

Decision 00-06-038 June 8, 2000

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company for Authority to Modify and Make Permanent Its Requirements for Contractors Installing Earthquake Valves on Its Facilities, and to Modify Charges for SCG's Valve Installation and Related Services.

Application 99-05-044
(Filed May 28, 1999)

INTERIM OPINION**1. Summary**

By this interim decision we clarify that Southern California Gas Company (SCG) holds the responsibility of ensuring the safety of earthquake valves (EQV) installed on SCG's side of the gas meter. Under both state and federal law, SCG has a nondelegable duty to ensure the safety of its gas lines, including by inspection of EQV on those lines. SCG cannot delegate its duty to independent contractors or customers involved in installing EQV on SCG's lines.

We do not resolve SCG's underlying application to change the rules governing independent contractors' installation of EQV and increase SCG's rates for inspecting such contractors' work. Those issues were reserved until we clarified for SCG the extent of its duty to ensure the safety of EQV. SCG may, upon considering this decision, file a new application, supplement this application, or proceed with this application as filed. SCG must notify the Commission of its preferred approach by letter to the Chief Administrative Law Judge (ALJ), served on all parties, within 30 days from the mailing of this decision.

SCG shall also inform the Commission how it proposes to ensure that EQV already installed on its side of the meter conform to applicable codes and regulations. If good utility practice is to inspect 100% of the valves installed by a utility on its pipeline, we expect SCG to describe its method and timeframe for completing inspection of 100% of the EQV installed by independent contractors and not previously inspected by SCG. If SCG proposes the inspection of installed EQV, it may amend this application to submit its proposal for rate recovery of the costs of such installations.

2. Background

A. Procedural History

In Decision (D.) 96-09-044, the Commission approved SCG's proposal to grant contractors permission to install EQV on SCG's side of the meter, subject to certain conditions. In D.98-08-032, we modified the valve installation requirements adopted in D.96-09-044 at SCG's request. The new requirements: (1) designated the type of contractor's license required; (2) specified insurance requirements; (3) increased training requirements; (4) implemented a quality assurance and recordkeeping system; (5) addressed compliance with U.S. Department of Transportation (DOT) rulings; and (6) prescribed operating parameters for contractors working on SCG's side of the meter.

We adopted the modified requirements on an interim basis until May 31, 1999, unless SCG filed an application prior to that date seeking to make the interim rules permanent. The Commission stated that the interim rules would remain in effect while the Commission considered SCG's application. Prior to the May 31, 1999 deadline, SCG filed this application to modify and make permanent the interim rules.

At an October 7, 1999, prehearing conference (PHC), SCG stated that it was reevaluating its application and the EQV program generally. SCG attributed its ambivalence in part to the Commission's Consumer Services Division's (CSD) argument that SCG should be liable for compliance with safety regulations when independent contractors install EQV. The Assigned Commissioner issued a scoping memo after the PHC directing SCG and allowing CSD to file briefs addressing the issue of compliance with state and federal law. The scoping memo provided for an interim opinion clarifying responsibility for such compliance; this is that opinion.

B. SCG's Current EQV Program

Under SCG's EQV program, customers purchase, and independent contractors meeting certain requirements install, EQV on SCG's side of the gas meter. SCG then inspects all of an independent contractor's installations until 50 of that contractor's installations pass inspection. SCG then reduces its inspection rate to between 50% and 25% of the installations thereafter. If a contractor fails inspection, SCG resumes inspecting all installations by that contractor.

EQV interrupt the gas flow in the event of a seismic event exceeding a certain magnitude. The EQV program originated in Los Angeles after the Northridge earthquake. Under the Los Angeles program, EQV may be installed on the customer side of the meter.¹ For a variety of reasons, including Los Angeles' requirement of a building permit if a customer installs an EQV downstream (*i.e.*, on the customer's side) of the meter, SCG requested

¹ On the customer side of the meter, the gas flows at a lower pressure. Thus, installations on the customer side are inherently safer than those performed on the high pressure, gas-company side of the meter.

authorization to establish a program in which the EQV may be installed on SCG's side of the meter by third parties.

On the utility's side of the meter, upstream of the regulator, the gas is under higher pressure. Improper installation of an EQV at that location, therefore, poses a significant safety hazard. In CSD's protest of SCG's application, CSD identified 285 faulty installations by independent contractors since the Commission adopted SCG's EQV program. CSD claims that unless we require SCG to guarantee the safety of the independent contractors' installations, consumers will be put at grave risk.

C. SCG's Position on Duty

SCG makes several arguments against a requirement that it be responsible for ensuring the safety of EQV on SCG's side of the meter.

First, SCG asserts that our earlier decisions allowing independent contractors to install EQV on SCG's lines resolved the issue of duty. In those decisions, we adopted without change SCG's proposal that EQV independent contractors installed on SCGs' facilities would be the property of the gas customer.² SCG further proposed that the customer be responsible for maintenance and loss or damage from the valve's operation.

Second, SCG argues that even though Commission General Orders (GO) 58-A and 112-E place the responsibility for gas lines on gas utilities, the Commission's "more specific" EQV decisions "trump" the GOs.

² D.96-06-044, 68 CPUC2d 68, 75-78 (1996); D.98-08-032, Appendix A, 1998 Cal. PUC LEXIS 615, at *37 (Rule 10.I.3 tariff language placing duty on customer).

Third, SCG alleges, the Commission has implicitly deemed federal DOT pipeline safety requirements compatible with a scheme placing responsibility for pipeline safety on gas customers and independent contractors. SCG also argues that D.98-08-032 placed on independent contractors who install EQV a duty to comply with DOT pipeline safety requirements. Thus, SCG argues, the duty no longer lies with the gas company.

Fourth, SCG argues that we would not have established detailed criteria providing for SCG inspection of independent contractor installations if we intended SCG to retain liability for the contractors' work.

Fifth, SCG asserts that holding it responsible for the work of others would violate the due process and bill of attainder clauses of the U.S. and California Constitutions.

Finally, SCG argues that if we make it responsible for the EQV installations of independent contractors, we will defeat the purpose of unbundling: "[O]nce the Commission makes a decision to unbundle a utility service and open it to competition by third parties, it is neither sensible nor lawful for the utility to be held responsible for violation of safety codes and regulations by the third parties."

D. CSD's Position on Duty

CSD focuses on state and federal law governing gas line safety and argues that the Commission had neither the authority nor the intent to supersede these provisions when it allowed third party EQV installation.

First, CSD points out that the Commission decisions implementing the EQV program focused more on the virtues of opening the EQV market to competition than on the safety risks of doing so. CSD thus argues that the Commission has not yet decided the issue of duty.

Second, CSD argues that the Commission has a constitutional duty to ensure that SCG abide by relevant statutes and regulations addressing pipeline safety. CSD argues that both state and federal requirements place on SCG the duty of ensuring that facilities installed on its piping are safe. These requirements include, according to CSD, federal DOT pipeline safety requirements and Commission GO 58-A and GO 112-E, through which the Commission enforces the federal safety requirements.

Third, CSD argues that California statutes and common law place on SCG a nondelegable duty to protect the public from the dangers of SCG's gas pipelines. CSD argues that it makes sense to place a duty on SCG due to the hazards presented by installations on the high pressure piping on the utility side of the meter. CSD also argues that public safety will be jeopardized if the Commission makes individual gas customers responsible for safety on SCG's side of the meter. CSD points to nearly 300 instances of faulty EQV installations by independent contractors in asserting that the public safety is being jeopardized by the EQV program. CSD urges the Commission to order SCG to reinspect all third party EQV installations and assume responsibility for the safety of all future EQV installations.

3. Discussion

We find that SCG has a nondelegable duty under state and federal law to comply with all applicable safety codes and regulations governing its gas lines. SCG cannot avoid the duty of compliance by allowing independent contractors to install EQV on SCG's side of the gas meter. Nor can it pass on to gas customers the duty to maintain safe gas lines upstream of the meter.

In view of the numerous defective EQV installations brought to our attention by CSD, the only way we can guarantee public safety is to make SCG

responsible for the safety of its entire system, including valves and other appurtenances attached to its pipelines. Because we did not address the issue of duty in our decisions adopting the EQV program, SCG's claims that we have already resolved the matter are largely unsubstantiated.³ Moreover, we cannot ignore the public safety implications of the 285 faulty EQV installations CSD identifies.⁴

A. State Law

1. State Law Establishing Nondelegable Duty

Certain activities are deemed so hazardous to public safety that the courts impose a nondelegable duty on the owner of property to ensure public safety. The regulation governing gas pipelines, and the inherent risks posed by pipelines that leak or otherwise malfunction, support imposition of such a duty on SCG.

Several relevant California decisions support our conclusion. For example, in *Snyder v. Southern Cal. Edison Co.*, 44 Cal. 2d 793, 799-801 (1955), the Court found that the duty imposed upon a utility by statute and Commission order could not be delegated to an independent contractor so as to insulate the utility from liability. The Court explained the concept of nondelegable duty:

Where the law imposes a definite, affirmative duty upon one by reason of his relationship with others, whether as an owner or proprietor of land or chattels or in some other capacity,

³ The exception is that the Commission did specifically address responsibility for the value after installation.

⁴ CSD provided details of these installations in Appendix A to its Protest, filed June 8, 1999. SCG pointed out in comments on the draft decision that the degree of possibly-compromised safety varies among the 285 faulty installations.

such persons can not escape liability for a failure to perform the duty thus imposed by entrusting it to an independent contractor. . . . It is immaterial whether the duty thus regarded as 'nondelegable' be imposed by statute, charter or by common law.

In a similar vein, the Court noted that certain activities pose such a significant risk to public safety that they are intrinsically dangerous:

Another large group of cases predicate liability on the part of the employer of an independent contractor for the misconduct of the latter in the performance of certain 'intrinsically dangerous' work. The policy of allocating to the general entrepreneur the risks incident to his activity is obvious when the activity carries with it extraordinary hazards to third persons. . . . [The] principle may be generalized that one who employs an independent contractor to perform work which is either extra-hazardous unless special precautions are taken or which is inherently dangerous in any event is liable for negligence on the part of the independent contractor or his servants in the improper performance of the work or for their negligent failure to take the necessary precautions.

In either case, the Court found, the property owner would be liable for injuries to third parties.⁵

SCG argues that the cases establishing a nondelegable duty are inapplicable here because they relate to tort liability to third persons for an independent contractor's negligence, rather than to the duty of the property owner to comply with safety codes and regulations. Likewise, SCG argues that because the Commission currently allows the customer to buy and install an EQV on SCG's side of the meter, the customer is the owner of the pipeline where

⁵ See also *Delgado v. W.C. Garcia Assoc.*, 212 Cal. App. 2d 5, 8-9 (1963); *Irelan-Yuba Gold Quartz Mining Co. v. Pacific Gas & Elec. Co.*, 18 Cal. 2d 557, 563-65 (1941).

the EQV resides. Thus, SCG alleges, the utility does not own or control the property at issue.

We reject both arguments. The cases imposing a nondelegable duty on a utility for purposes of establishing liability in tort are pertinent to a determination of a utility's duty to comply with applicable safety rules. Indeed, the California Supreme Court imposes the same nondelegable duty on a property owner seeking to avoid responsibility for *compliance with statute* as one seeking exoneration from *tort liability*.⁶

Nor can SCG escape the duty to ensure the safety of its pipelines by arguing that the gas customer owns the EQV and thus that SCG is not the property owner. SCG does not contest that it owns the *pipeline* on either side of the EQV. This pipeline poses a risk of leakage if the EQV is not properly installed. The EQV itself, uninstalled, is a benign mechanical device; it is only its attachment to a gas pipeline that renders it dangerous if improperly installed. SCG cannot escape the responsibility to ensure the safety of the gas line on SCG's side of the meter simply because a device is installed on that pipeline.

Indeed, SCG's argument that it has *less* responsibility for a pipeline with a valve attached to it than for one without a valve leads to an absurd result. A pipeline that is cut for the insertion of a valve is inherently *more* dangerous than one that has not been cut. Yet under SCG's argument, it would escape its duty to ensure public safety *because* the pipe is cut to insert an EQV. If anything,

⁶ *California Ass'n of Health Facilities v. Dep't of Health Services*, 16 Cal. 4th 284, 295-96 (1997) (discussing general rule of nondelegable duties of public licensees in the context of liability for civil penalties rather than tort liability, and making clear that the two concepts are but two sides of the same coin).

SCG's duty of care should increase as the danger increases, yet SCG would have it precisely the opposite way. We cannot accept this interpretation of the law.

2. Commission General Orders

In addition to state statutory and common law mandates, GO 58-A and 112-E place on gas utilities the responsibility for the safety of gas lines on the utility side of the meter. The GOs do not exempt from their coverage portions of gas lines containing valves or other appurtenances.

SCG argues that the Commission decisions endorsing the EQV program render inapplicable the GO pipeline safety provisions: "The only reasonable interpretation of the Commission's approvals of the SoCalGas earthquake valve program is that the Commission intended to create exceptions to its otherwise applicable general safety regulations to the extent necessary."⁷ However, SCG does not – because it cannot – point to language in the Commission's EQV decisions creating such exceptions.

GO 58-A requires SCG to operate and maintain in a safe condition all facilities up to the point of delivery. The point of delivery is "the outlet fitting of the meter installed by the utility or the point where the *pipe* owned and installed by the utility connects to customer owned piping, whichever is further downstream."⁸ SCG does not dispute that it owns and installs the *pipe* on its side of the meter. Rather, SCG argues that because gas customers own the *valve* on such piping, SCG is relieved of its duty to maintain the *piping* in safe condition. This interpretation of GO 58-A is contrary to the clear language of GO 58-A.

⁷ SCG Brief at 9.

⁸ GO 58-A, § 22(a) (emphasis added).

GO 112-E is the means by which the Commission enforces federal DOT pipeline safety mandates. Under the Federal Pipeline Safety Act, a state certifies to the DOT that it has adopted and is enforcing the minimum safety standards for intrastate pipeline facilities within its jurisdiction.⁹ We discuss the DOT mandates in the following section.

3. Pub. Util. Code § 328

Pub. Util. Code § 328 also supports our conclusion that SCG has a duty to ensure the safety of EQV on its side of the meter. That statute reflects the state Legislature's concerns that unbundling of services in the gas industry not come at the expense of public safety. The Legislature strove to ensure that regardless of whether gas services were further unbundled, the customer not be assigned the duty of ensuring the safety of gas lines.

Section 328 provides:

328. In order to ensure that all core customers of a gas corporation continue to receive *safe basic gas service* in a competitive market, *each existing gas corporation should continue to provide this essential service.*

(b) No customer should have to pay separate fees for utilizing services that protect public or customer safety.

The legislative history of §§ 328 and 328.1 indicates that state lawmakers were concerned with threats to public safety that might result from unbundling of services at and near the gas meter. The Legislature feared that customers might not maintain their gas meter and lines on the utility side of the demarcation point if they had to pay separately for such maintenance:

"Low-and-middle-income customers will be protected from having to choose

⁹ 49 U.S.C. § 60105.

between safety and saving money on a service call.”¹⁰ The Legislature also was concerned that opening meter services to competition might have adverse safety impacts. Thus, the Legislature placed responsibility for maintaining gas lines squarely on existing gas utilities such as SCG. SCG’s argument that customers must assume responsibility for gas lines containing EQV contradicts the legislative intent of § 328.

B. Federal Law

Federal DOT regulation places on gas utilities the responsibility for guaranteeing the safety of their gas pipelines. Contrary to SCG’s assertion in its briefs, the Commission did not exempt SCG from federal regulation when it authorized independent contractors to install EQV on SCG’s side of the meter. The Commission was focused on competitive considerations in allowing third parties the opportunity to install EQV on the utility’s side of the meter. The Commission never relieved SCG of its duty to ensure the safety of its lines - including that portion of the lines containing EQV.

The DOT’s regulations define a pipeline to include:

*all parts of those physical facilities through which gas moves in transportation, including pipes, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.*¹¹

The DOT regulations define the terminus of the pipeline at “(1) a customer meter or the connection to a customer’s piping, whichever is further

¹⁰ AB 1421, Analysis by Joseph Lyons, Assembly Floor Concurrence in Senate Amendments, Sept. 3, 1999 (accessible at www://info.sen.ca.gov).

¹¹ 49 C.F.R. § 192.3 (emphasis added).

downstream, or (2) the connection to a customer's piping if there is no customer meter."

SCG does not assert that an EQV is not a valve or appurtenance located on SCG's side of the foregoing point of terminus. Indeed, SCG concedes that "under the federal Pipeline Safety Act, the federal government has direct jurisdiction, concurrent with this Commission, over pipeline safety by local gas distribution companies such as SoCalGas. . ." and that "[t]his Commission does not have the power to modify or waive such federal regulations."¹² Despite this admission, SCG goes on to assert that "the Commission's decisions that say that SoCalGas is not responsible for safety and maintenance of the customer-owned valves installed by third-party contractors *implies an interpretation by the Commission that such treatment does not violate the federal regulations.*"¹³

However, an *implied* interpretation is too weak a foundation on which to exempt SCG from federal law. Even if we had intended such an exemption, it is far from clear whether we possessed the power to grant one.

SCG also argues that it falls outside the DOT regulations because it is not the "operator" of its own pipeline when the pipeline contains an EQV. This assertion ignores the language of the DOT regulation that the pipeline includes – and the owner of such a pipeline is an "operator" – all parts of those physical facilities through which gas moves in transportation, including valves and other

¹² SCG Brief at 9 (emphasis added).

¹³ *Id.* at 10 (emphasis added).

appurtenances.¹⁴ Thus, under DOT regulation, a valve does not break the chain of duty, and SCG cannot escape its responsibility for pipeline safety.¹⁵

In comments, SCG points out that we explicitly addressed responsibility for the valve after installation in our prior decision approving tariff language. There, we approved language stating that the valve is the property of the utility's customer. However, in so stating, we did not relieve SCG of its responsibility for pipeline safety. It is unclear from that prior decision, and unresolvable on the basis of this record, how any corrections of EQV failure discovered upon SCG routine meter inspection are addressed between SCG and the EQV-owning customer. We presume that a SCG routine inspection at the meter that reveals leakage from the EQV device itself is somehow currently addressed between SCG and the EQV-owning customer, for example. To be clear, we regard it SCG's nondelegable duty perform routine inspection of the EQV post-installation. What we regard unresolved is the responsibility of the EQV-owning customer to have the necessary corrections to its device made in a timely manner. We will direct SCG to include its position on this matter in an additional filing.

4. Conclusion

Considerations of public safety dictate that we not allow SCG to relinquish responsibility for the safety of its pipelines to unregulated third parties.

¹⁴ 49 C.F.R. § 192.3.

¹⁵ We note that in R.98-01-011, in a working group report prepared after the issuance of the EQV decisions, SCG and other participants discussed the inherent dangers of natural gas and the safety risks of allowing third parties to work on SCG's gas pipelines.

Therefore, based on state statute, the doctrine of nondelegable duty, GO 58-A and 112-E, and DOT regulation, SCG bears the duty of ensuring the safety of pipelines, including those portions of its pipelines that have EQV installed on them.

5. Comments on Draft Decision

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code § 311(g) and Rule 77.7 of the Rules of Practice and Procedure. Comments were filed by May 30, 2000. On June 7, 2000, CSD filed a Motion for Leave to Make a Late Filing, with its Reply Comments attached. The CSD reply comments come late due to a delay in receipt of service of the comments of SCG. The motion should be granted.

Findings of Fact

1. In D.96-09-044, the Commission approved SCG's proposal to grant contractors permission to install EQV on SCG's side of the meter, subject to certain conditions.
2. In D.98-08-032, the Commission modified the valve installation requirements adopted in D.96-09-044 at SCG's request. The Commission modified the requirements to: (1) designate the type of contractor's license required; (2) specify insurance requirements; (3) increase training requirements; (4) implement a quality assurance and recordkeeping system; (5) address compliance with DOT rulings; and (6) prescribe operating parameters for contractors working on SCG's side of the meter.
3. The Commission adopted the modified requirements on an interim basis until May 31, 1999, unless SCG filed an application prior to that date seeking to

make the interim rules permanent. The Commission stated that the interim rules would remain in effect while the Commission considered SCG's application.

4. Prior to the May 31, 1999 deadline, SCG filed this application to modify and make permanent the interim rules.

5. The Assigned Commissioner issued a scoping memo after the PHC directing SCG and allowing CSD to file briefs addressing the issue of compliance with state and federal law. The scoping memo provided for an interim opinion clarifying responsibility for such compliance.

6. Under the Commission-authorized EQV program, customers purchase, and independent contractors meeting certain requirements install, EQV on SCG's side of the gas meter.

7. SCG inspects all independent contractor installations on the utility side of the meter until 50 installations pass inspection, and inspects between 50% and 25% of the installations thereafter. If a contractor fails inspection, SCG resumes inspecting all installations by that contractor until the contractor passes inspection.

8. EQV interrupt the gas flow in the event of a seismic event exceeding a certain magnitude. The EQV program originated in Los Angeles after the Northridge earthquake.

9. For a variety of reasons, including Los Angeles' requirement of a building permit if a customer installs an EQV downstream (*i.e.*, on the customer's side) of the meter, SCG requested authorization to establish a program in which the EQV may be installed on SCG's side of the meter by third parties.

10. Installation of an EQV on the utility side of the meter poses a significant safety hazard because the gas on that side of the meter, upstream of the regulator, is under higher pressure.

11. In its protest, CSD identified 285 faulty EQV installations by independent contractors.

12. SCG does not contest that it owns the pipeline on either side of the EQV. It is this pipeline that poses a risk of leakage if the EQV is not properly installed. The EQV itself, uninstalled, is a benign mechanical device; it is only its attachment to a gas pipeline that renders it dangerous if improperly installed.

13. Even though gas customers may buy and have installed an EQV on SCG's side of the meter, the customer is not the owner of the pipeline where the EQV resides.

14. SCG owns the pipeline where an EQV resides even if the gas customer has arranged for the EQV's installation.

15. A pipeline that is cut for the insertion of a valve is inherently more dangerous than one that has not been cut.

16. An EQV is a valve or appurtenance located on SCG's side of the point of terminus of a gas pipeline, as that point is defined in DOT regulation.

17. GO 58-A and 112-E address safety issues for certain natural gas lines.

18. SCG concedes that "under the federal Pipeline Safety Act, the federal government has direct jurisdiction, concurrent with this Commission, over pipeline safety by local gas distribution companies such as SoCalGas. . ." and that "[t]his Commission does not have the power to modify or waive such federal regulations."

19. In R.98-01-011, in a working group report prepared after the issuance of the EQV decisions, SCG and other participants discussed the inherent dangers of natural gas and safety risks of allowing third parties to work on gas pipelines.

20. On June 7, 2000, CSD filed a Motion for Leave to Make a Late Filing, with its Reply Comments attached. The CSD reply comments come late due to a delay in receipt of service of the comments of SCG.

Conclusions of Law

1. SCG has a nondelegable duty under state and federal law to comply with all applicable safety codes and regulations governing its gas lines. SCG cannot avoid the duty of compliance by allowing independent contractors to install EQV on SCG's side of the gas meter.

2. SCG cannot pass on to gas customers the duty to maintain safe gas lines upstream of the meter.

3. The Commission does not have jurisdiction over non-utility independent contractors. Thus, the only way to guarantee public safety is to make SCG responsible for the safety of its entire system, including valves and other appurtenances attached to its system.

4. Pub. Util. Code § 328, effective January 1, 2000, reflects the state Legislature's concerns that unbundling of services in the gas industry not come at the expense of public safety.

5. Certain activities are deemed so hazardous to public safety that the courts impose a nondelegable duty on the owner of property to ensure public safety. The regulation governing gas pipelines, and the inherent risks posed by pipelines that leak, support imposition of such a duty on SCG.

6. Case law interpreting the concept of nondelegable duty in the context of tort liability is also instructive on the issue of duty to comply with safety codes and regulations.

7. Certain activities pose such a significant risk to public safety that they are intrinsically dangerous.

8. The fact that SCG does not own the EQV does not relieve it of the duty to ensure safety on its pipelines, including that portion of its pipeline containing an EQV.

9. SCG cannot escape the responsibility to ensure the safety of the gas line on its side of the meter simply because a device is installed on that pipeline.

10. GOs 58-A and 112-E place on gas utilities the responsibility for the safety of gas lines on the utility side of the meter. The GOs do not exempt from their coverage portions of gas lines containing valves or other appurtenances.

11. The Commission did not create exceptions to its otherwise applicable GOs in adopting the EQV program.

12. GO 58-A requires SCG to operate and maintain in a safe condition all facilities up to the point of delivery. The point of delivery is "the outlet fitting of the meter installed by the utility or the point where the pipe owned and installed by the utility connects to customer owned piping, whichever is further downstream."

13. Federal DOT regulation places on gas utilities the responsibility for guaranteeing the safety of their gas pipelines. The Commission did not exempt SCG from federal regulation when it authorized independent contractors to install EQV on SCG's side of the meter.

14. Under the DOT's regulations, a gas pipeline includes, "all parts of those physical facilities through which gas moves in transportation, including pipes, valves, and other appurtenance attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies."

15. Under the DOT regulations, the terminus of the pipeline is at "(1) a customer meter or the connection to a customer's piping, whichever is further

downstream, or (2) the connection to a customer's piping if there is no customer meter."

16. The Commission did not expressly or impliedly decide in implementing SCG's EQV program that SCG is not required to comply with DOT pipeline safety requirements.

17. In order to allow this proceeding to move forward expeditiously, this order should be effective today.

18. The Motion for Leave to Make a Late Filing, served by CSD on June 7, 2000, should be granted.

INTERIM ORDER

IT IS ORDERED that:

1. The Commission did not expressly or impliedly relieve Southern California Gas Company (SCG) of its responsibility to comply with all applicable state and federal codes and regulations when it authorized SCG to establish a program in which earthquake valves may be installed on the utility-side of the meter by third parties. SCG shall comply with all applicable state and federal codes and regulations when contractors perform earthquake valve (EQV) installations on SCG facilities.

2. SCG shall notify the Commission whether it will file a new application, amend this application pursuant to Rule 2.6, or proceed with this application as filed by letter to the Chief Administrative Law Judge, served on all parties, within 30 days from the mailing of this decision.

3. SCG shall inform the Commission how it proposes to ensure that EQVs already installed on its side of the meter conform to applicable codes and regulations. If good utility practice is to inspect 100% of the valves installed by a

utility on its pipeline, we expect SCG to describe its method and timeframe for completing inspection of 100% of the EQVs installed by independent contractors and not previously inspected by SCG. SCG shall provide this information to the Commission by way of amending this application, pursuant to Rule 2.6, within 45 days from the mailing of this decision. SCG shall also state its position on how failures of the EQV device that it discovers during routine inspection at the meter are addressed with the EQV-owning customer and timely corrected by that customer. When SCG proposes the inspection of installed EQVs, it may include in its amendment to this application its proposal for rate recovery of the costs of such inspections.

4. The Motion for Leave to Make a Late Filing, served by CSD on June 7, 2000, is granted.

This order is effective today.

Dated June 8, 2000, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
JOSIAH L. NEEPER
RICHARD A. BILAS
CARL W. WOOD
Commissioners