

Decision 89 12 055 DEC 18 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

V. J. Schrader,

Complainant,

vs.

Southern California Gas Company
(U-904-G),

Defendant.

Case 88-06-017
(Filed June 13, 1988)

ORDER MODIFYING DECISION (D.) 89-09-101
AND DENYING REHEARING

A petition for rehearing of D.89-09-101 has been filed by Southern California Gas Company. We have carefully considered the allegations contained in the petition and are of the opinion that rehearing should be denied. However, the decision should be modified in several respects. Therefore,

IT IS HEREBY ORDERED that:

Decision 89-09-101 is modified as follows:

1. The following sentence is added after the first sentence in the fifth full paragraph on page 4:

"We find that testimony credible."

2. The first and second full paragraphs on page 5 are modified to state:

"The preponderance of the little evidence we have in this case leads us to infer that SoCal was notified of the correct number of units but for some reason used a lesser number in calculating the baseline allowance. We therefore find that there was a billing error. Tariff Rule 16, which governs the adjustment of SoCal's bills, provides that

the utility shall issue a refund or credit to a customer for the result of an overcharge where the utility overcharges a customer as the result of a billing error. Schrader has satisfied his burden of proof in his complaint seeking refunds by demonstrating that a billing error occurred. The complainant does not have the burden of explaining how SoCal's error occurred.

The initial error resulted in both overpayments and underpayments by Schrader, depending on whether the actual number of units in the building was more or less than 12. We will order SoCal to refund the net overpayment between April 12, 1985 and April 12, 1988, including interest."

3. The following findings are added to the decision:

"5a. The only records that were available reflect that Schrader notified SoCal that he planned 248 units.

"5b. Schrader's testimony that he notified SoCal of the correct number of units for billing purposes was credible.

"5c. SoCal failed to offer any evidence conflicting with Schrader's testimony."

4. The following Conclusion of Law is added:

"4. Schrader has satisfied his burden of proof in his complaint seeking refunds by demonstrating that a billing error occurred."

IT IS FURTHER ORDERED that:
Rehearing of D.89-09-101, as modified herein, is
denied.

This order is effective today.

Dated DEC 18 1989 at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Wesley Franklin

WESLEY FRANKLIN, Acting Executive Director

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