

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY  
AND COMPLIANCE DIVISION  
Energy Branch

RESOLUTION G-3134  
July 20, 1994

**R E S O L U T I O N**

RESOLUTION G-3134. SOUTHERN CALIFORNIA GAS COMPANY SUBMITS FOR APPROVAL ADVICE LETTER NO. 2271-B, A PROPOSAL TO COMPETITIVELY BID 25% OF ITS DIRECT ASSISTANCE PROGRAM WEATHERIZATION SERVICES, AS ORDERED BY THE COMMISSION. ADVICE LETTER 2271-B WAS FILED WITH THE COMMISSION ON MAY 11, 1994.

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**SUMMARY**

1. By Advice Letter 2271-B, Southern California Gas Company (SoCalGas) requests approval of its proposal for a pilot auction of 25% of its Low-Income Weatherization program. The auction of 25% of this program was ordered by the Commission in Decision (D.) 93-12-043.
2. Protests by the Association of Southern California Energy Providers, The East Los Angeles Community Union, the Insulation Contractors Association, and SESCO, Inc. were considered and denied to the extent that they requested Commission action.
3. This resolution authorizes SoCalGas' proposal with modification.

**BACKGROUND**

1. Since 1983, SoCalGas has contracted with community-based organizations (CBOs) to provide low-income weatherization (LIW) services. In SoCalGas' last General Rate Case (GRC) decision, D.93-12-043, the Commission ordered SoCalGas to conduct a pilot auction using 25% of its LIW program to determine if competitively bidding out LIW services could provide these services at a lower cost than negotiated contracts with community-based organizations.
2. SoCalGas submitted its first auction proposal in Advice Letter 2271, on February 15, 1994. This filing received numerous protests that demonstrated the proposal would not be successful unless it was modified.

3. SoCalGas, in collaboration with the Commission Advisory and Compliance Division (CACD), determined that an open discussion with representatives of all the potential bidders would greatly assist in the development of a feasible proposal.

4. SoCalGas and CACD developed an agenda for three days of meetings that were professionally facilitated and open to the public. The meetings were held in Downey, California, on March 30, 31 and April 11, 1994. The meetings were well attended by CBOs, contractors, and consultants, and the discussions proved fruitful.

5. Advice Letter 2271-B, the most current SoCalGas proposal, has been directly developed from the outcome of the meetings. The proposal was filed with the Commission on May 11, 1994. Some protests were filed late, but all were reviewed and considered.

#### NOTICE

1. Public notice of this advice letter was made by publication in the Commission calendar, and by SoCalGas' mailing copies in compliance with General Order 96-A and to all interested parties who requested notification.

#### PROTESTS

1. A joint protest was received from the Association of Southern California Energy Providers (ASCEP) and The East Los Angeles Community Union (TELACU). Additional protests were received from the Insulation Contractors Association (ICA), and SESCO, Inc (SESCO). SoCalGas responded to the ICA and SESCO protests.

#### Summary of the ASCEP/TELACU protest:

ASCEP and TELACU request that SoCalGas' pilot bidding process be suspended in light of the Commission's proposed restructuring of the electric industry. The Commission's proposal includes that utilities will be required to receive "competitive solicitations for all future demand-side management programs designed to serve those who remain utility service customer." ASCEP and TELACU claim that the Commission has made it clear that results of the pilot bidding project will not be useful because the Commission has already determined that all demand-side management programs should be put out to bid. ASCEP and TELACU request that the Commission clarify its proposal to include information from the pilot bidding project or present any new facts or circumstances that would override the findings in this protest.

**Summary of the ICA protest:**

ICA's protest, although lengthy, focussed primarily on three issues. First, it focused on the relationship of the CBO's reimbursable rate in the bid versus in the negotiated contracts. ICA believes that if a CBO has a winning bid, the reimbursement rates for the winning bid should be the same as the reimbursement rates in the negotiated contract that the CBO has for the 75% portion of its weatherization work. The other issues in the ICA protest include whether the weight on price should be 60% or 70%, and how the community related qualifications should be evaluated.

**Summary of the SESCO protest:**

SESCO recommended that the Commission direct SoCalGas to allow but not require bidders to be paid on the basis of ex post measured savings. That is, pay-per-measure and pay-per-savings contractors can be accommodated in one bidding effort. SESCO states that using ex post measured savings would increase the cost effectiveness of the program, which is the only way to increase benefits given a limited budget.

**DISCUSSION**

1. SoCalGas made a good effort to hear all parties' positions on the development of the Request for Proposal (RFP) and the evaluation of the bid. The result is a well-designed bid process. In the proposal, SoCalGas offers two schedules; one with a Commission review of the RFP and one without Commission review. The Commission considers the review of the advice filing sufficient authorization for SoCalGas to proceed with issuance of the RFP. SoCalGas should send a copy of the RFP to the Commission at the time that it distributes the RFP to the contractors and CBOs.
2. ASCEP and TELACU suggest in their protest that the Commission contradicted itself by ordering a pilot bid for SoCalGas' LIW program and following it with the issuance of an Order Instituting Rulemaking (OIR) (R.94-04-031/I.94-04-032) on the electric industry restructuring. In the OIR, the Commission comprehensively said demand-side management would be put out to bid. These are not as contradictory as the picture the protest paints. First, the OIR is a proposal, not policy. The appropriate treatment of social programs such as low-income weatherization has not yet been determined. Parties that are interested in the proposed restructuring should take part in that proceeding.
3. The Commission's order to hold this auction stated that the CBOs had several community-related attributes that would allow them to effectively compete with private contractors (D.93-12-043, pp.104). These attributes include the knowledge of the low-income communities and experience working in the communities.

4. ICA's protest objected to the weight given to community-related attributes and subjectivity involved in evaluating these attributes. The Commission believes that the community-related attributes will enhance the CBOs bids, making the CBOs more competitive. However, the attributes should not be weighted separately -- they should be evaluated in the context of a complete and competitive marketing plan. For example, a bidder should not be selected because it has multiple language capabilities; the bidder should be selected because it can communicate with the community in which the service is provided.

5. It is the utility's responsibility to select bidders that can offer the most cost-effective service when the program is funded with ratepayer dollars. The state law that mandates low-income weatherization, (PU Code 2790), states how homes are to be weatherized. It does not suggest that the LIW programs should be tied to community enhancement. Utilities often contribute funding to community activities through shareholder fund donations. Shareholder funds are the appropriate means of contribution to the community.

6. ICA also commented on the weight given to price. ICA stated that the 70% weight given to price creates an incentive to those who aren't too familiar with the nature of the work to bid low and win the contract without the necessary skills to carry out the work. The Commission is also concerned that the weatherization measures generate energy savings and that the jobs are done of a quality that will not tie up the utility resources in monitoring and correcting poor-quality work. The Commission urges SoCalGas to determine the best way to achieve quality work. This may mean shifting the weighting scheme, or it may be by other means. Ultimately, we want the program funds to go into measures, not management. There is no purpose to saving money to do more homes if the jobs are of poor quality and energy savings are not realized.

7. ICA also discussed the merits of Pacific Gas and Electric's (PG&E) auction and why PG&E more deservedly could set its weight on price at 70%. We have not yet seen the results of PG&E's program with the 70% weight on price. Therefore, we have no proof yet that the 70% weight is right for PG&E, and what is right for PG&E is not necessarily right for SoCalGas. SoCalGas must make a determination on the weight for price based on the evidence that it has. SoCalGas should discuss the merits of the issue with PG&E. Ultimately, SoCalGas should design this auction to achieve cost-effectiveness and high quality work, keeping in mind that this is a pilot, open for experimentation, not a game of follow-the-leader.

8. To finish up with the issues raised in ICA's protest, we will discuss the issue of the CBOs' negotiated contract reimbursement rates versus the CBOs bid prices. SoCalGas responded to ICA's protest stating that the original proposal to tie the negotiated prices to the bid prices is unfair because cross-subsidization of work done under one type of contract or another can occur just as easily with contractors who have other

weatherization contracts as with CBOs. In addition, the Commission ordered the 25% bid because it was unclear how the negotiated contract reimbursement rates stood relative to competitive bidding. We do not know yet what is the optimal program design. Therefore, it would be premature to change the negotiated contract prices during the pilot bidding program.

9. Finally, we consider SESCO's protest. SESCO requests that bidders be paid on the basis of ex post measured savings instead of ex ante estimated savings. SoCalGas had a number of arguments against SESCO's protest, including that Commission rules do not allow this sort of change in an advice letter. The existing program design has been authorized by the Commission in SoCalGas' General Rate Case, D. 93-12-043. The program design may not be changed by resolution, per Public Utilities Code Section 1708. If SESCO seeks a change to D.93-12-043, the proper procedure is to file a Petition for Modification according to Rule 43 of the Commission's Rules of Practice and Procedure.

#### FINDINGS

1. SoCalGas' proposal to auction off 25% of its Low-Income Weatherization program complies Commission order D.93-12-043.
2. The Commission's electric industry restructuring proposal, R. 94-04-031, does not contradict the order for SoCalGas to hold a pilot auction of the Low-income Weatherization program.
3. The Commission cannot support a weight specifically given to community-related attributes. All attributes should be evaluated in the context of implementing a cost-effective LIW program.
4. SoCalGas has the discretion to determine the weight for price. It should carefully consider if, and how, the weight on price may effect quality, energy savings, and ultimately, the cost-effectiveness of the program.
5. The Commission authorized the program design in SoCalGas' General Rate Case, D. 93-12-043, and it may not be altered in a resolution.

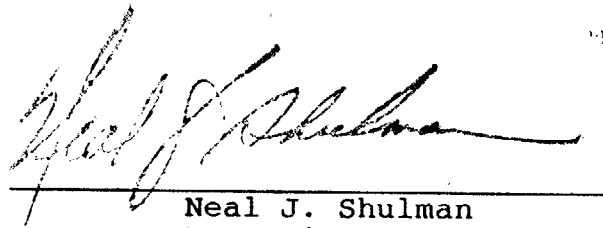
July 20, 1994

**THEREFORE, IT IS ORDERED that:**

1. Southern California Gas Company's proposal for a pilot auction of 25% of its Low-Income Weatherization program is approved with modifications to the categories of qualifications and possibly the weight on price.
2. The protests from The East Los Angeles Community Union, the Association of Southern California Energy Providers, the Insulation Contractors Association, and SESCO, Inc. are denied to the extent that they requested Commission action.

This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on July 20, 1994. The following Commissioners approved it:



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Neal J. Shulman  
Executive Director

DANIEL Wm. FESSLER  
President  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
P. GREGORY CONLON  
JESSIE J. KNIGHT, Jr.  
Commissioners