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January 16, 2018

President Michael Picker
Commissioner Martha Guzman Aceves
Commissioner Carla J. Peterman
Commissioner Liane M. Randolph
Commissioner Clifford Rechtschaffen
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Ensuring Utility Tax Savings are Passed On to Customers

Dear President Picker and Commissioners Aceves, Peterman, Randolph, and Rechtschaffen,

With the recent changes to the federal tax structure under House Resolution 1 (H.R. 1), [1] California's investor-owned utilities (IOUs) are anticipated to receive untold savings. I urge you to ensure any savings are returned to California's ratepayers.

As part of the regulatory compact, the IOUs are granted near-exclusive rights to sell and operate within a given service territory,[2] while the Public Utilities Commission (PUCs) determines the amount a utility can charge, invest in, and profit. Thus a utility's profitability is determined by the PUC, and prescribed during its general rate case (GRC). Each large IOU in California files a GRC application every three years, offset from one another.[3] However, the large savings anticipated for the IOUs as a result of the federal tax revision cannot wait to be reconciled until the next GRC cycle.

Among its provisions, H.R. 1 reduces the federal tax rate of C corporations from 35% to 21%, increases the timeline for deducting equipment costs, but also limits the deductions from net interest expenses. The effect of H.R. 1 is to lower corporate taxes. But the additional effect of H.R. 1, as a result of its limitations to net interest expenses, is to incentivize corporations to use retained earnings or the issuance of new stock to finance corporate operations. This second provision, while ostensibly positive, does create the potential for corporations to use new revenue to buy back stock. This change to corporate incentives could impact utility earnings in a number of ways.

[1] The "Tax Cuts and Jobs Act"; RN 115-409; https://www.congress.gov/115/bills/hr1/BILLS-115hr1rh.pdf
[2] Of course, this model is shifting dramatically as a result of Community Choice Aggregation growth.
[3] This is overly simplistic. But for PG&E, Edison, and SDG&E rarely are their GRCs synchronized. http://www.cpuc.ca.gov/General.aspx?id=10431

For instance, the recent stoppage of Pacific Gas & Electric Company's (PG&E) dividend payments, while causally related to wildfire liability uncertainties,[4] is intrinsically tied to this feature of the tax revision. The retained earnings from this stoppage could result in a reduction of PG&E's tax liability, over and above the savings anticipated from the reduction in the corporate tax rate. These corporate mechanics are why I write to urge vigilance and expedience in analyzing the effect of the federal tax changes on California's IOUs. The IOUs will not be slow in determining the effect; neither should the PUC.

I was heartened to hear of the PUC's recent, successful challenge of the Federal Energy Regulatory Commission's (FERC) decision regarding PG&E's participation in California's Independent System Operator.[5] FERC's egregious decision would have allowed PG&E to receive payments "for doing something it was already required to do."[6] The PUC stopped those payments and protected ratepayers.

I was equally encouraged by California's Attorney General partnering with other states to call on FERC to promptly reduce utility revenue requirements as a result of the reduction in corporate taxes.[7] In addition, other states' utilities and utility commissions have already announced they will cut customer rates in response to the federal tax reform.[8]

I ask the PUC to take a similarly proactive approach. Your staff has reassured me that the PUC is already working on a strategy to return tax savings to ratepayers this year. I urge you to prioritize this important task, and offer my support should any legislative action be needed.

Sincerely,

Jerry Hill
Senator, 13th District

Cc: Xavier Becerra, Attorney General of California
Elizabeth Echols, Director, Office of Ratepayer Advocates
Marzia Zafar, Director, Policy and Planning Division
Mark Toney, Executive Director, The Utility Reform Network

[4] United states Securities and Exchange Commission Form 8-K Filing of Pacific Gas & Electric Corporation; December 20, 2017; http://d18rn0p25nwr6d.cloudfront.net/CIK-0001004980/bd62c0ee-0cdc-43c0-8901-3735f8b44645.pdf
[5] *CPUC v. FERC*, No. 16-70481, Ninth Circuit, Jan. 8, 2018. http://cdn.ca9.uscourts.gov/datastore/opinions/2018/01/08/16-70481.pdf
[6] Id., pg. 7
[7] *Request to Open an Investigation into the Justness and Reasonableness of Jurisdictional Utilities' Rates,* EFiling, January 9, 2018; https://ag.ny.gov/sites/default/files/state_advocates_letter.pdf
[8] In MA, MD, IL, and OR, to name a few. https://www.seattletimes.com/business/states-to-us-pass-along-utilities-tax-savings-to-customers/ and https://www.rtoinsider.com/tax-cut-and-jobs-act-opsi-utilities-83740/