

## PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVALUATION & COMPLIANCE DIVISION  
Telecommunications BranchRESOLUTION NO. T-12020  
May 13, 1987R E S O L U T I O NORDER AUTHORIZING PACIFIC BELL TO APPLY AN INCOME TAX  
COMPONENT PRIMARILY TO THE RATES IT CHARGES FOR LINE  
EXTENSIONS PURSUANT TO THE FEDERAL TAX REFORM ACT OF 1986  
(TAX ACT)

## SUMMARY

This resolution authorizes Pacific Bell to collect the additional Federal Income Tax it must pay on all Contributions in Aid of Construction (CIAC) in 1987, received primarily for line extensions to serve business and industrial developments pursuant to the provisions of the Tax Reform Act of 1986 (Tax Act). Failure to authorize collection of the Federal Income Tax liability on CIAC prior to the Commission's final decision in OII 86-11-019 could expose Pacific Bell to a risk of non-recovery of income tax expenses. Similar requests for authority have been granted by the Commission to Southern California Edison (Resolution E-3019), Pacific Gas and Electric Company (Resolution E-3018), Southern California Gas Company (Resolution G-2714), and San Diego Gas and Electric Company (Resolution G-2716).

## BACKGROUND

By Advice Letter No. 15236 filed April 1, 1987, Pacific Bell requests authority to revise its tariff schedules to add a Federal Income Tax component to be applied to rates charged for the following: line extensions, special construction of facilities, special construction of exchange facilities, and replacement of aerial with underground facilities. This tariff revision is made necessary by provisions of the Tax Act which now define Contributions in Aid of Construction (CIAC), as taxable income effective January 1, 1987. Previously, CIAC were excluded from taxable income. The tax gross-up rate Pacific Bell proposes to collect for CIAC is 67 percent.<sup>[1]</sup> This gross-up rate reflects the Federal Income Tax modification only. This is because the State of California has not yet amended its Revenue and Taxation Code to be consistent with federal law, and currently CIAC is considered by the

[1]  $67\% = 1.0 / (1.0 - t) - 1.0$ , where  $t$  = the 1987 Federal Corporate Income Tax rate of 40% for calendar year taxpayers.

State as non-taxable contributions to capital not subject to depreciation. Pacific Bell's advice letter filing recognizes that all tax fees collected will be subject to refund (including

interest) pending a final decision in OII 86-11-019.

#### DISCUSSION

Failure to authorize collection of the Federal Income Tax liability on CIAC prior to the Commission's final decision in OII 86-11-019 could expose Pacific Bell to a risk of non-recovery of income tax expenses. The utility's advice letter filing recognizes that 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 the Commission, in OII 86-11-019, adopts a different method other than requiring contributors to pay a full gross-up amount of the tax liability, 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. Public notification of this filing was made by mailing copies of the advice letter to other utilities and all respondents on the Service List for OII 86-11-019.

This resolution cannot be approved retroactively for those tariffs that specify a unit cost. Therefore, Pacific Bell cannot be authorized to collect Federal Income Tax on any CIAC received for the period January 1, 1987, to 11:59 p.m. on May 12, 1987, under these specific tariff provisions. We therefore will require that Pacific Bell refund with interest any amounts so collected.

#### FINDINGS

The Commission finds that the rates, charges and conditions authorized in this Resolution are just and reasonable and present rates, charges and conditions, as they differ from the rates, charges and conditions authorized in this Resolution are for the future unjust and unreasonable; and good cause appearing,

#### IT IS ORDERED that:

- (1) Pacific Bell is authorized under Section 454 of the Public Utilities Code to make Advice Letter 15236 and associated tariff sheets as defined in the Discussion (above) effective on May 13, 1987.
- (2) Pacific Bell shall maintain memorandum accounts detailing all receipts of Contributions in Aid of Construction and accompanying Federal Income Taxes collected.
- (3) Revised Tariff Schedules shall be marked to show that they were authorized for filing by Commission Resolution No. T-12020, effective today.
- (4) Federal Income Taxes authorized to be collected on CIAC by this Resolution are subject to refund, including interest, pending a final decision in OII 86-11-019.
- (5) Federal Income Taxes collected on CIAC by Pacific Bell for

those tariffs specifying a unit cost from the period January 1, 1987, to 11:59 p.m. on May 12, 1987, shall be refunded with interest.

(6) Interest, as discussed in this Resolution, shall be computed at the average three month commercial paper rate as published in the Federal Reserve Bulletin.

The effective date of this resolution is today.

I certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on May 13, 1987. The following Commissioners approved it:

STANLEY W. HULETT  
President  
DONALD VIAL  
JOHN B. OHANIAN  
Commissioners



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Executive Director

Commissioner Frederick R. Duda  
being necessarily absent, did  
not participate.

Commissioner G. Mitchell Wilk  
being necessarily absent, did  
not participate.