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PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

EVALUATION & COMPLIANCE DIVISION
Energy Branch

RESOLUTION E-3018
February 11, 1987

RESOLUTION

ORDER AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY (PG&E) TO ADD AN INCOME TAX COMPONENT TO ITS RATES FOR GAS MAIN AND SERVICE EXTENSIONS (RULES 15 & 16) AND FOR ELECTRIC LINE EXTENSIONS (RULE 15) PURSUANT TO THE FEDERAL TAX REFORM ACT OF 1986 (TAX ACT)

RECOMMENDATION

The Commission should adopt Resolution E-3018 which will allow PG&E 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 1393-G/1134-E Filed December 31, 1986, PG&E requests authority to add an income tax component to gas tariff Rule Nos. 15 and 16 and to electric tariff Rule No. 15. This change is made necessary by provisions in the Tax Reform Act of 1986 (Tax Act) which cause contributions to the capital of a corporation, including Contributions in Aid of Construction (CIAC), to be currently taxable effective January 1, 1987. Previously CIAC were excluded from taxable income.

By Supplements to the above advice letters, filed subsequently, PG&E has revised its filing to reflect the Federal Income Tax modification only, and not 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. The purpose of the Supplemental filing is to revise Advice Letter Nos. 1393-G and 1134-E, which were jointly filed on December 31, 1986, to increase the extension rules unit cost under the "periodic review provisions" of those rules. The increase in unit costs is required to offset the taxes PG&E will now incur as a result of the Federal Tax Reform Act of 1986, which made customer Contributions In Aid of Construction (CIAC) taxable as of January 1, 1987.

2. Among these revisions, PG&E will now calculate the tax "gross-up" assuming that CIAC is not subject to state taxes. This revision, and PG&E's calculation thereof, is made pursuant to discussions with the Commission staff. The tax gross-up rate PG&E proposes to collect for CIAC is 75 percent, consisting of the Federal gross-up on CIAC plus a State tax gross-up on the Federal tax gross-up.

3. Consistent with the assumption that CIAC is not subject to state taxes, PG&E will maintain a special memorandum account to record the difference between the tax gross-up rate of 75 percent and a tax gross-up assuming that CIAC are subject to State taxes of 86%.

4. Approval of this advice filing will also authorize PG&E to recover in future rates any State taxes recorded in the memorandum account should the State of California assess an income tax on CIAC. At the time State tax is assessed, PG&E will file an advice letter to increase the gross-up rate to account for State taxation of CIAC.

5. The table below shows the existing and revised unit costs for each rule as requested in the Supplemental filing:

<u>Rule and Section</u>	<u>Present Unit Cost per Foot</u>	<u>Revised Unit Cost Per Foot</u>
Electric Rule 15.B.3.a(1)	\$ 5.00	\$ 8.75
" " 15.1.C.1a	7.63	13.35
" " 15.1.C.1b	14.45	25.29
" " 15.1.C.3(a)	1.90	3.33
" " 15.1.C.3(b)	8.06	14.11
Gas Rule 15.B.3.a	7.45	13.04

6. By this filing PG&E also intends to incorporate Preliminary Statement Part I and Preliminary Statement Part M to its gas and electric tariff books, respectively. These additions will clarify PG&E's intentions to pass along the aforementioned taxes not only where charges are specifically stated in the rules, but also in any instances where taxable contributions are collected from customers. Consequently, this filing deletes references to the tax made in the text of the rules in the aforementioned December 31, 1986 filing. Areas of PG&E's book of "Tariff Schedules" that provide for such contributions include, but are not limited to, gas rules 2, 13, 15; electricity rules 2, 13, 15, 15.1, 15.2, 20, 21; the street and area lighting schedules, and Schedule E-20.

7. Where PG&E's tariffs call for customer contributions--as in the unit costs in the extension rules--those contributions are based upon the total costs that PG&E estimates it will incur to perform the necessary work. It is commonly understood that those costs cover such things as material, labor, and various overhead expenses. The purpose of these new Preliminary Statement sections is to make it clear that the income tax that PG&E incurs as a result of customer contributions is also considered an expense, and that customers' contributions are increased to offset PG&E's tax liability.

8. In addition, the Preliminary Statement sections state that PG&E will keep a record of the amount of the portion of these contributions that is collected to offset taxes in anticipation of any possible refund that may result from a Commission decision in OII 86-11-019.

9. Finally, PG&E wishes to withdraw its revision of Gas Rule 16 made in the above-mentioned December 31, 1986, filing.

10. PG&E requests that this filing become effective no later than February 11, 1987 (the same effective date requested in Advice Nos. 1393-G/1134-E).

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. Most of the protests have been from housing and industrial tract developers and builders associations. In addition, a protest has been received from the U. S. Navy.

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. PG&E estimates that it will incur about \$45 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 PG&E'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

1. While the Federal law changes become effective January 1, 1987, no concurrent California tax law changes have been made

4. All amounts for State Income Taxes collected by PG&E 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.
5. All amounts collected by PG&E 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.
6. PG&E 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. Pacific Gas and Electric Company is authorized under Section 454 of the Public Utilities Code and by Section A of General Order 96-A, to place Advice Letters 1393-G Supplemental and 1134-E Supplemental and accompanying tariff sheets into effect today, except as set forth below.
2. Pacific Gas and Electric Company is hereby directed to revise Supplemental Letters 1393-G and 1134-E and associated tariff sheets to effect collection of only the expected amount of Federal Income Tax associated with with Extension Rules 15 and 16. Collection of any pending California Corporation Franchise Tax on advances of any construction must await further authorization by this Commission after enabling legislation if any is enacted.
3. Pacific Gas and Electric 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.
4. Pacific Gas and Electric 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. Pacific Gas and Electric Company shall maintain memorandum

effective as of this date, although AB-33 is pending with a proposed effective date of January 1, 1987.

2. Because California law does not yet allow collection of CCFT on CIAC, and line extensions, PG&E should not be permitted to collect any CCFT in anticipation of such State tax changes.

3. This resolution cannot be approved retroactively, therefore, PG&E cannot be authorized to collect Federal Income Tax on any developer's advances received under Extension Rule 15 and 16 for the period January 1, 1987 to 11:59 p.m. on February 10, 1987. We therefore, will require that PG&E refund with interest any amounts so collected.

4. 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.

5. 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.

6. 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.

FINDINGS

1. Failure of the utility 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 PG&E.

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, then 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.

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-3018. 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, PG&E 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%

L/ /afm

Decision 87 05 041 MAY 13 1987

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Re Resolutions G-2714, G-2716, E-3018)
and E-3019 re Advice Letter 1678 of)
Southern California Gas Company and)
Advice Letters 605-G and 695-E of)
San Diego Gas and Electric Company)
and Advice Letters 1393-G /1134-E)
of Pacific Gas and Electric)
Company and Advice Letters 753-E and)
755-E of Southern California Edison)
Company.)

Application 87-02-046
(Filed February 25, 1987)

ORDER MODIFYING RESOLUTIONS G-2714, G-2716, E-3018
AND E-3019 AND DENYING REHEARING

The California Building Industry Association (CBIA) has filed an application for rehearing of Resolutions G-2714, G-2716, E-3018, and E-3019 (February 11, 1987), which allowed Southern California Gas Company (SoCal Gas), San Diego Gas and Electric Co. (SDG&E), Pacific Gas and Electric Co. (PG&E), and Southern California Edison Co. (SCE) (collectively the utilities) to increase their charges for extensions to cover increased tax expenses. SDG&E, PG&E, and SCE have filed responses to CBIA's application. We have carefully considered all of the arguments raised in the application and responses and are of the opinion that sufficient grounds for granting rehearing have not been shown.

However, to make even clearer the basis on which we authorized revision of the utilities' extension rules we will modify each of the resolutions.

Therefore, good cause appearing,

IT IS ORDERED that Resolutions E-3018, E-3019, G-2714, and G-2716 are modified by adding the following Conclusion of Law after the Findings section of each resolution:

CONCLUSION OF LAW

The revisions to the utility's extension rules herein authorized are authorized pursuant to the periodic review provisions of those extension rules. Therefore subdivision (b) of Public Utilities Code §783 does not apply to these revisions.

IT IS FURTHER ORDERED that rehearing of Resolutions E-3018, E-3019, G-2714, and G-2716 as modified herein is denied.

This order is effective today.

Dated MAY 13 1987 , at San Francisco, California.

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

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

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