

ORIGINAL

Decision No. 51156

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)
gas rates under Section 454 of the)
Public Utilities Code.)

Application No. 35742
(1st Supplemental)

(Appearances and list of witnesses at the
hearing on this First Supplemental
Application are set forth in Appendix A.)

OPINION ON FIRST SUPPLEMENTAL APPLICATION

By its first supplemental application in the above-entitled proceeding, filed January 14, 1955, the Southern Counties Gas Company of California seeks authorization to maintain its gas rates after April 1, 1955 at a level consistent with a 52 per cent federal income tax rate. The federal income tax rate for corporations under existing law will be reduced from 52 to 47 per cent on April 1, 1955. Applicant states that it is convinced that the federal corporation income tax rate for 1955 will be higher than the 47 per cent rate nominally effective on April 1, 1955.

Public Hearing

Public hearing on this matter was held on a consolidated record with First Supplemental Application No. 34975 of Southern California Gas Company before Commissioner Ray E. Untereiner and Examiner M. W. Edwards on February 4, 1955, in Los Angeles. Also, there were consolidated for hearing purposes the Second Supplemental Applications Nos. 34975 and 35742 dealing with gas rate offset increases. Before the close of the day's hearing this first supplemental application was submitted for decision and the second

supplemental application was set for further hearing on February 24, 1955, in Los Angeles.

Tax Rate Revision

Applicant points out that the United States Congress can revise income taxes retroactively and that the procedure in reconsidering federal income tax rates during each session of Congress takes many months to complete. Applicant does not expect this procedure to be completed until well after April and cites the fact that in 1954, for example, the 1954 Revenue Act continuing the prior 52 per cent rate for the full year 1954 was not signed until August 16, 1954.

Applicant states that under the gas rates now prescribed by Decision No. 50902, beginning April 1, 1955, it would suffer an unrecoverable loss if the tax rate finally established is greater than 47 per cent. In substantiation of its position applicant states that tax counsel and recognized private tax services assert that the presently effective corporation income tax rates cannot be lowered because of continued deficits to be incurred by the federal government, and refers to the fact that the President's State of the Union Message to Congress included a recommendation that the 52 per cent corporation income tax rate be retained in 1955. To guard against the possible overcollection of revenue if a rate lower than 52 per cent is finally effective, applicant proposes a refund plan.

Refund Plan

Applicant proposes that if no change ultimately is made in the present tax law it will reduce its gas rates in accordance with Decision No. 50902 and refund to its customers the difference between the revenues derived from gas rates calculated at the 52 and 47 per cent tax rates for the period from April 1 to the date when the lower gas rates are made effective. If the Congress sets any tax rate

other than 52 per cent, applicant proposes that new gas rates reflecting the finally selected tax rate be determined on a proportional basis of the revenue difference between a 52 and 47 per cent rate as found in Decision No. 50902.

The specific refund formula and plan are set forth in applicant's Exhibit No. 18 and modifying testimony. Applicant proposes that the amount to be refunded be segregated by the major classes of service. For the General Service customers, in light of the fact that the bulk of any refund comes about as a reduction in the monthly fixed charge, applicant proposes that where less than 20 Mcf per month is used in the month prior to the refund, the refund be made as a uniform amount per customer, applicable against each customer's bill in the month in which the refund is made. For all other classes of customers, together with General Service customers using in excess of 20 Mcf per month in the month prior to the refund, individual refunds would be predicated upon each customer's volumetric purchases during the refund period.

Applicant's Specific Requests

Applicant requests the Commission to issue an order:

1. Suspending Paragraph 3 of the order in Decision No. 50902 and setting aside the presently ordered gas rate reduction which is to become effective April 1, 1955.
2. Approving a rate change and rate refund plan as proposed.
3. Granting such other or additional authorization as the Commission may deem to be appropriate.

Findings and Conclusions

After considering applicant's statements and the rate revision and refund plan proposed in this first supplemental application, and the record herein, it is our finding and conclusion that an order should be issued granting, in general, the authority

requested. Prescription of revised gas rates consistent with the level of income taxes will, however, be deferred until final income tax rates for 1955 have been established.

ORDER ON FIRST SUPPLEMENTAL APPLICATION

Southern Counties Gas Company of California having applied to this Commission for a supplemental order authorizing maintenance of gas rates after March 31, 1955, based on a 52 per cent federal income tax, subject to refund of any overcollections, public hearing having been held, and the matter having been submitted and being ready for decision;

IT IS HEREBY ORDERED as follows:

1. Ordering Paragraph 3 of Decision No. 50902 is modified by deleting the existing wording and substituting the following:
 3. In the event that the applicable federal income tax rate for the portion of 1955 beginning April 1, 1955 is not restored to the 52 per cent level in effect for the period ending March 31, 1955 and is fixed at some rate below said 52 per cent level, applicant shall revise its rates in accordance with a schedule to be prescribed after the final tax rate becomes known and shall make appropriate refunds to its customers, exclusive of "heating only" customers, in the manner proposed by applicant in this first supplemental application, as augmented by Exhibit No. 18 except that a refund will be made by check mailed to the customer's last address, to those customers who discontinue service after the revised gas rates reflecting the final tax rate become effective and before the refunds are credited

on bills. The amount to be refunded will be determined by the Commission after the final tax rate has been fixed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 1st day of March, 1955.

E. J. Mitchell
President
James J. Cassin
Charles W. Carver
William J. Dooly

Commissioners

APPENDIX A

LIST OF APPEARANCES ON
FIRST SUPPLEMENTAL APPLICATION

For Applicant: Milford Springer and F. G. Dutton.

Interested Parties: City of Los Angeles, by Roger Arnebergh, Alan G. Campbell, T. M. Chubb and Robert W. Russell; California Manufacturers Association, by Brobeck, Phleger & Harrison by George D. Rives; California Farm Bureau Federation, by J. J. Deuel; Monolith Portland Cement Company, by Enright & Elliott by Norman Elliott and Waldo Gillette; City of Banning, by Jesse E. Jacobsen; City of Long Beach, by Henry E. Jordan; Commercial Utility Service, Exchange Orange Products Company and Challenge Cream and Butter Association, by W. D. MacKay; City of Anaheim, by Preston Turner; City of Pasadena, by Clarence A. Winder and Frank L. Kostlan; County of San Diego, by Jean L. Vincenz; Southern California Edison Company, by Bruce Renwick, Rollin E. Woodbury and John Bury.

Protestant: San Diego Gas & Electric Company, by Chickering & Gregory by Sherman Chickering.

Commission Staff: Boris H. Lakusta, Charles W. Mors and Theodore Stein.

LIST OF WITNESSES ON
FIRST SUPPLEMENTAL APPLICATION

Evidence was presented on behalf of the applicant by: W. J. Herrman, F. M. Foster, J. Q. Abel and C. L. Dunn.