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Decision 92-05-033

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Peter J.H. Walker,

Complainant,

vs.

Southern California Gas Company,

Defendant.

**ORIGINAL**

Case 90-08-063  
(Filed August 29, 1990)

**ORDER MODIFYING DECISION (D.) 91-11-051**  
**AND DENYING REHEARING**

An application for rehearing of D.91-11-051 has been filed by Peter J.H. Walker. In that decision the Commission dismissed Walker's complaint alleging that Southern California Gas Company violated its obligation to provide a baseline allowance for residential heating by refusing to apply the allowance for his gas fireplace. We have reviewed each and every allegation in the application and are of the opinion that sufficient grounds for granting rehearing have not been shown.

Most of the allegations set forth by Walker are vague and unsubstantiated and are therefore rejected. First, Walker challenges the use of the expedited complaint procedure to handle his complaint. We conclude, upon reconsideration, that the use of this procedure was entirely appropriate. At the time Walker's complaint was filed, the expedited complaint procedure, authorized by Public Utilities Code Section 1702.1, as well as Rule 13.2 of the Commission's Rules of Practice and Procedure, applied to complaints filed in which the amount in controversy did not exceed \$1,500.00. The disputed amount in Walker's case is \$27.00. Walker argues in his application for rehearing that by extending the proper baseline allowance to the accounts of all customers similarly situated, the amount in controversy would

exceed \$1,500.00. However, Walker offers no authority for interpreting Section 1702.1 in this manner. Moreover, his reference to the class of "customers similarly situated" is totally vague.

The substantive focus of Walker's application concerns a factual question as to whether an electric furnace exists in the apartment complex in which Walker resided. The record sufficiently supports our finding in D.91-11-051 that there was an electric furnace serving the complex, although it appears to have been temporarily inoperable in Walker's unit for the period billed.

Walker, as the complainant and the applicant for rehearing in this proceeding, has the burden to show both that he is entitled to the baseline allowance and to demonstrate that the Commission committed legal error in failing to reach this conclusion. He has failed to satisfy both burdens. Accordingly, rehearing should be denied. We have determined, however, that the decision should be modified in several minor respects, as indicated below. Therefore,

IT IS ORDERED that:

1) The last paragraph on page 2 of the decision is modified to state:

We conclude that Walker's use of the gas logs as a primary source of heat does not meet the requirements of Section 739(a). The record sufficiently demonstrates that there was an electric furnace serving the apartment complex, although it appears to have been temporarily inoperable in Walker's unit for the period billed. Under these circumstances, where the primary source is only temporarily inoperable, unless the furnace is completely removed, it remains the primary source of heat. Walker, as the complainant in this proceeding, has the burden to demonstrate that he is entitled to the baseline allowance for his gas fireplace. He has failed to so demonstrate.

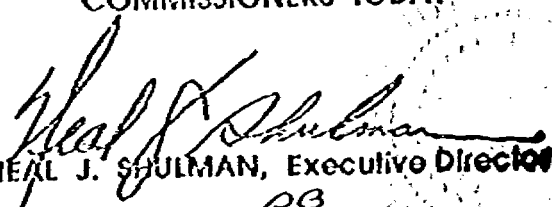
2) Rehearing of D.91-11-051, as modified herein, is denied.

This order is effective today.

DATED: May 8, 1992 at San Francisco, CA

DANIEL Wm. FESSLER  
President  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
NORMAN D. SHUMWAY  
Commissioners

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

  
NEAL J. SHULMAN, Executive Director  
PB

