical analysis of pre- and post-installation billing data. Reporting requirements are also specified.

4.4 Reasonableness of the Negotiated Terms of the Contract

SoCal and SCE state that their objectives during the negotiations were to comply with the mandate of PU Code § 747 and Commission requirements for this program, to encourage programs that target new technologies or that serve markets that are traditionally difficult to penetrate, and to minimize risks to SoCal, SCE, and their ratepayers by ensuring that payments to bidders will result in realized energy savings that persist over time. As part of our bidding experiments, we expected that the utilities would negotiate with bidders in good faith to develop a package of price and nonprice contractual terms that appropriately allocate the risks and rewards of the agreement among affected parties, including ratepayers.

SoCal, SCE, and Winegard have negotiated various contract terms that contribute to the achievement of these objectives. However, as discussed above, we believe that additional security, in the form of a cost-effectiveness security fund, is required to appropriately allocate the risks and rewards of the contract.

In addition, SoCal, SCE, and Winegard have allowed for a certain amount of flexibility in the contract terms, which do not compromise the stated minimum goals in lifecycle savings. This flexibility is important because it allows Winegard to tailor its project in a manner which may improve its marketing and implementation.

5. Conclusion

The contract submitted by SoCal and SCE is cost-effective, although marginally so from a TRC perspective. In addition, this cost-effectiveness is maintained only under a few, non-extreme performance scenarios. This conclusion is based on holding the avoided costs constant for the term of the contract, consistent with the methodology adopted in D.95-12-054.

We are reassured that the security and payment provisions contained in the contract reasonably address the risk that payments made to Winegard during the early, front-loaded installments will not be recovered should performance fall below projections. However, based on our analysis of the submitted scenario data and the contract itself, we are not satisfied that the contract adequately protects ratepayers against program losses, i.e., a total program TRC based on verified savings that is less than 1.0. To address this concern, we require that Winegard provide cost-effectiveness security in the amount of $200,000, consistent with other contracts we have approved under residential DSM bidding pilot programs.

Subject to the above condition, we find the negotiated contract terms and associated payments made under this contract to be reasonable. In the past, we have made administration of such contracts subject to review in the appropriate AEAP. We have also examined shareholder earnings issues in that forum. However, since the filing of this application, we have established a new administrative framework for energy efficiency programs. By D.97-02-014, we established an Independent Board consisting of regulatory representatives and members of the public to oversee the administration of energy efficiency programs. Within 15 days of the effective date of this decision, SCE, SoCal and all interested parties should comment on whether D.97-02-014 affects the administration of the contract conditionally approved in this decision, and if so, how. Comments should be filed in our electric industry restructuring proceeding (R.94-04-031/I.94-04-032) and served on all parties on the Special Public Purpose service list in that proceeding as well on all parties to our DSM rulemaking, R.91-08-003/ I.91-08-002. We will address this issue in the electric industry restructuring proceeding as part of our implementation of D.97-02-014.

Findings of Fact

1. On November 27, 1996, SoCal and SCE jointly filed A.96-11-048 requesting Commission approval of a contract negotiated in connection with SoCal's DSM bidding pilot. No protests have been filed and a hearing is not required.

2. The contract is marginally cost-effective under pre-installation savings estimates, but becomes non-cost-effective under various non-extreme performance scenarios.

3. The contract is a pay-for-performance agreement with some front-loading of payments in early years of the contract. Payments under the contract are made based on savings projections and periodically adjusted if projected savings are not achieved.

4. The contract includes payment hold-back provisions, performance securities, and detailed M&V plans. These provisions serve to mitigate the risk that ratepayers might pay for savings that do not materialize.

5. The contract includes an ex post measurement plan to verify the level of earnings achieved. The plan is rigorous, containing detailed requirements for sample design, survey development, and model specifications for the statistical analysis of pre- and post-installation billing data. Reporting requirements are also specified.

6. The contract does not include any security against the possibility that the program as a whole will not be cost-effective based on verified savings.

7. Cost-effectiveness security funds have been negotiated in other approved residential pilot bidding contracts. In those instances, pre-installation program cost-effectiveness was significantly more robust than under this contract.

8. The contract negotiated with Winegard utilizes $5.2 million in funding at the 100% performance level and $6.5 million in funding at the 125% performance level. Funding for the pilot has been authorized in D.92-09-080 and D.96-01-011 for SoCal and SCE, respectively.

9. Eligible measures will be installed under the contract over a two-year implementation period. The contract will continue in effect for a term of eleven years for SoCal and six years for SCE.

10. The contract contains specific project milestones and reporting requirements, detailed customer service and quality assurance plans, and specifications of product standards. The contract also contains a standard of resolving disputes using arbitration.

Conclusion of Law

1. The security and payment provisions contained in the contract reasonably address the risk that payments made to Winegard during the early, front-loaded installments will not be recovered should performance fall below projections.

2. Unless modified to include cost-effectiveness security, the contract does not adequately protect ratepayers from potential losses, i.e., a total program TRC based on verified savings that is less than 1.0.

3. To address this risk, it is reasonable to require that Winegard provide cost-effectiveness security in the amount of $200,000, which is consistent with other contracts we have approved under residential DSM bidding pilot programs.

4. If this modification is made to the contract, and if the contract is administered properly, payments made under the terms of this contract are reasonable and SoCal and SCE should be authorized to recover such payments from their ratepayers.

5. Today's conditional finding of reasonableness should not extend to the administration of the contract or to the amount and timing of potential shareholder earnings from achieved savings. SCE, SoCal, and interested parties should comment on whether D.97-02-014 affects these or other administrative issues associated with the contract.

6. A funding level of no greater than $6.5 million should be adopted for this contract.

7. This decision should be made effective today to allow SoCal, SCE, and Winegard to respond to the condition set forth above.

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RESHOOT FOLLOWS

10. The contract contains specific project milestones and reporting requirements, detailed customer service and quality assurance plans, and specifications of product standards. The contract also contains a standard of resolving disputes using arbitration.

Conclusion of Law

1. The security and payment provisions contained in the contract reasonably address the risk that payments made to Winegard during the early, front-loaded installments will not be recovered should performance fall below projections.

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6. A funding level of no greater than $6.5 million should be adopted for this contract.

7. This decision should be made effective today to allow SoCal, SCE, and Winegard to respond to the condition set forth above.

ORDER

IT IS ORDERED that:

1. The terms and associated payments of the negotiated contract entered into by Southern California Gas Company (SoCal) and Southern California Edison Company (SCE) with Winegard Energy Inc. (Winegard) in connection with SoCal's demand-side management pilot bidding program are reasonable subject to the inclusion of cost-effectiveness security in the amount of $200,000. This amount shall be in addition to other security requirements under the contract. The cost-effectiveness security shall be forfeited by Winegard if the program as a whole (combined gas and electric) does not pass the total resource cost test after the fourth-year persistence studies have been completed under the contract.

2. Within thirty days from the effective date of this order, SCE and SoCal shall file a statement at the Commission Docket Office informing the Commission of whether Winegard accepts this condition, and if so, shall submit the contract modifications with their filing. This filing shall be served on the service list in Rulemaking (R.) 91-08-003 and Investigation 91-08-002. The Energy Division shall review any submitted contract modifications for compliance with today's order and our Executive Director shall notify SCE and SoCal and all parties to R.91-08-003 and I.91-08-002 of the results of this review as expeditiously as possible.

3. Within 15 days of the effective date of this decision, SCE, SoCal, and all interested parties shall comment on whether D.97-02-014 affects the administration of the contract conditionally approved in this decision, and if so, how. Comments shall be filed in our electric industry restructuring proceeding (R.94-04-031/I.94-04-032) and

served on all parties on the Special Public Purpose Service List in that proceeding and all parties to R.91-08-003/I.91-08-002.

This order is effective today.

Dated March 31, 1997, at San Francisco, California.

P. GREGORY CONLON
President
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD BILAS
Commissioners

ATTACHMENT 1

Winegard Residential Bidding Contract

Data Supporting PEB, TRC, UC Calculations

Summary of Bidder's TRC for varying savings and performance levels

	savings					
goal	125%	100%	75%	50%	25%	0%
100%	1.05	1.02	0.97	0.89	0.72	0.00
75%	1.03	1.00	0.95	0.87	0.68	0.00
50%	1.00	0.97	0.91	0.82	0.62	0.00
25%	0.93	0.88	0.81	0.70	0.50	0.00
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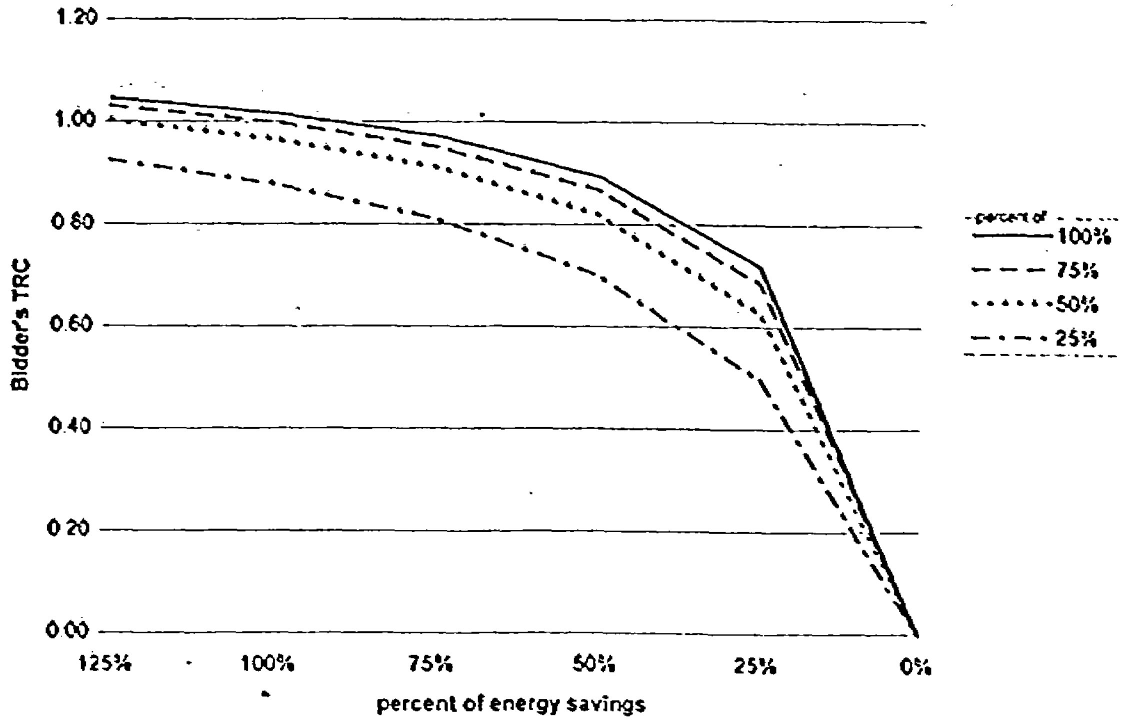
Bidder's TRC



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