

**ORIGINAL**Decision No. 46876

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA for a general increase in retail and wholesale gas rates under Section 63(a) of the Public Utilities Act.

Application No. 31161

In the matter of the investigation on the Commission's own motion to determine the reasonableness, adequacy, sufficiency and lawfulness of the rates, tolls, charges and certain other subjects and matters, as reflected by the order of investigation herein, of SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA.

Case No. 5260

OPINION AND ORDER DENYING REHEARING

The Commission has carefully considered the petition for rehearing filed by Southern Counties Gas Company of California respecting Decision No. 46680 rendered in the above-entitled consolidated proceeding.

It is a cardinal rule that a utility seeking an increase of rates has the burden of showing by clear and convincing evidence that it is entitled to such increase. The presumption is that the existing rates are reasonable and lawful. Necessarily, any doubt existing must be resolved against the party upon whom rests the burden of proof. We hold that petitioner has not carried successfully such burden of proof. Also, it is an equally well-established rule of law that a regulatory body must predicate its decision upon the lawful record of a proceeding. This Commission is no more privileged to grant relief to a utility based upon matters outside

the record than it would be to decrease the rates of a utility based upon matters outside the record. The added cost of out-of-state gas, effective November 1, 1951, was not lawfully in the record of this proceeding and could not be considered de hors the record. Furthermore, this added expense could not be determined merely by a mathematical calculation. Necessary adjustments would have to be made such as the effect upon this expense which would result from the resale price which petitioner would receive from the San Diego Gas and Electric Company. Guesswork may not be indulged. The impact of this added gas purchase expense may be determined only by evidence placed in the record properly addressed to this subject.

The decision herein assailed points out very clearly the procedure which the petitioner may employ in order to bring before the Commission its current operating results which do not now appear of record in this proceeding. Bearing in mind that the burden is always upon the utility of going forward and justifying its claim to an increase of rates, the obvious course for petitioner to pursue is to file a supplemental application in this proceeding and bring up to date its operating results and make the same a matter of record so that the Commission may lawfully consider such evidence. We must again observe that this procedure was pointed out to petitioner in the decision which it seeks to overthrow.

Perceiving no error in its decision which the petition for rehearing assails,

IT IS ORDERED that said petition for rehearing be and the same is hereby denied.

Dated, San Francisco, California, this <sup>17<sup>th</sup></sup> ~~14<sup>th</sup>~~ day of March, 1952.

[Signature]  
President

[Signature]  
[Signature]

Commissioners