

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

COMMISSION ADVISORY & COMPLIANCE DIVISION
Water Utilities Branch

RESOLUTION NO. W-3424
December 9, 1988

R E S O L U T I O N

(RES. W-3424) WATER UTILITIES. ORDER REQUIRING
RESPONDENT WATER UTILITIES IN OII 86-11-019 TO
FILE REVISED RATES TO REFLECT THE ONGOING EFFECTS
OF INCOME TAX LAW CHANGES.

On November 14, 1986 the Commission issued its Order Instituting Investigation (OII) 86-11-019 into the ratemaking implications of the federal Tax Reform Act of 1986 (TRA 86). On January 28, 1988, it issued its Phase 2 Decision (D.)88-01-061 ordering all respondent utilities not specifically excluded to file calculations on the effects of TRA 86 and Senate Bill 572 (The California Bank and Corporation Tax Fairness, Simplification and Conformity Act of 1987) on 1987 and 1988 revenue requirements in conformance with the methodologies adopted in the decision. Similarly, respondent utilities were required to calculate federal income tax expense for ratemaking purposes for 1988 using the methodology adopted in the decision and file advice letters adjusting their tariffs to reflect the revenue requirement effects of the tax changes.

Ordering Paragraph #3 pertaining specifically to water utilities required:

"3. Respondent water utilities shall calculate federal income tax expense for both 1987 and 1988 using the methodology adopted in this decision and similarly calculate California Corporation Franchise Tax expense for ratemaking purposes to the extent possible. The calculations shall be based on the last adopted results of operations. The impact of the revenue requirement adjustment for both 1987 and 1988, including interest on that portion of the revenue adjustment relating to the period prior to the date the surcharge rate (or credit) becomes effective, shall be recorded in a special surcharge account. Within 60 days after the date of this decision, respondent water utilities shall file an advice letter for the purpose of establishing a surcharge rate to reflect an amortization of the total revenue requirement adjustment including interest recorded in the surcharge account over the remainder of 1988. The surcharge rate will be shown as a percentage which will apply on total customer water bills exclusive of Safe Drinking (Water) Bond Act loan surcharges and exclusive of CPUC Reimbursement Fees. The surcharge will be effective on the date of filing."

Ordering Paragraph #4 specifically exempted those utilities with ratemaking taxable income of \$25,000 or less from making this compliance advice letter filing relating to 1987 or 1988.

As directed, respondent water utilities made filings to refund (or collect) the estimated tax over- (or under-) collections their rates would produce during 1987 and 1988. The rate changes were in the form of percentage surcredits (or surcharges) calculated to refund the full amounts, plus interest, by December 31, 1988. The new tariff schedule TRA-1 which implemented those adjustments was to expire after December 31, 1988, with any remaining under- or over-refunded amounts to be absorbed by the water utilities' existing balancing accounts. Commission Advisory and Compliance Division's understanding was that schedule TRA-1 adjustments were to be replaced by different percentage adjustments establishing rates to reflect the TRA 86 income taxes in 1989 and beyond until the next test year.

A question has now been raised whether D.88-01-061 requires respondent water utilities to file percentage surcredits reducing their rates in 1989 and beyond, or whether it might not be appropriate to simply accumulate post-1988 overcollections in water utilities' balancing accounts for eventual refund through the next test year or offset filing. In addition, the replacement of D.88-01-061's refund surcredits after December 31, 1988 with lower permanent surcredits could be viewed as a rate increase requiring Commission approval.

It is true that Ordering Paragraph #3 did not explicitly direct that rates be reduced for 1989 and beyond. Nor was there an ordering paragraph explicitly directing water utilities without 1988 or 1989 test or attrition years to pass post-1988 income tax savings on to their customers. A reading of the decision, however, makes it clear that the intent was to pass the tax savings directly on to customers as they were realized:

Finding of Fact #27:

"27. There is benefit to the utilities in passing through the tax savings to ratepayers by reducing rates and therefore enabling them to reduce expenses and better meet the competitive challenges and threats of bypass."

Conclusion of law #1:

"1. All public utilities subject to this OII, other than those specifically exempted in this decision should be required to file calculations to reflect the revenue requirement effects of TRA 86 on 1987 ratemaking income tax expense and on 1988 ratemaking income tax expense to the date when tariffs are revised to reflect the revenue requirement effects of the tax changes. Such calculations should be based on adopted test year or attrition year results of operations using the methodology adopted in this decision" (emphasis added).

For utilities with current test years or attrition years, the decision was clear:

Conclusion of Law #4:

"4. All utilities should reflect in their attrition filings for 1988 and 1989 the impact of TRA 86 and Senate Bill 572 to the extent applicable based on the methodology adopted in this decision."

In discussing how the effects of tax law changes should be flowed through to ratepayers, the decision at page 39 stated:

"To the extent the 1988 attrition filings or 1988 general rate case filings do not conform to the tax rate changes adopted in this decision, utilities shall include in their advice letter filings the necessary adjustments to conform to this decision. Utilities not having any attrition or test year 1988 filing will be required to file tariffs revising 1988 tariffs to conform their ratemaking income tax expense to this decision" (emphasis added).

Finding of Fact #33:

"33. Utilities who have filed 1988 attrition year or test year filings using income tax expenses inconsistent with this decision, shall include in their advice letter filings adjustments necessary to correct any discrepancies. Other utilities not having attrition filings and not specifically exempted in this order shall file revised tariffs to reflect the change in tax laws consistent with this order" (emphasis added).

Thus, the decision clearly intended that those without current test or attrition years should also reduce rates on an ongoing basis.

Commission Advisory and Compliance Division recommends that all non-exempted respondent water utilities that have not had their post-1988 rates determined by test or attrition years reflecting the effects of TRA 86 and Senate Bill 572 be required to file advice letters adjusting their tariffs to reflect the ongoing revenue requirement effects of the tax changes. The rate adjustments necessary should be in the form of percentage surcredits or surcharges, and the amounts of those adjustments should be consistent with the calculations for the 1988 refund components previously filed.

Ordering Paragraph #14 of D.88-01-061 has already established rates from and after January 1, 1987 as subject to refund and adjustment, with interest, to account for the changes and possible changes to revenue requirements authorized in that decision. Rates resulting from changes required by this resolution should be similarly subject to refund.

FINDINGS

1. All non-exempted respondent water utilities that have not had their post-1988 rates determined by test or attrition years reflecting the effects of TRA 86 and Senate Bill 572 should be required to file advice letters adjusting their tariffs to reflect the ongoing revenue requirement effects of the tax changes. The rate adjustments necessary should be in the form of percentage surcredits or surcharges, and the amounts of those adjustments should be consistent with the calculations for the 1988 refund components previously filed.

2. The requirement of D.88-01-061, Ordering Paragraph #14, that utilities' rates from and after January 1, 1987 are subject to refund and adjustment, with interest, to account for the changes and possible changes to revenue requirements authorized in that decision, should similarly be extended to rates resulting from changes required by this resolution.

IT IS ORDERED that:

1. All respondent water utilities to Order Instituting Investigation 86-11-019 with ratemaking taxable income of more than \$25,000 that have not had their post-1988 rates determined by test or attrition years reflecting the effects of TRA 86 and Senate Bill 572 shall file advice letters adjusting their tariffs to reflect the ongoing revenue requirement effects of the tax changes. The rate adjustments necessary shall be in the form of percentage surcredits or surcharges applying to total customer water bills exclusive of Safe Drinking Water Bond Act surcharges and CPUC Reimbursement Fees, and the amounts of those adjustments shall be consistent with the calculations for the 1988 refund components previously filed in compliance with Decision 88-01-061. The required filings shall be made on or before December 31, 1988 and shall become effective on January 1, 1989.

2. The requirement of Decision 88-01-061, Ordering Paragraph #14, that utilities' rates from and after January 1, 1987 are subject to refund and adjustment, with interest, to account for the changes and possible changes to revenue requirements authorized in that decision, is extended to rates resulting from changes required by this resolution.

3. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on December 9, 1988. The following commissioners approved it:

STANLEY W. HULETT
President
DONALD VIAL
FREDERICK B. DUDA
G. MITCHELL WILK
JOHN B. O'HANIAN
Commissioners



VICTOR R. WEISSER
Executive Director