

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND  
COMPLIANCE DIVISION  
ENERGY BRANCH

RESOLUTION G-3167  
APRIL 5, 1995

R E S O L U T I O N

RESOLUTION G-3167. SOUTHERN CALIFORNIA GAS COMPANY REQUESTS COMMISSION AUTHORITY TO IMPLEMENT A NEW PILOT PROGRAM OFFERING COMPREHENSIVE, INNOVATIVE, EDUCATIONAL PRODUCTS AND SERVICES TO FURTHER EARTHQUAKE SAFETY INCLUDING THE INSTALLATION OF EARTHQUAKE SHUTOFF VALVES THAT WILL TURN OFF A CUSTOMER'S GAS SERVICE IN THE EVENT OF AN EARTHQUAKE. THIS PROGRAM IS IN RESPONSE TO THE NORTHRIDGE EARTHQUAKE IN JANUARY, 1994.

BY ADVICE LETTER 2343, FILED ON AUGUST 12, 1994.

SUMMARY

1. Southern California Gas Company (SoCalGas) requests authority to establish a Seismic Services pilot program ("Seismic Program") to evaluate its customers preference for comprehensive, innovative educational products and services to further earthquake safety. These services will include the installation of earthquake shut-off valves that would turn off the gas service in the event of an earthquake. The cost of this pilot program will be borne by SoCalGas' shareholders, not its ratepayers.
2. SoCalGas also seeks authority to establish a "Seismic Program" memorandum account to record the developmental and implementation costs for the pilot program and determine potential profits to be shared with ratepayers. CACD recommends that a tracking account not a memorandum account be established.
3. On August 30, 1994, the Plumbing, Heating, Cooling Contractors Association of California (PHCC) protested SoCalGas' Advice Letter 2343. SoCalGas filed a reply to PHCC's protest on September 7, 1994. Although the protest is denied, PHCC's comments are acknowledged and a reporting requirement is set forth to provide an opportunity to evaluate any impact on the competitive market and SoCalGas ratepayers.
4. A letter of support from the City of Santa Monica, California for SoCalGas' proposal was provided on November 1,

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1994. Santa Monica is one of the cities included in SoCalGas' territory for the Seismic Program.

5. This resolution authorizes SoCalGas to establish a Seismic Program, with certain modifications, and requires SoCalGas to participate in an evaluation of the impact of the pilot on the competitive market. This resolution sets forth additional criteria which must be satisfied before implementation of this program.

6. SoCalGas is required to prepare and submit to CACD cost and status reports summarizing the costs, revenues and activities of this program.

#### BACKGROUND

1. On January 17, 1994, a magnitude 6.7 earthquake occurred, centered in and around the Northridge area of the west San Fernando Valley, which resulted in widespread damage. SoCalGas completed 288,422 disaster-related service orders between January 17 and February 24th due to the Northridge earthquake. Approximately 123,000 of these orders were requests to restore natural gas service "shut-off" by customers after the earthquake.

2. Extensive SoCalGas-sponsored consumer market research conducted shortly thereafter revealed that some residential consumers had a strong interest in earthquake valves and other seismic-related information and services. The devastating effects of this earthquake uncovered numerous customer values, opinions, and preferences.

3. SoCalGas research indicated that 50,000 to 100,000 customers may have restored their own natural gas service without incident. This is revealing, considering over 3,000 SoCalGas employees were involved in the natural gas restoration efforts. An additional 460 employees from San Diego Gas & Electric Company, Pacific Gas and Electric Company, the City of Long Beach, and Southwest Gas, collectively, supported SoCalGas' efforts.

4. SoCalGas believes that the effort required of them in restoring gas service to customers who shut off their gas has led SoCalGas to conclude that customers who would shut their gas off after an earthquake should be given the option to restore service themselves through access to appropriate tools and instruction.

5. SoCalGas found that its customers were concerned about safety and gas leaks during and after an earthquake, yet still wanted their gas service quickly restored afterward. An overwhelming majority wanted SoCalGas to provide services to inform and educate them so they can better prepare for, and respond to, earthquake emergencies. SoCalGas found that (a) customers want to feel "safe" when an earthquake hits; (b) a majority of the respondents viewed natural gas leaks as a major threat after an earthquake; (c) customers want SoCalGas to

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provide earthquake valves and other seismic-related services; and (d) only a limited number of the respondents interested in earthquake valves viewed the inconvenience of restoring their natural gas service as a "negative" compared to their immediate concerns about safety.

6. SoCalGas wants to see whether its hypotheses and assumptions about the extent and viability of this market are correct, and that the program concepts satisfies the demand for profitability. The Seismic Program is proposed as a pilot program to find out if it can accomplish the following:

- o Enroll 20,000 customers in selected communities in southern California in the pilot program;
- o Provide consumers "choices" for determining seismic services by enhancing consumer awareness through educational materials;
- o Assess consumer interest and various service "alternatives" through differentiated price and delivery options;
- o Assess different earthquake valve technologies and identify valves with technological efficiencies (e.g., identify valves that "trip" when appropriate and/or valves that do not needlessly "trip" due to non-seismic activities);
- o Develop positive relationships with valve manufacturers, distributors, installers, local government officials, and other public agencies to encourage future technological advancements in valve equipment development;
- o Identify public and private partnership opportunities that increase consumer awareness of earthquake valves and other safety-related services to enhance the quality of life; and,
- o Collect data on current valve technologies and effectiveness from the consumers' viewpoint, and share with industry experts and those developing new equipment to further technological improvements.

7. Due to anticipated changes in valve technology, the Seismic Program was designed to assess both short-term and long-range objectives. Current valve technologies stop the flow of gas into the home (i.e, closes when triggered by shaking). The current valve is a mechanical device that does not distinguish between different sources of shaking. They may shut off the flow of gas when triggered by non-seismic related activities, e.g., something "hitting" the valve or as the result of activities that "shake" the ground near where the valve is installed. SoCalGas anticipates that next-generation valves will differentiate between sources of shaking and/or measure gas

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flow after a seismic event, and may soon be available for residential consumers.

8. The short-term objectives of Seismic Program focus on addressing customer needs that will not change because of the program. They will address immediate customer preferences for those customers interested in enhanced "peace of mind" in the event of an earthquake, and provide earthquake information to customers to increase their awareness of seismic-related services and personal options.

9. The long-range objectives of Seismic Program consider how the results might influence the future. They are to educate customers to increase consumer awareness of their personal safety options and to encourage the advancement of existing valve technologies which may ultimately develop a "smart" valve which can sense unusual gas flow.

10. The Seismic Program will initially be a "subscription" service. SoCalGas will offer subscriptions for a 24-month contract period, on a pilot basis, to interested residents of single-family homes in selected areas in southern California. Initially, SoCalGas will offer the pilot in the San Fernando Valley, Orange County, and the Inland Empire areas.

11. These areas contain a diverse cross-section of structural, economic, and social characteristics which can be tested in the pilot program. Also, customers in these areas indicated they were generally interested in such a service, and these locations have meters that can presently accommodate installation of an earthquake valve.

12. Subscription to Seismic Program will entail a one-time activation fee and maintenance fee (which may vary, as discussed above). The service will include the following components, which customers said were of value to them:

- o earthquake valve installation (on SoCalGas' side of the meter);
- o comprehensive consumer orientation -- provided "one-on-one" -- by specially-trained SoCalGas field technicians;
- o one free gas restoration per year for an "accidental or nuisance" valve trip;
- o annual inspection to "check" the valve;
- o tool kit for restoring gas service; and,
- o consumer-friendly educational materials to help customers safely restore their own gas service, which will include written instructions and a video tape providing visual instructions.

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13. SoCalGas will identify those customers who are most likely to purchase Seismic Program based upon customers surveys. SoCalGas will contact "likely" customers via a direct mail campaign consisting of an informational brochure, using mailing lists purchased (with shareholder funds) from third parties (and reflected in the memorandum account described herein.) A field visit may then be scheduled if the customer remains interested but is still noncommittal. SoCalGas' field personnel will then inform the customer of the benefits of Seismic Program and its cost, and the service options available.

14. SoCalGas will educate subscribers to enable them to make informed choices about whether the Seismic Program is appropriate for their lifestyle. SoCalGas will select for training those employees who have demonstrated their commitment to customer satisfaction and an ability to effectively communicate with customers. SoCalGas provided written instructional materials and "restore" tools to staff at the Safety Division and Commission Advisory and Compliance Division, California Public Utilities Commission.

15. Once a customer has agreed to enroll in the pilot program, field personnel will install an earthquake valve and provide "one-on-one" orientation. Customers will also receive a tool kit. SoCalGas will provide on-going service to customers as specified in their service agreements.

16. SoCalGas will provide single-source accountability for the selection, installation, operation, and maintenance of the valve, and high-quality, "hands on" instruction in gas service turn-off and appliance re-lighting, a tool kit, instruction booklet, and video cassette. The specific steps it will undertake are described in more detail below, and all of these activities will be paid for with shareholder funds.

17. SoCalGas will design a communication program that provides potential customers with general information on the Seismic Program to help the customer determine their interest in the program. These materials will be mailed to customers living within the selected areas identified by SoCalGas previously.

18. Interested customers will be given a telephone number to call if they wish to obtain additional information from a SoCalGas customer representative and, if requested, to schedule an appointment with a SoCalGas field technician. Such affected employees will participate in a mandatory employee-training program so they can explain Seismic Program to customers.

19. If an appointment is requested, a SoCalGas field technician will go to the customer's home to provide "one-on-one" customer information on Seismic Service and assess whether the customer is interested in enrolling in the program. The SoCalGas field technician will also determine whether the customer's meter can accommodate the valve's installation.

20. If the customer does want to enroll in Seismic Program, the SoCalGas field technician will install the valve and activate

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the service, and also provide gas restore training "at home" to help the customer become capable of restoring their natural gas service. If the customer is not interested in subscribing after the on-site visit, SoCalGas will have still provided seismic-related educational materials to the customer.

21. A subscribing customer will have the option to select either (a) a tool kit, (b) an earthquake valve, and/or (c) an earthquake valve with subscription service.

- a. Tool Kit: At its option, SoCalGas may offer to sell the tool kit for a one-time fee, which SoCalGas will vary from a minimum of \$20 to a maximum of \$40 (plus applicable sales tax), to be paid at the home of sale.
- b. Valve: A one-time fee, which SoCalGas will vary from a minimum of \$250 to a maximum of \$450 (plus applicable fees and taxes), will be paid at the time of sale/installation of earthquake valve on the customer's gas piping (i.e., customer's side of the meter).
- c. Valve and Subscription Service: The following payment and billing options will be available:
  - (1) Activation Fee: A one-time subscription "activation" fee will be paid at the time the valve is installed (owned by and installed on SoCalGas' side of the meter), which SoCalGas will vary from a minimum of \$80 to a maximum of \$130 to test market penetration.
  - (2) Service Fee: The customer may be offered five payment options to cover recurring costs during the 24-month contract term: monthly, quarterly, semi-annual, annual, or biennial. A customer "discount" may be available for customers who pay the monthly payments in advance. SoCalGas will vary the fee from a minimum of \$5 per month to a maximum of \$18 per month to test market penetration at different prices.
  - (3) Service Cancellation Fee: To end a subscription prior to the contract's expiration date, a customer will pay the lesser of the remaining Service Fee(s) or \$50.
  - (4) Service Restoration Fee: Any customer requiring restoration of gas service due to closure of an automatic earthquake valve will be charged \$50. Subscribers will receive one free restoration annually, and will not receive a higher priority for gas service restoration than non-subscribers. At its option, SoCalGas may waive the restoration fee for subscribers after a major earthquake.

22. SoCalGas' Seismic Program billing system will be completely independent from SoCalGas' regular utility-billing system. All

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billing and collections functions associated with Seismic Program will be paid for with shareholders funds. SoCalGas will continue to follow its standard billing and collections practices during the pilot program. SoCalGas may offer alternative billing and payment options, such as electronic transfers or use of credit cards.

23. SoCalGas will terminate service under the pilot program if payment is delinquent by 90 days, and at its discretion, remove the valve. Termination of regular service will not apply as a result of non-payment for seismic services.

24. SoCalGas anticipates that the budget will be \$5.9 million in shareholder funds to cover the fully-assignable and start-up costs of the Seismic Program during the pilot period, and will not require, nor use, any ratepayer funds. About 40% of this budget is for capital equipment, around 30% is for operating and maintenance expenses while the pilot is in-progress, and the remainder is for kits, educational materials, start-up costs, and administrative and program development expenses.

25. SoCalGas will continuously evaluate the effectiveness of the Seismic Program throughout the pilot period to assess customer values and benefits. Although incremental market research (or "beta testing") will be done throughout the pilot period, a post-pilot final evaluation will be done too. SoCalGas anticipates it will share these results of its research with seismic-safety organizations, industry experts, and public officials.

26. The Seismic Program will be evaluated from a customer's perspective using traditional market research to assess values and satisfaction with the program. It will include the following kinds of questions:

- o Did participating customers enhance their "peace of mind" and "sense of personal security" as a result of subscribing to SoCalGas' Seismic Program?
- o How did the different technologies perform? What near-term technological improvements can be made to improve valve performance?
- o Did customers understand the program introduction materials provided prior to enrolling? Did customers understand the seismic-related educational materials received when the SoCalGas field technician conducted the "one-on-one" orientation? How did customers use this new awareness?
- o Were customers interested in conducting their own gas restores? Did customers express confidence that they could restore gas service properly?
- o Did subscribing customers believe the valve worked properly (i.e., how many, if any, nuisance restores

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occurred)? If a sizable earthquake occurred, did the valve work?

- o Was the "price" of the subscription flexible yet met customer values?

27. SoCalGas will also consider whether the anticipated subscription level is achieved. By focusing on all of the above, SoCalGas can determine whether it should expand, re-focus, or cease offering the Seismic Program.

28. During the one/two-year pilot period, SoCalGas hopes to enroll 20,000 customers in the Seismic Program, which represents less than 1.2% of the total estimated market for earthquake-valve installation and service opportunities in southern California. Much of this market is untapped given the lack of information.

29. All fully-assignable start-up costs for the Seismic Program will be capitalized and charged against earnings for five years. Seismic Program' costs will be recorded into an accounting system with separate accounts used to record labor and non-labor expenses. The financial systems proposed will be used to develop direct cost reports and determine funds available for distribution to shareholders and ratepayers.

30. All direct expenses incurred to implement, promote, and manage the Seismic Program will be accrued in separate expense accounts and charged directly to the program. These expenses will include all direct supervision, and the marketing costs to implement the program, such as advertising, sales calls, training and proposal preparation.

31. SoCalGas proposes that the Seismic Program include a "banded earnings" profit sharing formula to provide SoCalGas' ratepayers an opportunity to benefit if the pilot is successful. Under this approach, ratepayers will be insulated from all downside risk (which will be borne by shareholders), but will share upside potential if cumulative earnings through the pilot period exceed a targeted earnings level necessary to compensate shareholders for taking the financial risks associated with bringing the Seismic Program into the market place. This sharing mechanism is proposed to allow ratepayers an opportunity to be rewarded if the pilot is profitable, to compensate them for the value of ratepayer-supported intangible assets, like SoCalGas' reputation.

32. SoCalGas proposes to effectuate the sharing mechanism via the calendar-year 1995 "omnibus" rate-adjustment filing (to become effective January 1, 1996). Ratepayers will receive 25% of the cumulative earnings in excess of the pilot's targeted earnings level. The annual targeted earning level is defined as 25% of average annual investment in the Seismic Program, where average annual investment is computed as a simple two-point average of the beginning and ending-year balance of net plant and equipment and net start-up costs. The 25% pre-tax rate of return is equivalent to a 15% return on investment, net of



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taxes. Actual program earnings will be calculated as the difference between program revenues and fully-assignable startup costs plus direct operating expenses, including depreciation, annual provisions for service restorations and bad debt expenses, and local sales, property and franchise taxes.

33. SoCalGas' proposed Seismic Program will provide essential information about the market for these services, the price at which there is a market, and SoCalGas' actual unit costs to provide these services.

#### NOTICE

1. Notice was provided by SoCalGas to other utilities and interested parties in compliance with Section III, Paragraph G of General Order 96-A. It was published in the Commission Calendar.

#### PROTESTS

1. A letter of protest to SoCalGas Advice Letter 2343, dated August 30, 1994, was filed by Patrick J. Power, Attorney-at-Law for PHCC. PHCC asserts that the proposal has serious implications for private contracting firms that would compete with SoCalGas to provide the proposed services. PHCC also challenges the authority of the Commission to approve SoCalGas' proposal.

2. A reply to PHCC's protest was filed by SoCalGas on September 7, 1994.

#### DISCUSSION

1. SoCalGas developed the Seismic Program to assist its customers in conveniently, quickly, and effectively improving their "level of preparedness" for earthquake emergencies. Prior to the Northridge earthquake, SoCalGas thought there was limited customer interest in earthquake valves because they might accidentally "trip" in a non-emergency situation and because customers might have to wait an extended period of time to have their service restored. SoCalGas felt it could not overlook its most recent survey results, and it developed the Seismic Program as a comprehensive customer-awareness program for single-family homeowners.

2. Currently, market options are somewhat limited for homeowners who wish to install an earthquake valve. Independent plumbing and heating contractors will sell and install an earthquake valve on the customer's gas piping, but they provide little in the way of earthquake-related consumer education. SoCalGas proposes to improve and add value by structuring the Seismic Program as an integrated, comprehensive earthquake-safety program which includes the installation of an earthquake valve, educational materials, and instructions and tools for those "hands-on" customers who want to restore their natural gas service themselves.

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3. The Seismic Program was designed to enhance the benefits and mitigate the risks for participating customers, shareholders, and other parties. SoCalGas identified the following benefits associated with the pilot program.
4. The Seismic Program will allow subscribers to enhance their sense of security and "peace of mind" in a way that complements their lifestyle. Furthermore, customers who benefit will pay for the services, without ratepayer subsidies. SoCalGas will provide customers with a credible, single-source who is accountable and can deliver the services its customers desire quickly and efficiently.
5. It is possible that SoCalGas' entry into this market will stimulate its growth and increase market demand for earthquake valves, thereby supporting the growth of the existing earthquake valve industry in the southern California market. The success of the Seismic Program may also encourage manufacturers to develop the next-generation of "smart" earthquake valves, and encourage contractors/trades to broaden the products and services they offer. There may also be incidental benefits, such as greater awareness of the need for earthquake preparedness, through "word of mouth" transfer of information SoCalGas provides from subscribers to non-subscribers.
6. There may be active interest in the Seismic Program from local and national trade organizations, since actions by plumbing and heating contractors, valve sales and installation contractors, and valve manufacturers may impact the Seismic Program. SoCalGas has informally discussed its interest in introducing the Seismic Program with some members of the Board of Directors of the California Plumbing, Heating, and Cooling Contractors trade association. SoCalGas also discussed this pilot program with earthquake valve manufacturers.
7. SoCalGas' shareholders stand to benefit from the program, however, they also assume the risk that the Seismic Program will not perform as expected. The three types of risks to shareholders are (1) Marketing (enough customers participate to cover costs), (2) Programmatic (assume the liability of earthquake valve "failure" during a major earthquake), and (3) Financial (responsible for covering "bad debt").
8. A letter of protest to SoCalGas Advice Letter 2343, was filed on August 12, 1994 by Patrick J. Power, Attorney-at-Law for PHCC. PHCC (1) challenges the authority of the Commission to approve SoCalGas' proposal; (2) proposes Pacific Enterprises (PE), not SoCalGas, pursue the program; (3) raises questions about possible cross subsidization; and (4) questions why the indirect cost for the program are not included in the memorandum account.
9. In challenging the authority of the Commission to approve SoCalGas' proposal, PHCC contends that the services that SoCalGas intends to provide are non-utility in nature. Since SoCalGas proposes to have its shareholders finance the program,

there is no basis for the CPUC to approve utility tariff for a non-utility venture by PE.

10. PHCC avers that in every material way, this proposal is a companion to previous Advice Letters 2078 and 2079 filed October 18, 1991, where SoCalGas requested authority to offer 2 pilot programs for residential customers. They were approved by Resolution G-2972. The PHCC concerns expressed in those filings are equally applicable to the proposed Seismic Program. PHCC claims it anticipated this case and focused its intervention on the jurisdictional issue:

"This question of jurisdiction is the matter of greatest concern for PHCC in this proceeding. Apparently SoCalGas believes that it may enter any market for any service, with rates to be set by this Commission. The implications of this principle are stunning for PHCC members, and for others who will be the targets of the utility's competitive market initiatives."

11. PHCC would not oppose PE's entry into competitive markets through a subsidiary so long as such an entity would have no visible affiliation with the gas company and would not trade off SoCalGas' name and reputation. PHCC challenges the right of SoCalGas as a utility to offer services that are non-utility services. "If SoCalGas wants to participate in competitive markets, it should do so in like manner as private firms, without monopoly ratepayers to subsidize its activities."

12. The basis for PHCC's claim appears to be an assertion that if SoCalGas benefits from name recognition, business information, or efficiencies of scale or scope, this constitutes unfair competition due to "ratepayer" subsidy.

13. PHCC states that Utility/affiliate transactions are the subject of R. 92-08-008, whereby the Commission adopted interim requirements for transactions between utilities and their affiliates in conformance with Public Utilities Code 587. One of the main ways that cross-subsidization occurs is when a regulated utility is able to pass along to its captive ratepayers the costs of the utility's unregulated affiliates. Fair competition cannot take place where one of the participants is able to recover some significant portion of its costs from its monopoly customers. PHCC points out that in Advice Letter 2343, SoCalGas refers to allocation of "direct expenses" and "direct supervision". SoCalGas proposes to allocate no indirect costs to its program.

14. Given the intent to commit shareholder funds, it's PHCC opinion that SoCalGas' proposal appears intended to provide antitrust immunity for the anti-competitive conduct planned by PE. PHCC states that the Commission should not allow itself to be used by PE to "fix" prices for competitive market services. If PE wants to participate in competitive markets, it should do so subject to the same market conditions as other private firms.

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15. A reply to PHCC's protest was filed by SoCalGas on September 7, 1994. SoCalGas' asserts that earthquake services are "utility" in nature and subject to the Commission's jurisdiction only insofar as they fall within the definitions found in the Public Utilities Code. Code Section 221 and 222 define as public utilities, subject to the Commission's jurisdiction, the ownership for compensation of plant used for the production, generation, transmission, delivery, underground storage or furnishing of gas.

16. It is SoCalGas opinion that the Commission would conclude that the installation and periodic servicing of an earthquake shut-off valve installed on SoCalGas' piping on its side of a customer's meter is so indistinguishable from basic utility service that it falls within the Commission's jurisdiction to regulate and tariff. "Unbundled" product options, such as the stand-alone purchase of a tool kit or valve and installation on the customer side of the meter, also seemed sufficiently related to its primary seismic safety service that SoCalGas wanted to offer the Commission the opportunity of regulating those product options.

17. Contrary to PHCC's claims, SoCalGas maintains, "it is in no way seeking to hide behind the Commission's skirts in order to avoid application of the antitrust statutes." SoCalGas states it would be pleased if the Commission issued a resolution in this matter declaring that the proposed services were non-jurisdictional and that SoCalGas could pursue them without filing tariffs with the Commission. SoCalGas alleges that it faces handicaps in offering competitive services when the prices, terms and conditions for its services are regulated but those of its competitors are not.

18. SoCalGas states that PHCC's proposal to bar SoCalGas from offering these services is without legal basis. First to the extent that the Commission determines that the proposed seismic services are utility services subject to its jurisdiction and tariffing, by filing Advice Letter 2343 SoCalGas has done all that is required by the Public Utilities Code and the Commission's regulations to offer the services. If the Commission were to decide these were non-utility services, PHCC has cited absolutely no legal authority for its position that a utility may not also offer non-utility products or services. PHCC cites no such legal authority because it does not exist. SoCalGas notes that Business & Professions Code Section 7042.1 does limit in some cases the ability of utilities to provide services for which a contractors license is required.

19. In addition, SoCalGas claims that its proposal is consistent with the Commission's policy direction. The Commission has encouraged utilities to pursue new business opportunities on a below-the-line basis, with utility shareholders bearing the cost and taking the risks and rewards of the opportunities. In the discussion of miscellaneous revenues in the Commission's decision last December in SoCalGas General Rate Case, the Commission stated:

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"We wish to encourage SoCalGas to find new revenue sources as long as the effort is consistent with established regulatory policy. A balancing account (for miscellaneous revenues) would discourage such activity. Allowing SoCalGas to keep revenues from new ventures between general rate cases is also consistent with our reservations about continuing the attrition year adjustment. These additional revenues will, along with operation efficiencies, help offset any losses SoCalGas might otherwise experience due to inflation." (Commission Decision 93-12-043 at mimeo p.39)

20. SoCalGas points out further that the Commission has encouraged placing on a competitive, for-profit basis certain activities that have been undertaken at utility ratepayer expense in the past. For example, both Southern California Edison Company and SoCalGas have proposed to offer energy efficiency and management services on a for-profit basis, in competition with energy services companies not affiliated with utilities (See Resolution E-3337, October 6, 1993), approving Edison's partially-shareholder-funded proposal; SoCalGas' 100% shareholder-funded TEEM proposal is pending in Resolution G-3140. SoCalGas also notes that in Decision 94-04-088 regarding SoCalGas' Global Settlement, at mimeo p. 32, the Commission encouraged SoCalGas to take "below-the-line" those competitive services that would tend to build noncore gas throughput."

21. PHCC's citation to R.92-08-008 is irrelevant, claims SoCalGas. First the rules adopted have to do with the pricing of transactions between utilities and their affiliates. In this case, the Seismic Program will be provided by SoCalGas and there will be no affiliate transactions. Second, unlike other services provided by affiliates, the Commission has the opportunity to regulate the prices, terms and conditions of the new services. Finally, the rules adopted in R.92-04-008 do not prohibit a utility or a utility affiliate from offering non-utility services; they merely act to prevent utility ratepayer subsidization of the non-utility business.

22. SoCalGas asserts that "As long as there is no harm to utility ratepayers, SoCalGas has every right to compete in non-utility businesses except where specifically prohibited by statute, and the Commission has every reason to allow this competition. PHCC notes in its protest that there is only one SoCalGas common shareholder, Pacific Enterprises. SoCalGas alleges that Pacific Enterprises' common stock is widely held by many small investors who have just as much a right to compete in business and earn a profit as PHCC members. Pacific Enterprises has about 115,000 individual common shareholders, who collectively own more than half of all Pacific Enterprises common shares. About half of those individual shareholders own less than 200 shares (200 shares have a market value of about \$4,000). About 60% of the individual shareholders live in California, and almost 11,000 of them are either current or retired SoCalGas employees."

23. It is SoCalGas opinion that PHCC's position is wholly without merit. "First, from the point-of-view of antitrust

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policy, the United States Ninth Circuit Court of Appeals has held that it is not a violation of antitrust law or policy for a utility to benefit from its name recognition, access to customers, or efficiencies of scale or scope when marketing a non-utility product. In the case of Caitlin v. Washington Energy Co., et al. (9th Cir. 1986) 791 F.2d 1343, Washington Natural Gas, the local gas distribution company, sold furnace vent dampers and other products as a non-utility line of business (and not through a separate affiliate). It advertised its non-utility products in utility bills and did not allocate any of the cost of postage to the non-utility products. The competing vendors of vent dampers asked that the utility be barred from using its utility billing envelope and from using its customer list in marketing its non-utility products. The court found that there was no antitrust violation and denied the vendors' request for an injunction. The court found nothing wrong in the fact that the utility's merchandising division benefited from its association with a division possessing a monopoly in its own market. It held that an integrated business is entitled to its efficiencies of scale and scope even if one division of the business is a regulated monopoly."

24. Contrary to the claims of PHCC, SoCalGas asserts that it intends to employ a costing methodology that fully assigns all costs appropriately associated with offering the Seismic Program. This costing methodology would include all labor, material, and capital resources of SoCalGas that will be directly or indirectly utilized in providing the seismic services. Capital costs include return, taxes, depreciation and maintenance expenses. Indirect costs would be assigned to the new services based on a careful consideration of actual resources that will be required to support the new services rather than an arbitrary allocation unrelated to the actual use of resources. For instance, in the present case, SoCalGas' costing would include indirect costs for pension and benefits on a basis consistent with the hourly wages of the employees who provide seismic services. Activities such as billing, collections, bad debt, payroll processing, auditing and legal expenses would be considered.

25. SoCalGas points out that at this early stage, there are substantial uncertainties about the cost of providing the service that cannot be resolved until the pilot program is actually undertaken. It is hard to forecast the volume of customer demand for seismic services and, therefore, the unit cost of valves, administration and overhead, until some real marketing experience has been gained through the pilot program. Nevertheless, SoCalGas has proposed a range of prices that are reasonable, given the pilot nature of the program and inherent uncertainties about actual costs. At the end of the one-year pilot program it will be appropriate to revisit the estimates of unit cost for purposes of setting the minimum price, assuming SoCalGas proposes to continue and expand the availability of the seismic service offerings.

26. The City of Santa Monica supports approval of SoCalGas' Seismic Program. The city was aware of the protest by PHCC. In a letter dated November 1, 1994, the city stated:

"In light of the Northridge earthquake earlier this year, we want to provide our citizens every opportunity to take additional precautions that address issues of safety and individual household need. The pilot program is a step to expand consumer choice. Further, the program will be of tremendous value in assisting the City to determine public policy on the installation of seismic gas shut off valves."

27. CACD is generally supportive of SoCalGas' requests in this filing. The Commission has been moving toward competitive services for sometime. In decision 89-10-031 for "Re Alternative Regulatory Frameworks for Local Exchange Carriers", the Commission wrote:

"To ensure that the local exchange carriers do not favor their own competitive services, we also adopt the widely supported principle that monopoly utility services should be unbundled and made available on a nondiscriminatory basis to potential competitors, though we recognize that there may be appropriate limitations in applying this principle on a service-by-service basis, such as technical or system integrity considerations, economic feasibility, or customer privacy concerns."

28. It is the CACD view that a competitive energy marketplace has the potential to provide the customers with the best energy related products at competitive prices. CACD also believes that a regulated energy utility can function as a legitimate competitor in a competitive market, much like the telecommunications industry.

29. In SoCalGas' most recent rate case decision (D.93-12-043), the Commission declined to provide ratepayer funding for new major market activities and programs, but allowed SoCalGas the opportunity to utilize shareholder funding for some of those activities and programs. The following are excerpts from the decision:

"SoCalGas fails to demonstrate that the market cannot be relied upon to develop economic projects without SoCalGas' assistance... For these reasons, we decline to fund this program at this time by including associated costs in SoCalGas revenue requirement consistent with our findings in D.93-11-017. SoCalGas may offer these services by way of tariffed charges which reflect costs."

"... Of course, SoCalGas may assess program benefits differently from how we would assess those benefits and in such cases its shareholders may fund marketing efforts accordingly."

30. Through many decisions, the Commission has been fostering competition in utility services and products. In the "Order

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Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation" (I.94-04-031), the Commission gives as one of the three reasons:

"This Commission has actively promoted, when appropriate, policies designed to harness market forces and establish market-based regulatory solution in each of the industries it oversees, including the electric services industry. With respect to the electric services industry, the Commission's aggressive promotion of competition in electric generation pursuant to the Public Utilities Regulatory Policies Act of 1978, and our more recent efforts to bring competition to utility energy efficiency programs as called for in P.U. Code 747, stand out in particular."

31. In this filing, SoCalGas proposes to establish a separate memorandum account to track all costs and revenues associated with the Seismic Program on a fully allocated cost basis. An activity-based costing system will be implemented with separate accounts to record existing utility employees' time spent in the marketing of this program. The accounts will be monitored closely by SoCalGas to ensure that all program related charges are included, and that shareholders bear all the costs of this program. All costs incurred to promote, supervise, and implement this program will be accrued in separate accounts and charged directly to this program. The tracking accounts will include all direct and indirect costs. These will be recorded in the "Seismic Program" account.

32. It is CACD's position that a Tracking not a Memorandum account should be established. As defined in this resolution, memorandum accounts accumulate balance for later inclusion in rates. The costs and revenues accumulated in memorandum accounts may or may not be in current rates. Unless otherwise stated, stockholders are at risk for memorandum account balances. The net balance accumulated in the memorandum account should accrue interest in a manner specified by the Commission.

33. Tracking accounts record utility cost and/or revenues for informational purposes only. Tracking account balances are not amortized in current or future rates.

34. Upon completion of the pilot program, if a decision is made to proceed with the program on a permanent basis, a decision should be made on the proper method to accumulate costs and revenues to allow for sharing of the profits with the ratepayers. Profit sharing will be waived during the pilot program period.

35. If SoCalGas decides to move permanently into the Seismic Program, after the expiration of the pilot program period, it should file, an application and submit to the Commission, at shareholders' cost, the following:



- o a documented report explaining the extent that SoCalGas achieved its objectives
- o a thorough evaluation of all ratepayer benefits during the market test and relay all of the issues and findings in the final report summarizing the market test.
- o a detailed study identifying the existing market structure, all types of data collected during the test period on the market size (e.g., number and location of customers) and survey information on customer interest in its service.
- o details of costs and revenues associated with the Seismic Program.
- o A detailed evaluation of the program to include, among others, assessment of the customer satisfaction with the program and the level of market penetration achieved. The evaluation should conclude whether SoCalGas should expand, re-focus, or cease offering the Seismic Program.

36. SoCalGas shall submit subject to approval by CACD a program to implement the appropriate cost assignment system for SoCalGas to charge the Seismic Program for use of SoCalGas' utility assets and personnel and directing CACD to conduct a post-program compliance audit to verify that the approved costing system were implemented as authorized.

37. CACD further recommends that SoCalGas operate its Seismic Program in a manner which does not impinge on the development of a competitive market and is free from monopoly dominance, enabling the customers to make informed choices by letting them know of the other firms that provide such services, and make it clear to its customers that the pilot program ends within a year.

38. SoCalGas proposed Tariff Rule 10 depicts the pilot program as proposed by the utility. Should SoCalGas choose to implement the Seismic Program as modified, and after consultation with the Commission Advisory and Compliance Division, it shall file a supplemental advice letter with tariff sheets, consistent with this resolution.

39. Tariff language was not submitted in this advice letter to implement a tracking account. CACD recommends that the Commission require SoCalGas to submit appropriate tariff sheets to implement the tracking account as described in this resolution within 30 days of the effective date of this resolution. CACD also recommends that this language be reviewed with CACD prior to submission.

40. CACD recommends approval of SoCalGas' request for the Seismic Program subject to the above expressed qualifications. To the extent that this service is a pilot program, its effect on the market should be negligible if at all. CACD still is

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troubled about reviewing utility requests for new competitive energy services through the advice letter process in a serial fashion. Without a context and on an ex parte basis, the more global issues of the efficacy of utility entry into these markets, the competitive nature of the market, how they should be regulated, and the benefit or purpose of entering these markets do not get the full airing they would receive in a formal proceeding. Notwithstanding this drawback, there is an advantage to the Commission of having this service as well as the previously approved pilot programs (For Southern California Edison Company, the Off-Grid Photovoltaic Service and ENvestSCE; for Southern California Gas Company, the TEEM service). These services should provide valuable data and information that will assist the Commission in deciding whether or not it should adopt these new services on a permanent basis and under what conditions if they are adopted.

41. CACD contends that the Commission will have a sufficient number of pilot programs from SoCalGas with the adoption of this service as well as any pending before the Commission that SoCalGas should not file any further advice letters requesting pilot programs for competitive new services. This action would also explicitly address the concerns of parties that the Commission's approval of these pilot programs should not be construed as an implicit adoption of entry into these new markets. SoCalGas is invited to file an application addressing this subject.

#### FINDINGS

1. Advice Letter 2343, filed on August 12, 1994, would permit SoCalGas to implement a new pilot program offering seismic services. The pilot program will evaluate the market for comprehensive, innovative educational products and services to increase customers' self-preparedness choices.
2. The purpose of this pilot program is to expand customers' awareness of alternatives that enhance their sense of security when earthquakes occur in southern California.
3. SoCalGas is proposing this as a pilot program so it can assess the demand for, and profitability of, the service in various locations at different prices. SoCalGas seeks Commission approval for the authority to operate its Seismic Program with options, charges, terms, and conditions described in the proposed revisions to its Tariff Rule 10 "Service Charges".
4. SoCalGas shareholders, not SoCalGas ratepayers, are at risk for the cost of this program.
5. SoCalGas has proposed a budget of \$5.9 million of shareholder funds for the Seismic Program during the one year pilot period, which includes administrative costs.

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6. On August 30, 1994, the Plumbing, Heating, Cooling Contractors Association of California protested SoCalGas' Advice Letter 2343.

7. SoCalGas filed a reply to PHCC's protest on September 7, 1994.

8. A letter of support from the City of Santa Monica, California for SoCalGas' proposal was provided on November 1, 1994. Santa Monica is one of the cities included in SoCalGas' territory for the Seismic Program.

9. The protest is denied. PHCC's comments are acknowledged and a reporting requirement is set forth to provide an opportunity to evaluate any impact on the Competitor's and SoCalGas ratepayers.

10. SoCalGas may terminate service under the pilot program if payment are delinquent, and at its discretion, remove the valve. Termination of regular service will not apply as a result of non-payment for seismic services.

11. The range of charges SoCalGas proposes for products and services in revised Tariff Rule 10 are reasonable.

12. This Resolution provides for a "Seismic Program" tracking account to record the development and implementation costs for the Seismic Program. A semi-annual report showing fully allocated revenues and costs (capital and expenses) should be provided by SoCalGas to the Energy Branch of the Commission Advisory and Compliance Division 30 days after completion of 6 months and an annual report 30 days after completion of the full pilot program.

13. Thorough analysis and evaluation of the competitive impacts of the pilot is desirable before moving to full implementation of the Seismic Program. If SoCalGas decides to continue the service after completion of the one-year pilot period, it shall, at shareholders' expense, evaluate the market test program along the lines recommended in the text of this resolution and submit the results with an application to the Commission.

14. The Seismic Program is filed pursuant to General Order 96-A, Section X.A and California Public Utilities Code Section 532. The Seismic Program is reasonable and should be approved by the Commission.

15. Southern California Gas Company Advice Letter 2343, dated August 12, 1994, should be approved as modified.

16. This filing will not increase any rate or charge, cause the withdrawal of any service, or conflict with any rate schedule or rule, except as described herein.

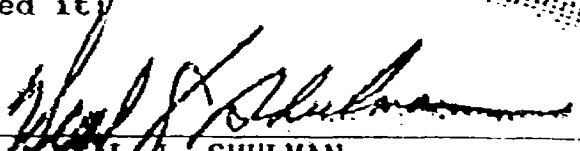
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THEREFORE, IT IS ORDERED that:

1. SoCalGas Advice Letter 2343-G is authorized subject to the following modifications:
  - a. Southern California Gas Company shall establish a "Seismic Program" tracking account to record all costs and revenues associated with this program.
  - b. Southern California Gas Company shall revise its Advice Letter to incorporate tariff sheets implementing the Seismic Program tracking account.
  - c. SoCalGas shall expand its activity-based costing system to include all direct and indirect costs related to this program as described herein.
  - d. Termination of regular service will not apply as a result of non-payment for seismic services.
2. Should Southern California Gas Company choose to implement the Seismic Program as modified, and after consultation with the Commission Advisory and Compliance Division, it shall file a supplemental advice letter with tariff sheets, consistent with this resolution within 20 days. The supplemental letter shall be effective on the date filed.
3. Southern California Gas Company shall submit cost, revenue and status reports to CACD 30 days after 6 months and at the completion of the pilot period summarizing all results of the program, including costs (capital and expenses, revenues and program activities).
4. If SoCalGas decides to continue the Seismic Program beyond the 12 month pilot program period, it shall, at shareholders' expense, evaluate the market test program along the lines recommended in the text of this resolution and submit the results together with an application to the Commission.
5. The protest of PHCC is denied.
6. SoCalGas shall not file any more advise letters requesting pilot programs for new competitive services until the global issues are aired in a formal proceeding.
7. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on April 5, 1995. The following Commissioners approved it:

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, Jr.  
Commissioners

  
NEAL J. SHULMAN  
Executive Director

I abstain.  
/s/ HENRY M. DUQUE  
Commissioner