

ORIGINAL

Decision No. 55999

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)	Application No. 38211
in gas rates under Section 454 of)	First Supplemental
the Public Utilities Code.)	

(Appearances and Witnesses are listed as Appendix B)

INTERIM OPINION AND ORDER ON FIRST SUPPLEMENTAL APPLICATION

Southern Counties Gas Company of California, engaged as a public utility in the business of purchasing, distributing and selling gas in the southern portion of the State of California, filed the above-entitled supplemental application on September 27, 1957, seeking an increase in gas rates by approximately \$3,228,000 to offset the annual increase in the cost of out-of-state gas starting January 1, 1958.

Public Hearing

After due notice, public hearing on this First Supplemental Application was held before Commissioners Rex Hardy, C. Lyn Fox and Ray E. Untereiner and Examiner Manley W. Edwards on a consolidated record with First Supplemental Application No. 38787 of Southern California Gas Company on November 12, 1957, in San Francisco. Four exhibits and testimony by three witnesses were offered in support of these first supplemental applications. Counsel for the Commission staff and the interested parties cross-examined the witnesses and made closing statements for the purpose of developing a full record to aid the Commission in deciding this matter. Counsel for applicant

moved to amend the application to conform to proof adduced at the hearing. Such motion is granted. The matter was submitted at the close of the day's hearing and now is ready for decision.

Present Status of El Paso
Rates for Purchased Gas

Applicant's present gas rates, authorized by Decisions Nos. 55579 and 55589, in Application No. 38211, to become effective October 15, 1957, include the contingent offset charges related to the increased cost of gas purchased from El Paso Natural Gas Company, hereinafter referred to as El Paso, associated with rates filed by El Paso in Federal Power Commission Dockets Nos. G-2016, G-2018 and G-4769. Applicant represents that Dockets Nos. G-2016 and G-2018 have been settled and refunds from El Paso associated therewith have been received by applicant, and corresponding appropriate refunds have been made by applicant to its customers pursuant to Decision No. 54946 of this Commission. At this time the Federal Power Commission has completed hearings on Docket No. G-4769, but has not rendered its decision in this matter. This situation is reflected in our Decisions Nos. 55579 and 55589 which continued offset rates as an offset to such increase in El Paso rates.

Further El Paso Increases

On June 28, 1957, El Paso filed a further application for increased rates (F.P.C. Docket No. G-12948). Under the suspension procedures of the Federal Power Commission, Section 4(e) of the Natural Gas Act, the new rates will become effective January 1, 1958, subject to review by the Federal Power Commission and to final adjustment and refund as determined by that Commission after hearing. Applicant states that it and Southern California Gas Company, on September 13, 1957, filed a joint petition to intervene and participate in the hearings to be held in Docket No. G-12948.

The further increase filed for by El Paso is 20 cents per Mcf of daily demand on a monthly basis and 2 cents per Mcf on commodity at 14.9 psia pressure base. Or, stated another way, the demand rate will be increased from \$2 to \$2.20 per Mcf-day and the commodity charge from 18 to 20 cents per Mcf. Such increases when related to a pressure base of 14.73 psia will be 19.77 cents per Mcf-day of demand and 1.98 cents per Mcf of commodity.

Applicant's computation of cost increase is set forth in Exhibit B attached to the application and may be summarized in the manner following:

a. Increase in demand charge (both Southern Gas Companies):	
1,051,650 Mcf per day at 20¢ x 12 mos. ...	\$ 2,523,960
b. Increase in commodity charge:	
383,899,500 Mcf at 2¢	7,677,990
Total El Paso Increase	<u>10,201,950</u>
c. Portion of increase to applicant:	
30% of \$10,201,950	3,060,585
d. Impact of cost reallocation agreement	
with Southern California Gas Company	124,149
Total increase to applicant	<u>3,184,734</u>

Determination of Offset Billing Charge

Applicant must pay local franchise fees based upon gross revenues collected within the areas levying such fees, and any increases in rates to meet these increases in gas costs should include an appropriate franchise fee allowance of \$43,091. Applicant proposes that this increase in cost of gas and associated franchise fees be reflected in an offset rate applied uniformly to all gas sales in an amount of 2.15 cents per Mcf. The spread of this

increase to classes of service, based on applicant's 1958 sales estimate, follows:

<u>Class of Service</u>	<u>Estimated Sales in Mcf</u>	<u>Offset per Mcf</u>	<u>Class Increase</u>
Firm Sales	69,245,800	2.15¢	\$1,488,700
Regular Interruptible Industrial	20,796,100	2.15	447,100
Other Interruptible Sales	25,004,000	2.15	537,600
Resale	35,099,400	2.15	754,600
Total Sales	<u>150,145,300</u>	<u>2.15</u>	<u>3,228,000</u>

Applicant proposes that as of January 1, 1958, the offset charges being collected in connection with Dockets Nos. G-2016, G-2018 and G-4769 be permanently incorporated in its base rates. Applicant states that Dockets Nos. G-2016 and G-2018 have been completely adjudicated and appropriate refunds of a portion of such offset charges have been made, that the rates paid to El Paso under Docket G-4769 will cease to be in effect as of January 1, 1958, and that liability to its customers for refund of offset charges collected in relation to those rates will cease to accrue at that time.

Applicant mentions that a considerable period of time might elapse before Docket No. G-12948 will be adjudicated and El Paso rates finalized, whereupon it could experience substantial over- or under-collections during the interim. The reason this could occur is that the offset collections are based upon total sales, whereas increased gas costs are applicable only to purchases from El Paso; the relationship between these two items might change considerably in a year or two. Applicant represents that both it and its customers can be protected from the possible serious effects of such a situation by an annual review of the level of the offset rate and by filing with the Commission, not later than November 1, of each

year, an appropriate offset rate for the following calendar year, based upon estimated volumes of gas purchased from El Paso and of its gas sales for such following year.

Refund Plan

Applicant plans to refund to its customers the difference between the offset revenues collected and the net increase in the cost of gas, finally allowed, during the offset rate collection period, adjusted for local franchise requirements, as illustrated by Exhibit C in its application. The general details of applicant's refund plan are:

1. Distribute refunds to each class of service in proportion to the amount collected as offset charges from each class of service during the period subject to refund.
2. Refunds to active general service customers would be credited to bills. If the total amount refundable averages one dollar or less per active general service customer, a uniform credit would apply to such bills and if the amount exceeds one dollar, applicant proposes to submit a plan for such refunds after the amount available for refunds has been definitely established.
3. Refunds to customers served on other than General Service schedules would be calculated individually and based on the actual consumption by each customer during the period subject to refund. Such refunds would be credited to active accounts and checks mailed to customers whose accounts have been closed.

Position and Statements of Interested Parties and Others

The San Diego Gas & Electric Company stated that the offset rate to it should be less than 2.15 cents per Mcf because it took service at transmission line pressure level where there is less unaccounted for gas than for a distribution line pressure of delivery and less franchise fees should be involved compared to the average system customer.

The City of Los Angeles stated that it is improper permanently to fold in any offset in the base rates prior to final determination of the Federal Power Commission on these offset increases. The City desired the same type of refund plan for the two utilities and pointed to the 50-cent level for uniform refunds proposed by Southern California Gas Company in contrast to the \$1 level proposed by the applicant. With regard to the spread of the increase the City favored a uniform increase per Mcf, stating that this is entirely a cost of gas increase, rather than a percentage spread based on class revenues.

The California Manufacturers Association pointed out that this is an increase in a two-part rate (demand and commodity) and it represents that a uniform spread per Mcf would overcharge the interruptible customer which does not have demand privileges. The Association would prefer a uniform percentage increase to all blocks.

The Monolith and Riverside Cement Companies preferred that the increase be made in proportion to the increases by classes recently made in the main rate decisions herein. They stated that they have no demand rights, are subject to frequent interruptions and that more than one cent per Mcf would be unfair to the interruptible classes.

Effect of the "Memphis" Decision

As pointed out in our Interim Order No. 55902, issued December 5, 1957, the applicability of the procedures provided for in Sections 4(d) and 4(e) of the Natural Gas Act to El Paso's petition in F.P.C. Docket No. G-12948 has been made questionable by a recent decision in the United States Court of Appeals for the District of Columbia Circuit.^{1/} It appears to this Commission that the applicant

^{1/} Memphis Light, Gas and Water Division; City of Memphis, Tennessee, and Mississippi Valley Gas Company, Petitioners, v. Federal Power Commission, Respondent, United Gas Pipeline Company, Texas Gas Transmission Corporation, and Southern Natural Gas Company, Intervenors, No. 13666.

herein is in substantially the same position with respect to El Paso Natural Gas Company as that of the petitioners in the "Memphis" case with respect to their supplier, and has substantially the same legal rights as those petitioners. Our Interim Decision No. 55902 was issued to require this and similar California applicants to diligently pursue such rights as they may have before the Federal Power Commission and the courts, and to file with this Commission verified statements of the action taken pursuant to such interim Decision.

Applicant has filed a verified report dated December 7, 1957, and it is apparent from that report that applicant has complied with the requirements of Interim Opinion No. 55902, has taken such initial steps as are available to it, and intends in good faith to pursue its legal remedies, as required by such interim decision, to final determination. We will condition applicant's authority to increase its rates in the manner provided by the order herein.

Findings and Conclusions

After considering the facts set forth in the application and reviewing the exhibits submitted by the applicant in support of this supplemental application, the Commission finds and concludes that applicant's proposal is reasonable, and, in general, should be authorized. However, applicant's request to fold in the offset charges in connection with Dockets Nos. G-2016, G-2018 and G-4769 will not be authorized. The offset resulting from the Federal Power Commission Docket No. G-2018 has been disposed of for the calendar year 1953 by Federal Power Commission order. The Federal Power Commission also found that there was no refund due in this docket for the year 1954 and the first 3½ months of 1955. The Commission, however, did not fix rates so that the offset in this proceeding continues in effect. For this reason the offset should be shown on the tariff sheets.

With regard to the question of rate spread, we have considered the alternatives to a uniform spread per Mcf but have reached the conclusion that applicant's proposal is preferable to the proposed alternatives. Applicant's proposal to review the reasonableness of the offset charge of 2.15¢ per Mcf annually and filing revised offset rates for the following calendar year will be authorized.

Applicant seeks approval of its refund plan in principle. In general, the plan appears reasonable. However, the \$1 limit below which a uniform customer refund will be made to General Service customers will be lowered to 50¢. The Commission disagrees with the proposal of applicant, as shown in Exhibit C, to deduct the cost of making refunds from any amount made available for refunds by El Paso and its plan will be amended to that extent. Also, this Commission, after decision of the Federal Power Commission in Docket No. G-12948, may find reason for change in the refund plan, so we will not, at this time, give the applicant's proposal our unqualified endorsement.

The Commission finds and concludes that the increases in rates and charges authorized herein are justified, and that the existing rates in so far as they differ from the rates being filed by the applicant, are for the future unjust and unreasonable.

The Commission having considered the request of applicant, public hearing having been held, and being of the opinion that the first supplemental application should be granted subject to the changes hereinabove mentioned; therefore,

IT IS ORDERED as follows:

1. If the Federal Power Commission grants the motion filed by El Paso Natural Gas Company on or about November 19, 1957, requesting that an order be entered by the Federal Power Commission putting

into effect the change of rate, charge, classification, or service, set forth in, among others, rate schedules G and G-X, and if thereafter El Paso Natural Gas Company assesses to applicant charges for gas sold and delivered to applicant computed by use of the rates specified in Schedules G and G-X of El Paso Natural Gas Company, then applicant is hereby authorized to file, in quadruplicate, with this Commission, in conformity with General Order No. 96, revised schedule with changes in rates, terms and conditions as set forth in Appendix attached hereto, and after not less than one day's notice to this Commission and to the public, to make said revised rates effective for service rendered on and after the date the increased El Paso rates, lawfully, go into effect.

2. In the event that applicant places such rate increases in effect:

- a. Applicant shall keep such records of sales to customers during the effective period of this cost of gas offset rate as will enable it to determine readily the total offset charge and the total refund, if any, that may be due each customer.
- b. Applicant's plan incorporating the changes discussed in the opinion herein for determining refunds shall be submitted to this Commission prior to making any refunds, and specific Commission approval shall be obtained of the plan at that time.
- c. Upon the final decision by the Federal Power Commission in Docket No. G-12948, applicant shall file a supplemental application herein containing its proposed permanent rate plan for final determination and authorization by this Commission.
- d. Upon final determination of the actual cost of refunding not recovered from El Paso Natural Gas Company and the amount of any balance created by applicant's inability to deliver checks and by checks uncashed after one year, applicant shall file a plan acceptable to the Commission for the equitable disposition of the resultant net balance.

e. Applicant shall file with the Commission monthly reports within sixty days following the close of each such period setting forth:

1. The increase in revenues realized under the offset rates authorized herein segregated by firm and interruptible classes of service, and
2. The increase in cost of out-of-state gas above the rate level in effect immediately prior to January 1, 1958.

f. Annual reviews of this offset rate may be made as proposed by applicant.

The effective date of this order shall be ^{Twenty} ~~thirteen~~ days after the date hereof. *John*

Dated at San Francisco, California, this 17th day of December, 1957.

E. P. [Signature]
President

[Signature]

R. [Signature]

E. [Signature]
Commissioners

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The presently effective base and effective rates may be changed to the extent set forth in this appendix.

1. The contingent offset clause in Schedules Nos. G-1, G-2, G-3, G-4, G-5, G-5.1, G-6, G-6.1 and G-6.2 changed to the following:

Contingent Offset Charges:

The above base rates include the following offset charges which, in accordance with Decisions Nos. 47991, 51361 and of the California Public Utilities Commission, are contingent upon the price of gas purchased from El Paso Natural Gas Company:

- a. An offset charge of .16 cent per 100 cubic feet.
- b. An offset charge of .25 cent per 100 cubic feet.
- c. An offset charge of .215 cents per 100 cubic feet.

The effective rates are computed in accordance with Rule 2(K) from the base rates and are subject to possible refund in accordance with said decisions in the event of a reduction in the cost of gas purchased from El Paso Natural Gas Company.

2. The contingent offset clause in Schedules Nos. G-20, G-21, G-25, G-26, G-40, G-41 and G-45 changed to the following:

Contingent Offset Charges:

The above base rates include the following offset charges which, in accordance with Decisions Nos. 47991, 51361 and of the California Public Utilities Commission, are contingent upon the price of gas purchased from El Paso Natural Gas Company:

- a. An offset charge of 1.6 cents per Mcf.
- b. An offset charge of 2.5 cents per Mcf.
- c. An offset charge of 2.15 cents per Mcf.

The effective rates are computed in accordance with Rule 2(K) from the base rates and are subject to possible refund in accordance with said decisions in the event of a reduction in the cost of gas purchased from El Paso Natural Gas Company.

3. The contingent offset clause in Schedule No. G-50 changed to the following:

Contingent Offset Charges:

The above base rates include the following offset charges which, in accordance with Decisions Nos. 47991, 51361, and of the California Public Utilities Commission, are contingent upon the price of gas purchased from El Paso Natural Gas Company:

- a. An offset charge of 1.6 cents per Mcf.
- b. An offset charge of 1.3 cents per Mcf, for the first 20,000 Mcf., and 1.0 cents per Mcf, over 20,000 Mcf.
- c. An offset charge of 2.15 cents per Mcf.

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The effective rates are computed in accordance with Rule 2(K) from the base rates and are subject to possible refund in accordance with said decisions in the event of a reduction in the cost of gas purchased from El Paso Natural Gas Company.

4. The contingent offset clause in Schedule No. G-54 changed to the following:

Contingent Offset Charges:

The present effective rates include an offset charge of 1.04 cents per Mcf authorized by Decision No. 54831 and 2.15 cents per Mcf authorized by Decision No. _____ and are subject to possible refund in accordance with said decisions in the event of a reduction in the cost of gas purchased from El Paso Natural Gas Company.

5. The present clause in Schedule No. G-60 under RATES, Section 1.3, Commodity Charge changed to the following:

The commodity charge includes offset charges of 2.8 cents per Mcf based upon the increase in charges to Southern Counties Gas Company of California and Southern California Gas Company by El Paso Natural Gas Company, which went into effect January 1, 1953, subject to final determination by the Federal Power Commission, and 2.5 cents and 2.15 cents per Mcf authorized by Decisions Nos. 51361 and _____ respectively, of the California Public Utilities Commission, subject to possible refund in the event of a reduction in the cost of gas purchased from El Paso Natural Gas Company.

APPENDIX B

LIST OF APPEARANCES

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

Interested Parties: Alan G. Campbell and Robert W. Russell, for City of Los Angeles; O'Melveny & Myers by Lauren M. Wright, for Riverside Cement Company; Norman Elliott & Joseph T. Enright and Waldo A. Gillette, for Monolith Portland Cement Company; Bruce Renwick, H. W. Sturges, Jr., and R. E. Woodbury by J. F. Nail, for Southern California Edison Company; Richard L. Wells, of Gibson Dunn & Crutcher, for American Potash and Chemical Company and West End Chemical Company; Chickering & Gregory by C. Hayden Ames, for San Diego Gas & Electric Company; Brobeck, Phleger & Harrison by Gordon E. Davis, for California Manufacturers Association; Overton, Lyman & Prince by Donald H. Ford, for Southwestern Portland Cement Company.

Commission Staff: Harold McCarthy and C. T. Coffey.

LIST OF WITNESSES

Evidence was presented on behalf of the applicant by W. J. Herrman and C. L. Dunn.