C.6148 EL

Decision No. 62571

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on the Commission's own motion concerning the proper treatment for rate-making purposes, to be accorded accelerated amortization and accelerated depreciation.	)	Case No. 6148

INTERIM OPINION AND ORDER

The matter of the rehearing of Decision No. 61711 was submitted on July 31, 1961, subject to the filing of concurrent briefs ten days thereafter. Such briefs have now been filed.

At the rehearing, Southern California Edison Company requested that our decision be rendered by September 15, 1961 so that, in filing its federal income tax return for 1960 on that date, it might more meaningfully elect whether or not to utilize liberalized depreciation. The request was a reasonable one, and at the close of the rehearing it was anticipated that a decision herein would be issued by the date requested. It now appears that a complete disposition of all of the issues herein cannot be made today, and an interim decision directed solely to Southern California Edison Company is therefore appropriate.

Edison presented evidence at the rehearing to the effect that, for 1961 and thereafter, its current rates would provide no more than a reasonable rate of return even if tax reductions

resulting from use of liberalized depreciation are reflected in net income. The company proposed that if this Commission should find that its rates are not unreasonable on that basis, it would be willing to transfer from surplus to its tax reserve the amount by which federal income taxes are reduced through the use of liberalized depreciation for the year 1960. From the evidence it appears and we find, that Edison's rate of return for 1961, estimated in accordance with methods currently used by the Commission's staff (which methods we hereby find to be reasonable), will not be unreasonable, even though accruals to the reserve for liberalized depreciation be discontinued as of January 1, 1961. We also find that a transfer, from surplus to the tax reserve for liberalized depreciation, of the amount by which the Company's taxes for 1960 are reduced through use of liberalized depreciation is reasonable and should be made. Edison is placed on notice, however, that in accordance with current Commission policy, we contemplate that in any future rate proceeding the balances in such tax reserve accounts will be deducted from rate base.

O R D E R

GOOD CAUSE APPEARING, it is hereby ordered that:

1. If Southern California Edison Company utilizes liberalized depreciation in computing its federal income taxes for 1960, it shall transfer from surplus to Account No. 282 the amount by which its said taxes are thus reduced.

2. If Southern California Edison Company utilizes liberalized depreciation in computing its federal income taxes for 1961 and subsequent years, it need not accrue to a reserve the amounts by which said taxes are thus reduced.

3. The motions to strike testimony and exhibits relating to Southern California Edison Company's results of operations are hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 15th day of SEPTEMBER, 1961.

President

E. Lyn Fox

George G. Grover

Frederick B. Holoboff

Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.

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I dissent.

The majority decision is a retreat from the regulatory principle that the end result, in this case the ultimate rate of return for 1960, is controlling. Ordering the Southern California Edison Company to transfer approximately six million dollars from its surplus account to its tax reserve account for the year 1960 is but a continuation of the normalization theory, and contrary to the spirit and findings of Decision No. 59926. It is the result of quick compromise and may well lead to dissimilar treatment being accorded to principal respondents in this matter when found in similar circumstances.

The adjudication of the lawfulness and reasonableness of a rate of return within the ambit of an admitted and generally recognized accounting procedure is, to say the least, novel. The resting upon a showing only by the respondents and a restricted participation by this Commission's staff certainly was not condusive to a thorough testing of the contention of parties.

The undisputed evidence in this record shows (Exhibit 91, Table A) that the actual earnings of the Southern California Edison Company computed with a rate base of the type prescribed by this Commission in Decision No. 55703, produced a rate of return of 6.04% for 1960 compared to the 6.25% that the Commission found to be just and reasonable for this company in said decision. The effect of the decision herein in requiring that the 1960 tax differentials due to the use of liberalized depreciation be transferred from surplus to the tax reserve is equivalent to reducing this rate of return to 5.53% and is an unconscionable action. The Pacific Gas and Electric Company's actual earnings computed in accordance with the type of rate base used for the Pacific Gas and

Electric Company, Electric Department, in Decision No. 55720, shows recorded earnings of 5.88% for 1960. The 1961 earnings of both these companies when both will be on the flow-through basis, are estimated to yield in the case of the Edison Company a rate of return of 6.12%, when made up on type of rate base adopted by the Commission in Decision No. 55703 in 1957, and in the case of the Pacific Gas and Electric Company, 6.04% when made up on the type of rate base prescribed by the Commission in Decision No. 55720 in 1957. The evidence further shows that when the rates of return are determined on the basis of a type of rate base advocated by the staff, the rates of returns of the two companies are 6.35% and 6.25%, respectively, estimated for the year 1961. In the light of the above undisputed facts, the action of this Commission in requiring the Edison Company to make the transfer from surplus to tax reserve is an unjustified action that should not be imposed upon a utility which is a leader in this matter and whose forward looking action of computing income taxes on the accelerated depreciation basis is in the public interest and should be commended rather than chastised. Therefore, no change whatsoever should be ordered as a result of the undisputed facts that the 1960 actual earnings were less than that found reasonable by the Commission. The decision of the majority will discourage utilities from converting to the flow-through method. This action, in my opinion, will tend to weaken investor confidence in California utilities and will add to the uncertainty of utility regulation in this State.

Peter E. Mitchell, Commissioner