

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVALUATION & COMPLIANCE DIVISION
Energy Branch

RESOLUTION G-2720
March 25, 1987

R E S O L U T I O N

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, FOR ITS LIQUID PETROLEUM GAS (LPG) SYSTEM ON SANTA CATALINA ISLAND.

RECOMMENDATION

The Commission should adopt Resolution G-2720 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. 75-G filed January 23, 1987, Southern California Edison Company (SCE) requested authority to add an income tax component to its existing Preliminary Statement, Part G. 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 a supplement to the above advice letter, 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 75-G SCE is requesting to add Part G, Income Tax Component of Contributions Provision, to its Preliminary Statement for its Catalina Island Gas System 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.

2. This filing also establishes provision for accounting for said cost component collected from contributors. The applicable tariffs with contribution provisions include, but are not limited to, Rules 13, 15 and 16.

3. Contributions under the tariffs presently include the Company's estimated costs of overheads, installation, and associated expenses incurred as a result of the contribution. Associated costs are considered by Edison to include all costs, including taxes, that would be incurred as a result of a contribution. Normally, such tax law changes would not pose a difficulty for Edison, as it would include all applicable cost factors under its tariff provisions. However, since contributions under the tariffs have not been considered as taxable by the Federal government, until now, clarification is appropriate to identify the fact that a tax cost component is collected from contributors.

4. The Tax Reform Act of 1986 changes the Federal law regarding contributions to the capital of a corporation, including CIAC. The Tax Act repeals the law prior to 1987 allowing contributions received by a regulated public utility to be excluded from gross taxable income. In the case of a corporation such as Edison, gross income shall include any contribution to the capital of the taxpayer commencing January 1, 1987.

5. Edison shall collect an income tax component of contributions to cover the Company's estimated liability for Federal income tax on CIAC. The 1987 Federal Tax Factor shall be 0.667. Additional income tax liability may be incurred by the Company for California state income tax.

6. The collection of the Federal income tax cost component shall be accounted for as provided in Section G of the Preliminary Statement of Edison's Catalina Gas Preliminary Statement, established by this filing, until such time as the Commission issues a final decision, as part of OII 86-11-019 or otherwise, regarding the monies collected.

7. In addition, Edison shall record potential State of California income tax liability on contributions in a special memorandum account. Any liability incurred thereunder shall be recovered as determined by the Commission in OII 86-11-019.

8. 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.

9. 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.

10. 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 the related advice letters of SCE and other utilities regarding the inclusion of a tax component in the 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. 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 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 California Corporation Franchise Tax (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 in its Catalina Island service area, to collect Federal Income Tax on any developer's advances received under Extension Rules for the period of January 1, 1987 to 11:59 p.m. on March 24, 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.
3. 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.
4. 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 March 24, 1987 should be refunded with interest.
5. All amounts collected by SCE for Federal and State Income Taxes in excess of its filed unit costs under Tariff Rules 13, 15 and 16 from January 1, 1987 to 11:59 p.m. on March 24, 1987 will be refunded with interest.
6. 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.
7. 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 Letter 75-G Supplemental and accompanying tariff sheets into effect today, except as set forth below.
2. Southern California Edison Company is hereby directed to collect only the expected amount of Federal Income Tax associated with Gas Extension Rules. 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 March 24, 1987.
4. Southern California Edison Company shall also refund collections for Federal and State Income Taxes in excess of its filed costs under its Gas Extension Tariff Rules for the period of January 1, 1987 to 11:59 p.m. on March 24, 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 Advice Letter and accompanying tariff sheets shall be marked to show that they were authorized for filing by Commission Resolution G-2720. This Resolution is effective today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on March 25, 1987. The following Commissioners approved it:



Executive Director

Commissioner John B. Ohanian,
present but not participating.

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