

**DRAFT**

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**ENERGY DIVISION**

**ITEM#30 I.D.# 6731**  
**RESOLUTION G-3401**  
**June 21, 2007**

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

Resolution G-3401. Southern California Gas Company (SoCalGas).  
This resolution approves SoCalGas Advice Letter 3737-G.

By Advice Letter 3737-G. Filed on April 27, 2007.

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**SUMMARY**

This resolution approves SoCalGas Advice Letter 3737-G requesting permission from the California Public Utilities Commission ("Commission" or "CPUC") under Public Utilities ("PU") Code section 851 to dispose of the underlying Visual Basic computer code of the Expected Performance Based Buydown (EPBB) Calculator.

**BACKGROUND**

Utilities proposing to sell, lease, dispose of, or otherwise encumber property must comply with PU Code Section 851. Under recent amendments to PU Code Section 851, for certain transactions valued at \$5,000,000 or less, the utility can file an advice letter and obtain a resolution from the Commission authorizing the transaction. The Commission has initiated a pilot program per Resolution ALJ-186 that provides certain criteria required for a PU Code Section 851 transaction to qualify for advice letter treatment.

On April 27, 2007, SoCalGas filed Advice Letter 3737-G requesting permission from the Commission to dispose of an asset SoCalGas considers a used and useful ratepayer-funded asset. SoCalGas believes this transaction falls within Resolution ALJ-186. Protests or comments were due to the Commission on May 17, 2007; no protests or comments were filed.

In Advice Letter 3737-G, SoCalGas provided the following information about the transaction:

- Pursuant to Ordering Paragraph No. 9 of Decision 06-08-028 dated August 24, 2006, the Self-Generation Incentive Program (SGIP) working group (WG) undertook an effort to develop a tool that would assist in determining incentive payments for customers. The tool is referred to as the EPBB Calculator. The purpose of the tool is to determine the appropriate EPBB rebate amount for customer-owned Photovoltaic (PV) projects taking into account a number of customer-specific parameters relative to an optimal reference system, e.g. geographic location, tilt of solar panels, and shading.
- As chair of the SGIP WG, SoCalGas led the contracting effort in developing the EPBB Calculator. This included developing a Request for Proposal (RFP), selecting a vendor, and executing a contract. An RFP was let on September 21, 2006, and a contract for less than \$100,000 was executed on November 2, 2006. The tool was available for use in conjunction with the CSI program commencement on January 1, 2007. While the tool is open to the public for use<sup>1</sup>, the public does not have access to the underlying Visual Basic computer code.
- The underlying Visual Basic code is a used and useful utility asset.
- The disposal of the underlying Visual Basic computer code has no potential to result in physical changes to the environment and therefore is not a "project"<sup>2</sup> under the California Environmental Quality Act ("CEQA"). Accordingly, the correct level of CEQA review in this case is none<sup>3</sup>. There are no direct physical changes or reasonably foreseeable

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<sup>1</sup>The EPBB Calculator is available to the public at the following site: <http://www.csi-epbb.com/>

<sup>2</sup> Section 15378(a) of the CEQA Guidelines defines the term "project" as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment..."

<sup>3</sup> See Decision 06-09-039 at p. 167, where the Commission stated: "In order for CEQA to apply, there must be a project."

indirect physical changes in the environment that could result from disposing of the computer model; therefore no CEQA review is required.

- Resolution ALJ-186 requires that to use its pilot advice letter process, the transaction will not have an adverse effect on the public interest.
- On April 18, 2007 the Energy Division asked SoCalGas to make the EPBB calculator's Visual Basic computer code public by posting it to the Internet. This was discussed and approved at the April 19, 2007 California Solar Initiative (CSI) WG meeting. SoCalGas believes that the proposed transaction is in compliance with a specific Energy Division request and is not adverse to the public interest.

## **NOTICE**

Notice of Advice Letter 3737-G was made by publication in the Commission's Daily Calendar. SoCalGas states in Advice Letter 3737-G that a copy of the advice letter was mailed and distributed in accordance with Resolution ALJ-186.

## **PROTESTS**

No protests or comments to SoCalGas Advice Letter 3737-G were filed.

## **DISCUSSION**

We have reviewed SoCalGas Advice Letter 3737-G and find that it does not satisfy criteria for inclusion in the pilot program identified in Resolution ALJ-186. Specifically, Resolution ALJ-186 applies where there is a statutory or categorical exemption under CEQA or where the Commission is only a responsible agency. (Resolution ALJ-186, Appendix B, Section II.A.1.) Here, there is no "project" under CEQA, as discussed below.

We find that Advice Letter 3737-G is exempt from CEQA. The EPBB Calculator is already available to the public for use in making decisions about PV projects. Accordingly, the Commission's approval of the disposal of the underlying Visual Basic computer code has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment within the meaning of CEQA Guideline 15378(a). Therefore, approval of the disposal of the underlying Visual Basic computer code does not

meet the definition of a “project” as provided in CEQA Guideline 15378. In accordance with CEQA Guideline 15060(c)(3), CEQA does not apply here.

We approve this transaction for the following reasons. The Commission’s Energy Division asked SoCalGas to make this computer code available to the public to support the transparency of the calculation of the incentives through the Commission's Solar Initiative. Thus, approval of this transaction will not have an adverse effect on the public interest but rather will serve the public interest.

### **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

### **FINDINGS**

1. On April 27, 2007, SoCalGas filed Advice Letter 3737-G requesting permission from the Commission to dispose of an asset SoCalGas considers a used and useful ratepayer-funded asset.
2. SoCalGas believes this transaction falls within Resolution ALJ-186.
3. Protests or comments were due to the Commission on May 17, 2007; no protests or comments were filed.
4. Pursuant to Ordering Paragraph No. 9 of Decision 06-08-028 dated August 24, 2006, the Self-Generation Incentive Program (SGIP) working group (WG) undertook an effort to develop a tool that would assist in determining incentive payments for customers.
5. The tool is referred to as the EPBB Calculator.
6. While the tool is open to the public for use, the public does not have access to the underlying Visual Basic computer code.
7. The underlying Visual Basic code is a used and useful utility asset.
8. The disposal of the underlying Visual Basic computer code has no potential to result in physical changes to the environment and therefore is not a “project” under the California Environmental Quality Act (“CEQA”).
9. There are no direct physical changes or reasonably foreseeable indirect physical changes in the environment that could result from disposing of the computer model; therefore no CEQA review is required.

10. Resolution ALJ-186 requires that to use its pilot advice letter process, the transaction will not have an adverse effect on the public interest.
11. On April 18, 2007 the Energy Division asked SoCalGas to make the EPBB calculator's Visual Basic computer code public by posting it to the Internet.
12. This was discussed and approved at the April 19, 2007 California Solar Initiative (CSI) WG meeting.
13. SoCalGas believes that the proposed transaction is in compliance with a specific Energy Division request and is not adverse to the public interest.
14. We have reviewed SoCalGas Advice Letter 3737-G and find that it does not satisfy criteria for inclusion in the pilot program identified in Resolution ALJ-186.
15. Resolution ALJ-186 applies where there is a statutory or categorical exemption under CEQA or where the Commission is only a responsible agency. (Resolution ALJ-186, Appendix B, Section II.A.1.)
16. There is no "project" under CEQA.
17. We find that Advice Letter 3737-G is exempt from CEQA.
18. The EPBB Calculator is already available to the public for use in making decisions about PV projects.
19. The Commission's approval of the disposal of the underlying Visual Basic computer code has no potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment within the meaning of CEQA Guideline 15378(a).
20. Approval of the disposal of the underlying Visual Basic computer code does not meet the definition of a "project" as provided in CEQA Guideline 15378.
21. In accordance with CEQA Guideline 15060(c) (3), CEQA does not apply here.
22. The Commission's Energy Division asked SoCalGas to make this computer code available to the public to support the transparency of the calculation of the incentives through the Commission's Solar Initiative.
23. Approval of this transaction will not have an adverse effect on the public interest but rather will serve the public interest.

**THEREFORE IT IS ORDERED THAT:**

1. The request of SoCalGas requesting permission from the Commission to dispose of the underlying Visual Basic computer code of the Expected Performance Based Buydown Calculator per Advice Letter 3737-G is approved.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 21, 2007; the following Commissioners voting favorably thereon:

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Paul Clanon  
Executive Director