

**ORIGINAL**

Decision No. 61244

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
SOUTHERN CALIFORNIA EDISON COMPANY,  
a corporation, for authority to  
issue not to exceed 402,210 shares  
of Common Stock of the par value  
of \$25 per share and to distribute  
them ratably to the holders of its  
Original Preferred and Common Stock.

Application No. 42888  
Filed November 23, 1960

O P I N I O N

Southern California Edison Company has filed this application for authorization to issue 402,210 shares of common stock of the par value of \$25 each and of the aggregate par value of \$10,055,250.

The company proposes to issue the shares against its retained earnings and to distribute them as a stock dividend to the holders of the outstanding original preferred and common shares at the rate of one share for each 25 owned of record on January 5, 1961. In recording the issue of the new shares, it will transfer from earned surplus to stated capital an amount equal to the aggregate par value of the shares to be issued and delivered as said stock dividend and it will transfer from earned surplus to paid-in surplus an amount equal to the excess of the aggregate estimated fair value of the shares to be issued over the aggregate par value. Such estimated fair value shall be an amount equal to the last sale on the New York Stock Exchange

on January 5, 1961, or the average of the closing bid and asked price per share in the event there is no such sale price. The proposed transfers to stated capital and to paid-in surplus to reflect the financing will approximate \$24,000,000, including the par value of the new shares and the excess of the fair value of such shares over their par value.

As of October 31, 1960, applicant's earned surplus was stated at \$104,869,044. Applicant reports that it does not intend to take into account the recorded earnings created by the use of liberalized depreciation methods in considering the declaration of cash dividends and that it has concluded, instead of increasing its cash dividends, to authorize the stock dividend against its retained earnings in order to conserve cash for its continuing construction program. While the application does not show the amount of tax savings arising from the use of liberalized depreciation methods, we are informed that during 1960 such savings will approximate \$5,000,000 and it seems clear that the recorded earned surplus, excluding any amounts presently therein which are attributable to the use of liberalized depreciation methods for income tax purposes, is well in excess of the proposed drawdown of the account upon the issue of the shares of stock for the purpose indicated in this application.

We have reviewed this matter and are of the opinion, and so find and conclude, that applicant's proposal to capitalize a portion of its retained earnings is not adverse to the public

interest, that the issue of stock, as proposed, is for a proper purpose, that such issue is not subject to the Commission's competitive bidding rule; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

In issuing our order we are making no finding of the value of applicant's stock and we place applicant upon notice that we will not regard the dividends paid on its common shares as measuring or determining the rate of return it should be allowed to earn on its investment in properties. Our action herein is for the issue of stock only and is not to be construed as indicative of amounts to be included in a future rate base for the determination of just and reasonable rates.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary and that the application should be granted,

IT IS HEREBY ORDERED as follows:

1. Southern California Edison Company, on or after the effective date hereof and on or before April 30, 1961, may issue not to exceed 402,210 shares of its common stock of the par value of \$25 each for the purpose specified in this application and may distribute such shares to the holders of its original preferred and common stock at the rate of one share for each 25 shares owned of record on January 5, 1961.

2. On or before June 15, 1961, Southern California Edison Company shall file with the Commission a report, in lieu of a General Order No. 24-A report, showing the number of shares issued under the authorization herein granted and the journal entries used to record such issue on its books of account.

3. This order shall become effective on the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of December, 1960.

[Signature]  
President  
[Signature]  
Theodore H. Jenner

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Commissioners

[Signature]  
[Signature]

Dissent in Application No. 42888

I dissent. The rates currently authorized Southern California Edison Company by this Commission were fixed in good faith on the premise that the utility would compute and pay its Federal income taxes on the basis of the straight line remaining life method of depreciation. Despite this fact, Southern California Edison Company, for the years 1957, 1958, and 1959, has computed and paid its Federal income taxes on the basis of accelerated depreciation under the provisions of Section 167 of the Internal Revenue Code of 1954, and has carried to a deferred tax reserve the differential between the Federal income taxes actually paid and the taxes that would have been due and payable had such taxes been computed and paid on the same basis on which the utility's rates were fixed. Southern California Edison Company has reported that the tax differential thus realized and carried to its deferred tax reserve for the years 1957, 1958, and 1959 totals \$15,834,279.82 which sum is shown in this application as "Accumulated deferred taxes on income" - a deferred tax reserve. This placing the tax differential in a deferred tax reserve has become standard procedure for all such utilities and is recognized as such by this Commission.

By Decision No. 60018 in Case No. 6148 this Commission specifically restricted the use of said deferred tax reserves in the following language:

"Good cause appearing, IT IS ORDERED that all public utilities under the jurisdiction of this Commission are restricted in the use of any account that may have been established or used because of deferred income taxes resulting from such public utility taking accelerated depreciation under Section 167 of the Internal Revenue

Code, except for the purpose for which the credit balance in said account was created. No public utility shall transfer the credit balance in any such account or portion thereof to surplus, or otherwise dispose of any portion of such account, without prior authorization of this Commission."

Furthermore, the Commission adopted a policy of deducting from a utility's rate base, in rate proceedings, the full amount of the deferred tax reserves, less certain minor adjustments. By deducting from the rate base the deferred tax reserve, this Commission compels a utility to pass on to its rate payers the monetary benefits of accelerated depreciation. This passing to rate payers of the full monetary benefits of accelerated depreciation was the purpose and intent of Decision No. 59926 in Case No. 6148.

Southern California Edison Company has advised this Commission and has announced publicly that it will compute and pay its Federal income taxes for 1960 on the basis of accelerated depreciation and that the tax differential thus realized is estimated to be approximately \$5,000,000. In spite of the foregoing facts in its statement of income for the first 10 months of 1960, said statement being a part of the instant application, Southern California Edison Company reports at zero the amount carried to the deferred tax reserve due to accelerated depreciation.

To date insofar as I have been able to ascertain, this Commission has not accorded Southern California Edison Company any special privileges, such as granting the authority to cease carrying to its deferred tax reserve the tax differentials realized by payment of its Federal income taxes on a liberalized depreciation basis.

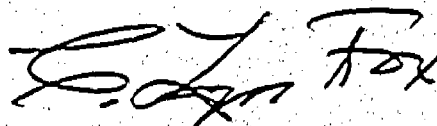
In the absence of authority so to do, by failing to deduct said tax differential for 1960 from its operating income,

Southern California Edison Company has over-stated its net income for the first 10 months of 1960 by the amount of said tax differential. This overstatement of income by Southern California Edison Company is, in fact, a misrepresentation of its true net income and a falsification of the true financial condition of this utility. Such questionable practices on the part of Southern California Edison Company cannot be condoned.

A public utility has a public trust as was emphatically pointed out by this Commission in Decision No. 59926 in Case No. 6148 in the following language:

"It must be remembered that a public utility is not in the same category, factually or legally, as an unregulated company. A public utility performs a function of the state and is created for public purposes..... A public utility exercises an extraordinary privilege granted to it by the state and it occupies a privileged position..... Furthermore, a public utility devotes its property to the public use and thereby, 'grants to the public an interest in that use'..... In essence, a public utility is charged with the administering of a public trust delegated to it by the state."

To grant the request of Southern California Edison Company in this application would be to approve its misrepresentation of its true net earnings and to mislead the public generally. This I cannot and will not do.



C. Lyn Fox  
Commissioner