

Decision No. 76692

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Michael E. Tigar, on behalf of himself  
and all others similarly situated,

Complainant,

vs.

Southern Counties Gas Company,

Defendant.

Case No. 8963  
(Filed September 8, 1969)

ORDER OF DISMISSAL

The complaint of Michael E. Tigar alleges in substance that Rule No. 7, Deposits, of the Tariff Schedules of Southern Counties Gas Company of California (SoCounties) discriminates against customers who receive gas service for less than 12 months, in which event no interest is paid on their deposits, against customers who are solvent but do not own their own homes and against customers for whom payment of a deposit is a hardship. The complainant also contends that Rule No. 7 creates a late payment charge, since interest is paid only on deposits of customers whose bills for gas service are paid on the average within 15 days after presentation, and that Rule No. 7 gives the defendant a large fund which it can invest, save or spend as it chooses. Complainant requests that "the Commission declare Rule No. 7 void and of no effect and order the defendant to cease and desist from enforcing its terms, and to refund the deposits which it presently holds."

SoCounties filed an answer in which all material allegations of the complaint are denied and in which Decision No. 76065 dated August 26, 1969 in Cases Nos. 8735 and 8770 is cited. Defendant requests that the complaint be dismissed, contending that the complainant fails to state a cause of action.

SoCounties' tariff provisions dealing with the establishment of credit are contained in its Rules Nos. 6 and 7. Rule No. 6, Establishment and Re-establishment of Credit, provides, among other things, five ways in which credit may be established by residential consumers. One of the ways is by means of a cash deposit; Rule No. 7 provides for the amount of the deposit, its return and the interest to be paid thereon. The required accounting for deposits is set forth in the Uniform System of Accounts prescribed for gas utilities.

SoCounties' tariff Rules Nos. 6 and 7 are substantially the same as tariff Rules Nos. 6 and 7 of Pacific Gas and Electric Company.

In Nunemaker, et al, v. Pacific Telephone & Telegraph Company and Wood, et al, v. Pacific Gas & Electric Company (Decision No. 76065 dated August 26, 1969 in Cases Nos. 8735 and 8770) complainants challenged the legality and reasonableness of the defendant utilities' tariff provisions dealing with the establishment of credit as set out in Rules Nos. 6 and 7 of their respective Tariff Schedules. In Decision No. 76065 we

upheld the validity of the rules. Among the numerous findings made from a record developed during ten days of public hearing in Cases Nos. 8735 and 8770 are:

"16. The purposes of PT&T's and PG&E's establishment of credit rules are to attempt to insure some measure of protection to public utilities who must serve the public, within the scope of their dedication and rules and regulations, without discrimination, and to protect consumers who pay their utility bills from having to pay higher rates because of irresponsible persons who do not pay their utility bills."

"20. PT&T's and PG&E's establishment of credit rules were lawfully authorized and are constitutional and legal in form, substance and in their application by PT&T and PG&E."

The complainant herein does not allege improper application of either Rule No. 6 or Rule No. 7 by defendant.

The complaint is dismissed for failure to state a cause of action.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 10th day of JANUARY, 1970.

William L. Gattov, Jr.  
President

J. Michael  
Thomas G. Brown  
Veron L. Stanger  
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.