

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVALUATION & COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3019
February 11, 1987

RESOLUTION

SOUTHERN CALIFORNIA EDISON COMPANY (SCE); ORDER AUTHORIZING INCLUSION OF AN INCOME TAX COMPONENT IN CHARGES FOR LINE EXTENSIONS AND CHANGES IN RELATED RULES PURSUANT TO THE FEDERAL TAX REFORM ACT.

RECOMMENDATION

The Commission should adopt Resolution E-3019 which will allow SCE to collect the additional Federal Income Tax which it must pay on all Contributions in Aid of Construction (CIAC) in 1987, received primarily for line extensions to serve housing and industrial developments.

BACKGROUND:

By Advice Letter No. 753-E filed January 2, 1987 and by Advice Letter 755-E filed January 8, 1987, Southern California Edison Company (SCE) requested authority to add an income tax component to its existing Preliminary Statement, Rules 2, 13, 14, 15, 15.1, 15.2, 16, 20 and 21. This change is made necessary by provisions in the Tax Reform Act of 1986 (Tax Act) which now define contributions to the capital of a corporation, including Contributions in Aid of Construction (CIAC), as taxable income effective January 1, 1987. Previously CIAC were excluded from taxable income. The facts are as follows:

By Supplements to the above advice letters, filed subsequently, SCE has revised its filing to reflect the Federal Income Tax modification and net currently applicable California State Taxes. Since California has not yet amended its revenue code to be consistent with the new federal law, CIAC will continue to be considered as non-taxable contributions to capital, not subject to depreciation.

1. In Advice Letter 753-E SCE is requesting to add Part N, Income Tax Component of Contributions Provision, to its Preliminary Statement to clarify that contributions, including Contributions in Aid of Construction (CIAC) received from any person or agency by the Company under SCE's tariffs shall include a cost component for Federal and associated California income taxes.

This filing also establishes a provision for accounting for said cost component collected from contributors. The applicable tariffs with contribution provisions include, but are not limited to, street and area lighting rate schedules and Rules 2, 13, 14, 15, 15.1, 15.2, 16, 20 and 21.

2. In Advice Letter 755-E SCE is requesting to update the unit costs under Rule No. 15, Line Extensions and Rule No. 15.1, Underground Extensions Within Residential Subdivisions to reflect the Federal income taxes that SCE will incur.

These revisions are being made in accordance with the Periodic Review provisions of Special Condition E.2 of Rule Nos. 15 and 15.1, and Decision No. 59801 (dated March 22, 1960) and Decision No. 76394 (dated November 4, 1979), which provide for unit cost revisions when such costs have changed by more than 10% since the last revision.

3. In 1986 and prior years, contributions to the capital of a utility were not taxed as income. SCE states that in 1987 such contributions will be taxable at the Federal corporate income tax (FIT) rate for the calendar year at 40%. The cost to the utility of contributed facilities will increase by 67% in order to pay Federal income taxes. (See Table A for derivation).

4. The advice letter revises the system average unit cost per foot in Rule 15, Paragraph B.3.a and B.3.b from \$6.90 to \$12.08; the system average cost per front foot in Rule 15.1, Paragraph C.1 from \$10.62 to \$18.59 per foot times the total footage of property fronting on streets with the subdivision; and the excess footage provision of Rule No. 15.1, Paragraph C.3 from \$1.00 per foot to \$1.75 per foot.

5. SCE believes that the requested revisions are less complicated than those normally covered by the "Periodic Review" provision and are being made as a result of a change in law which became effective January 1, 1987. SCE requests a waiver of the 30-day Proposal requirement of the "Periodic Review" provision.

6. The tax component will be collected subject to refund in accordance with the refund provisions of the extension rules, and will be collected subject to further refund pending further determination by the Commission in Order Instituting Investigation 86-11-019.

7. This filing will not increase or decrease any filed rate or charge, other than by the tax component, cause the withdrawal of service, nor conflict with other schedules or rules.

8. Public notification of this filing has been made by mailing copies of the advice letter to other utilities, governmental agencies, and to all interested parties who requested a copy.

PROTESTS

1. The Commission has received numerous protests to this advice letter and related advice letters of other utilities regarding the inclusion of a tax component in the line extension rates and charges.

2. The staff of the Evaluation and Compliance Division is of the opinion that although the protestors may have grounds for their protests, that this revision will substantially increase line extension and other utility costs affecting their developments, nonetheless, this is a tax component that must be paid by the utility. SCE estimates that it will incur about \$28 million in Federal Income Taxes on contributions from developers received in 1987. If the developers do not pay these taxes as part of their Costs of Construction, these taxes will be borne by Edison's ratepayers. Therefore, the customers and the utility will be best served by collecting the tax component as soon as practicable, subject to refunds with interest.

DISCUSSION

While the federal law changes become effective January 1, 1987, no concurrent California tax law changes have been made effective as of this date, although AB-33 is pending with a proposed effective date of January 1, 1987.

Because California law does not yet allow collection of CCFT on CIAC, SCE should not be permitted to collect any CCFT in anticipation of such state tax changes.

This resolution cannot be approved retroactively, therefore SCE cannot be authorized to collect Federal Income Tax on any developer's advances received under Extension Rule 15 and 15.1 for the period of January 1, 1987 to 11:59 p.m. on February 10, 1987. We therefore will require that SCE refund with interest any amounts so collected.

FINDINGS

1. Failure of utilities to collect the required Federal income tax with developers advances for Contributions in Aid of Construction or to provide for subsequent payment of the permanent short-fall for all contributions entered into subsequent to January 1, 1987, and prior to the issuance of a final decision by this Commission, in OII 86-11-019, would leave this burden to be borne by all ratepayers of SCE.

2. The tax component of contributions collected gross of Federal income tax are considered subject to adjustment pending a final decision in OII 86-11-019.

In the event that a different method, other than requiring contributors to pay a full gross-up amount of the tax liability, is adopted by the Commission in OII 86-11-019, the utility will be required to refund the difference with interest computed at the average three month commercial paper rate as published in the Federal Reserve Bulletin.

3. All amounts for state income taxes collected by SCE on all Contributions in Aid of Construction from January 1, 1987 to 11:59 p.m. on February 10, 1987 will be refunded with interest.

4. All amounts collected by SCE for Federal and State Income Taxes in excess of its filed unit costs under Tariff Rules 15 and 15.1 from January 1, 1987 to 11:59 p.m. on February 10, 1987 will be refunded with interest.

5. SCE should not collect the equivalent amount of California Corporation Franchise Tax on Contributions in Aid of Construction until authorized to do so by this Commission after passage of enabling legislation.

6. We find that these tariff modifications are just and reasonable.

THEREFORE:

1. Southern California Edison Company is authorized under Section 454 of the Public Utilities Code and by Section A of General Order 96-A, to place Advice Letters 753-E Supplemental and 755-E Supplemental and accompanying tariff sheets into effect today, except as set forth below.

2. Southern California Edison Company is hereby directed to revise Advice Letters 753-E and 755-E and associated tariff sheets to effect collection of only the expected amount of Federal Income Tax associated with Extension Rules Nos. 15 and 15.1. Collection of any pending California Corporation Franchise Tax on advances for any construction must await further authorization of this Commission after enabling legislation, if any, is enacted.

3. Southern California Edison Company shall refund, with interest, all amounts collected by it earmarked for State Income Taxes associated with Contributions in Aid of Construction, for the period of January 1, 1987 to 11:59 p.m. on February 10, 1987.

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4. Southern California Edison Company shall also refund collections for Federal and State Income Taxes in excess of its filed unit costs under Tariff Rules 15 and 15.1 for the Period of January 1, 1987 to 11:59 p.m. on February 10, 1987.
5. Interest, as discussed in this resolution, shall be computed at the average three month commercial paper rate as published in the Federal Reserve Bulletin.
6. Southern California Edison Company shall maintain memorandum accounts detailing all collections of Contributions in Aid of Construction and line extensions together with any Federal taxes collected therewith separately shown.
7. Contributions are considered subject to further adjustment pending a final decision in OII 86-11-019.
8. The revised tariff sheets shall be marked to show that they were authorized for filing by Commission Resolution E-3019. This Resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on February 11, 1987. The following Commissioners approved it:



Executive Director

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

TABLE A

FEDERAL INCOME TAX RATE FOR 1987

For 1987 the Federal Corporate Income Tax (FIT) rate for calendar year taxpayers is 40%. For purposes of the 1987 accrual and budget, Edison should use a rate of 40%, based on the following, which will apply to taxable revenue and taxable expense items, when such items are so taxable for Federal purposes:

<u>FIT Rate</u>	<u>Net-to-Gross Multiplier *</u>
.40000	0.667

* DERIVATION, $RATE = (1.0/(1.0-t))-1.0$ where $t =$ the Federal Income Tax rate of 40%