

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVALUATION & COMPLIANCE DIVISION
Telecommunications BranchRESOLUTION NO. T-12031
June 24, 1987R E S O L U T I O N

ORDER AUTHORIZING EVANS TELEPHONE COMPANY AND ALL OTHER INDEPENDENT LOCAL EXCHANGE CARRIERS IN CALIFORNIA 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). RESOLUTION T-12031.

SUMMARY

This resolution authorizes Evans Telephone Company, and all other Independent Local Exchange Carriers in California similarly situated, 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 Evans Telephone Company and other Independent Local Exchange Carriers 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), San Diego Gas and Electric Company (Resolution G-2716), and Pacific Bell (Resolution T-12020).

BACKGROUND

By Advice Letter No. 164 filed May 26, 1987, Evans Telephone Company requests authority to revise its tariff schedules to add a Federal Income Tax component to be applied to rates charged for line extensions and extensions of existing 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 Evans Telephone Company proposes to collect for CIAC is 67 percent. 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 State as non-taxable contributions to capital not subject to depreciation. Evans Telephone Company'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.[1]

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 Evans Telephone Company, and other Independent Local Exchange Carriers similarly situated, 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 was done at the request of E & C Staff; see supplement Advice Letter No. 164A).

This resolution cannot be approved retroactively for those tariffs that specify a unit cost. Therefore, Evans Telephone Company cannot be authorized to collect Federal Income Tax on any CIAC received for the period January 1, 1987, to 11:59 p.m. on June 24, 1987, under these specific tariff provisions. All other Independent Local Exchange Carriers similarly situated cannot be authorized to collect Federal Income Tax on any CIAC received for the period January 1, 1987, to 11:59 p.m. on the day before their advice letter filings (authorized by this resolution) become effective. We therefore will require that Evans Telephone Company, and other Independent Local Exchange Carriers similarly situated, to 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) Evans Telephone Company is authorized under Section 454 of the Public Utilities Code to make Advice Letter 164, Advice Letter 164A, and associated tariff sheets as defined in the Discussion (above) effective on June 25, 1987.

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

(2) Evans Telephone Company 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-12031, 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 Evans Telephone Company for those tariffs specifying a unit cost from the period January 1, 1987, to 11:59 p.m. on June 24, 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.

(7) All other Independent Local Exchange Carriers similarly situated are authorized to file advice letters requesting authorization to apply an income tax component to the rates charged primarily for line extensions and extensions of facilities in terms not significantly different from the conditions delineated in Resolution T-12031. These advice letters shall become effective fifteen days after the date of filing, and the associated tariff sheets shall be marked to show that they have been authorized by Resolution T-12031.

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 June 24, 1987. The following Commissioners approved it:



Executive Director

STANLEY W. HULETT
President
FREDERICK R. DUDA
JOHN B. OHANIAN
Commissioners

Commissioner Donald Vial, being necessarily absent, did not participate.

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