

PRELIMINARY STATEMENTS

(Continued)

Page 1 of 2

M. INCOME TAX COMPONENT OF CONTRIBUTION PROVISION

1. General: Pursuant to Decision 87-09-026, as modified by Decisions 87-12-028, 88-07-020, and 96-10-037, all Contributions in Aid of Construction and Advances for Construction ("Contributions") made to the Company pursuant to its tariffs shall include a cost component to cover the Company's estimated liability for federal and California state ("State") income taxes resulting therefrom. (T)

2. Definitions

a. Contributions: Contributions shall include, but are not limited to, cash, services, facilities, labor, property, and income taxes thereon provided to the company by a person or agency. The value of all Contributions shall be based on the Company's estimates.

Contributions shall consist of two components as follows: (T)

- (1) Income Tax Component of Contribution (ITCC); and
- (2) The balance of the Contribution (Balance of Contribution).

b. Government Agency: For purposes of administering this part of the Preliminary Statements, A Government Agency shall be a federal, state, county, or local government agency.

c. Public Benefit: Where, in the opinion of the Company, a benefit to the public as a whole is clearly shown by the Government Agency making the Contribution for a project.

d. Cost Estimates: Cost estimates for utility installed extensions, advances from developers, refunds, and job-specific estimates for competitive bidders shall include a tax component.

3. Determination of ITCC

a. Except for Government Agency Contributions for a Public Benefit, the ITCC shall be calculated by multiplying the Balance of the Contribution by a tax factor of 0.24 (24%). The 24 percent tax factor shall be applicable to Contributions received by GSWC on or after January 1, 2018. Contributions received prior to January 1, 2018 are subject to the applicable ITCC tax factors previously approved by the California Public Utilities Commission. (T)

For Government Agency Contributions for a Public Benefit received by GSWC on or after January 1, 2018, the ITCC shall be calculated by multiplying the Balance of the Contribution by a tax factor of 0.17 (17%). (T)

b. The Tax Factor included herein is established using Method 5 as set forth in and pursuant to the Commission's Decision No. 87-09-026. Should the Internal Revenue Service ("IRS") deem Method 5 to be in violation of the tax normalization rules, any penalties, interest or taxes incurred by the Company shall be recovered through general rates.

c. An ITCC tax factor shall be adjusted for changes that would cause it to increase or decrease by five percentage points or more. (T)

4. Applicability: The ITCC shall apply to Contributions under the tariffs, including but not limited to, street and area lighting rate schedules and Rules Nos. 2, 4, 13, 15, 15.1, 15.2, 16 and 20. (D)

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PRELIMINARY STATEMENTS

(Continued)

M. INCOME TAX COMPONENT OF CONTRIBUTION PROVISION (continued)

5. Changes in Tax Liability: In the event that the state of California enacts legislation to conform state law to federal law in treating Contributions from a Government Agency for a Public Benefit as taxable income to the Company, the Company may increase the amount it collects for such Contributions from the Contributor to include its estimate of the tax resulting therefrom. In the event that any such legislation is applied on a retroactive basis, the Company may collect such tax for the retroactive period through general rates or surcharges. (T)

6. The Company may accept a contractual promise to pay the ITCC, including interest thereon, using an Agreement form filed with and approved by the Commission from a Government Agency required to make a Contribution pursuant to the tariffs where the Government Agency's project:

- a. Provides a Public Benefit as defined above, or
- b. Results from condemnation of Company facilities, or the threat or imminence thereof, which is supported by evidence provided by the Government Agency which is acceptable to the Company.

In consideration of the Company not requiring payment by Government Agency of the ITCC which is, or may be, attributable to the Project, the Company is exempt from any and all claims, costs, liabilities and expenses relating to any federal and State income tax liabilities, including but not limited to, the full amount of any income tax, penalty, and interest, which the Company pays or is required to pay to the IRS or California Franchise Tax Board ("FTB"), and attorneys' fees, litigation costs or fees, associated therewith, arising from any payment for the Project received by the Company from Government Agency. Government Agency shall also pay, upon demand by the Company, the amount of any expense incurred by the Company in collecting any sum due the Company hereunder, including attorneys' fees, litigation costs or fees, and interest, at the highest rate permitted by law, on any monies advanced or expended by the Company. (T)

If the FTB makes a determination that the payment for the Project (or a payment of that type) is taxable, Government Agency shall forthwith pay the Company the applicable taxes and other costs determined as set forth in the preceding paragraph above, upon demand by the Company. (T)

7. Interest Rate: When interest is payable under this part of the Preliminary Statements by the Contributor to the Company or by the Company to the Contributor, the Interest Rate to be applied each month to the balance due (including all prior interest) shall be 1/12 of the most recent month's interest rate on Commercial Paper (prime, three months), published in the Federal Reserve Statistical Release, G.13. Should publication of the interest on Commercial Paper (prime, three months) be discontinued, interest will so accrue at the rate of 1/12 of the most recent month's interest rate on Commercial Paper, which most closely approximates the rate that was discontinued and which is published in the Federal Reserve Statistical Release, G.13, or its successor publication.

8. The Company shall inform the Applicant of the final cost of the installation of all facilities and the resulting tax liability thereon. (T)

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FORM NO. 15

INCOME TAX COMPONENT OF CONTRIBUTION AGREEMENT

This AGREEMENT is entered into this _____ day of _____, 20____, by and between _____, ("Government Agency") and Golden State Water Company dba Bear Valley Electric Service ("Company"), in accordance with the terms and conditions of the Company's filed tariffs and California Public Utilities Commission Decision No. 87-09-026, dated September 10, 1987, as modified by Decisions 87-12-028, 88-07-020, and 96-10-037.

- 1. Government Agency declares that it is a federal, state, county or local government agency which has made a payment to Company for the purpose of having Company install water system facilities (the "Project") described as follows _____
- 2. Government Agency understands that, except for payments for electric system facilities installed for the reasons set forth in paragraph 3, payments made to Company for installation of electric system facilities similar to the Project are taxable to Company and for that reason are subject to the Income Tax Component of Contribution ("ITCC") set forth in the Company's Preliminary Statement M of its tariffs, copies of which are available on its website at www.bves.com.
- 3. Government Agency declares that:
 - (a) The project, for which Government Agency makes the payment referred to above, primarily benefits the public as a whole, and, or
 - (b) The payment for the Project results from condemnation of Company's property, or the threat of imminence thereof, as supported by evidence furnished by Government Agency which is acceptable to Company.
- 4. In Consideration of Company not requiring as of the date of this Agreement payment by Government Agency of the California portion of the ITCC, which is, or may be, attributable to the Project, Government Agency hereby promises and agrees to indemnify and defend Company and hold it harmless from and against any and all claims, costs, liabilities and expenses relating to any federal and California income tax liability including, but not limited to, the full amount of any income tax, penalty, and interest, which utility pays or is required to pay to the Internal Revenue Service ("IRS") or the California Franchise Tax Board ("FTB"), and any attorneys' fees, litigation costs or fees, associated therewith, arising from any payment for the Project received by Company from Government Agency. Government Agency further promises and agrees, upon demand by Company, to pay to Company the amount of any expense incurred by Company in collecting any sum due Company hereunder, including attorneys' fees, litigation costs or fees, and interest, at the highest rate permitted by law, on any monies advanced or expended by Company pursuant to this Agreement.

(To be inserted by utility)

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(Continued)

- 5. Government Agency and Company agree that if the FTB issues a determination acceptable to Company that the payment for the Project is not taxable, this agreement shall terminate. If the FTB makes a determination that the payment for the Project (or a payment of that type) is taxable, Government Agency shall forthwith pay Company the applicable taxes and other costs determined as set forth in paragraph 4 above, upon demand by Company. (T)
- 6. This agreement shall at all times be subject to such changes or modifications by the Public Utilities Commission of the State of California as said Commission may, from time to time, direct in the exercise of its jurisdiction. (T)
- 7. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. (T)

IN WITNESS WHEREOF, Government Agency and Company have executed this Agreement by their duly authorized officers or agents as of the date first set forth above. (T)

GOVERNMENT AGENCY

GOLDEN STATE WATER COMPANY
dba Bear Valley Electric Service (T)

Name _____

By: _____

By _____
Title

_____ Title

_____ Address

_____ Address

_____ Telephone Number

_____ Telephone Number

(To be inserted by utility)

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Advice Letter No. 353-EA

R.J. SPROWLS

Date Filed December 19, 2018

Decision No. _____

President

Effective January 1, 2018

Resolution No. _____

TABLE OF CONTENTS

(Continued)

Page 2

Subject Matter of Sheet

Sheet No.

Rate Schedules (Continued):

Rules:

No. 16	Service Extensions	2117-E, 2118-E, 2119-E, 2120-E, 2121-E, 2122-E, 2123-E, 2124-E, 2125-E, 2126-E, 2127-E 2128-E, 2129-E, 2130-E, 2131-E
No. 17	Adjustment of Bills and Meter Tests	1916-E*, 1880-E*
No. 18	Supply to Separate Premises and Use by Others	640-E, 641-E, 642-E
No. 20	Replacement of Overhead with Underground Electric Facilities	2164-E, 2165-E, 2166-E, 2167-E, 2168-E
No. 21	Generating Facility Interconnections	1310-E, 1311-W, 1312-E, 1313-E, 1314-E, 1315-E, 1316-E, 1317-E 1318-E, 1319-E, 1320-E, 1321-E, 1322-E, 1323-E, 1324-E, 1325-E, 1326-E, 1327-E, 1328-E, 1329-E, 1330-E 1331-E, 1332-E, 1333-E, 1334-E, 1335-E, 1336-E, 1337-E, 1338-E, 1339-E, 1340-E, 1341-E, 1342-E, 1343-E 1344-E, 1345-E, 1346-E, 1347-E, 1348-E, 1349-E, 1350-E, 1351-E, 1352-E, 1353-E, 1354-E, 1355-E, 1356-E
No. 22	Military Family Relief Program	1470-E*, 1471-E*, 1472-E*
No. 23	Mobilehome Park Conversion Program	2092-E, 2093-E, 2094-E*, 2095-E*, 2096-E*, 2097-E*, 2098-E*

Sample Forms:

No. 1	Application for Electric Service	267-E
No. 2	Customer's Deposit Receipt	520-E
No. 3	Bill for Service	2561-E
No. 4	Delinquent Notice	2562-E
No. 5	Reminder Notice	271-E
No. 11	Underground Electric Line Extension Contract New Residential Sub-division	301-E, 302-E, 303-E, 304-E
No. 12	Underground Electric Line Extension Contract New Commercial/Industrial Development	305-E, 306-E, 307-E
No. 13	Underground Electric Line Extension Contract for Extension to a Residential Subdivision or Commercial/Industrial Development	308-E, 309-E, 310-E, 311-E
No. 14	Underground Electric Line Extension Contract to Serve One or a Group of Applicants	338-E, 339-E, 340-E, 341-E
No. 15	Income Tax Component of Contribution Agreement	2630-E*, 2631-E* (T)
No. 17	California Alternate Rates for Energy (CARE) Notice/ Application (English)	2518-E, 2519-E
No. 17	California Alternate Rates for Energy (CARE) Notice/ Application (Spanish)	2520-E, 2521-E
No. 19	Non-Domestic Service CARE Program Application - Group Living Housing	1248-E
No. 20	Non-Domestic Service CARE Program Application - Employee Housing	1249-E
No. 21	Direct Access Implementation Form	1072-E
No. 22	Net Metering and Interconnection Agreement	1179-E, 1180-E, 1181-E, 1182-E, 1183-E
No. 23	Parallel Operation Inadvertent Export Interconnection Agreement	1506-E, 1507-E, 1508-E 1509-E, 1510-E, 1511-E, 1512-E, 1513-E, 1514-E, 1515-E, 1516-E, 1517-E, 1518-E, 1519-E 1520-E, 1521-E, 1522-E, 1523-E, 1524-E, 1525-E, 1526-E
No. 28	Contract Demand Agreement for Customers Served Under Schedule A-5 TOU	1787-E, 1788-E
No. 29	FIRM/NON-FIRM Service Agreement for Customers Served Under Schedule A-5 TOU	1789-E, 1790-E, 1791-E, 1792-E, 1793-E
No. 30	Net Energy Metering Surplus Electricity Compensation Selection Form	1804-E
No. 31	Interconnection and Net Energy Metering Agreement for Large Commercial Customers of a Solar, Wind or Hybrid of Both Generating Facility Having a Capacity of 30KW to 1,000 KW	1805-E, 1806-E, 1807-E, 1808-E, 1809-E, 1810-E, 1811-E, 1812-E, 1813-E, 1814-E
No. 32	Application for the Interconnection of a Large Solar or Wind Turbine Electrical Generating Facility	1815-E, 1816-E, 1817-E
No. 33	Application for the Interconnection of a Small Solar or Wind Turbine Electrical Generating Facility	1818-E, 1819-E, 1820-E
No. 34	Interconnection and Net Energy Metering Agreement for Small Commercial Customers of a Solar, Wind or Hybrid of Both Generating Facility Having a Capacity of less than 30KW	1821-E, 1822-E, 1823-E, 1824-E, 1825-E, 1826-E, 1827-E, 1828-E, 1829-E, 1830-E
No. 40	Application As Small Business Customer Under Government Code Section 14837	1881-E*
No. 41	Net Energy Metering Net Surplus Compensation Rate (NSCR) Form	1941-E
No. 58	Investigation Order	118-E
No. 60	Joint Utilities' MHP Conversion Program Application	2099-E*
No. 61	Mobilehome Park Conversion Program Agreement	2100-E*

(Continued)

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President

Effective January 1, 2018

Resolution No. _____

TABLE OF CONTENTS

The following tariff sheets contain all effective rates and rules affecting rates and service of the utility, together with information relating thereto:

<u>Subject Matter of Sheet</u>		<u>Sheet No.</u>
Title Page		1441-E
Table of Contents		2604-E*, 2632-E*, 2397-E (T)
Preliminary Statements		935-E, 1590-E*, 1591-E*, 2381-E*, 2382-E*, 1594-E*, 1595-E*, 1596-E*, 1597-E*, 2176-E, 2177-E (C)
		2598-E, 2179-E, 2180-E, 2602-E*, 2603-E*, 1604-E*, 1605-E*, 1606-E*, 1607-E*, 1608-E*, 1609-E*, 1610-E*, 1611-E*, 1650-E
		1612-E*, 2201-E, 2440-E, 2441-E, 2515-E, 1926-E, 1928-E, 1929-E, 1946-W, 2028-E, 2032-E, 2034-E, 2489-E, 2490-E, 2483-E
		2484-E, 2485-E, 2486-E, 2487-E, 2174-E, 2175-E, 2443-E, 2444-E, 2463-E, 2554-E, 2565-E, 2600-E
Tariff Area Map		1140-E
Rate Schedules:		
No. A-1	General Service	2582-E, 1836-E
No. A-2	General Service	2583-E, 1838-E
No. A-3	General Service	2584-E, 1840-E
No. A-4	General Service- TOU	2585-E, 1842-E, 1843-E
No. A-5	TOU Primary	2586-E, 1845-E, 1846-E
No. A-5	TOU Secondary	2587-E, 1848-E, 1849-E
No. D	Domestic Service - Single-family Accommodation	2588-E, 1851-E, 1852-E
No. DE	Domestic Service to Company Employees	2589-E, 1854-E
No. D-LI	Domestic Service - CARE Rate	2590-E, 2517-E, 1857-E, 1858-E
No. DM	Domestic Service - Multi-family Accommodation	2591-E, 1860-E, 1861-E
No. DMS	Domestic Service - Multi-family Accommodation Sub-metered	2549-E, 2592-E, 1864-E
No. DO	Domestic Service - Other	2593-E, 1866-E
No. NEM-L	Net Energy Metering- Large	1931-E, 1932-W, 1933-E, 1934-E, 1935-E
No. NEM-S	Net Energy Metering- Small	1936-E, 1937-E, 1938-E, 1939-E, 1940-E
No. GSD	General Service Demand - Camp Oaks	2594-E, 1868-E
No. SL	Street Lighting Service	2595-E, 1870-E
No. SSC	Special Service Charges	2157-E, 2158-E
No. S Standby	Standby Service	2159-E, 2160-E, 2161-E
No. SMO	Smart Meter Opt-Out Residential Service	2445-E
No. PPC-LI	Public Purpose Charge-Low Income	2596-E
No. PPC-OLI	Public Purpose Charge-Other Than Low Income	2597-E
No. UF-E	Surcharge to Fund PUC Utilities Reimbursement Account Fee	2481-E
Contracts and Deviations		888-E
Rules:		
No. 1	Definitions	1114-E, 1115-E, 1116-E, 1117-E, 1118-E, 1119-E, 1120-E, 1121-E 1122-E, 1123-E, 1124-E, 1125-E, 1126-E, 1127-E, 1877-E, 1129-E, 1130-E
No. 2	Description of Service	594-E, 595-E, 596-E, 597-E, 598-E, 599-E, 600-E, 601-E, 602-E, 603-E
No. 3	Application for Service	950-E, 951-E
No. 4	Contracts	604-E
No. 5	Special Information Required on Forms	2556-E, 2557-E, 2558-E
No. 6	Establishment and Re-establishment of Credit	608-E, 1878-E
No. 7	Deposits	2162-E
No. 8	Notices	611-E
No. 9	Rendering and Payment of Bills	2163-E
No. 10	Disputed Bills	2559-E, 2560-E
No. 11	Discontinuance and Restoration of Service	580-E, 581-E, 582-E, 1002-E, 2511-E, 2512-E, 2513-E
No. 12	Rates and Optional Rates	612-E, 613-E
No. 13	Temporary Service	614-E, 615-E
No. 14	Shortage of Supply and Interruption of Delivery	616-E
No. 15	Distribution Line Extensions	2103-E, 2104-E, 2105-E, 2106-E, 2107-E, 2108-E, 2109-E, 2110-E, 2111-E 2112-E, 2113-E, 2114-E, 2115-E, 2116-E

(Continued)

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