ORIGINAL

Decision No.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY for an order of the Public Utilities Commission of the State of California authorizing Applicant to increase rates charged by it for electric service.

Application No. 50363
Petition for Modification
of Order
(Filed December 24, 1969)

(Appearances are listed in Appendix A to Decision No. 76106 herein issued August 26, 1969.)

OPINION

By Decision No. 76106, issued herein on August 26, 1969, and Decision No. 76212, issued herein on September 23, 1969, Southern California Edison Company, the applicant herein, was authorized to file and make effective certain changes and modifications of its tariff schedules.

By Decision No. 76106 applicant was required to include the following provisions in its Preliminary Statement:

"H. Until the 10 percent surcharge to Federal income tax is removed, bills computed under filed tariffs, other than Schedule No. A-8, will be increased for such surcharge as set forth on the tariff schedules. At such times as this surcharge is effectively suspended or terminated, in whole or in part, and not replaced by a substitute tax based on income, the above surcharge shall be eliminated or reduced to the extent of the net reduction of the tax."

The Tax Reform Act of 1969, among other changes:

(a) Reduced income taxes by applying a 5 percent instead of 10 percent surcharge effective January 1, 1970, and eliminated the surcharge as of June 30, 1970, and

(b) Increased income taxes by repealing the investment tax credit for property constructed or acquired after April 18, 1969.

By its petition for modification of order herein filed December 24, 1969, applicant alleged that in 1970 and 1971 the estimated increase in net income as the result of the reduction and subsequent elimination of the income tax surcharge may exceed the estimated decrease in net income as the result of the repeal of the investment tax credit. Applicant has requested the Commission to authorize it to remove the surcharge referred to in Section H of the Preliminary Statement, and to file new tariffs providing for equivalent revenues in the base rates and to charge or credit Account 255, Accumulated Deferred Investment Tax Credit, with amounts concurrently to be credited or charged to Income Account 411.1, Investment Tax Credit Adjustment, in such a manner as to eliminate the balance in Account 255 over a five-year period beginning in 1970 and ending in 1974.

The Commission staff on February 4, 1970, filed an answer to applicant's petition for modification pointing out that Appendix A attached to applicant's petition shows that the investment tax credit after repeal is in the amount of \$5,800,000 for the year 1970. This amount slightly exceeds the investment tax credit of \$5,766,000 (a five-year average) which was used for the test year 1969 in Decision No. 76106. Said Appendix A also shows that the amount of the investment tax credit after repeal will be less than \$5,766,000 for the year 1971 and succeeding years.

The staff alleges that Appendix A to applicant's petition does not accurately represent the effects of the removal of the investment tax credit on a basis consistent with Decision No. 76106.

and that the base tariff rates set forth in detail in Edison's Appendix B to its petition are not justified. The staff recommends that (1) the base rates be modified to provide an amount equivalent to a five percent surcharge on the rates instead of the ten percent requested by applicant, (2) the Commission order the applicant to refund to its customers the difference between the equivalent of the ten percent surcharge and the five percent surcharge from January 1, 1970, to the effective date of the order modifying rates, and (3) the Commission authorize the disposition and termination of balances in Account 255 over the succeeding two years or less.

On March 2, 1970, applicant filed its response to answer of Commission's staff in which it alleged that:

- 1. The Commission's earlier orders herein and the tariff provisions prescribed by the Commission therein require no reduction in applicant's revenue.
- 2. A revenue reduction of the magnitude proposed by the Commission's staff would produce results in conflict with the Commission's findings on reasonable levels of earnings in the earlier decisions (Nos. 76106 and 76212).
- 3. The favorable impact of (a) the reduction in Federal income taxes resulting from the removal of the Federal income tax surcharge is more than offset by (b) the adverse impact of the repeal of the investment tax credit.
- 4. Under present economic conditions and applicant's cost of capital, applicant's earnings cannot withstand the adverse impact of a revenue reduction and, in fact, a further increase in rate levels will be necessary to maintain satisfactory financial performance.

Applicant also requested the Commission to authorize such relief without hearing or in the alternative set the matter for hearing.

Public hearings were held before Examiner Cline in Los
Angeles on April 14, and May 25 and 26, 1970. The matter was taken
under submission on the filing on June 8, 1970 of the Reply by
Commission staff to Edison's Letter Memorandum dated June 1, 1970.

On June 17, 1970 applicant filed a motion for correction of Transcript Volumes Nos. 49, 50, 51, and by letter dated June 25, 1970, which was filed on said date, from the staff counsel to Examiner Cline, the staff also requested that certain corrections be made in Volumes Nos. 50 and 51 of the transcript. No objections to the making of such corrections in the transcript having been received by the Commission, by July 9, 1970, said transcript corrections were made by the Presiding Examiner.

On May 20, 1970 the applicant filed a motion for reconsideration of the ruling of the Presiding Examiner, following objection by the staff counsel to certain cost of capital and rate of return evidence offered by applicant, that the issues in the proceeding were limited to the effect of the federal income tax law changes on applicant's income tax expense and that the evidence pertaining to cost of money and rate of return to which objection had been made would not be received. Oral argument was held on the motion on May 25, 1970, and the Presiding Examiner reaffirmed his original ruling sustaining the objections of staff counsel.

Applicant has requested that the ruling of the Presiding Examiner be referred to the Commission for consideration. The Commission has considered such ruling and reaffirms it for the following reasons:

- 3. In order to justify an increase in its electric rates above
- In this proceeding the Commission should not receive and consider evidence which does not pertain to the application of Section H of the Preliminary Statement of applicant's tariff schedules for electric rates and revisions of said schedules pursuant to the application of said Section H.

cedure issued by the Commission.

5. Cost of capital evidence and rate of return evidence other than that related to the effect of the federal income tax law changes on applicant's income taxes do not pertain to the application of Section H of the Preliminary Statement of applicant's tariff schedules for electric rates, and properly were not received in this proceeding.

Issues

The following are the issues which will be considered and resolved by the Commission in this decision:

- 1. In determining the effect of the repeal of the investment tax credit should a five-year average of the investment tax credit, or the actual investment tax credit, for the year under consideration be used?
- 2. To what extent, if any, is there a net reduction in the income tax of applicant by reason of the reduction in the surcharge tax from 10 percent to 5 percent effective January 1, 1970, and its elimination effective July 1, 1970, and the repeal of the investment tax credit for property constructed or acquired after April 18, 1969?
- 3. What changes, if any, should be made in applicant's tariff schedules by reason of the changes in applicant's income taxes under the Tax Reform Act of 1969?
- 4. Over what period of time and in what amounts should the Commission authorize the disposition and termination of the balances in Account 255?

Results of Operation Using Five-Year Average Investment Tax Credit

The Commission has previously authorized applicant to compute the investment tax credit on a five-year average basis to avoid the greater fluctuations in the investment tax credit which otherwise would have occurred from year to year. The difference between the five-year average and the actual investment tax credit has been entered in Account 255. In determining the results of operation the Commission in Decision No. 76106 used a five-year average investment tax credit allowance in the amount of \$5,766,000 for the test year 1969.

The Commission staff has urged that the measure of the change in the investment tax credit be based on the five-year average investment tax credit which was used in the determination of the results of operation adopted by the Commission in Decision No. 76106.

The following table prepared from Exhibits Nos. 97 and 98 compares the results of operation with no tax law change and the results of operation with the tax law change, in both cases using the five-year average for the investment tax credit, for the years 1970 and 1971.

TABLE I

	Aver	w Change		v Change
	1970 (1)	$\frac{1971}{(2)}$	<u>1970</u> (3)	<u>1971</u>
Estimated Revenue	* ,	Dollars in		1)
Rates as Requested by Applicant	725,300	777,030	725,300	777,030
Estimated Expense Excluding Income Taxes	1 4 4 4 4 4			
Available for Income Tax & Return	<u>485,757</u> 239,543	<u>517,048</u> 259,982	<u>485,757</u> 239,543	517,048 259,982
Income Tax Computation		~y,y,y&\		
Income Tax Before Surcharge and I.T.C.	56,058	60 MEE	a sec	50.011
Income Tax Surcharge - Plus Investment Tax Credit - Minus	5,055	59,755 5,387	56,175 1,263	59,911 0
Total Income Tax	<u>6,427</u> 54,686	<u>7,259</u> 57,883	5,74 <u>1</u> 51,697	<u>5,429</u> 54,482
Not Difference Due to Tax Law Charge	(2,989)			JAGAGE
Summation of Nat Difference	(2,707) -	(3,401) (6,390)	-	
Return Computation Return (Net Income Before Interest)	301.059			, ,
Estimated Rate Base \$m2	184,857	202,099	187,846	205,500
	2,660	2,875	2,660	2,875
Estimated Rate of Return - Percent	6.95	7.03	7.06	7.15
Estimated Rate of Return on California Jurisdictional Business - Percent	7.05	7.13	7.16	7.25

(Red Figure)

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Results of Operation Using Actual Investment Tax Credit

The applicant has urged that the Commission use the actual investment tax credit before repeal and after repeal for the years under consideration in computing the increase in income tax resulting from the repeal of the investment tax credit.

The following table prepared from Exhibit No. 97 compares the results of operation with no tax law change and the results of operation with the tax law change, in both cases using the actual investment tax credit, for the years 1970 and 1971.

TABLE II

	No Tax Law Change No Averaging		Tax Law Change No Averaging	
,	1970. (1)	<u>1971</u> (2)	<u>1970</u> (3)	1971
Estimated Revenue	(Dollars in	Thousands)
Rates as Requested by Applicant	725,300	777,030	725,300	777,030
Estimated Expense				
Excluding Income Taxes	485,757	517,048	485,757	517,048
Available for Income Tax & Return	239,543	259,982	239,543	259,982
Income Tax Computation Income Tax Before Surcharge				
and I.T.C.	56,058	59,755	56,175	59,911
Income Tax Surcharge - Plus	5,055	5,387	1,263	
Investment Tax Credit - Minus	10,720	9,558	7,289	3,840
Total Income Tax	50,393	55,584	50,149	56,071
Net Difference Due to				1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -
Tax Law Change	(244)	487	• -	,- ,
Summation of Net Difference	-	243	· -	-
Return Computation			,	
Return (Net Income Before Interest)	189,150	204,398	189,394	203,911
Estimated Rate Base \$M2	2,660	2,875	2,660	2,875
Estimated Rate of Return - Percent	7.11	7.11	7.12	7.09
Estimated Rate of Return on California Jurisdictional Business - Percent	7.21	7.21	7.22	7.19

(Red Figure)

Use of Five-Year Average or Actual Investment Tax Credit

The following table prepared from Exhibits Nos. 97 and 98 compares the actual investment tax credit with the five-year average investment tax credit assuming no tax law change for the years 1966-71, and with the tax law change for the years 1970 and 1971.

TABLE III

	No Tax Law Chan	<u>ge</u>	Tax Lav	v Change
Year	Actual Investment Tax Credit	5-Year Average Investment Tax Credit	Actual Investment Tax Credit	5-Year Average Investment Tax Credit
	(Dollars in Thous	ands)	(Dollars in	n Thousands)
1966 1967 1968 1969	5,400 5,993 5,102 4,920	3,412 4,365 4,732		<i>,</i> ,
1970 1971	10,720 9,558	5,003 6,427 7,259	7,289 3,840	5,741 5,429

The Commission will now consider the consequences resulting from the use of the five-year average investment tax credit in this proceeding. As may be noted from Table III above the actual investment tax credit for the year 1969 was \$4,920,000, whereas the five-year average investment tax credit for the year 1969 was \$5,003,000. As set forth above the five-year average investment tax credit for the test year 1969 used in determining the results of operation in Decision No. 76106 was \$5,766,000. As a result of using the five-year average instead of the actual investment tax credit for the test year 1969, the income taxes adopted by the Commission were less than they otherwise would have been, and the increase in rates also was less than the Commission would have authorized in Decision No. 76106 had the higher income tax figure been adopted as reasonable.

As set forth in Table I above if the five-year average investment tax credit is used the cumulative tax saving for the two-year period 1970-71 resulting from the enactment of the Tax Reform Act of 1969 will amount to \$6,390. This tax saving will justify the adoption of the rates and rate refund proposed by the staff which are equivalent to a 1 percent surcharge instead of the 2 percent surcharge on rates beginning January 1, 1970.

The following table prepared from Exhibit No. 99 shows the results of operation with the tax law surcharge, five-year averaging of the investment tax credit, and the estimated revenue resulting from rates proposed by the Commission staff.

TABLE IV

	Tax Law Change Averaging		
Estimated Revenue	1970 (1) (Dollars i	1971 (2) n Thousands)	
Rates as Proposed by Staff	720,014	770,560	
Estimated Expense Excluding Taxes Based on Income Available for Income Tax & Return	485,710 234,304	516,990 253,570	
Income Tax Computation Income Tax Before Surcharge & I.T.C. Income Tax Surcharge - Plus Investment Tax Credit - Minus Total Income Tax	53,470 1,205 5,741 48,934	56,600 0 5,429 51,171	
Return Computation Return (Net Income Before Interest) Net Difference Between Column (1), Table IV, and Column (1), Table I Net Difference Between Column (2), Table IV, and Column (2), Table I Summation of Net Difference	185,370 513	202,399 300 813	
Estimated Rate Base \$M2	2,660	2,875	
Estimated Rate of Return - Percent	6.97	7.04	
Estimated Rate of Return on California Jurisdictional Business - Percent	7.07	7.14	

The 7.07 percent and 7.14 percent estimated rates of return on California jurisdictional business for the years 1970 and 1971, respectively, are well below the 7.35 percent rate of return found to be reasonable for the applicant on its California jurisdictional business in Decision No. 76106.

The applicant has urged the Commission to conclude that the actual investment tax credit rather than the five-year average investment tax credit should henceforth be used because of the repeal of the investment tax credit for property constructed or acquired after April 18, 1969. As set forth in Table II above if the actual investment tax credit is used the cumulative tax increase for the two-year period 1970-71 resulting from the enactment of the Tax Reform Act of 1969 will amount to \$243,000. This tax increase will justify the adoption of the rates proposed by the applicant which are equivalent to the present 2 percent surcharge on rates. The 7.22 percent and 7.19 percent estimated rates of return on California jurisdictional business for the years 1970 and 1971, respectively, are also well below the 7.35 percent rate of return found to be reasonable for the applicant on its California jurisdictional business in Decision No. 76106.

For many years this Commission has required the utilities subject to its jurisdiction to use flow-through (actual) rather than normalized accelerated depreciation in computing their income taxes. The Commission will authorize and direct applicant to use the actual instead of the five-year average investment tax credit in this and subsequent proceedings until further order of the Commission.

Reduction, If Any, in Income Taxes as a Result of Enactment of Tax Reform Act of 1969

Table II shows that if the actual investment tax credit is used for the years 1970 and 1971 the cumulative increase in the income taxes for the two-year period resulting from the enactment of the Tax Reform Act of 1969 will amount to \$243,000. Consequently, the application of Section H of the Preliminary Statement in applicant's tariff filed pursuant to Decisions Nos. 76106 and 76212 herein requires no reduction in applicant's electric rates. The new tariffs proposed by applicant remove the surcharge rate referred to in Section H of the Preliminary Statement and provide for equivalent revenues in the base rates. Such tariffs are reasonable and should be authorized.

Disposition of Balances in Account 255

Since the Tax Reform Act of 1969 has repealed the investment tax credit for property constructed or acquired after April 18, 1969, and since this Commission by the order below has authorized the applicant hereafter to use actual rather than the five-year average investment tax credit in computing its income taxes, it is appropriate that the Commission provide for the disposition of the balance in Account 255, either by requiring applicant to refund to its customers all or a portion of the \$3,904,000, or by crediting amounts from Account 255 to Income Account 411.1 over a period not to exceed five years from December 31, 1969. As the matter of the disposition of the balance in Account 255 was not given sufficient consideration by the parties to this proceeding in the previous hearings, the Commission will set this phase of the proceeding for oral argument before Commissioner Symons and Examiner Cline in Los Angeles on September 30, 1970.

The Commission finds as follows:

- 1. The cumulative increase in applicant's income taxes for the two-year period 1970 and 1971 resulting from the enactment of the Tax Reform Act of 1969 will be \$243,000.
- 2. The results of operation set forth in Table II above are reasonable and should be adopted by the Commission in this proceeding for the purpose of authorizing the new tariffs proposed by applicant.
- 3. The new tariffs proposed by applicant remove the surcharge rate referred to in Section H of the Preliminary Statement and provide for equivalent revenues in the base rates.

The Commission concludes as follows:

- 1. Applicant should be authorized and directed to use the actual investment tax credit in computing its income taxes until further order of the Commission.
- 2. The rates proposed by applicant in its petition for modification herein filed December 24, 1969, and authorized by this Commission as set forth in Appendix A hereto, are fair, just and reasonable, and the present rates and charges, insofar as they differ therefrom, are for the future unjust and unreasonable.
- 3. Oral argument should be set before Commissioner Symons and Examiner Cline for the purpose of assisting the Commission to determine whether applicant should be required to refund to its customers all or any part of the \$3,904,000 balance in Account 255, or whether this Commission should authorize applicant to credit to Income Account 411.1 over a period not to exceed five years from December 31, 1969, all or any part of said balance in Account 255.

ORDER

IT IS ORDERED that:

- 1. On or after the effective date of this order, applicant Southern California Edison Company is authorized to file rates revised as set forth in Appendix A attached hereto. Such filing shall comply with General Order No. 96-A. The effective date of the filing of the revised rate schedules shall be the date of filing. The revised schedules shall apply only to service rendered on and after the effective date thereof.
- 2. Until further order of the Commission applicant is authorized and directed to use the actual investment tax credit instead of the five-year average investment tax credit in computing its income taxes for rate-making purposes.
- 3. Oral argument in this proceeding is hereby set before Commissioner Symons and Examiner Cline at 10:00 a.m., Wednesday, September 30, 1970, in the Commission Courtroom in Los Angeles, for the limited purpose of giving the parties an opportunity to present arguments urging this Commission to direct applicant to refund to its customers all or any part of the \$3,904,000 balance in Account 255, or urging this Commission to authorize applicant to credit to Income Account 411.1 over a period not to exceed five years from December 31, 1970, all or any part of said balance in Account 255.

4. All motions consistent with the findings and conclusions set forth above in this decision are granted, and those inconsistent therewith are denied.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 1st

day of SEPTEMBER, 1970.

Chairman

Commissioner A. W. GATOV

Present but not participating.

APPENDIX A Page 1 of 5

RATES - SOUTHERN CALIFORNIA EDISON COMPANY

Applicant's rates, charges and conditions are changed to the level or extent set forth in this appendix.

Preliminary Statement

Delete Paragraph H.

Schedules Nos. A-1, A-2, A-3, A-4, A-5 and A-6

RA	TES

		C	harges	Per Mon	th	
RATE A	1	2	naryes 9	4	5.	5
Customer Charge: Single Phase Three Phase		\$0.90 1.90				\$1.30 2.30
Energy Charge:	,					
First 100 kwhr, per kwhr Next 400 kwhr, per kwhr Next 1,000 kwhr, per kwhr Next 1,500 kwhr, per kwhr Excess kwhr, per kwhr	3.8¢ 2.4	4.0¢	4.2¢ 2.4	2.4	- .	5.1¢ 3.2 2.4
Customer and Enorgy Charges (to First 150 kwhr per kw of bil First 3,000 kwhr, per kwhr Excess kwhr, per kwhr	lling do	mand		hange		1.6¢

SPECIAL CONDITIONS

Delete Special Condition No. 6 (Except in Schedule No. A-6, delete Special Condition No. 7).

Schedule No. A-7

RATES

Demand Charge: First 200 kw or less of billing demand	\$210.00
Next 1,800 kw of billing demand, per kw	0.90
Energy Charge (to be added to Demand Charge): First 150 kwhr per kw of billing demand: First 20,000 laws were billing demand:	
First 30,000 kwhr, per kwhr.	1_60¢

SPECIAL CONDITIONS

Delete Special Condition No. 9

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RATES - SOUTHERN CALIFORNIA EDISON COMPANY

Schedules Nos. D-1, D-2, D-3, D-4, D-5 and D-6

<u>TES</u>			arges F	er Mont	h	
	1	2	3	4	5	6
Customer Charge:	\$0.80	\$0.90	\$1.00	\$1.10	\$1.20	\$1.30
Energy Charge (to be added to First 60 kwhr, per kwhr	Customer (Charge):	*	_	_	,
Next 90 kwhr, per kwhr Next 150 kwhr, per kwhr	2.6¢	2.8¢	3.0¢	3.2¢	3.4¢	3.7¢
Next 600 kwhr, por kwhr	4. 7		1.9	1.9	1.9	1.9
Excess kwhr, per kwhr	-	-	-	-	_	_

SPECIAL CONDITION

Delete the Special Condition in Schedules Nos. D-1 through D-5 and Special Condition No. 2 in Schedule No. D-6.

Schedule No. DM

SPECIAL CONDITION

Delete Special Condition No. 2.

Schedule No. DWH-20

SPECIAL CONDITIONS

Delete Special Condition No. 9.

Schedule No. DWL

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SPECIAL CONDITIONS

Delete Special Condition No. 5.

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RATES - SOUTHERN CALIFORNIA EDISON COMPANY

Schedule No. IS-1

R	A	T	ES

Lamp Size - 1	Lumens		Lamp Month
1,000 2,500 4,000 6,000	Lumens Lumens Lumens Lumens Lumens	3. 4. 4.	.35 .55 .30 .95
Morcury 7,000 11,000 20,000 35,000	Vapor Lamps Lumens Lumens Lumens Lumens Lumens	4. 5. 6.	.30 .00 .15

SPECIAL CONDITIONS

Delete Special Condition No. 4.

Schedule No. IS-2

<u>ATES</u>		Per	Month	
RATE A - UNMETERED SERVICE	All Night Multiple		Midnight Multiple	
For each kw of lamp load, per kw	\$6.75	\$7.50	\$5.45	\$5.85
RATE B - METERED SERVICE	,	<u> </u>	er Meter Pe	r Month
Meter Charge: Multiple Series Energy Charge (to be Added to Mete		••••••	\$1.00 8.00	•
First 150 kwhr per kw of lamp 1 All excess kwhr, per kwhr	load, per ku	whr	3.50 0.75	

SF

Delete Special Condition No. 6.

Schedule No. OL-1

SPECIAL CONDITIONS

Delete Special Condition No. 7.

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RATES - SOUTHERN CALIFORNIA EDISON COMPANY

Schedule No. P-1

RA	T	ES

~	Monthly Service 	Energy Charge to be Added to Service Charge Rate per Kwhr for Monthly Consumption of:		
Horsepower of Connected Load	Per Hp	First 100	Next 100	All Over 200 Kwhr per Hp
2 to 9.9 10 to 24.9 25 and over	\$1.00 0.90	3.00¢ 2.40 2.30	1.60¢ 1.50 1.45	1.20¢ 1.20

SPECIAL CONDITIONS

Delete Special Condition No. 7.

Schedule No. PA-1

RATES

	Annual Energy Charge to be Service Service Charge Rate Charge for Annual Consumpti			per Kwhr
Horsepower of Connected Load	Per Hp	First 1000	Next 1000	All Over 2000 Kwhr per Hp
2 to 4.9 5 to 14.9 15 to 49.9 50 to 99.9 100 and over	\$9.25 8.25 7.75 7.25 6.75	- - -	0.90¢ 0.90 0.90 0.90	0.60¢ 0.60 0.60 0.60 0.60

SPECIAL CONDITIONS

Delete Special Condition No. 11.

Schedule No. PA-2

RATES Remand Chause	Per Moter Per Month
Demand Charge: First 75 kw or less of billing demand	\$75.00 0.90
Enorgy Charge (to be added to Demand Charge): First 150 kwhr, per kw of billing demand First 15,000 kwhr, per kwhr.	~
Excess kwhr, per kwhr Next 150 kwhr, per kw of billing demand All excess kwhr, per kwhr	1.20¢ 0.80 0.60

SPECIAL CONDITIONS

Delete Special Condition No. 6.

APPENDIX A Page 5 of 5

RATES - SOUTHERN CALIFORNIA EDISON COMPANY

Schedule No. TC-1

RATES	Per Meter Per Month
Energy Charge (to be added to Customer Charge)	FGP MORICIE
First 100 kwhr, per kwhr	1.65¢

SPECIAL CONDITIONS

Delete Special Condition No. 2.

Rule No. 2, Description of Service

Modify Paragraph H.1. to provide for menthly charges of 1.28% of the added investment.

Delete Paragraph H.3.