

Decision No. 84346

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CITIZENS UTILITIES
COMPANY OF CALIFORNIA to increase
its rates and charges for its water
system serving the Niles-Decoto
area in Alameda County.

Application No. 53178
(Filed February 29, 1972;
rehearing granted
October 30, 1973)

Application of CITIZENS UTILITIES
COMPANY OF CALIFORNIA to increase
its rates and charges for its
water system serving the Niles-
Decoto area in Alameda County.

Application No. 54960

John H. Engel and Paul Alexander, Attorneys
at Law, for Citizens Utilities Company of
California, applicant.
Walter H. Kessenick, Attorney at Law, for
the Commission staff.

DECISION ON REHEARING

Decision No. 84039 dated January 28, 1975 in these proceedings is entitled "ORDER REOPENING APPLICATION NO. 53178, MODIFYING DECISION NO. 83855, AND CONSOLIDATING APPLICATION NO. 53178 WITH APPLICATION NO. 54960". Decision No. 84039 states as follows:

"On December 17, 1974, we issued Decision No. 83855 in Application No. 53178. By that decision we decided that liberalized depreciation and the job development investment credit should be treated on a normalized basis in the computation of federal income tax. Support for this action was based wholly on Decision No. 83162, an opinion in a proceeding involving The Pacific Telephone and Telegraph Company (PT&T).

"While it is true that we permitted normalization in the PT&T proceeding, we also imposed a limitation thereon. Thus, in Decision No. 83540, we provided for a procedure to insure that the rates authorized PT&T would not result in earnings that produce a rate of return in excess of that allowed in Decision

No. 83162. No such limitation was imposed by Decision No. 83855 with respect to the rates of Citizens Utilities Company (Citizens).

"In addition, it now appears that we mistakenly stated that JDIC should be treated on a normalized basis. In Decision No. 81821, we specifically recognized that Citizens computed JDIC '...on the 1971 and 1972 plant additions and deducted 3.5 percent (spread over 28 years) of this credit as an annual amount from the federal income tax.' This is ratable flow-through, not normalization. There is no evidence in this record to show that Citizens is proposing to change its method of dealing with JDIC.

"The above-noted discrepancies should be corrected. However, in light of Public Utilities Code Section 1708 we recognize that an opportunity to be heard must be afforded parties in Application No. 53178 before a modification to Decision No. 83855 can be effected."

Decision No. 84039 ordered that Application No. 53178 be reopened, and that certain procedures be established in the absence of the filing of a written protest by Citizens. Such a protest was timely filed. Public hearing was held before Examiner Mallory at which oral argument on the issues raised in Ordering Paragraphs 2 and 3 of Decision No. 84039 was made by Citizens and the staff.^{1/}

^{1/} Ordering Paragraphs 2 and 3 of Decision No. 84039 read as follows:

"2. Unless a written protest is filed within three (3) days after the effective date of this order, Decision No. 83855 shall be modified by the addition of the following orders:

- (a) Citizens Utilities Company is hereby directed to file with this Commission results of operations reports for its Niles-Decoto area, on or before May 31, 1975, detailing its earnings for the quarter ending March 31, 1975, and the 12-month period ending March 31, 1975, as specified in 'Appendix A' of this order. Citizens Utilities Company is further directed to file results of operations reports for its Niles-Decoto area for each quarter subsequent to March 1975, detailing its earnings for the 12-month period ending that quarter as specified in 'Appendix A' of this order. Each quarterly report subsequent to the initial report shall be filed no later than 60 days after the close of the quarter involved.

(Continued)

It appears that Finding 1 of Decision No. 83855 should be modified to correctly state our treatment of Job Investment Tax Credit in that decision (Ordering Paragraph 3 of Decision No. 84039).

The arguments presented in the reopened proceeding indicate that in relation to the amounts involved in the PT&T proceeding (and in General Telephone of California, Decision No. 83779) the total dollar effect of the limitations on normalization of liberalized depreciation and job development investment tax credit involved have little effect on the annual after-tax income in the Niles-Decoto

1/ (Continued)

(b) Citizens Utilities Company shall within ten (10) days of the date of this order advise the Commission and the parties to these proceedings whether, in connection with any order issued by the Commission in Case No. 9865 instituted concurrently herewith indicating to the Company that it appears to the Commission that the Company may be realizing earnings which result in a rate of return in excess of that allowed by Decision No. 81821, it consents to the inclusion in such order of a provision requiring that rates collected subsequent to the date of such order will be subject to refund pending determination by the Commission, after hearing, of the justness and reasonableness of said rates, and thereby waives the prior hearing requirement set forth in Section 728 of the Public Utilities Code.

"3. Unless a written protest is filed within three (3) days after the effective date of this order, Finding No. 1 in Decision No. 83855 shall be modified as follows:

'1. Liberalized depreciation should be treated on a normalized basis as provided in Decision No. 81821; the Job Development Investment Credit should be treated on a ratable flow-through basis."

area of Citizens, and that the extensive reporting procedures set forth in Appendix A of Decision No. 84039 would cause an undue burden on Citizens without any offsetting benefit to the Citizens' customers.

Following hearing, we find that Decision No. 83855 should be amended as set forth in the following order, and that reporting and refund procedures contained in Ordering Paragraph 2 of Decision No. 84039 are unnecessary and should not be adopted.

O R D E R

IT IS ORDERED that:

1. Finding 1 of Decision No. 83855 is modified as follows:
 1. Liberalized depreciation should be treated on a normalized basis as provided in Decision No. 81821; the Job Development Investment Credit should be treated on a ratable flow-through basis.

A. 53178, A. 54960 bw

2. In all other respects Decision No. 83855 in Application No. 53178 shall remain in full force and effect.

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

Dated at San Francisco, California, this 22nd day of APRIL, 1975.

Vernon L. Sturgeon
President
William J. Simon
Donald R. Ross
Robert A. Simon
Commissioners