

Decision No. 36015

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PAATHFINDER PETROLEUM COMPANY,  
a California corporation,  
Complainant,

vs.

SOUTHERN COUNTIES GAS COMPANY  
OF CALIFORNIA, a corporation,  
Defendant.

ORIGINAL

Case No. 4646

BY THE COMMISSION:

O P I N I O N

The complainant corporation operates an oil refinery at Los Alamitos, Orange County, and is supplied with gas by the defendant utility. Its complaint alleges that upon making application for such gas service, about May 12, 1942, the defendant demanded a deposit of \$1,000 as a condition to the acceptance of the application, and it asks the Commission to order repayment of this sum. It is alleged that complainant is the owner of the refinery property in question, and that under such circumstances the utility violated its filed rules when exacting a deposit of any amount for the purpose of securing payment of bills.

A public hearing was held at Los Angeles on September 24, 1942, before Examiner Wehe, at which time evidence was taken and the matter submitted for decision.

The utility seems to urge two defenses. It first asserts that at the time the above mentioned deposit was demanded it believed that the El Camine Refining Company, not the complainant, was the probable owner of the refinery property. Such an error of fact would have excused the exaction of a deposit in the first instance, but it would not now justify the retention of the money after the true facts have been ascertained. The utility's Rule #6 provides that the credit of an applicant for service will be deemed established if applicant is the owner of the premises to which gas is to be supplied.

The second defense pleaded by the defendant is not entirely clear, but it seems to assert that the complainant had really been receiving gas service through the meter of an affiliated corporation, the El Camino Refining Company, prior to the time it made application for a gas connection in its own name, and that one or the other is indebted to the defendant utility in an amount exceeding the deposit exacted. The facts in this connection may be briefly stated.

It appears that the El Camino Refining Company, a concern which had been supplied gas at its refinery at Los Alamitos since April, 1937, in 1939 constructed a second refinery unit, the plant here involved. Gas for this second unit was supplied through the meter of the El Camino Company. The utility was aware of this fact. Later in December 1941 when informed that this second plant was being operated under the name of a separate corporation, the record does not show that the utility made any attempt to require each of the premises to be separately metered as required by their rules and regulations. When on May 12, 1942, the Pathfinder Company did make application for separate service there was due from the El Camino Company \$1,504.11 on past bills, of which only \$452.46 was then paid by the Pathfinder Company. The last named company, the complainant here, apparently took the position that, as it had settled with the El Camino Company for all gas actually used at its plant up to May 3, 1942, it was liable to the utility, and was willing to pay, only for the amount used between May 3 and May 14, totaling \$452.46.

We must conclude on the record developed that no deposit is now required under Rule #6 inasmuch as complainant is the owner or "has a substantial equity in the premises" for which application for gas service was made, and further the utility apparently made no real effort to ascertain the financial standing of the complainant. The second defense of defendant apparently points to its Rule #9 under which rule the utility may refuse or discontinue service to protect it against abuse or fraud. However, such rule does not sanction the collection of a deposit. That rule possibly would have justified the utility's refusal of gas service to the new corporation. Service

was not refused, however, but a deposit was exacted to secure the payment of applicant's future bills. The utility does not allege that the sum demanded was in payment of back bills owing by the other corporation. The complainant corporation, being the owner of the premises served and having promptly paid its own bills subsequent to the time it was recognized as a separate gas customer, has thus established its credit and is entitled to reimbursement for the deposit exacted.

ORDER

A public hearing having been held in the above entitled case, based upon the findings and conclusions expressed in the foregoing opinion,

IT IS HEREBY ORDERED that Southern Counties Gas Company of California shall return the one thousand dollars (\$1,000) deposit made by the Pathfinder Petroleum Company, and shall continue to render gas service to said Pathfinder Petroleum Company at its refinery in accordance with defendant's filed rules and regulations.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco this 8<sup>th</sup> day of December, 1942.

Justus F. Coe

W. C. M.

Francis D. Haven

Richard L. Locke  
Commissioners