Decision No. 26829

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

SAMUEL KRAMER,

Complainant,

vs.

LOS ANGELES GAS & ELECTRIC CORPORATION, a Corporation,

Defendant.

Case No. 3715.

ORIGINAL

Frank C. Shoemaker, for Complainant.

Paul Overton, for Defendant.

CARR, Commissioner:

O P I N I O N

Complainant seeks recovery of claimed overcharges upon the theory that he was billed for gas under Schedule G-1, whereas he should have been billed under Schedule G-5.(1)

The case was heard and submitted on February 15, 1934.

About the middle of 1933 the complainant requested that he be placed on Schedule G-5 and he was.

The complainant commenced the use of gas in his manufacturing processes in 1925, starting on Schedule G-1. Schedule G-5 was then in effect in substantially its present form.(2) Schedule G-1, however, was under complainant's then operating conditions the cheaper schedule. Also, consumers under this schedule had a preference over G-5 consumers in the matter of shut-off.

1. Refunds made to the complainant following the decision of the United States Supreme Court in L.A.Gas & Elect.Co. vs. Railroad Commission, 289 U.S. 287, very substantially reduced the amount of his claim.

2. The only change subsequently made in this schedule was the insertion of a more specific description of those to whom the schedule was open. No change was made in the volume of the rate.

Schedule G-1 continued for several years to be the cheaper, as well as the more advantageous, schedule for the complainant to use. Gradually, however, his consumption of gas increased until in later years his bills would have been somewhat lower had he been on Schedule G-5. No request for a change was made until 1933.

The case turns upon the effect of the Company's Rule 19. This and a similar rule have been before the Commission at various times (See City of Vernon, et al. vs. Southern California Gas Co., 34 C.R.C. 46; Batchelder-Wilson Company, et al. vs. Southern California Gas Company, 35 C.R.C. 132; A. J. Bayer Company, et al., vs. Los Angeles Gas & Electric Company, 35 C.R.C. 137; Technical Glass Co. vs. Southern California Gas Company, 35 C.R.C. 764) and their meaning and scope have been fully defined and limited.

There are present here none of the special facts or circumstances such as were held in these cases to bring into operation the duty imposed by Rule 19 upon the defendant. The only thing suggested was that in 1928 or 1929 the complainant telephoned the Company to advise that his gas supply was not satisfactory. He was then called upon by employes of the Company who told him he needed a larger meter. Such a one was installed. Clearly, something more than this is essential.

I recommend the following form of order:

O R D E R

A public hearing having been had in the above entitled matter and the case submitted,

IT IS HEREBY ORDERED that the case be and it hereby is dismissed.

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 19th day of February, 1934.

C. L. Seavey

Leon O. Whitsell

M. J. Carr

W. B. Hagmaier

Walter Parker

Commissioners.