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Mailed 12/4/01

Decision 01-11-068 November 29, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Gas Company for Authority to Discontinue New Installations of Earthquake Valves on Its Facilities, and to Recover the Costs of Inspecting Earthquake Valves Already Installed. (U 904 G)	Application 00-07-040 (Filed July 24, 2000)

Glen J. Sullivan and Dale Bailey, Attorneys at Law, for Southern California Gas Company, applicant.
Mark Joseph, Attorney at Law, for Coalition of California Utility Employees; Patrick J. Power, Attorney at Law, for Smart Safety Systems; and Les Saffil, for SSP Wrench-Free Gas Shut-Off Valve Company, Little Firefighter Gas Safety Products, and Plumbing-Heating- and Cooling Contractors of California; interested parties.

OPINION

1. Summary

The Commission grants Southern California Gas Company (Applicant) authority to discontinue installations (whether by itself or by others) of automatic earthquake gas shut-off valves (EQVs) on its side of the meter. We also authorize Applicant to raise or establish certain rates and charges related to existing EQVs. Although Applicant may continue its inspections of existing EQVs not previously inspected, we do not authorize it to recover its inspection costs from core customers.

2. Background

In 1995, we authorized Applicant to offer a pilot program for installation of EQVs. In Decision (D.) 96-09-044, we closed the pilot program to new customers and approved Applicant's request to allow contractors to install EQVs on its side of the meter. We did not require Applicant to inspect installations by qualified contractors. In D.98-08-032, the Commission approved Applicant's proposal to institute inspections and charge a fee to contractors for the inspections on an interim basis. The percentage of installations inspected would depend on the record of the individual contractor.

In D.00-06-038, the Commission ordered Applicant to comply with all applicable state and federal codes and regulations when contractors install EQVs on its facilities. The decision also directed Applicant to inform the Commission of its schedule and method for inspecting contractor installations not previously inspected if it believes that it would be good utility practice to do so. Applicant was allowed to request recovery of resulting costs.

On July 24, 2000, Applicant filed this application to discontinue installation of EQVs on its side of the meter, as described more fully below.

3. Procedural History

On August 25, 2000, a protest was filed by SSP Wrench-Free Gas Shut-Off Valve Company, Little Firefighter Gas Safety Products, and Plumbing-Heating-and Cooling Contractors of California (Joint Protestants). On August 28, 2000, a protest was filed by Smart Safety Systems (SSS).

By Resolution ALJ 176-3044, dated August 3, 2000, the Commission preliminarily categorized this application as a ratesetting proceeding that was not expected to go to hearing. A prehearing conference was held on October 26, 2000. At the prehearing conference, Administrative Law Judge (ALJ) Jeffrey P.

O'Donnell asked the Applicant to put into the record information relating to, among other things, safety issues. Exhibit SCG-2 responds to the ALJ's request. Assigned Commissioner Carl Wood's November 7, 2000 scoping ruling confirmed the category, determined that hearings were needed, defined the issues, established a schedule and designated ALJ O'Donnell as the principal hearing officer. Evidentiary hearings here held on February 20, 2001. The matter was submitted on May 3, 2001.

4. The Application

Applicant requests authority to do the following:

- Discontinue permission for any new installations of EQVs on its side of the meter, including installations by Applicant or contractors working for Applicant.

- Recover in rates the actual costs of inspecting and repairing those EQVs already installed by authorized independent contractors on Applicant's side of the meter that Applicant has not previously inspected. The costs would be recovered from core customers.

- Set the charge for removal of EQVs on Applicant's pipelines at $83.28 plus materials for the first hour and $13.87 for every quarter hour thereafter, and eliminate the current transaction fee of $9.00.

- Set the charge for estimating the cost of removal of EQVs on Applicant's pipelines at $34.89, if removal is not authorized at the time of the estimate.

- Set the charge at $34.89 for any trip made to a customer's location for any reason due to the customer's, and not Applicant's, circumstances where removal of an EQV on Applicant's pipeline is not performed.

- Set the charge for restoration of gas service after an EQV shuts off gas for any reason at $63.39.

Applicant requests that it be authorized to modify its EQV program in the following manner if the Commission denies its request to discontinue it:

- EQV installations on Applicant's side of the meter would be allowed only for customers who are mandated to have EQVs by law.

- Installations would be done only by Applicant's personnel or, at its discretion, a contractor under contract with Applicant.

- Applicant would restrict the number of EQV manufacturers to a few approved by Applicant and, most likely, under contract with Applicant.

- Applicant would treat EQVs in the same manner as excess flow valves. Only Applicant would be allowed to install, maintain and replace EQVs. The customer would pay all costs for installation, maintenance and/or replacement when those costs are incurred.

5. Discontinuance of EQV Installations

Applicant initiated installation of EQVs on its side of the meter because it believed that such installations might prove to be less expensive than installations on the customer's side of the meter. Applicant now believes that it is not less expensive to do so. Applicant states the following reasons:

- D.00-06-038 placed responsibility on Applicant for compliance with all applicable state and federal codes and regulations when contractors install EQVs on Applicant's facilities.

- New safety regulations effective in 2002.

- Costs to remove and install EQVs have increased since they were first authorized in 1996.

- D.00-06-038 placed responsibility on Applicant for ongoing inspection and maintenance of EQVs installed on its side of the meter.

- The United States Department of Transportation adopted a new Operator Qualification Rule effective October 28, 2002. The effect of the rule is that Applicant's costs will increase because personnel working with EQVs on its facilities will have to have additional training.

Applicant is not willing to assume the increased risk resulting from its responsibility for compliance with all applicable state and federal codes and regulations when contractors install EQVs on its facilities. Applicant states that it is not compensated for the increased risk. Applicant also points out that no other California gas utilities allow installation of EQVs on their pipelines.

Joint Protestants (other than SSS) state that Applicant should not be allowed to discontinue new installations of EQVs on its side of the meter because EQV installation is required in some areas and may be required statewide in the future. In addition, installation on the customer's side of the meter would be more expensive. SSS, however, does not oppose discontinuance.

We conclude that the application should be granted in this respect. Applicant began its EQV program of its own volition. The program was intended to pay for itself. No ratepayers other than program participants were to have borne the cost of the program. We have not required other utilities subject to our jurisdiction to have such a program. Although, as some of the protests note, EQV installation is required in some areas, there is no requirement that EQVs be installed on the utility's side of the meter. Whether the program

continues or not, ratepayers will still have the ability to install EQVs. The installation costs will depend on engineering considerations, and may be site specific. As a result, we see no reason to require Applicant to allow additional installations of EQVs on its side of the meter. Therefore, Applicant will be authorized to discontinue allowing new installations on its side of the meter.

6. Recovery of Inspection Costs

Applicant states that, due to the fact that D.00-06-038 placed responsibility on it for compliance with all applicable state and federal codes and regulations when contractors install EQVs on its facilities, it must inspect all installations not previously inspected. This will result in approximately 52,000 inspections at a cost estimated not to exceed $400,000.

Applicant has begun its inspection program. As of December 17, 2000, it had performed 9,600 inspections. The inspections revealed 308 (3.2%) minor leaks and 87 (0.9%) cathodic protection deficiencies. The majority of the minor leaks and deficiencies occurred on EQVs installed prior to implementation of new standards that took effect on October 1, 1998. Applicant states that none of these minor leaks or deficiencies constitutes a serious safety issue or presents an immediate safety hazard. Applicant expects the results of the remaining inspections to be similar.

The customers and contractors who participated in the program chose to do so based on the rules and charges in effect at the time. Therefore, Applicant believes that charging the inspection costs to current participants would be unfair. Instead, Applicant proposes to recover the costs from all core customers. It says that the cost to individual core customers would be miniscule. Applicant states that there is a rationale for allocating the costs to all core customers because the inspections may avoid a mishap that could affect

members of the public in the vicinity of a customer with a faulty EQV installation. None of the protestants addressed the inspection cost issue.

We will deny the application with respect to recovery of inspection costs. Applicant has not demonstrated that the costs of further inspections are properly recoverable from core customers.

This is a program that was to be paid for by the participants who benefited from it. However, Applicant believes that charging the further inspection costs to participants would be unfair. Program participants decided to participate based on the costs specified at the time. If the additional inspection costs were to be charged to participants, Applicant would be changing the terms of the program after the fact. Had the participants known of the additional costs at the time, they may have chosen not to participate in the program. Therefore, we agree that to impose additional costs now would be unfair. However, this does not justify recovery of those costs from core customers.

If it would be unfair for program participants who benefited from the program to pay for the additional inspections, it would be much less fair to require ratepayers who did not benefit from the program to pay for them. While the Applicant must take all steps necessary to ensure the continued safe operation of these installations, it must rely on existing program revenues for this purpose.

7. The Proposed Charges

The existing charges were established in 1996. Applicant represents that its proposed charges are cost based. The proposed increases are due to increased pay scales and higher administrative costs. In some cases, more skilled personnel are needed to do the job, and/or increased time is needed.

The existing charge for EQV removal is a fixed charge of $47.50 plus a transaction charge of $9.00. Applicant proposes to charge $83.28 plus materials for the first hour and $13.87 for every quarter hour thereafter, and to eliminate the transaction charge.

The current "trip charge" for estimating the cost of removal of EQVs on Applicant's pipelines is $32.50. Applicant proposes to charge $34.89, if removal is not authorized at the time of the estimate. Applicant proposes to use the same $34.89 charge for any trip made to a customer's location for any reason due to the customer's, and not Applicant's, circumstances where removal of an EQV on Applicant's pipeline is not performed.

The existing charge for restoration of gas service after an EQV shuts off gas for any reason is $50.00. Applicant proposes to charge $63.39.

We will approve Applicant's proposed charges, which are not opposed by the other parties, and are supported by a detailed cost analysis.

8. SSS Proposal

SSS proposes that Applicant's meter and the by-pass tee be made available for purchase by the customer. The meter and tee would then be leased back to Applicant. The purpose of this proposal is to facilitate installation of SSS's EQV.

SSS's EQV is designed to be installed between the meter and the tee. Under its proposal, the installation would be on the customer's facilities. SSS's EQV utilizes the meter coupling to simplify installation, and the tee to avoid having to shutoff the customer's gas during installation. The result is a significant installation cost savings. SSS also represents that its proposal would mitigate Applicant's market power.

SSS states that its EQV is only in prototype form. It has not found a manufacturer at this time. SSS has not determined what its proposed purchase and lease-back program would cost Applicant to implement.

Applicant opposes SSS's proposal. Applicant argues that SSS's valve is still being designed, is still pending grant of patents, may never be financed, may never find a manufacturer, has never been installed on a gas service, and has not been certified to meet industry and government standards. Applicant states that it is not apparent that its customers will benefit from allowing SSS to install its valves on Applicant's facilities.

We do not believe that it would be appropriate to require Applicant to set up a program to benefit a specific EQV. Even if we were to consider SSS's proposal, it is premature and lacks sufficient information to be considered. We will not adopt it.

9. Applicant's Responsibility for Operation of EQVs

Applicant states that the Commission found in D.96-09-044 and D.00-06-038 that it is not responsible for the operation of customer-owned EQVs installed on its facilities, including leaks from the EQV itself. Applicant asks that the Commission again make that finding.

In D.96-09-044, the Commission approved Applicant's proposed tariff language regarding its EQV program. If there is something in Applicant's tariffs that is unclear, Applicant should propose a change in its tariffs. It has not done so here.

In D.00-06-038, the Commission found that Applicant bears the duty of ensuring the safety of its pipelines, including the portions that have EQVs installed on them. Therefore, Applicant must comply with all applicable state

and federal codes and regulations as well as the Commission's decisions. The applicable state and federal codes and regulations speak for themselves.

D.00-06-038 states that Applicant is responsible for the safety of its pipelines. The decision does not explicitly state that Applicant is responsible for the proper operation of the EQV in the event of an earthquake or for leaks in the EQV itself. In Ordering Paragraph 4 of D.00-06-038, the Commission stated: "SCG shall also state its position on how failures of the EQV device that it discovers during routine inspection at the meter are addressed with the EQV-owning customer and timely corrected by that customer." This is a requirement to provide information, nothing more.

Determination of whether Applicant is responsible for the proper operation of EQVs in the event of an earthquake or for leaks in the EQV itself would require, as a minimum, examination and interpretation of all of the applicable pipeline safety rules, regulations and codes, Applicant's tariffs for the EQV program, and Applicant's agreements, commitments and contracts related to the program. Applicant has made no showing in this proceeding that would allow us to make such a determination, even if we were to engage in such an advisory process. Therefore, we will not modify or further discuss our findings in D.96-09-044 and D.00-06-038.

10. Comments on Proposed Decision

On November 19, 2001, the alternate decision in this proceeding of Commissioner Wood was filed with the Commission and served on the parties in accordance with Section 311(d) of the Public Utilities Code and Rule 77.1 of the Commission's Rules of Practice and Procedure. Comments were filed by Smart Safety Systems.

Findings of Fact

1. A notice of the filing of the application appeared in the Daily Calendar on July 28, 2000.

2. Applicant began its EQV program of its own volition.

3. While EQV installation is required in some areas, there is no requirement that EQVs be installed on the utility's side of the meter.

4. Other utilities subject to our jurisdiction are not required to allow installation of EQVs on their facilities.

5. Applicant's proposed charges are reasonable.

6. Applicant's EQV program is supposed to be paid for by the participants who benefited from it.

7. No ratepayers, other than program participants, have directly benefited from the program.

8. EQVs installed on Applicant's side of the meter are installed downstream of the pressure regulator, and operate at the same pressure as the customer's facilities.

9. Serious gas leaks can easily be detected by smelling the odorant present in the gas, and would be quickly reported by the EQV customer or Applicant's meter readers performing routine safety checks while reading the meter.

10. The inspections by Applicant of EQV installations not previously inspected have revealed no serious safety issues or immediate safety hazards, and Applicant does not expect any to be found.

11. Charging the inspection costs to EQV program participants would be unfair.

12. Charging the inspection costs to core customers would be unfair.

13. Applicant has made no showing in this proceeding that would allow the Commission to determine whether Applicant is responsible for the proper operation of EQVs installed on its side of the meter in the event of an earthquake or for leaks in the EQV itself.

Conclusions of Law

1. Applicant's request to discontinue installation of EQVs on its side of the meter should be approved.
2. Applicant's proposed charges should be authorized.
3. Core customers should not be required to pay for the costs of inspecting EQVs not previously inspected.
4. Applicant's request to recover from core customers the costs of inspecting EQVs not previously inspected should be denied.
5. This decision should be made effective immediately to enable Applicant to discontinue EQV installations on its side of the meter and to implement the proposed charges without delay.

O R D E R

IT IS ORDERED that:

1. The request of Southern California Gas Company (Applicant) to discontinue installation of automatic earthquake gas shut-off valves (EQVs) on its side of the meter is granted.
2. Applicant's request to recover from core customers the costs of inspecting EQVs not previously inspected is denied.
3. Applicant may continue its inspections of existing EQVs not previously inspected.
4. Applicant's proposed charges are authorized.

5. Except as specifically provided for herein, the application is denied.
6. This application is closed.

This order is effective today.

Dated November 29, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY BROWN
Commissioners