

IS

Decision No. 86117

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA)
GAS COMPANY for Authority to Increase)
Rates for Gas Service Due to Fuel Cost)
Adjustment. (Filed by Advice Letter)
No. 916).)

Application No. 55676
(Filed April 23, 1975
amended May 16, 1975)

In the Matter of the Application of)
SAN DIEGO GAS & ELECTRIC COMPANY for)
Authority to offset the Increased Costs)
of Purchased Gas. (Advice Letter)
Filing No. 332-G).)

Application No. 55677
(Filed May 7, 1976;
amended May 16, 1975)

Application of Southern California Gas)
Company for authority to increase rates)
for gas service pursuant to fuel cost)
adjustment procedure. (Filed by Advice)
Letter No. 911).)

Application No. 55544
(Filed March 6, 1975)

Application of San Diego Gas and)
Electric Company for authority to)
increase rates for gas service pursuant)
to fuel cost adjustment procedure.)
(Filed by Advice Letter No. 328-G).)

Application No. 55543
(Filed March 6, 1975)

ORDER DENYING REHEARING AND MODIFYING DECISION NO. 85627

By Decision No. 85627, issued March 30, 1976, the Commission inter alia ordered Southern California Gas Company (SoCal) to make certain refunds based upon a downward rate of return adjustment of 0.25 percent. San Diego Gas & Electric Company (SDG&E) was also ordered to make certain refunds.

City of Los Angeles (LA) filed a petition for rehearing or modification on April 5, 1976. SoCal petitioned for rehearing, reconsideration and stay on April 9, 1976. Said filings suspended the effective date of Decision No. 85627.

LA claims the Commission erred in failing to consider tax credits available to SoCal regarding transmission facilities and in failing to require interest on refunds. SoCal claims the Commission erred in making the rate of return adjustment and in requiring refunds.

Upon review of the record in this proceeding we are not persuaded that good cause for rehearing has been shown. We are persuaded, however, that Decision No. 85627 should be modified in certain respects and our reasoning more fully set forth.

SoCal claims there is absolutely no evidence in the record concerning the issue of rate of return. As we noted at page 18 of Decision No. 85627, SoCal's brief in this matter sets forth the benefits of its election to use ratable flow-through. These benefits were described by SoCal witness Goodenow in Application No. 55345.^{1/} He stated SoCal's cash flow would be maximized, its interest coverage increased, and the financial requirements in constructing facilities and acquiring gas supplies relieved (A. 55345, Tr. 2281). Each of these benefits reduces SoCal's risk. It is our informed judgment that a downward reduction of 0.25 percent in SoCal's rate of return best recognizes the reduction in risk resulting from SoCal's exercise of Option 2 pursuant to the Tax Reduction Act of 1975. Included in said judgement, contrary to the contention of LA, is consideration of the additional 1975 credit for SoCal's transmission plant of approximately \$260,000 which translates into a revenue requirement equivalent of approximately \$559,000.

SoCal asserts that the 0.25 percent reduction erroneously reduces earned rate of return. SoCal misunderstands the basis for the reduction. This purchased gas adjustment proceeding is

^{1/} All evidence in Application No. 55345 relevant to this issue was incorporated into this record by ruling of the Examiner issued November 24, 1975.

essentially an offset proceeding to recognize a change in 1974 test year operations^{2/} which is extraordinary in kind and amount. We consider the changes in SoCal's financial condition because of the 1975 Tax Reduction Act to be extraordinary and thus appropriate for consideration in an offset proceeding. By its nature an offset proceeding assumes all normal test year conditions and makes changes only for those items to be offset. What we have done is simply to reduce the rate of return found reasonable in Decision No. 83160 from 8.5 percent to 8.25 percent and to reduce rates accordingly to give recognition to SoCal's reduced risk and the tax benefits regarding transmission properties. In reviewing the record in this regard, and though the error was not specified in either of the petitions for rehearing, we have concluded that we erred in failing to require that SoCal's rates be reduced to reflect the 0.25 percent reduction in rate of return.

On January 20, 1976 we issued Decision No. 85354 which granted SoCal a partial general rate increase in its pending general rate increase Application No. 55345. Said increase was designed to enable SoCal to earn its last authorized rate of return of 8.5 percent. It was made subject to refund in the event the Commission subsequently determined a rate increase of less than the amount authorized therein was warranted. Inasmuch as we have determined that SoCal's last authorized rate of return should be reduced from 8.50 percent to 8.25 percent to reflect the decline

2/ As adopted in Decision No. 83160, issued July 16, 1976.

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in risk because of the Tax Reduction Act of 1975, we will issue a companion order in Application No. 55345 providing for said reduction and requiring that refunds be made to reflect the reduced return.

Upon review we have also concluded that, while rates were required to be collected subject to refund in SoCal's Application No. 55544, the refund provision in Decision No. 84291, issued April 1, 1975, is too limited to require refunds because of a reduction in rate of return as of that date. Rather, the refund period should begin with Decision No. 84700 issued in Application No. 55676 on July 22, 1975 which provided as follows:

"2. The rate increase granted in Decision No. 84569 shall be made subject to refund as follows: All sums collected by [SoCal] pursuant to the Interim Order in Decision No. 84569 and collected subsequent to the date of this order shall be subject to refund in whole or in part should the Commission determine that [SoCal] has a reduced revenue requirement resulting from its investment tax credit election under [TRA]."

SoCal takes issue with our failure to reduce SDG&E's rate of return claiming it is without basis and prejudicial. As we noted in Decision No. 85627, SDG&E was granted emergency rate relief on October 15, 1975. Because of the likelihood of a very low-tax liability in 1975, SDG&E's cash flow, interest coverage and financial picture would not be appreciably improved by reason of additional tax credits. It is true, as SoCal points out, that SDG&E may carry forward any unused 1975 investment tax credit but that issue should more appropriately be considered in the future in SDG&E's pending general rate proceeding.

SoCal claims that the 0.25 percent rate of return reduction will likely result in forfeiture of the additional investment tax credits. We disagree. Neither the Tax Reduction Act nor the Regulations suggest that this Commission cannot consider changes in risk in determining a reasonable rate of return. Our decision is in perfect accord with the California Supreme Court's decision in City of Los Angeles v. Pub. Util. Comm., 15 C.3d 680 (1975).

SoCal suggests we are attempting to do indirectly what we should not do directly (flow-through). We note that were we to flow through the tax savings for 1975, the impact on revenue requirement would be approximately \$5,085,000 (\$4,426,000 + \$559,000) or substantially more than a 0.25 percent rate of return reduction on an annual basis.

LA petitions that the Commission did not consider the additional tax credit applicable to SoCal's transmission lines. As we discussed above, we considered said tax credit in determining SoCal's reduced risk. It was our option to treat transmission facilities separately as a lessened tax expense or to treat both transmission and distribution facilities together as a rate of return item. We chose the latter.

LA also asserts that we should have required that the refunds be with interest. We agree and will so order.

Upon review of the record in this matter we have concluded that the findings and conclusions set forth in Decision No. 85627 should be modified or supplemented as follows:

Finding 5 should be deleted and replaced by the following:

5. A rate of return adjustment downward of 0.25 percent on an \$824.5 million rate base will best recognize SoCal's reduction of risk because of increased cash flow, increased interest coverage, and relieved financial requirements resulting from the Tax Reduction Act of 1975.

Conclusion No. 1 of Decision No. 85627 is modified to read:

"1. With respect to SoCal, a rate of return adjustment downward of 0.25 percent on an \$824.5 million rate base is appropriate. This adjustment, translated into the corresponding gross revenue amount for the period July 22, 1975 to February 3, 1976 (effective date of rates authorized by Decision No. 83160) by SoCal, should be reduced on a uniform cents per therm basis to all customer classes (since this is the manner in which the increase granted by D. 84291 was spread). SoCal should be ordered to file a refund plan within thirty days after the effective date of this order."

The following Conclusion 3 should be added:

3. A rate of return adjustment of 0.25 percent is in accord with City of Los Angeles v. Pub. Util. Comm., 15 C.3d 680 (1975) and will not deprive SoCal of eligibility for the additional investment tax credit under the Tax Reduction Act of 1975.

IT IS ORDERED that:

1. Ordering Paragraph 1 of Decision No. 85627 is deleted and replaced by the following:

"1. With respect to Southern California Gas Company, a rate of return adjustment downward of 0.25 percent on an \$824.5 million rate base, translated into a gross revenue amount for the period July 22, 1975 to February 3, 1976 is ordered to be refunded with seven percent interest on a uniform cents per therm basis to all customer classes, pursuant to a refund plan to be filed by Southern California Gas Company within thirty days after the effective date of this order, which plan must be approved by this Commission."


2. The refund required to be made by SDG&E in Decision No. 85627 shall be with interest.

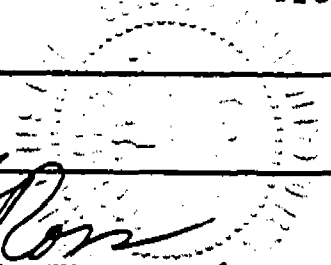


3. In all other respects, Decision No. 85627 shall remain in full force and effect.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 13th day
of JULY 1, 1976.

I dissent
This is another attempt
to legalize an illegal
order.
William Sycous Jr.


President




Commissioners

I dissent
Vernon L. Sturgeon