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Decision 92-06-035 June 3, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Southern California Gas Company
(U 904 G) for authority to increase
rates charged for gas service based
on test year 1990 and to include an
attrition allowance for 1991 and 1992

And Related Matter.

ORIGINAL

Application 88-12-047
(Filed December 27, 1992)

I. 89-03-032
(Filed March 22, 1989)

ORDER DENYING REHEARING OF DECISION 92-03-041

J. Patrick Costello and Utility Audit Company have filed Applications for Rehearing of Decision (D.)92-03-041 contesting the legality of our denial of relief in complaint cases against Southern California Gas Company (SoCalGas) where the complainant, J. Patrick Costello (Costello), alleges that the utility failed to assign the correct rate schedule and/or provide correct baseline allowances to a variety of multi-family dwellings with individual units served by master meters.

Costello's primary argument on rehearing is that we have overruled our decision in Schrader v. SoCalGas, D.89-09-101, 32 CPUC 2nd 535 as modified in D.89-12-055, unpublished. Costello claims that Schrader stands for the proposition that the burden of proof in determining who is responsible for a billing error lies with the defendant utility once an error has been proven. In the Schrader case, we found that the complainant met his burden of proof by offering evidence that the utility made an error. We found that once it was proven that the utility made the error the complainant did not have to show how the utility actually made the error. Therefore, we found in D. 92-03-041 that the Schrader case stands for the proposition that the burden

of proof in this type of complaint case remains with the complainant.

Next Costello argues that we misinterpreted SoCalGas' Tariff Rule 19. Rule 19 states "[c]ustomers may be eligible for service under new and optional schedules or rates subsequent to notification by the customer and verification by the utility of such eligibility." (Rule 19, effective 1982.) Costello interprets this rule as putting the burden of verifying if the customer information is correct on the utility. Instead, we found in D.92-03-041 that Rule 19 requires the utility to verify eligibility for baseline allowances only after the customer has notified the utility of the number of dwelling units within the complex. The reasoning behind this rule is that the customer is in the best position to ascertain the number of dwelling units on his/her property. Therefore, it is reasonable to put the burden on the customer to notify the utility as to the number of units attached to each master meter. This interpretation of Rule 19 is consistent with our position in Eck v. SoCalGas, D.90-08-008, 37 CPUC 2nd 127. In that case, we found that the customer who failed to properly inform the utility of the number of units it had and thus failed to take advantage of a favorable rate was not eligible for a refund because the utility billed the customer in complete accordance with its tariff.

Finally, Costello asks us to open an investigation into SoCalGas' document retention policy. We addressed this request in D.92-03-041 and denied it. We found that a utility should not be required to indefinitely retain all customer records simply to refute all possible customer claims. D.92-03-041, Pg. 6.

Utility Audit Company, a party to the proceeding, raised issues on rehearing regarding the proper interpretation and application of SoCalGas tariff rules to a specific fact pattern, where the customer had a meter unit configuration that did not conform to SoCalGas' tariff which relates baseline allowances to building units. Applicant asserts SoCalGas' tariff should be interpreted to provide baseline allowances equal to the

number of units served from the meter, without regard to service provided by other master meters. Under this reasoning, even if the building has 61 units but different gas services to an individual unit come from different master meters then each gas service gets a baseline allowance. In other words, a building of 61 units could end up with well over 61 baseline allowances because of the configuration of the gas piping in the building. In contrast, in D.92-03-041, we interpret SoCalGas' tariff to mean that there should be no more baseline allowances than there are dwelling units. This interpretation is consistent with the Commission's decision in D.84-12-066, 16 CPUC 2nd 632, when we replaced lifeline rates which were end-user oriented with baseline rates which are concerned only with the number of dwelling units.

Applicants have used the rehearing process not to raise legal error but instead to reargue their complaint cases. We have reviewed each and every allegation of error raised in the Applications for Rehearing and are of the view that no grounds for rehearing have been set forth. Having fully considered the issues raised and having found no legal error, we will deny the Applications for Rehearing. Costello's request to open an investigation into SoCalGas' document retention policy is also denied.

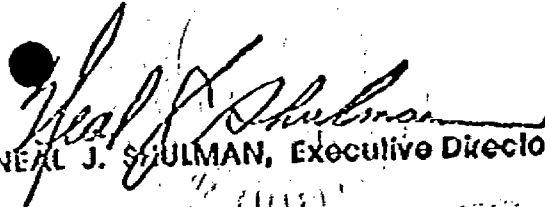
WHEREFORE,

IT IS ORDERED that Costello and Utility Audit Company's Applications for Rehearing of D.92-03-041 are denied.

This order is effective today.

Dated June 3, 1992, at San Francisco, California.

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


NEAL J. SCHULMAN, Executive Director

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