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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY
AND COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-3140
November 22, 1994

RESOLUTION

RESOLUTION G-3140. SOUTHERN CALIFORNIA GAS COMPANY NOTIFICATION OF INTENT TO IMPLEMENT A REDESIGNED TOTAL ENERGY EFFICIENCY MANAGEMENT (TEEM) PILOT PROGRAM, REQUEST FOR APPROVAL OF ITEMIZING TEEM CHARGES ON CUSTOMER BILLS, ESTABLISHMENT OF A TEEM PILOT MEMORANDUM ACCOUNT, AND APPROVAL OF THE SERVICE CHARGE FINANCING OPTION, IF NECESSARY.

BY ADVICE LETTER NO. 2329-G filed on July 15, 1994.

SUMMARY

1. In this advice letter, Southern California Gas Company (SoCal) notifies the California Public Utilities Commission (Commission) of its intent to implement its redesigned pilot program for Total Energy Efficiency Management (TEEM), described in Advice Letter 2329-G and its attachments, as a self-funded program supported by shareholder funds and third-party financing.

2. SoCal seeks approval to show TEEM-related charges on a participant's gas bill and to establish a memorandum account to record the direct implementation costs of the TEEM pilot.

3. SoCal seeks to return to ratepayers funds authorized for TEEM in its 1994 General Rate Case (GRC).

4. This resolution authorizes SoCal to engage in the TEEM program on a pilot basis, with certain clarifications, approves SoCal's requested tariff changes, and requires SoCal to participate in an evaluation on the impact of the pilot on the competitive market. This resolution sets forth additional criteria which must be satisfied before implementation of this program.

5. The Division of Ratepayer Advocates (DRA) filed a protest on several aspects of SoCal's filing. Although the protest is denied, DRA's comments are acknowledged and certain clarifications are set forth in the resolution to address these issues.

BACKGROUND

1. In Decision (D.) 93-12-043, the Commission authorized funding for SoCal's proposed TEEM program. The original TEEM program was designed as a ratepayer-funded activity with an annual budget of $332,000. TEEM funds were to be used to coordinate energy efficiency analysis and provide nonresidential customers with fuel-neutral energy efficiency information consistent with the Commission's demand-side management (DSM) rules. Funds were not for the purchase or installation costs of energy efficient equipment.

2. With this advice letter, SoCal is notifying the Commission that it has significantly redesigned the previously adopted TEEM program. The redesign is intended to make TEEM more customer focused and "more attractive for customers to invest in energy-savings projects without relying on ratepayer subsidies." (AL 2329, p.2) The redesigned TEEM will arrange for third-party financing for nonresidential customer energy efficiency project costs and SoCal's shareholders will fund all of the direct implementation costs.

3. Because the redesigned TEEM will not utilize ratepayer funding, SoCal believes that the Commission's adopted DSM rules do not apply to TEEM projects. Projects will be designed to be fuel-neutral and to provide the most cost-effective energy solution from the customer's perspective. SoCal will provide project management and accountability and will coordinate with qualified trade allies to implement projects. SoCal will charge customers a management fee for its services. Energy efficiency savings will provide the source of funds for participating customers to repay the project costs, as well as SoCal's management fee. To the extent rebates are available, TEEM projects may utilize them. The Commission's DSM rules will apply to rebated measures, but SoCal will not claim shareholder earnings for those measures.

4. According to SoCal, participants, ratepayers, society, and the energy services industry will all benefit from TEEM. Participants will be able to finance and implement energy efficiency projects that would not otherwise be pursued, using energy cost savings generated by the project to repay its costs. Ratepayers will benefit through the reduction in ratepayer-funded programs since shareholders will fund TEEM costs. Society will benefit from the achievement of gas and electric savings and the impact SoCal expects TEEM to have on business retention and expansion and environmental improvement. SoCal believes TEEM will benefit the energy services industry by improving access of qualified trade allies to market opportunities and by leveraging each party's unique strengths.

5. As proposed, TEEM is a pilot program which SoCal intends to operate through 1996.[1] SoCal anticipates developing $60 million in projects through 1996. Shareholder funds will support the marketing and administrative costs of TEEM, and third-party financing will support the project costs. SoCal anticipates it will utilize $0.5 million in shareholder funds to implement TEEM through the pilot period. TEEM does not use ratepayer funds to cover administrative costs but it will rely on certain ratepayer supported functions of SoCal, such as billing, customer lists, utility reputation and expertise.

6. The $60 million targeted investment level will be used to finance investments in energy efficiency equipment and services with customer repayment through a charge which appears on regular utility billings. Three financing options will be available to participating customers: Direct Loan/Lease; Master Lease; and Service Charge. SoCal expects 90% of TEEM projects will be financed through the Direct Loan/Lease option. SoCal's project management fee, and any principal or interest to be collected by SoCal will appear on the customer's bill as a line item.

7. SoCal will evaluate the three financing options and recommend to the participants the one that best meets their needs. These options allow the customer, lender, and SoCal to evaluate risks they are most familiar with, and determine their acceptability. The Direct Loan/Lease option will utilize third-party lenders, who will assess and assume normal lending risks. SoCal's shareholders will only back the design performance under this option. The Master Lease option will use SoCal's existing Master Lease to sublease the project to the customer at a competitive interest rate. The customer will deal directly with SoCal. The final option, Service Charge, will utilize shareholder funding to finance the entire project. The service charge will be set to recover SoCal's authorized rate of return.[2]

8. Prospective customers will be identified by account executives specifically trained to market TEEM. Customers who are selected will be prequalified by SoCal. The initial target market includes government facilities, institutional, commercial, and industrial customers. SoCal has established additional project selection criteria to determine if projects qualify for TEEM.

9. Project implementation will be provided either by customer-selected contractors or trade allies which have been pre-qualified by SoCal. All customer selected contractors need to

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1 At various points throughout the Advice Letter, SoCal refers to 2.5 year pilot (p.9) or 3 year pilot (p.1).
2 This option is most similar to what Southern California Edison Company (Edison) offers through its ENvestSCE pilot.

meet SoCal's pre-qualification criteria. SoCal will provide an 18-36 month technical performance assurance to assure the project performs to specifications, will negotiate warranties that extend throughout this period, and will represent customers on warranty claims during this period. Throughout the life of the contract (10-15 years), SoCal will provide technical assistance as specified in the contract.

10. An activity-based costing system will be implemented with separate accounts to record existing utility employees' time spent in the sale and marketing of TEEM. This system will be used to develop direct cost reports, determine costs to be repaid to ratepayers, and determine funds available for sharing between shareholders and ratepayers. The accounts will be monitored closely by SoCal to ensure that all direct TEEM related charges are included, and that shareholders bear all the direct costs of TEEM. All direct expenses incurred to promote, supervise, and implement the TEEM pilot and individual projects will be accrued in separate expense accounts and charged directly to TEEM. These expenses include all direct supervision, and marketing costs such as advertising, sales calls, training, and proposal preparation, as well as assignable master lease and bad debt expense, and any project related depreciation, sales, franchise, and property taxes accrued by SoCal. These will be recorded in the TEEM memorandum account.

11. SoCal proposes a "banded earnings" sharing formula that provides gas ratepayers the potential to share in TEEM's financial success. Under this approach, gas ratepayers will be insulated from downside risks, which will be borne by shareholders, but will share some upside potential if cumulative earnings through 1996 exceed a targeted earning level necessary to compensate investors for taking the risks associated with entering a new market. SoCal states that it is providing ratepayers the opportunity to share in the program's financial success because of the value of ratepayer-supported intangible assets, such as SoCal's reputation, expertise, customer lists, and utility information. SoCal proposes that shareholders keep cumulative earnings totaling up to 20% of the original capital cost of all energy efficiency projects in service by December 31, 1996. SoCal proposes that ratepayers receive 25% of earnings beyond that level.

12. SoCal proposes that TEEM costs that are currently reflected in rates be credited to ratepayers through a memorandum account or its annual attrition filing.

13. On July 15, 1994, SoCal filed Advice Letter 2329-G. On September 19, 1994, SoCal submitted substitute pages.

14. On September 19, 1994, SoCal sent a letter to DRA accepting one of the conditions proposed by DRA in a prior letter.

NOTICE

The original Advice Letter was noticed in accordance with section III of General Order 96-A by publication in the Commission Calendar and distribution to SoCal's advice filing service list.

PROTESTS

1. CACD has received a timely filed protest from DRA. CACD has received a letter of support for SoCal's proposal from Southern California Edison Company (Edison). On August 11, 1994, SoCal submitted a response to DRA's protest.

2. On September 9, 1994, DRA sent a letter to the Energy Branch Chief stating DRA's willingness to withdraw its protest if certain conditions were adopted. SoCal responded directly to DRA on September 19, 1994, with a copy to the Energy Branch Chief, that all but one condition were unacceptable. The issues raised in these letters and the initial protest will be addressed fully below.

DISCUSSION

1. The first issue which must be resolved is procedural. DRA has taken issue with SoCal's presentation of a program of this size and scope through the Advice Letter forum. DRA argues that SoCal should have filed a petition to modify its GRC decision in order to change this program. CACD shares these concerns. However, SoCal has presented the redesigned TEEM as a pilot of limited duration which does not utilize ratepayer funds and does not result in a withdrawal of service. Program modifications, although generally of smaller scale than this redesign, have previously been handled in Advice Letters. For these reasons, CACD believes that this request can be handled through the Advice Letter forum and recommends this aspect of the protest be denied. However, CACD cautions SoCal, and all utilities interested in presenting new programs and services to the Commission, to carefully consider the appropriateness of the Advice Letter forum for new activities.

2. SoCal believes that TEEM moves the company in a direction that is consistent with the Commission's proposals in Rulemaking (R.) 94-04-031. In that proceeding, the Commission has proposed that ratepayer DSM funding be curtailed or reduced and that participants pay a greater portion of the costs of energy efficiency programs. TEEM does not rely on ratepayer-funded incentives as a program element and seeks no shareholder earnings on DSM measures for which a customer may qualify. Under TEEM, the shareholder earnings are derived from profits made in the sale of services willingly purchased by customers. CACD commends SoCal for attempting to address, through the design of new program offerings, some of the issues the Commission has raised in its Electric Restructuring proceeding and other forums. In general, CACD believes that the TEEM program, on a pilot basis, provides a new delivery mechanism for

energy efficiency which should be explored, and therefore, recommends authorization of the TEEM pilot as clarified below.

3. DRA, in its protest, identifies accounting problems created by TEEM as one of its major concerns. DRA believes that there will be opportunity for costs to be improperly allocated between ratepayers and shareholders because TEEM continues to utilize ratepayer funded assets to implement projects. Although SoCal has stated it is developing an activity based costing system in order to properly charge costs to its shareholders, CACD shares DRA's concern over this issue. Not properly charging shareholders for the use of ratepayers assets could cause ratepayers to subsidize TEEM projects. CACD recommends that SoCal be required to provide the details of its activity-based costing system to DRA and CACD in the early implementation stage and to work with DRA to ensure that costs will be properly charged to ratepayers and shareholders. These accounting policies and internal controls should be submitted to CACD and DRA no later than 90 days following the date of this resolution. Efforts should be made to develop costs for all ratepayer assets utilized including those SoCal has identified as intangible. In its August 11, 1994 response to DRA's protest, SoCal agreed to meet with DRA and discuss these issues.

4. SoCal proposes establishing a memorandum account to track the direct costs and project revenues associated with TEEM projects; however, tariff language was not submitted as part of this advice letter. CACD recommends that the Commission require SoCal to submit appropriate tariff sheets to implement the memorandum account as described in its advice letter, consistent with changes herein, within 30 days of the effective date of this resolution. CACD also recommends that this language be reviewed with CACD and DRA prior to submission. This language should also address how TEEM costs already in rates should be returned to ratepayers.

5. CACD suggests that SoCal establish a regulatory monitoring group for TEEM consisting of representatives of SoCal, DRA, and CACD. This will allow for consultation regarding ongoing accounting issues, updates on TEEM's progress, coordination of the competitive impacts evaluation (as discussed below), and other implementation issues as they arise.

6. In its advice letter, SoCal states that since the redesigned TEEM will not utilize ratepayers funds, projects will not be subject to Commission rules for DSM program cost effectiveness. DRA believes that the DSM policy rules are important, regardless of the source of funding, and should be adhered to. DRA is specifically concerned with TEEM's impact on SoCal's activities in the areas of fuel substitution, load retention, and load building. The Commission's DSM policy rules were intended to regulate programs funded by ratepayer dollars as a means of protecting all ratepayers and to promote public policy goals. In the TEEM program, only participating customers pay for the benefits they are individually receiving. Shareholders, not ratepayers, assume the risk of successful

project implementation. TEEM is distinct from Edison's ENvestSCE pilot in that Edison's program does have a ratepayer funding component. Therefore, CACD does not see this issue as one which should delay implementation of TEEM. CACD does not recommend that TEEM projects be subject to Commission DSM rules as recommended by DRA.

7. Additionally, DRA recommended, in its September 9, 1994 letter to the Energy Branch Chief, that each TEEM project be subject to the reasonableness review provisions adopted for Edison's ENvestSCE pilot. SoCal's response indicated their interpretation of the reasonableness review provision in the Resolution authorizing ENvestSCE to apply only to the use of ratepayer funds. Since TEEM does not use ratepayer funds, SoCal argues no reasonableness review is appropriate. CACD agrees with SoCal that it is not appropriate to require a reasonableness review for the use of shareholder funds. However, the manner in which SoCal allocates costs between ratepayers and shareholders for use of ratepayer assets is a valid subject to be included in a reasonableness review. For this reason, CACD strongly encourages SoCal to work with DRA to resolve these concerns throughout the implementation period.

8. DRA also recommended that SoCal limit the eligibility to participate in TEEM to noncore customers as a means of reducing cost allocation concerns. SoCal responded that it strongly believes core and noncore customers will benefit from TEEM and that no such limitations on participation by core customers be imposed. CACD does not believe that DRA's proposal will significantly reduce cost allocation issues and therefore does not recommend limiting TEEM eligibility to just noncore customers.

9. Also in its September 9, 1994 letter, DRA recommended that SoCal's shareholders reimburse ratepayers 2% of project costs for use of utility information, customer lists, reputation, and expertise. SoCal responded that the banded earnings sharing mechanism it has proposed provides adequate compensation to the ratepayers for such intangible assets. CACD believes that compensation for shareholder use of ratepayer assets is extremely important in establishing fair competition in the energy services industry. CACD recommends that SoCal be required to work with DRA to develop costs for these intangible assets for incorporation into the costing system. (For example, see the recommendation below regarding customer information) If, after working with DRA, no costs are developed for certain assets, that information should be reported to the regulatory monitoring group. CACD recommends that the competitive impacts evaluation (discussed below) investigate the value of these assets as well. Provided that such effort is made to assign costs to such assets, CACD recommends that SoCal's sharing mechanism be set forth in the memorandum account language, as described in the Advice Letter and be approved, and DRA's recommended 2% compensation be denied.

10. SoCal has requested authority to show TEEM-related charges on a participant's gas bill. CACD believes that SoCal already has this ability without the need for Commission approval. However, CACD recommends that SoCal be required to include within its costing system, and charge to shareholders, the costs associated with using its billing system to reflect TEEM related charges.

11. SoCal has requested that the Commission determine whether its proposed Service Charge financing option for TEEM requires Commission approval pursuant to Section 532 of the Public Utilities Code, and if so, requests that the Commission approve the Service Charge option. As proposed by SoCal, the Service Charge option would allow SoCal to provide shareholder funds to implement TEEM projects with customer repayment through a line item on the bill. The customers would continue to pay the tariffed rate and be subject to existing rules set forth in the tariffs unless modified by its TEEM contract. CACD does not believe this financing option constitutes a rate discount or requires Commission approval under Section 532.

12. As stated above, CACD is generally supportive of SoCal's requests in this filing. However, CACD is concerned with the potential impacts of the pilot program on the competitive market. DRA has expressed a similar concern in its protest. SoCal has stated its belief that this program will expand the market for energy efficiency. As discussed in D.92-09-080, Chapter 984 of the Statutes of 1983 expresses the legislature's intent that the energy efficiency market develop in a competitive manner, free from the dominance of utilities, but it does not specify the manner in which the Commission should ensure this outcome. Testing new delivery mechanisms, such as TEEM, as pilots will provide empirical evidence that will assist the Commission in fulfilling its mandate as expressed in Chapter 984 of the Statutes of 1983.

13. Although CACD agrees that the use of third party participants in the energy services market is likely to expand under this program, CACD has serious concerns that the role SoCal has established for itself provides it with considerable market power, given its access to customer information and the existing marketing infrastructure. Other companies have no ready access to customer information and would be required to pay for access. In fact, the Commission's DSM bidding pilots contain provisions for winning bidders to pay the host utility for customer information. CACD recommends that SoCal's shareholders be charged for use of customer information consistent with the fee schedules set forth in its DSM bidding pilot RFP.

14. SoCal plans to evaluate the TEEM pilot, but, its review will not focus on the impact of the TEEM pilot on the competitive market. SoCal has indicated that it does not intend to await Commission approval before moving to full implementation of TEEM. Because the competitive impacts are so uncertain (both positive and negative), CACD recommends that

SoCal await the evaluation of these impacts before it determines whether to move to full implementation of some form of TEEM. The results of this evaluation will assist the Commission in determining whether the TEEM pilot is consistent with Chapter 984 of the Statutes of 1983 or subsection 111(c) of PURPA.

15. Because the competitive impacts evaluation will affect the determination of the appropriateness of the move to full implementation, CACD recommends that the evaluation occur independently from SoCal's internal evaluation. In authorizing Edison to engage in ENvestSCE, the Commission required an evaluation of that pilot's competitive impacts. CACD recommends that the scope of that evaluation be expanded to incorporate the TEEM pilot, with funding to be split evenly between SoCal and Edison. CACD recommends that SoCal's shareholders pay for the cost of evaluating the competitive impacts of the pilot.

16. Such an evaluation, at a minimum, should include findings regarding the consistency of the TEEM pilot with the policies expressed in Chapter 984 of the Statutes of 1983. This evaluation will also provide important information to allow the Commission to make an informed decision regarding the appropriateness of moving to full implementation of some form of TEEM in the future. This evaluation should serve to mitigate the concerns raised by DRA that TEEM will negatively impact development of a competitive market for energy efficiency products and services. In its September 19, 1994 letter responding to DRA, SoCal agreed to cooperate with this evaluation as ordered by the Commission.

17. SoCal should operate the pilot in a manner which does not impinge on the development of a competitive market. This includes informing potential program participants that SoCal is not the sole provider of these types of services; in other words, customers should be able to make an informed choice. CACD recommends that these issues be subject to evaluation.

18. CACD is also concerned that SoCal has not adequately described how it will determine "qualified" third party providers of energy efficiency services. CACD recommends that SoCal consult with market participants in designing eligibility criteria for its trade allies. CACD believes that, in developing these criteria, SoCal could alleviate some of the perceived risk associated with energy efficiency projects. SoCal should develop qualification criteria consistent with the Commission's Women, Minority, Disabled Veteran Owned Business Enterprises guidelines. CACD expects that the criteria developed for third party qualification will be consistent with Chapter 984 of the Statutes of 1983. CACD recommends that the competitive impacts evaluation further explore this issue.

19. DRA raises the issues of coordination with Edison's programs in its protest. In SoCal's 1994 GRC, the Commission required SoCal to coordinate its DSM offerings more closely with Edison. SoCal states that coordination between two large competitors (SoCal and Edison) poses legal problems. However,

SoCal states that it is willing to attempt to coordinate with Edison regarding the potential for electric savings at customer sites. This level of coordination was adopted for Edison's EnvestSCE pilot and CACD recommends it be adopted for TEEM. CACD recommends that the coordination activities between SoCal and Edison be addressed in these utilities' joint advisory committee. CACD also recommends that the evaluation of competitive impacts explore whether these coordination activities are consistent with the development of the competitive market. CACD encourages SoCal and its trade allies to provide participating customers with full information regarding potential solutions in a fuel-neutral manner. The fuel neutrality of the TEEM solution packages should be considered in the Commission's evaluation. CACD believes these clarifications adequately address DRA's protest and therefore, the protest should be denied.

FINDINGS

1. SoCal filed Advice Letter 2329-G on July 15, 1994 to request Commission authorization to itemize TEEM charges on a customer's bill, establish a TEEM pilot memorandum account, and approval of the Service Charge financing option, if necessary.

2. SoCal's proposed redesign of TEEM is intended to improve the utility's ability to capture energy efficiency opportunities in its service territory.

3. This request can be addressed through a Commission Resolution because of its pilot nature.

4. SoCal's allocation of costs between ratepayers and shareholders for the use of ratepayer assets is an appropriate subject for reasonableness review.

5. Thorough analysis and evaluation of the competitive impacts of the pilot is desirable before moving to full implementation of TEEM.

6. An independent evaluation of the competitive impacts is important. Such an evaluation, at a minimum, should include findings regarding the consistency of the TEEM pilot with the policies expressed in Chapter 984 of the Statutes of 1983.

7. The program description in Attachment B to Advice Letter 2329-G, not specifically referred to above, is acknowledged.

THEREFORE, IT IS ORDERED that:

1. Southern California Gas Company's Advice Letter 2329-G is authorized subject to the following modifications:

    a. Southern California Gas Company shall withdraw its request for approval to show Total Energy Efficiency Management (TEEM) charges on participant's gas bill;

    b. Southern California Gas Company shall withdraw its request for approval of the Service Charge option;

    c. Southern California Gas Company shall revise its Advice Letter to establish a regulatory monitoring group as described herein;

    d. Southern California Gas Company shall expand its activity-based costing system to include additional ratepayer assets as described herein. The accounting policies and internal controls established for this pilot shall be filed with CACD and DRA no later than 90 days following the date of this Resolution;

    e. Southern California Gas Company shall revise its Advice Letter to incorporate tariff sheets implementing the TEEM memorandum account and establishing the procedures for returning funds to ratepayers, as described herein.

2. Should Southern California Gas Company choose to implement the TEEM pilot as modified, and after consultation with the Commission Advisory and Compliance Division and the Division of Ratepayer Advocates, it shall file by December 22, 1994 a supplemental advice letter with tariff sheets, consistent with this Resolution. The supplemental advice letter shall be effective on the date filed.

3. Advice Letter 2329-G shall be marked to show that it has been superseded and supplemented by a supplemental advice letter containing the tariffs and revised program language.

4. Southern California Gas Company's proposed sharing method is approved.

5. The Commission Advisory and Compliance Division (or its consultant) shall conduct an evaluation of the competitive impacts of this pilot in conjunction with its evaluation of Southern California Edison Company's ENvestSCE pilot, with evaluation costs equally shared by Southern California Gas Company and Southern California Edison Company. Southern California Gas Company's share shall be funded by Southern California Gas Company shareholders.

6. Southern California Gas Company shall operate the TEEM pilot in a manner consistent with the development of an energy efficiency industry that is competitive and free from utility dominance and which enables customers to make informed choices.

7. The protest of the Division of Ratepayer Advocates is denied in full except as specified herein.

8. This Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities commission at its regular meeting on November 22, 1994. The following Commissioners approved it:

NEAL J. SHULMAN
Executive Director

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