

January 9, 2018

VIA EFILING

The Honorable Kevin J. McIntyre, Chairman
The Honorable Cheryl A. LaFleur, Commissioner
The Honorable Neil Chatterjee, Commissioner
The Honorable Robert F. Powelson, Commissioner
The Honorable Richard Glick, Commissioner
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: Request to Open an Investigation into the Justness and Reasonableness of Jurisdictional Utilities' Rates and to Adjust Revenue Requirements to Reflect the Reduction in their Federal Income Taxes

Dear Mr. Chairman and Commissioners:

The undersigned States, state agencies, and state consumer advocates (the "State Advocates") write to ask for prompt Commission action to adjust the revenue requirements of public utilities subject to the Commission's jurisdiction, including Electric Transmission and Interstate Natural Gas and Oil Pipeline owners (collectively, the "Public Utilities"), to reflect the recent reduction in the federal corporate income tax rate as well as any other rate/customer impacts associated with the recently enacted changes in the federal tax laws.

On December 22, 2017, President Trump signed into law the *Law to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018* (short titled, "Tax Cuts and Jobs Act"). The Tax Cuts and Jobs Act significantly reduces the marginal federal corporate income tax rate from 35 to 21 percent. Unless the Commission adjusts the Public Utilities' revenue requirements to reflect this federal corporate income tax reduction, utility customers nationwide will be overpaying for their electric and gas service by hundreds of millions of dollars.

Specifically, State Advocates are concerned about the effect of the Tax Cuts and Jobs Act on (1) the level of the current corporate income tax expense incorporated in public utilities' rates; and (2) the balance of excess accumulated deferred income taxes recovered from customers. To prevent utilities from reaping a windfall from the reduction in federal corporate income tax rates, the undersigned State Advocates request that the Commission, pursuant to section 206 of the Federal Power Act ("FPA"), 16 U.S.C. § 824e (2012); section 5 of the Natural Gas Act ("NGA"), 15 U.S.C. § 717d; the Interstate Commerce Act ("ICA"), Title XVIII of the Energy Policy Act of 1992; and any other applicable statutes and regulations, institute immediate investigations into the justness and reasonableness of all applicable rates recovered by the Public Utilities with respect to the revenue requirement for federal corporate income taxes. While the

State Advocates recognize that many of the Public Utilities are subject to “formula” or stated rates, the State Advocates ask the Commission to consider changing the appropriate formulas now, rather than waiting to true-up later. Doing so would ensure that customers promptly receive the full economic benefit of the tax reduction. In addition, we request that the Commission investigate the justness and reasonableness of amounts currently held in reserve for future tax liabilities. State Advocates request that the Commission set an immediate refund effective date, pursuant to section 206(b) of the FPA and order appropriate interim rate relief under the NGA and the ICA.

The State Advocates are aware that the Commission has had experience addressing the impact of federal income tax reductions on customers’ rates. See Order No. 475, 39 FERC 61,357 (June 26, 1987) (adopting a voluntary, abbreviated rate filing procedure to allow electric public utilities to file for rate decreases to reflect the decrease in the federal income tax rate under the Tax Reform Act of 1986). We call on the Commission to use its experience and expertise, with stakeholder input, to determine appropriate procedural mechanisms to discover information about the scope of over-collections at issue, the types of voluntary rate reductions or refunds that can be implemented by the Public Utilities in an expedited manner under existing Commission rules and precedent, and the best way to ensure that customers are not harmed by any delay in making the appropriate changes.

As the Commission is aware, at the distribution level, some utilities are already adjusting their rates as a result of the federal corporate income tax reduction. In other states, the public utility commissions have, *sua sponte*, or at the urging of consumer advocates, issued orders requiring utilities to provide evidence of the effect of the federal tax reductions on revenue requirements, as well as to calculate the excess amount of future tax liabilities that they are now carrying on their books.¹ We respectfully request that the Commission take action at the federal level to ensure that all charges on customers’ bills are just and reasonable.

¹ See e.g., <http://www.berkshireeagle.com/stories/eversource-to-pass-tax-savings-on-to-customers,528458>; <https://www.utilitydive.com/news/new-tax-code-means-big-rate-changes-uncertainty-for-power-sector-in-2018/513744/>; <http://www.concordmonitor.com/utility-tax-consumer-advocate-relief-14647543>; <https://www.businesswire.com/news/home/20180105005443/en/ComEd-Filing-Provide-Savings-Customers-Corporate-Tax>; <https://www.timesunion.com/business/article/PSC-acts-to-ensure-ratepayers-get-utilities-tax-12482508.php>

The State Advocates thank the Commission in advance for its prompt attention to this issue that is of such great importance to our gas, electricity, and oil customers.

Sincerely,

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