

bjh

ORIGINAL

Decision No. 78103

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)

Additional appearance:

Bruno A. Davis, for the
Commission staff.

Other appearances are listed in
Appendix A to Decision No. 76106
herein issued August 26, 1969.

O P I N I O N

Pursuant to ordering paragraph 3 of Decision No. 77700 issued herein on September 1, 1970, oral argument was held before Examiner Cline in Los Angeles on September 30, 1970. At the hearing the parties were given the opportunity to present arguments (1) 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 (2) urging this Commission to authorize applicant to credit all or any part of said balance in Account 255 to Income Account 411.1 over a period not to exceed five years from December 31, 1969. At the close of the oral argument the matter was taken under submission.

On October 5, 1970 applicant filed a motion for correction of Transcript Volume No. 52, and by letter dated October 5, 1970, which was filed on said date, the staff also requested that corrections be made in Volume No. 52 of the transcript. Pursuant to said motion and letter said transcript corrections have been made by the Presiding Examiner.

In his oral argument counsel for applicant urged that the Commission authorize applicant to credit the \$3,904,000 balance in Account 255 to Income Account 411.1, one-half of said amount, or \$1,952,000, during each of the two years 1970 and 1971. By doing so Oral Argument Table 4 shows that the applicant's estimated rate of return on California jurisdictional operations would be increased as follows:

<u>Year</u>	<u>Estimated Rate of Return (Ex. 97)</u>	<u>With Acct. 255 Balance Credited to Acct. 411.1 1/2 in 1970 and 1/2 in 1971 (Tr. 5737)</u>
1970	7.22%	7.29%
1971	7.19%	7.26%

Oral Argument Table 3 shows the effect on rate of return if the amounts debited and credited to Account 255 by reason of using the 5-year average investment tax credit instead of the actual investment tax credit had been included in income instead of being credited to Account 255.

Effect on Rate of Return

<u>Year</u>	<u>Rate Base*</u> \$M ²	<u>Credits or Debits to Acct. 255**</u> \$M ²	<u>Incremental Return on Rate Base with ITC Adj.</u> %	<u>Return on Rate Base</u>	
				<u>Before ITC Adj.***</u> %	<u>After ITC Adj.</u> %
1966	1,856	1.998	.11	6.95	7.06
1967	2,025	1.628	.08	6.98	7.06
1968	2,231	0.370	.02	6.61	6.63
1969	2,432	(0.083)	(.003)	6.39	6.39

* From Table 18-A of Ex. 67.

** From Table 14-G of Ex. 67. Note: The figure for year 1969 was changed from (.092) to (.083) to conform to Ex. 98.

*** These figures were also taken from Table 18-A of Ex. 67 and to conform to this table the 6.98 for year 1966 and 6.99 for year 1967 shown on Oral Argument Table 3 were changed as shown above.

A. 50363 hjh

The purpose of Oral Argument Exhibit 3 is to demonstrate that even if the actual rather than the 5-year average investment tax credit had been used the return on rate base would have been reasonable.

Counsel for applicant argued that for the Commission to require applicant to refund the \$3,904,000 balance in Account 255 to applicant's customers would constitute unlawful retroactive rate making. In support of such argument he cited Pacific Telephone and Telegraph Company v. Commission, 62 Cal 2d 634, 650-656; Los Angeles Gas and Electric Company, 35 CRC 442, 468, injunctive relief denied, 58 Fed 2d 256, aff. 289 U.S. 287.

Counsel for applicant pointed out in Oral Argument Table 4 above that applicant will earn rates of return during 1970 and 1971 less than the 7.35% which the Commission found to be reasonable in Decision No. 76106 herein. He stated that if the Commission authorized applicant to credit the \$3,904,000 to Income Account 411.1, one-half in 1970 and one-half in 1971, applicant will receive some additional relief during these two years, and for years subsequent to 1971 the applicant will have sufficient time to seek further relief through the filing and processing of an application for rate increase.

Counsel for the Commission staff pointed out that the amounts in reserve Account 255 were accumulated by crediting or debiting said account with the difference between actual investment tax credit and the five-year average investment tax credit. As a result of this accounting procedure on the whole, applicant's reported earnings have been \$3,904,000 less than they would have been had the actual tax credit been used. Now the Commission has, through the issuance of Decision No. 77700 herein, directed that

applicant hereafter use the actual rather than the five-year average investment tax credit. Since the ratepayers have lost whatever benefit they may have had from the use of the actual rather than the five-year average investment tax credit during the years prior to 1970, the counsel for the staff urges that for the Commission to be consistent it should now require applicant to refund to its customers the \$3,904,000 in Account 255. Such a refund would remove this item from consideration in any future rate proceeding. He contends that no retroactive rate making would be involved in such a refund since it would be a refund of a reserve account. Hence the refund would have no effect on the earnings of prior years. He further contends that if the Commission does not require applicant to refund the amounts in Account 255 to its customers but permits it to credit such amounts to Income Account 411.1 in 1970 and later years that a five-year rather than a two-year period should be used so that the amount in Account 255 will not be completely amortized before the year 1972 which is likely to be the test year in applicant's next rate application. He stated that the five-year period for amortization of the reserve account has been used in recent proceedings involving the application of Pacific Gas and Electric Company for increases in its gas and its electric rates.

Staff counsel also directed the Commission's attention to Edison's offer in its petition for modification filed December 24, 1969 to make appropriate revision in charges to customers for 1970 and 1971. Edison's own estimate, Appendix A to the petition and Exhibit 95 indicated \$1,047,000 in potential refunds to customers. Edison's witness indicated that such refunds could be made on the same basis as refunds that are received for other items, such as fuels.

A. 50363 hjh * * *

The counsel for the Department of Defense and other executive agencies of the United States of America joined in and supported the arguments presented by the Commission staff counsel.

The \$1,047,000 of potential refunds to customers is the excess of surcharge rate revenue over and above the additional income taxes for the two-year period 1970 and 1971 resulting from the enactment of the Tax Reform Act of 1969. Decision No. 76106 dated August 26, 1969, and Decision No. 76212, dated September 23, 1969 herein, under which the earlier rates were filed made no provision for rate adjustment or refund by reason of any difference between the surcharge rate revenue and the income tax surcharge. Only the amount of the reduction, if any, in the income tax surcharge was to be used as a basis for reduction in rates or refund to customers. The Commission, however, in Decision No. 77700 herein has found that the cumulative increase in Edison'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. Further, ordering paragraph 3 in said Decision No. 77700 set this matter for oral argument for the limited purpose of giving the parties an opportunity to present arguments urging this Commission to direct Edison to refund to its customers all or any part of the \$3,904,000 balance in Account 255, or urging this Commission to authorize Edison to credit to Income Account 411.1 over a period not to exceed five years all or any part of said balance in Account 255. Therefore, it would be inappropriate to order Edison to refund the \$1,047,000 as urged by the staff.

Findings

Based upon a consideration of the record herein the Commission finds as follows:

1. There was a credit balance of \$3,904,000 in Account 255 as of December 31, 1969.
2. The credit balance in Account 255 has been accumulated by debiting said account with the amounts by which applicant's actual income tax credit has been less than its five-year average income tax credit and by crediting said account with the amounts by which applicant's actual income tax credit has exceeded its five-year average income tax credit.
3. The Tax Reform Act of 1969 has repealed the investment tax credit for property constructed or acquired after April 18, 1969.
4. By Decision No. 77700 issued herein on September 1, 1970, applicant was 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.
5. If applicant is authorized and directed to credit the balance of \$3,904,000 in Account 255 in equal amounts (\$780,800) each year over a five-year period beginning January 1, 1970 and ending December 31, 1974, to Income Account 411.1, its rate of return on California jurisdictional operations for the year 1970 will be 7.25% and its rate of return on California jurisdictional operations for the year 1971 will be 7.22%. Such rates of return are reasonable for said years.

Conclusion

Based upon the foregoing findings the Commission concludes that applicant should be authorized and directed to credit the balance of \$3,904,000 in Account 255 as of December 31, 1969, in

A. 50363 hjh * *

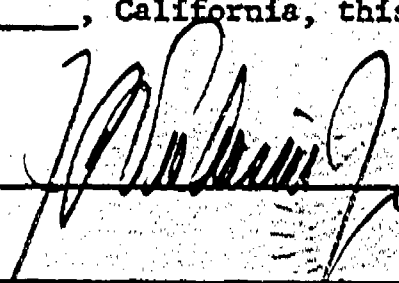
equal amounts (\$780,800) each year over a five-year period beginning January 1, 1970 and ending December 31, 1974, to Income Account 411.1.

O R D E R

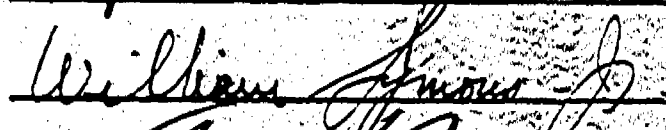
IT IS ORDERED that applicant Southern California Edison Company is authorized and directed to credit the balance of \$3,904,000 in Account 255 as of December 31, 1969, in equal amounts (\$780,800) each year over a five-year period beginning January 1, 1970 and ending December 31, 1974, to Income Account 411.1.

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

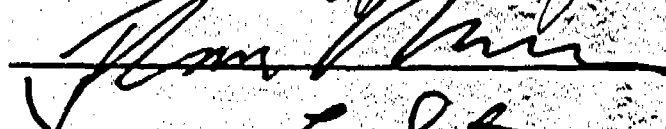
Dated at San Francisco, California, this 15th day of DECEMBER, 1970.



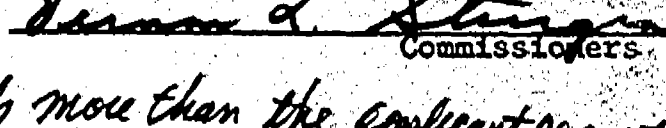
Chairman



Commissioner



Commissioner



Commissioner

*I dissent. The order grants more than the applicant requested.
Luzgata*