

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY AND
COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-3165
MARCH 16, 1995

R E S O L U T I O N

RESOLUTION G-3165. SOUTHERN CALIFORNIA GAS COMPANY
REQUESTS AUTHORITY TO DEVIATE FROM ITS TARIFF RULE 16
"ADJUSTMENT OF BILLS" IN ORDER TO MAKE A METER BILLING
REFUND TO SOUL BROTHERS KITCHEN, INC.

BY ADVICE LETTER 2351-G, FILED ON SEPTEMBER 2, 1994

SUMMARY

1. By its Advice Letter (A.L.) 2351, filed on September 2, 1994, Southern California Gas Company (SoCalGas) requests Commission authority to deviate from its Tariff Rule 16 "Adjustment of Bills" in order to make a meter billing refund including interest to Soul Brothers Kitchen, Inc. (Soul Brothers). The overcharge was a result of a meter malfunctioning from May 1983 through June 1993, a ten-year two-month period. The amount of the meter billing overcharge is \$56,387. The interest due, determined by the three month commercial paper rate through August 31, 1994, amounts to \$23,532. SoCalGas requests authority to refund both the billing error and the interest for a total of \$79,919. SoCalGas recommends that shareholders and ratepayers share the expense of the refund to Soul Brothers.
2. No party protested SoCalGas A.L. 2351.
3. This Resolution approves SoCalGas' request.

BACKGROUND

1. Soul Brothers is a small, minority business enterprise in an economically depressed area of the City of Los Angeles. The Soul Brothers' location has been subject to recent civil disturbances. SoCalGas considers a deviation from its tariff rules in this particular case appropriate because the meter overcharge has caused extraordinary economic hardship to Soul Brothers.
2. The type of meter at the customer's facility is a 35B American Meter. This meter has a field testing and proving schedule of once every ten years. The incorrect index for the meter was discovered at a regularly scheduled field test

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conducted in May of 1993. The incorrect index was replaced and a notation made on the meter order indicating that the account would need to be rebilled. The meter order routed to SoCalGas' billing group was misidentified, and rebilling was delayed until December of 1993.

3. The normal, applicable refund period for SoCalGas customers for other than gas displacement meters in SoCalGas' Tariff Rule 16 is up to 3 years. Soul Brothers' gas meter is not a displacement meter. The requested deviation to SoCalGas Tariff Rule 16 applies to this case only, and would waive the three year limit in line 5 of page 2 of Rule 16: "...the period of adjustment shall not exceed three years" should be changed in this particular case to "set the adjustment period to ten years and two months including interest due based upon the three month commercial paper rate."

4. SoCalGas informed William Gaffney of the Commission Advisory and Compliance Division (CACD), that it has already rebilled and made a refund to Soul Brothers for the meter billing overcharge. The refund provided was for a period of ten years and one month (specifically, May 12, 1983 through June 15, 1993) and was made without interest. This refund, which exceeds the three-year limit for displacement meters (Section D of SoCalGas Rule 16), was made in error. A check in the amount of \$47,864 plus a bill credit of \$8,523 (for a total refund of \$56,387) was given to the customer in January, 1994. This error resulted from a misunderstanding about the type of meter at the customer's facility. It was believed that the meter was a non-displacement meter which falls under the provisions of Section D.4 of Rule 16 and does not limit the period of rebilling for meter error.

5. Once SoCalGas discovered that it had misidentified the meter and had provided a refund in excess of the tariff limit, it notified Soul Brothers of the excessive refund. In subsequent discussions between the parties, SoCalGas and Soul Brothers reached a settlement whereby SoCalGas would seek Commission approval for (1) a refund beyond the three year limit; and (2) interest on the \$56,387 at the three-month commercial paper rate. SoCalGas requested that the Commission authorize the full refund with interest under the provisions of General Order 96-A as a deviation from SoCalGas' tariff schedules.

6. SoCalGas is making this request for a deviation from its tariff for the following reasons: (1) the meter billing error cited in the advice letter was the result of an incorrect meter index which resulted in a measurement of gas usage in excess of actual usage and this was the fault of SoCalGas and not the customer; (2) the customer could not have been reasonably expected to discover the meter error; and (3) this customer experienced significant hardship as a result of the over-billing.

7. Soul Brothers is a minority-owned business enterprise located in an area of Los Angeles that has been hard hit by

recent civil disturbances. Soul Brothers informed SoCalGas that as a result of their financial status and their high gas bills, they had to borrow money at 18% interest in order to stay in business. Moreover, Soul Brothers informed SoCalGas that it operates with a gross profit margin of 22% and the loss of funds resulting from the overbilling has deprived the customer of additional earnings potential. In addition, Soul Brothers employs disadvantaged youths. SoCalGas has been in partnership with other businesses to help rebuild those parts of Los Angeles that have been hardest hit by the recent civil unrest. Given the nature of the error made and Soul Brothers' unique business circumstances, SoCalGas believes that it is in the public interest for this customer to be permitted a refund beyond the three years allowed in SoCalGas' tariffs.

8. At the request of the Energy Branch, SoCalGas reviewed its regulatory record for the last five years. During this period, it has not made any advice letter or any other type of filing seeking authority to make a refund for a greater period of time than SoCalGas' tariff permits. SoCalGas is not aware of any instance where the Commission has authorized a deviation from the three-year limit on rebilling of meter errors set forth in the utilities' tariff rule schedules addressing Adjustment of Bills.

9. At the request of the Energy Branch, SoCalGas performed a review of its rebill transactions for other customers over the last eighteen months. SoCalGas' review was limited to this time period because its new Customer Information Billing System (CIBS) only maintains the rebill information for eighteen months to this date. SoCalGas has discovered that it did provide one other rebilling where the period exceeded the three-year limit. In the review, SoCalGas investigated over 400,000 rebill transactions. Thirty-four rebillings were for a period of longer than one year (including Soul Brothers). Only one other rebilling was for a period exceeding three years.

10. In view of the unique situation of Soul Brothers, SoCalGas does not expect to seek Commission approval for a refund beyond the three-year tariff limit, or pay interest on a refund for any other customers.

11. SoCalGas recommended that the refund beyond the three-year tariff limit (\$33,212), plus the interest on the entire refund amount (\$23,532), should be made at shareholders expense. This would be the period of May 12, 1983 through June of 1990. The refund applicable for the three year period which the tariff normally provides would be made at the ratepayers expense (\$23,176). Treatment for the three-year period would be a 100% balancing account treatment authorized by the Commission for SoCalGas' core service transmission revenues (as recorded in its Core Fixed Cost Account (CFCA)) and would result from SoCalGas' adjustment of the CFCA revenue to reflect the refund to Soul Brothers.

12. Since ratepayers would only pay for the three-year refund, excluding interest, this would have the same impact on SoCalGas'

ratepayers as a refund made pursuant to the provisions of Tariff Rule 16 for an overbilling caused by a meter error.

NOTICE

1. Public notification of this filing has been made by placing it on the Commission Calendar and by mailing copies of this filing to other utilities, governmental agencies, and to all interested parties who requested such notification.

PROTESTS

1. No party filed a protest to SoCalGas A.L. 2351.

DISCUSSION

1. SoCalGas filed A.L. 2351 on September 2, 1994 requesting Commission authority to deviate from its Tariff Rule 16 "Adjustment of Bills" in order to make a meter billing refund including interest. Soul Brothers incurred meter billing error from May of 1983 through June of 1993 covering a ten-year two-month period.

2. Energy Branch staff William Gaffney discussed the overcharges and interest representatives of SoCalGas and Soul Brothers. After those discussions and examination of data dated November 22, 1994, CACD believes that the refund for overcharges and interest proposed by SoCalGas for Soul Brothers should be granted due to the extraordinary hardship on the customer.

3. SoCalGas determines that Soul Brothers would suffer irrecoverable financial damage if all billing overcharges were not recovered. SoCalGas' deviation from its Tariff Rule 16 to grant a refund including interest for the ten-year two-month period is correspondingly just and reasonable. SoCalGas' deviation from its Tariff Rule 16 to grant a refund including interest for the ten-year two-month period is correspondingly just and reasonable.

4. SoCalGas' recommends that its shareholders absorb the refund beyond the three-year tariff limit (\$33,212), plus the interest on the entire refund (\$23,532). The refund due for the three-year period which the tariff normally allows would be at ratepayers expense (\$23,176). The treatment for the three-year period would be a function of the 100% balancing account treatment authorized by the Commission for SoCalGas' core service transmission revenues (as recorded in its Core Fixed Cost Account) and would result from SoCalGas' adjustment of the CFCA revenue to reflect the refund to Soul Brothers.

5. For the one rebill/refund SoCalGas discovered which was made for a period of time greater than the three year limit, SoCalGas recommends that its shareholders bear the expense of the refund amount which went beyond the tariff limit. This would be accomplished by a corresponding upward adjustment of the revenue recorded in the CFCA which SoCalGas will make if the Commission so orders. Since other ratepayers would only pay for

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the three-year refund, excluding interest, SoCalGas submits that this would have no different impact on SoCalGas' ratepayers as a group compared to a refund made according to the provisions of SoCalGas Tariff Rule 16 for an overbilling caused by a meter error for other than a displacement meter.

6. SoCalGas requests this deviation pursuant to Section X of General Order 96-A. The requested deviation from Rule 16 is relatively minor in nature and specifically limited to this case only. All customer overcharge cases will be considered on a case-by-case basis. The vast majority of overcharges fall under the standard provisions of Tariff Rule 16.

7. In view of the hardship from the overbilling, this deviation from SoCalGas Tariff Rule 16 to reimburse Soul Brothers a total of \$79,919. The total includes \$56,387 in overcharges and \$23,532 in interest at the three-month commercial paper rate. It is again noted that a \$56,387 refund was reimbursed to the customer in January of 1994. The difference to be provided is \$23,532.

FINDINGS

1. On September 2, 1994, SoCalGas filed Advice Letter 2351-G requesting authority to deviate from its Tariff Rule 16 "Adjustment of Bills" in order to make a billing refund, including interest to its customer, Soul Brothers. The overcharge was a result of a meter functioning error, and was not the fault of Soul Brothers.

2. The amount of the meter billing error over the total ten-year two-month period is \$56,387. The estimated amount of interest due at the three-month commercial paper rate is \$23,532. A check in the amount of \$47,864 plus a bill credit of \$8,523 (for a partial refund of \$56,387) was given to the customer in January, 1994. Therefore, the total, estimated refund is \$79,919 leaving an outstanding amount of \$23,532. This amount would be subject to revision for the interest due at the time SoCalGas would actually refund the remaining amount to Soul Brothers.

3. This deviation from Tariff Rule 16 is appropriate since the meter function error was in no way the fault of Soul Brothers, and the monetary loss would have caused an economic hardship for the customer.

4. SoCalGas' recommendation that the refund beyond the normal three-year limit and all interest to be paid by SoCalGas' shareholders is reasonable.

5. All customer overcharge cases will be considered on a case-by-case basis.

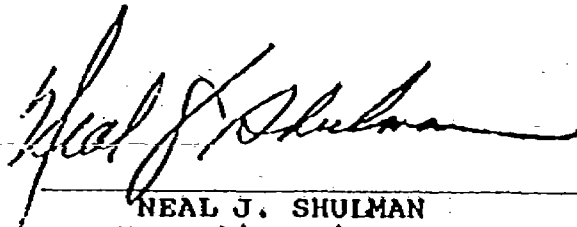
6. This deviation and refund should be authorized under the provisions of Section X of General Order 96-A.

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THEREFORE, IT IS ORDERED that:

1. Southern California Gas Company's Advice Letter 2351-G is authorized.
2. Southern California Gas Company's recommendation that the refund beyond the Tariff Rule 16 limit of three years and all interest accrued be paid by the utility's shareholders is reasonable and is granted.
3. Southern California Gas Company shall notify the Commission Advisory and Compliance Division when the remainder of the refund is paid to Soul Brothers. This notification should indicate the date the remainder is refunded and the amount paid.
4. The Resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 16, 1995. The following Commissioners approved it:



NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
Commissioners