

APR 28 1988

ORIGINAL

Decision 88-04-065 April 27, 1988

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own)
motion into the methods to be utilized)
by the Commission to establish the)
proper level of expense for ratemaking)
purposes for public utilities and)
other regulated entities due to the)
changes resulting from the 1986 Tax)
Reform Act.)

I.86-11-019
(Filed November 1, 1986)

ORDER MODIFYING D.88-01-061

Decision (D.) 88-01-061 sets forth the methodology to be used in calculating the effects of the Tax Reduction Act of 1986 (TRA 86) and the California Conformity Act of 1987, Senate Bill 572 (S.B. 572) on ratemaking income tax expense. This order addresses the Petitions for Modification of D.88-01-061 filed by General Telephone Company of California (General), Bay Area Cellular Telephone Company (BACTC), and San Diego Gas & Electric Company (SDG&E). The order also corrects a clerical error in Finding of Fact 32.

General's Petition

General petitions that D.88-01-061 be modified because it conflicts with interim D.87-12-070 in General's 1988 test year rate case, Application (A.) 87-01-002. General states that D.87-12-070 reduced General's rates for the 1988 test year to reflect an interim revenue reduction that in part is based on the impact of TRA 86, including the new 34 percent federal corporate income tax rate. Therefore, it would be impossible for General to comply with Ordering Paragraph 2 of D.88-01-061 and reflect any revenue requirement adjustment in a TRA 86 memorandum account.

To resolve this conflict, General requests that the following new sub-paragraph be added to the existing Ordering Paragraph 2:

"2(a) The above notwithstanding, for General Telephone, a telephone utility, the 1988 revenue requirement adjustment associated with the effects of TRA 86 and S.B. 572 shall be reflected in the final decision in its Application 87-01-002 and shall be in conformance with the methodology adopted in this decision."

General further requests that the Commission revise the text, findings of fact and conclusions of law consistent with this modification. General requests prompt action to eliminate the confusion created by these conflicting decisions.

In response to General's petition for modification we note that under Ordering Paragraph 2 of D.88-01-061 no action on the part of General is required until 60 days after the effective date of its 1988 general rate order. If the final decision in the 1988 rate order fully reflects the 1988 revenue requirement adjustment associated with TRA 86 and S.B. 572, General would have to merely file a statement that compliance with Ordering Paragraph 2 of D.88-01-061 has been effected by the final decision in A.87-01-002. On the other hand, if the final decision only partially reflects the adjustment associated with TRA 86 and S.B. 572, then General would have to make a compliance filing for the difference. We are concerned that the record in A.87-01-002 may not be adequately developed to enable the Commission to fully reflect the 1988 revenue requirement adjustment associated with the effects of TRA 86 and S.B. 572 in conformance with the methodology adopted in D.88-01-061 in the final test year 1988 general rate decision in A.87-01-002. Therefore, D.88-01-061 leaves the burden on General to indicate whether the final decision in A.87-01-002 fully reflects the 1988 revenue requirement adjustment associated with the tax acts. For this reason we cannot grant the modification sought by General. However, we will modify Ordering Paragraph 2 with respect to General by Ordering Paragraph 2a and

require that any 1988 revenue requirement adjustment attributable to TRA 86 and S.B. 572 not fully reflected in the final decision in A.87-01-002 be recorded in a TRA 86 memorandum account and be disposed of as the Commission further orders.

BACTC's Petition

On March 3, 1988, BACTC filed its Petition for Modification of Decision 88-01-061. BACTC states that it is a certificated provider of wholesale and retail cellular services. Early in the course of these proceedings, on January 7, 1987, BACTC filed a motion seeking its dismissal as a respondent on the grounds that: (1) the rates which the Commission has authorized for all providers of cellular services are based on market research information rather than upon the sort of cost-of-service analysis traditionally applied in setting telephone utility rates, and (2) providers of wholesale and/or retail cellular services such as BACTC have characteristics comparable to those of radio telephone utilities, cellular resellers, and non-dominant interLATA carriers, which had been excluded from the proceeding. BACTC states that the Administrative Law Judge in a ruling issued January 13, 1987 listed "cellular telephone utilities" among those respondents the Commission would not expect "to participate fully in this proceeding." The Ruling, however, did not specifically address either the Motion of BACTC or a similar Motion to Dismiss filed by PacTel Cellular and certain limited partnerships of which PacTel Cellular was the general partner.

The Phase 2 decision (D.88-01-061) also failed to address these Motions or exclude the cellular telephone companies from the filing requirements of the Order. BACTC states that since cellular telephone companies' rates have not been set on the basis of the detailed cost-of-service analysis traditional for monopoly franchise public utilities but rather are market driven prices, the requirements imposed on respondents by D.88-01-061 cannot be reasonably applied. BACTC requests that the Commission rule on the

PacTel Cellular and BACTC Motions for Dismissal and modify D.88-01-061 to grant such motion with respect to all cellular telephone utilities.

We agree with BACTC that D.88-01-061 inadvertently failed to address the Motions for Dismissal as respondents filed by BACTC and PacTel Cellular. We further agree that D.88-01-061 should be modified to grant the Motion for Dismissal as respondents to all cellular telephone utilities since rates for cellular telephone utilities are not set on a cost-of-service basis and thus the requirements imposed on respondents cannot be reasonably applied.

SDG&E's Petition

On March 9, 1988, SDG&E filed its Petition for Modification of D.88-01-061. In its petition SDG&E requests that D.88-01-061 be modified to allow SDG&E to implement a one-time refund of federal taxes overcollected in 1987. SDG&E states that this modification is necessary to avoid an adverse tax consequence that would have a negative one million dollar impact on SDG&E. This adverse tax consequence is caused by the Decision requirement that various balancing accounts be used to refund the overcollected taxes instead of a one-time refund.

According to SDG&E the revenue effect of TRA 86 and S.B. 572 on 1987 revenue requirements has an approximate \$16.4 million dollar overcollection of income taxes, franchise fees and uncollectibles, and interest through May 1988. If this revenue effect is recorded in the balancing accounts, these dollars would not be refunded to ratepayers until 1989 since SDG&E's ERAM account is scheduled to be adjusted November 1, 1988, but as a practical matter the November 1988 ECAC decision will not be issued until year end 1988. SDG&E's overcollected income in 1987 is taxable 1987 income. This means that the alleged \$16.4 million 1987 overcollections will be taxed at an effective 1987 Federal income tax rate of 39.95%; however if the tax overcollection is not refunded until 1989, then SDG&E cannot deduct the refunded amount

until the 1988 tax year. The approximate 6% difference between 1987 and 1988 tax rates would cause SDG&E to pay approximately \$1 million more in 1987 taxes than the benefit it would receive from a deduction on its 1988 tax return. This can be avoided if the refund to ratepayers occurs by September 15, 1988. If this is done, the impact of TRA 86 would be revenue neutral to SDG&E. As part of its petition SDG&E submitted proposed plans for electric, gas and steam one-time refunds credits with a May 1988 refund date. If the Commission order modifying D.88-01-061 is not issued until after April 15, 1988, the refunds would be delayed from May 1988 to June 1988. SDG&E requests that D.88-01-061 be modified by adding Ordering Paragraph 1b as follows:

"1(b.) SDG&E shall, as soon as possible but in no case later than June 1988, implement a one-time refund based on its 1987 revenue requirement adjustment for TRA 86 in conformance with D.88-01-061. The credit shall reflect interest accrued at the current 90-day commercial paper rate from January 1, 1987, through the first full month of the refund."

SDG&E's request for a one-time refund is reasonable and D.88-01-061 shall be modified to enable SDG&E to make such refund after the calculations have been reviewed and approved by the Commission Advisory and Compliance Division. Such refund shall be made as soon as possible; but in no case later than June 1988.

Correction of Clerical Error

The Commission has been informed of a clerical error in Finding of Fact 32 of Decision 88-01-061. Specifically the second word in the Finding "using" is incorrect. The correct word is "issuing". Finding of Fact 32 is corrected to read as follows:

"In issuing OII 86-11-019 the Commission ordered that as of January 1, 1987, all rates and charges then in effect shall be collected subject to refund including interest in order

to account for any changes that might result from this investigation." Ⓢ

Additional Findings of Fact

40. Rates which the Commission has authorized for all providers of cellular services are based on market research information rather than on the sort of cost-of-service analysis traditionally applied in setting telephone utility rates.

41. Providers of wholesale and/or retail cellular services have characteristics comparable to those of radio telephone utilities, cellular resellers, and non-dominant interLATA carriers, which were excluded from the scope of the present investigation.

42. Pactel Cellular and BACTC have filed Motions to be dismissed as respondents for the reason stated above.

43. It is reasonable to authorize SDG&E to make a one-time refund of the revenue effects of TRA 86 and S.B. 572 on 1987 revenue requirements, plus applicable interest from January 1, 1987 through the first full month of the refund in order to make the company revenue neutral after the refund.

44. It is reasonable to authorize General to record any 1988 revenue requirement adjustment relating to TRA 86 and S.B. 572 not fully reflected in the final decision in A.87-01-002 in a TRA 86 memorandum account to be disposed of as the Commission further orders.

Additional Conclusions of Law

13. All providers of wholesale and/or retail cellular services should be dismissed as respondents to this proceeding.

14. SDG&E should be authorized to make a one-time refund based on its 1987 revenue requirement adjustment for TRA 86 and S.B. 572 in conformance with D.88-01-061 and include interest from January 1, 1987 through the first full month of the refund. Such refund should be made as soon as possible, but no later than June, 1988.

15. General should be authorized to record any 1988 revenue requirement adjustment for TRA 86 and S.B. 572 not fully reflected in the final general rate case decision in A.87-01-002 in a TRA 86 memorandum account to be disposed of as the Commission further orders.

Additional Ordering Paragraphs

IT IS ORDERED that the following additional ordering paragraphs be inserted in D.88-01-061:

1(b.) San Diego Gas & Electric Company (SDG&E) shall, as soon as possible but in no case later than June 1988, implement a one-time refund based on its 1987 revenue requirement adjustment for TRA 86 and S.B. 572 in conformance with D.88-01-061. The credit shall reflect interest accrued at the current 90-day commercial paper rate from January 1, 1987, through the first full month of the refund. Before any refunds are made, the calculations shall be reviewed and approved by the Commission Advisory and Compliance Division (CACD).

2(a.) General Telephone shall file within 60 days after the effective date of the final general rate case order in A.87-01-002 calculations with CACD indicating whether the final order fully reflects the 1988 revenue requirement adjustment associated with the tax act changes in conformity with this decision. To the extent the final decision does not fully reflect the revenue requirement adjustment, General Telephone shall record the difference, including interest to the extent applicable, in a TRA 86 memorandum account and dispose of such balance as the Commission further orders.

15. All providers of wholesale and/or retail cellular services are dismissed as respondents to the proceeding.

16. In all other respects D.88-01-061, as corrected by D.88-01-064, remains in full force and effect.

This order is effective today.

Dated April 27, 1988, at San Francisco, California.

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK R. DUDA
G. MITCHELL WILK
JOHN B. OHANIAN
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

W. W. Wessler
W. W. Wessler, Executive Director

Decision 88 04 065 APR 27 1988**ORIGINAL**

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To resolve this conflict, General requests that the following new sub-paragraph be added to the existing Ordering Paragraph 2:

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STANLEY W. HULETT
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