

ORIGINALDecision No. 54852

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

Application No. 38211
amended

Appearances and witnesses
are listed in Appendix A.

SECOND INTERIM OPINION

Applicant's Request

Southern Counties Gas Company of California filed the above-entitled application on June 29, 1956, and filed amendments thereto on September 22, 1956 and February 6, 1957, requesting an increase in rates designed to produce additional gross revenue of \$6,443,000 or a 9.5 per cent increase, on its estimated 1957 revenue of \$68,017,000 under present rate levels. Because of delays in completing the main proceeding which were occasioned by requests of certain interested parties for additional time to prepare and complete exhibits, the applicant, on March 13, 1957, made a motion that it be authorized to continue the winter level of general service rates during the summer period.

Winter and Summer Rate Differences

Applicant presently has higher winter rate levels than summer rate levels in its general service rates, Schedules G-1 through G-6.2; military service rates, Schedules G-20 and G-21; multiple dwelling rates, Schedules G-25 and G-26; firm industrial rates, Schedules G-40 and G-41; and gas engine rates, Schedule G-45. The difference between the winter and summer rate levels varies as

between the several schedules. These differences may be summarized approximately as follows:

<u>Schedule Numbers</u>	<u>Winter Rate Higher than Summer</u>
G-1 through G-6.2	13 to 14 cents per Mcf beyond 2,000 cu.ft. per month usage.
G-20 and G-21	12 cents per Mcf, all usage above minimum.
G-25	12 cents per Mcf, all usage above minimum.
G-26	13 cents per Mcf, all usage above minimum.
G-40 and G-41	8 to 9 cents per Mcf, all usage above minimum.
G-45	1 to 4 cents per Mcf, all usage above minimum.

Applicant is proposing in the main rate case that the summer-winter rate differentials in the general service schedules (G-1 through G-6.2) be eliminated, but to continue the seasonal form of rates for the other schedules enumerated above. Where the present winter rate levels would be higher than the proposed new summer rate levels, applicant's present request is to limit the rate after May 1, 1957, to such proposed new summer rate level.

Public Hearing

Thus far, seven days of public hearing have been held on this application, as amended, before Commissioner Rex Hardy and Examiner Manley W. Edwards during the period November 14, 1956, to March 15, 1957, inclusive, in Los Angeles. Following the first day of public hearing on this application the Commission authorized an interim increase in the resale service rate for service to San Diego Gas & Electric Company.¹ The instant motion was made on March 13, 1957, and on March 15, 1957, the applicant submitted three exhibits, Exhibits Nos. 28, 29 and 30, and the testimony of two witnesses in support of its second interim rate proposal. This second interim request was submitted for Commission decision on March 15, 1957, subject to a late-filed exhibit by the Commission staff as to the

¹ Decision No. 54233 dated December 11, 1956.

effect of this second interim rate relief request. Such staff exhibit was filed on March 22, 1957 and a statement by the City of Los Angeles with reference thereto was filed on April 1, 1957. This second interim request is now ready for decision. The next day of hearing on the main rate case is scheduled for April 16, 1957, at 10 a.m. in the Mirror Building, Los Angeles.

Applicant's Position

Applicant's position is that it would be very confusing to the general service customers to have the present lower summer rates go into effect on May 1, 1957, and shortly thereafter to have the rates increased substantially if a uniform year-round rate were authorized by the Commission. Also, the present level of winter rates would produce some additional revenue to applicant during the period while the processing of its case is being delayed through no fault of its own.

Applicant's Exhibit No. 28 shows that continuation of the winter rates in the manner previously discussed would result in the following interim increases compared to the final increases being requested:

<u>Month</u>	<u>Proposed Interim Increases</u>	<u>Proposed Final Increases</u>
May, 1957	\$396,000	\$ 804,000
June 1957	323,000	740,000
July 1957	212,000	644,000
Total	<u>931,000</u>	<u>2,188,000</u>

By Exhibit No. 29 applicant computes that the effect of this interim proposal is to increase the average revenue per meter in May by 65 cents, in June by 52 cents, and in July by 34 cents.

As to the effect of this interim proposal on the system results of operation, applicant's Exhibit No. 30 shows the following

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estimated rates of return after allowing for the increased interim revenues:

<u>Period</u>	<u>Rate of Return</u>
12 months ended May 31, 1957	5.04%
12 months ended June 30, 1957	5.06%
12 months ended July 31, 1957	5.07%

Copies of applicant's proposed definitive tariff schedules to accomplish this change are attached to revised Exhibit No. 31.

The City of Los Angeles objects to the granting of an interim increase unless necessary to meet an emergency.

Staff Analysis

The staff estimated that continuation of the winter rates into May would result in an increase of revenue of \$404,000 and into June of \$300,000. Based on the staff's analysis of the applicant's earnings, as shown in Exhibit No. 21, the continuation of these winter rates for the months of May and June would have the effect of increasing the net revenue after taxes by \$318,600 and would bring the rate of return up to 6.04 per cent, if accelerated tax depreciation is used, and 5.56 per cent, if straight line tax depreciation is used.² Therefore, the rate of return on the second basis of computation would not exceed the 6 per cent found reasonable in Decision No. 50902, if the interim rates requested were in effect for the months of May and June.

² The Commission has not determined what rate treatment to accord the accelerated tax depreciation method.

Findings and Conclusions

The record in the main proceeding shows that certain appearances have requested such additional time for the filing of evidentiary matter, which, together with coincidental requests for direct and cross-examination, will extend the hearings. The resultant final decision on the matter will, therefore, probably not be issued until after May 1, 1957. California Manufacturers Association, an interested party herein, desires to offer into evidence a cost of service study which has been in preparation for an extended period of time. Applicant's offer to waive cross-examination as to the late filing of such a cost of service study, as well as to late-filed prepared testimony in relation thereto, was not accepted by counsel for California Manufacturers Association. The City of Los Angeles, an interested party, through its counsel contended that the cost of service study proposed to be offered by California Manufacturers Association was a proper element to be considered by the Commission, and would not agree to waive cross-examination nor to waive the right to offer rebuttal evidence to such cost of service study. Counsel for California Farm Bureau Federation took a position alike to that of counsel for the City of Los Angeles. Counsel for San Diego Gas & Electric Company, an interested party, was not willing to waive argument in briefs. The staff counsel took the position that California Manufacturers Association was entitled to its day in Court.

Because of the aforesaid elements counsel for the applicant moved, in open hearing, that applicant's wintertime rates be continued until final decision in the matter in order that all parties have complete opportunity to present their evidence and process the case in an orderly fashion. During the hearing on March 15, 1957,

further discussion was had and evidence was received on the motion as made by the applicant on March 13, 1957. The presiding Commissioner stated that the Commission staff would be expected to file a statement with the Commission as to its position on the motion by March 22, 1957, and that all other appearances might file statements of position by March 29, 1957. Only two statements of position have been received--one from the City of Los Angeles, which stated its objection to the interim increases, as sought, in the absence of an emergency condition, and the other from the Commission staff, which found that the interim increases, as sought, if authorized for not longer than 49 days after May 1, 1957, would not cause applicant's rate of return under most liberal assumptions to exceed 6 per cent last found to be reasonable by the Commission by Decision No. 50902, issued December 28, 1954, in Application No. 35742.

While applicant's showing is to the effect that even with the sought continuance of winter rates, its estimated rate of return would only be slightly in excess of 5 per cent, the staff analysis shows an estimated rate of return of 6.04 or 5.56 per cent as shown above using alternate tax methods, if the existing rates were continued in effect for the months of May and June. And while one of these estimated rates of return does not exceed the 6 per cent found reasonable in Decision No. 50902, nevertheless, all evidence in this matter has not been received by the Commission. As stated, four more days of hearing, at least, are scheduled before the entire case can be submitted.

With full appreciation of the situation in which applicant is placed, there is no question but that the rates last heretofore authorized by the Commission are presumed to be both lawful and reasonable until changed by the Commission. Regulation does not guarantee a net profit to a utility, and before applicant is entitled to an increase in rates, it must accept and sustain the burden of proof justifying the increase. It cannot be fairly said that it has sustained that burden until all pertinent evidence has been received by the Commission. The sought continuance of the winter rates, now scheduled to be decreased automatically on May 1, 1957, can be nothing but an increase in rates, and, it is noted applies in the great part to the general service or domestic consumers. The Commission is not permitted by law to be generous to a utility. The rates authorized by the Commission must be just and reasonable only. It cannot be said that applicant is in an emergency or perilous financial condition. Whether applicant is entitled to the rate increase sought by its application, as amended, or any increase whatever, is immaterial at this juncture of the matter. That fact will be determined by the Commission in orderly manner after all of the evidence has been received.

We therefore find and conclude and it is our judgment that applicant's motion should be denied.

This order shall not be construed as a final determination of any of the issues raised by the application, as amended, herein.

In view of the delays that have been occasioned in this matter to date, we direct that all closing statements shall be filed within ten days after completion of the hearings in this matter.

INTERIM ORDER

Southern Counties Gas Company of California having entered a motion for an order authorizing an interim increase in rates pending completion of the main rate case, public hearing having been held, and it appearing to the Commission that the motion should be denied, therefore,

IT IS HEREBY ORDERED that applicant's motion for an order authorizing the continuance of its winter rates after May 1, 1957, be and it is hereby denied.

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

Dated at San Francisco, California, this 16th day of April, 1957.

[Signature]
 President

[Signature]

[Signature]

[Signature]
 Commissioners

APPENDIX A

LIST OF APPEARANCES

For applicant: Milford Springer and J. R. Rensch.

Interested Parties: Chickering & Gregory by Sherman Chickering and C. Hayden Ames, for San Diego Gas & Electric Company; Bruce Kenwick, Rollin E. Woodbury, Harry W. Sturges, Jr., and John R. Bury, for Southern California Edison Company; Alan G. Campoelli, T. M. Chubb, R. W. Russell and P. A. Erickson, for City of Los Angeles; Wahlfred Jacobsen by Leslie E. Still and Henry E. Jordan, for City of Long Beach; Wendell K. Thompson, for City of Pasadena; Frederick B. Holoboff, for City of San Diego; Robert G. Cockins and Robert D. Ogle, for City of Santa Monica; James Don Keller, for County of San Diego; J. J. Deuel and Bert Buzzini, for California Farm Bureau Federation; Brobeck, Phleger & Harrison by George D. Rives, for California Manufacturers Association; W. D. Mackay of Commercial Utility Service, for The Exchange Orange Products Company; O'Melveny & Myers by Lauren M. Wright, for Riverside Cement Company.

Protestant: James Torolf appearing on behalf of petitioners in protest against increase of gas rates.

For the Commission staff: Martin Porter, Harold J. McCarthy, Theodore Stein and Carol T. Coffey.

LIST OF WITNESSES

Evidence was presented on behalf of the applicant by: Guy W. Wadsworth, Cecil L. Dunn, James S. McBride, J. C. Millen, Jay Davis, Jr., George S. Coates, Frank M. Seitz, Jerold Q. Abel, Roy A. Wehe, John H. Jensen, M. J. Reis and Herbert A. Greenwood.

Evidence was presented on behalf of the interested parties and protestants by: H. G. Dillin, Jonas Torolf, William L. Wood and Manuel Kroman.

Evidence was presented on behalf of the Commission Staff by: Donald Steger, Albert L. Gicleghem, Wm. W. Eyers and Kenneth J. Kindblad.

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