

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION G-3344

MAY 8, 2003

R E S O L U T I O N

Resolution G-3344. San Diego Gas and Electric Company (SDG&E) and the Southern California Gas Company (SoCalGas) request authority to establish the Fumigation Turn-off/Turn-on Service Memorandum Account (FTOSMA). The utilities also request authority to revise their Rules to add a new Termination of Service for Fumigations section. The utilities' requests are partly approved and partly denied.

**By SDG&E Advice Letter 1351-G filed on November 22, 2002
By SoCalGas Advice Letter 3210 filed on November 22, 2002**

SUMMARY

SDG&E and SoCalGas are authorized to revise Rules 11 and 9 respectively to add a new Termination of Service for Fumigations section and to establish a warning notice to be secured to the meter set assembly and front door of the premises being fumigated.

This resolution denies both SDG&E's and SoCalGas' requests to establish an FTOSMA to track costs of rendering turn-off/turn-on service to buildings tented for fumigation.

Recovery of costs for utility turn-off/turn-on services should be sought via Z-factor treatment. SoCalGas has already filed a notice of Z-factor treatment.

SDG&E may submit a notice of Z-factor treatment for the expenses of turn-off/turn-ons for tented fumigation structures.

The Office of Ratepayer Advocates' (ORA) requests to establish a separate cost-based charge to fumigators or their customers and to establish a sunset date are

denied. Such a charge would provide an incentive for the fumigator or customer to perform the turn-off/turn-on service itself. In addition, Z-factor treatment should be used to recover these costs.

The parties have resolved the protest of the Pest Control Operators of California regarding service problems associated with SoCalGas' proposal.

BACKGROUND

Prior to 1998 Pacific Gas and Electric Company (PG&E) had a policy of training and certifying pest control contractors to turn off the natural gas service to a building before covering it with a fumigation tent.

As a result of an explosion and destruction of an apartment building during fumigation procedures in Santa Clara, California, Complaint (C.) 97-11-014 was filed against PG&E.

As a result of Decision (D.) 98-12-076, in C.97-11-014, PG&E established Rule 11.O. requiring fumigators to give notification to PG&E to discontinue and re-establish gas service to buildings that will be tented for fumigation. PG&E employees subsequently performed the turn-off/turn-on service.

On August 13, 2002 a natural gas explosion occurred in Torrance, California at a structure tented for fumigation. The cause of the explosion is currently under investigation. A letter from Assemblyman Jay La Suer to the Commission, dated October 4, 2002, warned that as a result of this accident, insurance carriers are threatening to either stop insuring fumigators or institute huge premium costs, neither of which is acceptable. The Assemblyman's letter pointed to PG&E's Rule 11.O. setting forth notification requirements for discontinuance and restoration of service to structures planned for fumigation.

Effective October 28, 2002 a new Department of Transportation (DOT) regulation¹ terminated the fumigation contractor's authorization to shut off and restore gas meter service before and after performing tented fumigation jobs.

¹ Department of Transportation Code of Federal Regulations Title 49, Part 192, Subpart N – Operator Qualifications.

Since then, SDG&E and SoCalGas consider that only utility employees are qualified to perform gas meter shut-off and restoration services in their service territories.

SDG&E and SoCalGas filed Advice Letters 1351-G and 3210, respectively, requesting a revision to their preliminary statements to allow a FTOSMA and revisions to SDG&E Rule 11 and SoCalGas Rule 9 to require fumigators to notify the utility before tenting any premises.

Both utilities requested revision of their Rules to include forms that can be secured to the meter set and the door of the premises warning that only utility personnel can restore gas service.

SDG&E and SoCalGas included the costs of turn-off/turn-ons in their cost of service applications and anticipate a decision effective January 1, 2004. SDG&E's cost of service application, A.02-12-028, and SoCalGas' A.01-12-027 were both filed on December 20, 2002.

Both Advice Letters (AL) 1351-G and 3210 request authority to track the incremental expenses of providing the turn-off/turn-on service to fumigators. As justification for the FTOSMA, SDG&E and SoCalGas point to the unforeseen nature of the DOT regulation and the one-year extension of their performance based regulation period. SDG&E and SoCalGas said they do not currently have the opportunity to receive compensation for the financial impact of costs associated with providing turn-off/turn-on services and request the establishment of the FTOSMAs to record the incremental costs. SDG&E and SoCalGas plan to include these incremental costs in their annual updates of gas regulatory account balances to be filed by advice letter in October 2003.

NOTICE

Notice of ALs 1351-G and 3210 was made by publication in the Commission's Daily Calendar. SDG&E and SoCalGas state that a copy of each Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

PROTESTS

SDG&E

On December 11, 2002, the Office of Ratepayer Advocates (ORA) protested AL 1351-G recommending that SDG&E establish a cost-based charge for this service. ORA said either the fumigation contractor or the customer should pay the cost of discontinuing and re-establishing service. ORA opposes any attempt to burden other customers with subsidizing those who require tented fumigation service.

ORA said SDG&E's proposal to track such costs incrementally is inconsistent with SDG&E's performance-based ratemaking mechanism (PBR) adopted in D.99-05-030. ORA said SDG&E's PBR places it at risk for its base revenues including differences between its actual costs incurred and those estimated costs used to develop rates. Since SDG&E will generate actual earnings above or below its authorized rate of return, there are specific procedures for sharing any benefits between ratepayers and shareholders in the PBR. ORA explained that SDG&E may be able to operate efficiently and incur costs lower than those embedded in their cost of service. SDG&E is not required to track incremental savings for specific costs that are below estimated costs or for programs that have been phased out. Likewise, ORA contended, the Commission should reject requests to track incremental expenses such as those for turn-off/turn-ons for later recovery through base rates. ORA recommended that SDG&E request prospective recovery through a cost-based charge for turn-off/turn-ons.

In the event the Commission allows SDG&E's proposed FTOSMA, ORA recommended that the Commission not allow SDG&E to extend the use of its FTOSMA after the Commission issues a decision in SDG&E's next cost-of-service proceeding. ORA observed that there is no sunset date on SDG&E's proposed FTOSMA. ORA suggested that the Commission address the costs of performing gas turn-off/turn-ons for fumigation service and incorporate those costs into SDG&E's performance based rates.

SDG&E filed a response to ORA's protest on December 18, 2002. SDG&E said it would file its cost-of-service application on December 20, 2002² and expects the

² SDG&E filed A.02-12-028 on December 20, 2002.

Commission will approve a revised revenue requirement effective January 1, 2004. SDG&E points to the new DOT regulation and the one-year extension of its current cost-of-service period and the interim period between now and the Commission's final decision in SDG&E's cost-of-service proceeding. SDG&E expects to incur substantial costs, during that interim period, to provide turn-off/turn-on services and has no current means to recover these costs in the interim period.

In response to ORA's recommendation to establish a cost-based charge, SDG&E said it is legally prohibited from establishing a separate charge for gas meter turn-off/turn-on services. SDG&E quoted the Public Utilities Code:

“328. The Legislature finds and declares both of the following:
(a) In order to ensure that all core customers of a gas corporation continue to receive safe basic gas service in a competitive market, each existing gas corporation should continue to provide this essential service. (b) No customer should have to pay separate fees for utilizing services that protect public or customer safety.

328.1 As used in this chapter, the following terms have the following meanings:

(a) “Basic gas service “ includes transmission, storage for reliability of service, and distribution of natural gas, purchasing of natural gas on behalf of a customer, revenue cycle services, and after-meter services. (b) “Revenue cycle services” means metering services, billing the customer, collection, and related customer services. (c) “After-meter services” includes, but is not limited to, leak investigation, inspecting customer piping and appliances, carbon monoxide investigation, pilot relighting, and high bill investigation. (d) “Metering services” includes, but is not limited to, gas meter installation, meter maintenance, meter testing, collecting and processing consumption data, and all related services associated with the meter.”

SDG&E believes that Section 328(b) expresses the intent of the Legislature that there should not be a separate fee for turn-off/turn-on services since these are basic safety services. A separate charge may encourage customers or their contractors to perform the services themselves and jeopardize their safety. SDG&E stated that since gas meter turn-off/turn-on is a “covered event” subject

to SDG&E's Operator Qualifications program required under DOT regulations, SDG&E is obligated to perform the service using its own employees.

SDG&E said the Commission's Utility Safety Branch (USB) previously indicated that it is not in favor of a separate charge for turn-off/turn-on services, since such a charge might encourage fumigators and customers to perform such services themselves. The Energy Division confirmed this position with the USB.

SDG&E responded to ORA's concern that SDG&E's proposed memorandum account did not have a sunset date and SDG&E should not continue tracking incremental costs in the memorandum account after the Commission establishes SDG&E's new cost-of-service rates. SDG&E anticipates that rates approved by January 1, 2004 will be sufficient to recover the costs of compliance with state and federal safety regulations. SDG&E said it would only need to record incremental turn-off/turn-on costs until a decision is issued in the cost-of-service proceeding effective January 1, 2004. SDG&E suggested that the Commission could address the sunset issue in this resolution by requiring SDG&E to provide substitute sheets that reflect a sunset date for the FTOSMA.

SoCalGas

The Pest Control Operators of California (PCOC) filed a protest December 12, 2002 requesting that AL 3210 be delayed to give them an opportunity to resolve service problems with SoCalGas regarding disconnection and restoration of natural gas service for structural fumigations.

On December 18, 2002 SoCalGas filed a response to PCOC's protest. SoCalGas reported a discussion with the Executive President of PCOC who indicated that PCOC is not opposed to AL 3210 in general, but a small group of its membership has concerns about some minor procedural details such as the four-hour window within which SoCalGas intends to perform the necessary work to properly close the gas meter. SoCalGas and PCOC scheduled other subsequent meetings to work out all of the concerns of the PCOC members. The next meeting was scheduled for January 15, 2003. SoCalGas believed that the issues raised by PCOC were minor and could be resolved between the two parties. SoCalGas requested that the Commission not delay the implementation of the tariff changes requested in AL 3210.

In a telephone conference of January 2, 2003 PCOC informed the Energy Division that their members are completely satisfied with the utilities' performing the turn-off/turn-ons and have no remaining concerns.

ORA submitted a late-filed protest on December 19, 2002 stating the same objections to SoCalGas' AL 3210 as it made in SDG&E's AL 1351-G. ORA recommended a cost-based charge for the incremental services. ORA pointed to several charges in Rule 10 for services provided directly to customers including reconnection service, water heater strapping, appliance connection, and earthquake valve³ service. ORA states that the PU Code does not prohibit SoCalGas from charging customers directly for these services and the Commission should not treat turn-off/turn-on services associated with tented fumigation jobs any differently from existing services governed by Rule 10.

SoCalGas indicates that on December 13, 2002, it filed a notice of a Z Factor event with the Commission because AL 3210 was protested and disposition is uncertain. If the Commission denies SoCalGas' request for a FTOSMA, SoCalGas proposes to apply Z Factor treatment to turn-off/turn-on costs in compliance with its performance-based ratemaking decision, D.97-07-054. SoCalGas stated that 100% of the costs tracked in the Z Factor Memorandum Account would be transferred to the FTOSMA, if the FTOSMA is approved by the Commission. SoCalGas proposed to establish a sub-account within its existing Z Factor Memorandum Account and begin tracking, effective November 22, 2002, the incremental costs of providing turn-off-turn-on services for tented fumigation jobs.

As in its protest of SDG&E's advice letter ORA argued that SoCalGas' proposal is inconsistent with SoCalGas' performance-based ratemaking (PBR) mechanism and that SoCalGas did not indicate a sunset date for the FTOSMA.

SoCalGas' response to ORA's protest was similar to that made by SDG&E. SoCalGas pleaded that the FTOSMA should be allowed to recover the incremental costs in the interim period until the Commission's decision in its cost of service application. SoCalGas pointed to the unforeseen nature of the new DOT regulation. SoCalGas said the Commission's Gas Safety Branch supports

³ SoCalGas informed the Energy Division that it no longer installs earthquake valves.

the use of utility personnel to perform gas turn-off/turn-ons. Finally, SoCalGas said it is legally prohibited from establishing a cost-based charge for gas turn-off/turn-ons.

DISCUSSION

SDG&E and SoCalGas propose to offer turn-off/turn-on services before and after tented fumigation jobs, and recover the costs of these services in rates. ORA proposed to place the costs of the service on the fumigator or the customer who is fumigating, an argument based on avoiding a cross-subsidy by other ratepayers. ORA believes its recommendation is consistent with the PBR mechanisms adopted by the Commission for SoCalGas and SDG&E.

We see gas safety as a consideration that overrides the need to avoid a cross-subsidy. In two instances there have been destructive explosions, one from improper procedure and the other possibly from improper procedure. ORA argued on grounds of preventing a cross-subsidy, but did not address the safety considerations. We are concerned that providing a separate charge for turn-off/turn-on services could provide an incentive for fumigators to assign untrained personnel to perform turn-off/turn-on service to a structure tented for fumigation.

Both SDG&E and SoCalGas state that our Utilities Safety Branch (USB) supports the use of utility personnel to turn-off/turn-on gas service for buildings being fumigated. The Energy Division confirmed that the USB also is against assessing a separate charge for such services. We can neither compromise safety nor can we ignore DOT requirements.

SDG&E believes that Sec 328(b) of the PU Code sets forth the intent of the legislature that there should not be a separate fee for turn-off/turn-on services because these are basic safety services. SDG&E determined that gas meter shut-off and restoration is a covered event subject to SDG&E's Operator Qualifications program under DOT regulations.

We agree that there should be no separate charge.

The PU Code does not prohibit a separate charge to a fumigator, who is not a customer, but we think such a charge could potentially provide an incentive for

the fumigator to perform the service itself. Assessing a cost-based charge to customers could also provide an incentive to customers to perform the turn-off/turn-on. We will not allow a separate charge for turn-off/turn-on service to fumigators.

As discussed below we think it best that both SDG&E and SoCalGas apply Z-Factor treatment to recover the costs of offering this service.

SDG&E's and SoCalGas' proposed revisions of Rule 11 and Rule 9 respectively to require notification of the utility before tenting for fumigation will place responsibility for fumigation turn-offs/turn-ons on trained utility personnel and will minimize the hazard of the fumigation process on tented fumigation premises. We will grant SDG&E's and SoCalGas' proposals for rule modifications.

We agree with ORA that the utility proposal to recover costs recorded in the FTOSMA is inconsistent with the utilities' PBR mechanisms. Both the SDG&E and SoCalGas PBRs provide for "Z-factor" treatment of certain unexpected expenses that clearly are not included in the utility's rates. SoCalGas has already notified the Energy Division of its plan to apply Z-factor treatment to the costs of turn-off/turn-ons. If SDG&E wants to recover these costs outside its PBR rates, it may also apply for Z-factor treatment. Our decision adopting the SoCalGas PBR provided the following procedure for Z-factor notification and cost recovery:

"When a potential Z factor event occurs, SoCalGas will promptly advise the Commission of its occurrence and establish a memorandum account for the event. The notification of the event will provide all relevant information about the event, such as a description, the amount involved, and the timing, and will advise of the establishment of the memorandum account. This notification will be followed by a supplement to the annual rate adjustment procedure for Commission review." D.97-07-054 slip opinion p 45.

Finding No. 16 of D. 97-07-054 requires that Z factors be handled outside the PBR mechanism. We will rule on any recovery of fumigation turn-off/turn-on expenses when we review the annual rate adjustment.

In D.99-05-030, we adopted SDG&E's current PBR. That decision requires SDG&E to follow a procedure similar to the above. SDG&E may file a request for Z-factor treatment if it wants to recover these expenses.

Since we will allow Z factor treatment, there is no need for a FTOSMA. Under both PBRs the utilities should use Z factor treatment to recover the expenses of turn-off/turn-ons of gas service to structures planned for fumigation. Therefore ORA's request for sunset dates of the FTOSMA is moot.

The PCOC's protest has been resolved through discussion with SoCalGas.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

SDG&E submitted comments on April 15, 2003. SDG&E recited the basis for their request of the FTOSMA and stated that both SDG&E and SoCalGas would like the Commission to authorize the FTOSMA to remain in effect until a final decision is issued authorizing rates in the 2004 cost of service application. SDG&E pointed out that the Z-Factor mechanisms for each utility provide that only costs exceeding \$5 million are recoverable through the Z-Factor and that while SoCalGas expects that its expenses could exceed the \$5 million deductible, SDG&E does not expect that its expenses would exceed the \$5 million deductible required for Z-Factor treatment. SDG&E and SoCalGas request that the draft resolution be revised to implement their respective tariff revisions requested in Advice Letters 1351-G and 3210.

In D.99-05-030, slip opinion page 58, we established Z-Factor treatment for SDG&E as we did D.97-07-054 for SoCalGas. In SDG&E's decision we stated:

“For each event, SDG&E’s shareholders will absorb the first \$5 million per event of otherwise compensable Z-Factor adjustments.” We made a similar statement on page 57 of SoCalGas’ decision. We expect the utilities to abide by the Z-Factor mechanism as originally established. SDG&E and SoCalGas can record turn-off/turn-on costs in their Z-Factor memo account, but neither can recover such costs within the \$5 million deductible. SDG&E’s and SoCalGas’ request to revise the draft resolution is denied.

FINDINGS

1. On August 13, 2002 a gas explosion occurred in Torrance, California at a building tented for fumigation.
2. A letter, dated October 4, 2002, from Assemblyman La Suer, Seventy Fifth District, warned that insurance carriers are threatening to stop insuring fumigators or institute huge premium costs, neither of which is acceptable.
3. Effective October 28, 2002 a new Department of Transportation regulation terminated the contractor’s authorization to turn-off/turn-on gas service before and after tented fumigation jobs.
4. SDG&E filed AL 1351-G requesting authority to establish a memorandum account to accumulate costs of performing the turn-off/turn-on service for buildings tented for fumigation and to revise its rules to require notification and establish warning notices to attach to meter sets and front doors.
5. SoCalGas filed AL 3210 requesting authority to establish a memorandum account to accumulate costs of performing the turn-off/turn-on service for buildings tented for fumigation, to revise its rules to require notification and to establish warning notices to attach to meter sets and front doors.
6. ORA protested both AL 1351-G and AL 3210 on the grounds of inconsistency with SDG&E’s performance based ratemaking. ORA recommended that the utilities establish a separate charge for turn-off/turn-on service.

7. SoCalGas notified the Energy Division of its plan to apply Z Factor treatment to the cost of providing turn-off / turn-on service.
8. SDG&E should seek Z factor treatment to recover its turn-off / turn-on expenses.
9. A separate fee to fumigators or customers would provide an incentive for the fumigator or customer to perform the turn-off / turn-on service.
10. The proposed revisions of SDG&E's Rule 11 and SoCalGas' Rule 9 will reduce the hazard of turn-off / turn-ons at structures tented for fumigation.
11. ORA protested the lack of a sunset date for SDG&E's and SoCalGas' proposed memorandum account.
12. ORA's request for a sunset date is moot.
13. SDG&E's and SoCalGas' proposals to establish a FTOSMA should be denied.
14. PCOC's protest has been resolved.
15. SDG&E's and SoCalGas' request to revise the draft resolution should be denied.

THEREFORE IT IS ORDERED THAT:

1. SDG&E's and SoCalGas' proposals to revise Rules 11 and 9 respectively are granted.
2. SoCalGas' and SDG&E's request to establish a FTOSMA is denied.
3. SDG&E may notify the Commission of a Z factor event for turn-off / turn-on expenses in order to recover the incremental costs of turn-off / turn-on service.

4. ORA's proposal for a sunset date is moot.
5. ORA's recommendation of a separate charge for turn-off / turn-on service is denied.
6. PCOC's protest has been resolved.
7. SDG&E's and SoCalGas' request to revise the draft resolution is denied.
8. SDG&E and SoCalGas shall submit in 30 days revised tariffs sheets with the proposed FTOSMA omitted.

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 May 8, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners