

DECISION NO. 22228

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

TECHNICAL GLASS COMPANY INCORPORATED,)
Complainant)

vs.)

SOUTHERN CALIFORNIA GAS COMPANY,)
Defendant.)

CASE NO. 2938

ORIGINAL

H. M. Avey and V. O. Conaway, for Complainant.

L. T. Rice, for Defendant.

CARR, Commissioner:

OPINION AND ORDER

Technical Glass Company Incorporated, by complaint filed on October 6, 1930, seeks to recover from Southern California Gas Company by way of reparation a considerable sum of money representing the difference between what it paid for surplus natural gas at the rate of 26 cents per thousand cubic feet under the Company's Schedule A-7-"A" and what it would have paid for the same quantity of gas at a 15 cent rate under Schedule A-13, now A-12-F, it being claimed that the Gas Company wrongfully and in violation of its Rule 19 refused the request and demand of complainant for service under the lower schedule.

A public hearing upon the complaint and answer was had on January 20th and the case was submitted.

Batchelder Wilson Company vs. Southern California Gas Company (Decision No. 22806) and A. J. Bayer Company vs. Los Angeles Gas & Electric Corporation (Decision No. 22807) both decided on August 23, 1930 lay down the rules here applicable. It was there held that a consumer has the right to elect the optional schedule under which he should be served and that refusal by the Company to allow such election subjects it to liability for reparation.

Complainant, by preponderance of the evidence, established that in the fall of 1927 it requested service under the Company's Schedule A-13 but without success. The Company's version was that the consumer had been persuaded to remain on the schedules then applied to his service on the grounds that his operation required the assurance of a gas supply afforded by those schedules, a theory in direct conflict with the testimony of Mr. Anderson and Mr. Rosenthal responsible officers of the complainant, and who were together when the demand for the lower rate was made, as well as being somewhat inconsistent with the complainant's conduct in forthwith installing oil burning equipment and greatly curtailing its natural gas consumption.

After consideration of all the evidence I am of the opinion that the rates assessed and collected from the complainant for the period of two years prior to the filing of the complaint were unlawful to the extent they exceeded 40 cents per thousand plus a readiness to serve charge of \$15.00 for the first 300,000 cubic feet of gas (as to this service of limited industrial gas there was no question presented) and 15 cents per thousand for the balance and that complainant is entitled to reparation with in-

terest at six per cent (6%) per annum to this basis.

The amount of reparation due is not of record. Complainants will submit to defendant for verification a statement of the exact sum due, and upon the payment of reparation defendant will notify the Commission the amount thereof. Should it not be possible to reach an agreement as to the reparation award, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

I recommend the following form of order:

ORDER

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order:

IT IS HEREBY ORDERED, that defendant, Southern California Gas Company, be and it is hereby directed to refund, with interest at six per cent (6%) per annum, to complainant Technical Glass Company Incorporated, the amount of charges in excess of those found lawful in the opinion which precedes this order.

IT IS FURTHER ORDERED, that the Commission retain jurisdiction to determine the precise amount of reparation if the parties are unable to agree.

IT IS HEREBY FURTHER ORDERED, that the effective date of this order shall be twenty days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission

of the State of California.

Dated at San Francisco, California, this 26th
day of January, 1931.

C. L. Seaver

Leon Berkeley

M. A. Carr

M. B. Harris

Fred G. Stewart

Commissioners.