

Decision No. 84802

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ronald D. Reitz, individually and as representative of all members of the class similarly situated,

Plaintiffs,

vs.

Southern California Edison Company and Southern California Gas Company, public utility companies of the State of California,

Defendants.

Case No. 9730  
(Filed May 6, 1974)

Ronald D. Reitz, for himself, complainant.  
Robert Salter, William M. Pfeiffer, and David B. Follett, by David B. Follett, Attorney at Law, for the Southern California Gas Company; and John W. Evans, Attorney at Law, for the Southern California Edison Company; defendants.

O P I N I O N

This is a complaint by Ronald D. Reitz (Reitz) against Southern California Edison Company (Edison) and Southern California Gas Company (SCG). The complaint involves the deposit rules and practices of the defendants.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis in Los Angeles on October 17, 1974, and it was submitted on October 22, 1974.

Reitz does not challenge the validity of Edison's and SCG's establishment of credit rules.<sup>1/</sup> He challenges various aspects of the rules and the manner in which they are applied. The material issues presented by the complaint are as follows: (1) Is the interest rate of 6 percent, which Edison and SCG pay on customer deposits unreasonable? (2) Is Edison's practice of not transferring a deposit when a customer moves, but still remains within its service area, unreasonable? If so, is Reitz entitled to reparations herein? (3) Did SCG improperly refuse to refund a deposit allegedly made by Reitz?

Both Edison and SCG have tariff provisions which provide for the payment of interest at the rate of 6 percent per annum on deposits retained for a period of one year or more. Reitz contends that the rate of interest is inadequate and should be higher. He argues that corporate borrowers must currently pay a higher rate of interest to secure money and that customers who put up a deposit should be entitled to a similar rate. Reitz introduced no evidence in support of this contention.

The reason for rules dealing with establishing credit, including deposits, were stated in an early Commission decision:

"The question is frequently asked: 'Why does a water, gas, electric or telephone utility have the right to demand payment in advance, or deposits or other security to insure payment for service to be delivered, while the ordinary tradesman does not make similar demands?'

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<sup>1/</sup> A deposit may be required if credit is not otherwise established. See Nunemaker et al. v PT&T Co. et al. (1969) 70 CPUC 38, 48, affirmed, 4 C 3d 288, appeal dismissed for want of federal question 404 US 931.

"The answer is that the condition of the tradesman is entirely different from that of the utility. The tradesman sells only to whom he pleases. If he does not like a person or believes that his credit is not good, he is free to demand cash on delivery or to refuse to sell at all. The utility on the other hand, is obliged to supply its service to all who demand it within the area to which the utility's obligations extend. As the law now stands, a baker may refuse to sell bread, but a water utility may not refuse to sell water to any one who complies with its reasonable regulations. Water, gas, electric and telephone service have come to be regarded largely as public necessities, and they may not be denied even to the impecunious or to the financially irresponsible members of the public. Hence, unless some measure of protection is accorded the utility, it will find itself in the position of having delivered, under compulsion, service for which it receives no pay. Such a condition not merely decreases the ability of the utility to perform effectively its duties to the public, but also affects injuriously those consumers who pay their bills and who, in the last analysis, will have their rates increased by the failure of other consumers to pay their bills."  
(Re deposits, 7 C.R.C. 830, 837-38.)

The record indicates that the four largest California utilities pay interest on deposits held for a year or more at the rate of 6 percent per annum. The Commission takes official notice that the rate of interest presently paid on savings accounts by California banks is  $4\frac{1}{2}$ -5 percent per annum and that the rate of interest paid by California savings and loans on passbook accounts is  $5\frac{1}{4}$  percent per annum.<sup>2/</sup> In the circumstances, we find the rate of interest paid on deposits by Edison and SCG is reasonable.

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<sup>2/</sup> Because of the smaller amounts generally involved in deposits, we do not look to the rates of term deposits which require minimum amounts of \$500 or \$1,000.

Reitz next contends that Edison's refusal to transfer deposits is in violation of its tariff and is unreasonable.<sup>3/</sup> Edison's tariff provides:

"Rule 6.

- "A. Establishment of Credit - Domestic Service. Each applicant, before receiving domestic service, will be required to satisfactorily establish credit which will be deemed established:

\* \* \*

2. If applicant makes a cash deposit to secure payment of bills for electric service as prescribed in Rule No. 7; or

\* \* \*

4. If applicant has been a customer of the Company within the last two years and during the last twelve consecutive months of that prior service has had not more than two past due bills as prescribed in Rule No. 11-A;...."

"Rule 7.

- "A. Amount of Deposit. The amount of deposit required to establish or re-establish credit is twice the estimated average monthly bill if the billing period is monthly, or 1-1/2 times the estimated average bimonthly bill if the billing period is bimonthly, or twice the estimated average weekly bill if the billing period is weekly, but in no case may the amount of deposit be less than \$5.00.

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<sup>3/</sup> The record indicates that SOG transfers deposits when a customer moves within its service area.

"B. Return of Deposit.

1. Upon discontinuance of service, the utility will refund the customer's deposit or the balance in excess of the unpaid bills for service.
2. A deposit is refundable when the periods covered by bills paid before becoming past due, as prescribed in Rule No. 11-A., are equal to one year.
3. The utility may return the deposit at any time upon request provided the customer's credit may otherwise be established in accordance with Rule No. 6.

"C. Interest on Deposit. The utility will pay interest on the deposit at the rate of 6% per annum. Interest is payable for one year on the date the deposit first becomes refundable, as provided in Section B.2., and for any additional period thereafter up to the date of refund or the date upon which a check is mailed to the customer. Interest will not be paid for less than one year."

The record clearly indicates that if an Edison customer is required to establish credit by paying a deposit under Rule 6(A)(2) and the customer moves to another location in Edison's service area within one year, Edison will not transfer the deposit. It refunds the deposit at the old location and requires a deposit at the new one. The new deposit is not refunded for a period of one year from the date it is received. Edison will not tack together consecutive periods of service at different locations within its service area. Edison contends that the word customer in Rule 6(A)(4) means customer at a particular meter. Under this interpretation, Edison requires customers who have moved but regularly paid their bills to make deposits, which do not draw interest, for periods far in excess of one year. In the case at bench, Reitz applied for service in Pomona in March of 1973. At that time, Edison required that he make a \$30

deposit to establish credit in order to obtain service. Reitz had no past-due bills at his Pomona address. In August 1973, Reitz moved to San Bernardino, which is within Edison's authorized service area. Reitz requested service from Edison at the San Bernardino location. Edison again required Reitz to establish credit in order to obtain service by making a deposit. Edison refused to transfer the deposit which Reitz furnished in Pomona. Reitz made an additional deposit of \$30 in order to obtain service. The \$30 deposit made in Pomona was returned to Reitz after a period of time. Edison refused to return the deposit made in San Bernardino or pay interest thereon until September of 1974 at the earliest. Thus, under its tariff interpretation, Edison held Reitz's deposits for a total continuous period of at least 18 months without paying any interest thereon. Edison contends that the word "customer" in its Rule 6(A)(4) means customer at a specific meter. Edison's supervising rate engineer testified that:

"I know from my own experience that Edison has long considered the term 'customer' to be applicable to a person who's receiving service at a specific location through one meter.

"In other words, the customer is the person associated with a single account of Edison, and in writing these present rules for credit and deposits and refunds of deposits, it is believed that the words are used in the sense that has — that is commonly accepted by the utility employees."  
(RT 45.)

Edison also contends that if it is required to transfer deposits its operating expenses will be increased which would be reflected in its rates.

Edison's interpretation of its Rules 6 and 7 is untenable as to its logic and contrary to historical precedent. Rules 6 and 7 are establishment of credit rules. Their purpose is to insure that those receiving utility service pay their bills, (Numemaker et al. v PT&T Co. et al., supra, at p. 46.) It is the credit of the customer which is established under such rules. We fail to perceive any rational basis for tying the determination to service received at one specific meter. In any event, this point was specifically determined contrary to Edison's contention in 1915 in a proceeding in which Edison was a party. In Re Deposits (1915) 7 CRC 830 the Commission held at page 850:

"Frequent inquiries have been made of this Commission concerning the period of time during which a utility may retain a deposit which it has demanded to guarantee payment for metered service. The suggestion is constantly made that after all bills have been promptly paid over a period of time, such as a year, the consumer's credit should be deemed established and the deposit returned to him. Attention is also drawn to the frequent difficulty of finding consumers after a period of years, for the purpose of returning a deposit.

"A consumer making a deposit covering service at one location shall have continuing credit therefor if he transfers his service to another location before the deposit is returned to him."

Edison's contention of increased costs has no merit. Other utilities subject to the Commission's jurisdiction transfer deposits and this has not had any significant effect on their operating expenses.

In the circumstances, Edison should be ordered to transfer customer deposits and permit the establishment of credit for continuous payment of bills by counting all service furnished at one or more locations within its service area. Reitz should be awarded reparations for the interest which should have been paid to him with interest thereon.

The remaining point to be considered is whether SCG has improperly refused to return an alleged \$15 deposit. There is conflicting evidence on this point. SCG interprets its tariffs to provide for transferring deposits. When Reitz moved from Pomona to San Bernardino, SCG refunded the \$15 deposit which he made in March 1973, less the amount of Reitz's closing bill. Reitz contends that he was required to make another \$15 deposit to receive service in San Bernardino. SCG contends that no deposit was required or received from him. Reitz has no receipt for a subsequent deposit. He introduced an affidavit from his wife stating that such a deposit was made. SCG introduced evidence that it had checked Reitz's account file, and for the period from August to November of 1973, all of its deposit records, a computer printout list of deposits, all deposit stubs and their transaction register, and that it was unable to find such a deposit. In addition, SCG examined the division overage and shortage register for the entire year 1973 and was unable to locate such a deposit. On the evidence, we find that Reitz has failed to establish that any deposit was made in August of 1973.

No other points require discussion. The Commission makes the following findings and conclusions.

Findings of Fact

1. Edison and SCG have establishment of credit rules in their tariffs. These rules provide for the payment of a deposit if a customer's credit is not otherwise established. Edison and SCG have tariff provisions which provide for the payment of interest at the rate of 6 percent per annum on deposits retained for a period of one year or more.
2. The purpose of deposits is to insure payment of bills and not to raise capital for utilities.



3. The Commission takes official notice that the rate of interest presently paid by California banks on savings accounts is  $4\frac{1}{2}$ -5 percent per annum and that the rate of interest presently paid by California savings and loans on passbook accounts is  $5\frac{1}{2}$  percent per annum.

4. The rate of interest paid by Edison and SCG on deposits held for one year or more is reasonable.

5. Edison's tariff Rules 6 and 7 are as follows:

"Rule 6.

"A. Establishment of Credit - Domestic Service. Each applicant, before receiving domestic service, will be required to satisfactorily establish credit which will be deemed established:

1. If applicant is the owner of the premises to be served or of other real estate within the territory served by the Company; or
2. If applicant makes a cash deposit to secure payment of bills for electric service as prescribed in Rule No. 7; or
3. If applicant furnishes a guarantor, satisfactory to the Company, to secure payment of bills for the service requested; or
4. If applicant has been a customer of the Company within the last two years and during the last twelve consecutive months of that prior service has had not more than two past due bills as prescribed in Rule No. 11-A; or
5. If applicant's credit is otherwise established to the satisfaction of the Company."

"Rule 7.

"A. Amount of Deposit. The amount of deposit required to establish or re-establish credit is twice the estimated average monthly bill if the billing period is monthly, or 1-1/2 times the estimated average bimonthly bill if the billing period is bimonthly, or twice the estimated average weekly bill if the billing period is weekly, but in no case may the amount of deposit be less than \$5.00.

"B. Return of Deposit.

1. Upon discontinuance of service, the utility will refund the customer's deposit or the balance in excess of the unpaid bills for service.
2. A deposit is refundable when the periods covered by bills paid before becoming past due, as prescribed in Rule No. 11-A., are equal to one year.
3. The utility may return the deposit at any time upon request provided the customer's credit may otherwise be established in accordance with Rule No. 6.

"C. Interest on Deposit. The utility will pay interest on the deposit at the rate of 6% per annum. Interest is payable for one year on the date the deposit first becomes refundable, as provided in Section B.2., and for any additional period thereafter up to the date of refund or the date upon which a check is mailed to the customer. Interest will not be paid for less than one year."

6. Reitz requested service from Edison at the San Bernardino location. Edison again required Reitz to establish credit in order to obtain service by making a deposit. Edison refused to transfer the deposit which Reitz furnished in Pomona. Reitz made an additional deposit of \$30 in order to obtain service. The \$30 deposit made in Pomona was returned to Reitz after a period of time. Edison refused

to return the deposit made in San Bernardino or pay interest thereon until September of 1974. Edison held Reitz's deposits for a total continuous period of 18 months without paying any interest thereon.

7. If a customer of Edison is required to establish credit by paying a deposit under Rule 6(A)(2), Edison will not transfer the deposit if the customer moves to a different location within Edison's authorized service area. This practice is in violation of Edison's tariff and is unjust, arbitrary, and unreasonable.

8. Edison refuses to consider consecutive periods of service to a customer at different locations within its authorized service area in applying Rule 6(A)(4) and 7(A)(2). These practices are in violation of Edison's tariff and are unjust, arbitrary, and unreasonable.

9. Reitz applied to Edison for electric service at 2961 North Garey, Pomona, California in March of 1973. At that time Edison required Reitz to make a \$30 deposit to establish credit in order to obtain the service.

10. Reitz had no past-due Edison bills while he resided at the Pomona address.

11. In August 1973, Reitz moved from Pomona to 3557 North E Street, San Bernardino, California, which is within Edison's authorized service area. Reitz requested service from Edison at the San Bernardino location. Edison again required Reitz to establish credit in order to obtain service by making a deposit. Edison refused to transfer the deposit which Reitz furnished in Pomona. Reitz made an additional deposit of \$30 in order to obtain service. The \$30 deposit made in Pomona was returned to Reitz after a period of time. Edison refused to return the deposit made in San Bernardino or pay interest thereon until September of 1974 at the earliest. Edison held Reitz's deposits for a total continuous period of at least 18 months without paying any interest thereon.

12. Reitz is entitled to reparations in the amount of interest improperly withheld by Edison on his \$30 deposit from March 1973 until said amount is paid. The amount due shall be calculated at the rate of 6 percent per annum from March 1, 1973 until the date of payment thereof. No discrimination will result from the payment of interest on reparations for said amount. In addition to the reparations ordered herein, Edison should pay interest thereon from March 1, 1974 at the rate of 7 percent per annum.

13. Proper application by Edison of its tariff Rules 6 and 7 will have no substantial impact on its operating expenses.

14. In March 1973, Reitz applied to SCG for gas service at 2961 North Garey, Pomona, California. At that time SCG required Reitz to make a \$15 deposit to establish credit in order to obtain service.

15. In August 1973, Reitz moved from Pomona to 3557 North E Street, San Bernardino, California, which is in SCG's authorized service area.

16. SCG's operating practices provide for the transfer of customer deposits. However, in the case of Reitz, SCG refunded the \$15 Pomona deposit, less the amount Reitz's closing Pomona bill of \$3.96, for a refund of \$11.04 on September 9, 1973. Reitz suffered no prejudice by the early return of his deposit.

17. SCG did not require Reitz to furnish a deposit in order for him to receive service at his San Bernardino address nor did they receive any deposit from him in connection with that service.

#### Conclusions of Law

1. The rate of interest paid by Edison and SCG on deposits held for one year or more is reasonable.

2. Edison should be ordered to transfer a customer's deposit made under its tariff Rule 6(A)(2) if the customer moves to another location within Edison's authorized service area during a period in which Edison requires a deposit.

3. Edison should be ordered to consider consecutive periods of service to a customer at different locations within its authorized service area in applying its tariff Rules 6(A)(4) and 7(A)(2).

4. Reitz should be awarded reparations calculated as follows: The sum of the calculation of 6 percent per annum applied to the amount of \$30 for the period from March 1, 1973 to the date of payment thereof with interest thereon at the rate of 7 percent per annum from March 1, 1974 until the date of payment.

5. Reitz is entitled to no other relief in this proceeding.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company shall transfer a customer's deposit made under its tariff Rule 6(A)(2) if the customer moves to another location within Edison's authorized service area during a period in which Edison requires a deposit.

2. Southern California Edison Company shall, in applying its tariff Rules 6(A)(4) and 7(A)(2) utilize consecutive periods of service to a customer at different locations within its authorized service area.

3. Southern California Edison Company shall pay to Ronald D. Reitz as reparations an amount calculated as follows: The sum of the calculation of 6 percent per annum applied to the amount of \$30 from March 1, 1973 to the date of payment thereof with interest thereon at the rate of 7 percent per annum from March 1, 1974 until the date of payment. ✓

4. Ronald D. Reitz is entitled to no other relief in this proceeding.

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

Dated at San Francisco, California, this 19<sup>th</sup> day of AUGUST, 1975.

~~William J. ...~~  
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President  
William J. ...

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Paul ...  
Commissioners

Commissioner Vernon L. Sturgeon, being necessarily absent, did not participate in the disposition of this proceeding.