

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO, INC., FOR
IMPLEMENTATION OF THE TAX CUTS AND
JOBS ACT OF 2017.

CASE NO. 18-1843-WW-UNC

IN THE MATTER OF THE APPLICATION OF
AQUA OHIO, INC., FOR APPROVAL OF
TARIFF AMENDMENTS.

CASE NO. 18-1844-WW-ATA

FINDING AND ORDER

Entered in the Journal on December 18, 2019

I. SUMMARY

{¶ 1} The Commission approves the application of Aqua Ohio, Inc. to establish a rider to credit customers with the benefits of the Tax Cuts and Jobs Act of 2017.

II. DISCUSSION

{¶ 2} Aqua Ohio, Inc. (Aqua or Company) is waterworks company and a public utility as defined in R.C. 4905.03(G) and R.C. 4905.02, respectively. As such, Aqua is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.18 provides, in relevant part, that where an application is not for an increase in any rate, but is for a new service, the application shall fully describe the new service and the Commission may permit the filing of the schedule proposed in the application and fix the time when such schedule shall take effect.

{¶ 4} The Tax Cuts and Jobs Act of 2017 (TCJA), signed into law on December 22, 2017, provides for a number of changes in the federal tax system. Most notably, the federal corporate income tax rate is reduced from 35 percent to 21 percent, effective January 1, 2018.

{¶ 5} On January 10, 2018, the Commission opened an investigation in order to study the impacts of the TCJA on the Commission's jurisdictional rate-regulated utilities and determine the appropriate course of action to pass benefits on to ratepayers. *In the*

Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies, Case No. 18-47-AU-COI.

A. Summary of Application

{¶ 6} On December 20, 2018, as revised on March 22, 2019, Aqua filed an application to apply a credit, the TCJA Negative Surcharge, to the base water rates in each of its service areas to reflect the tax savings realized under the TCJA. Aqua submits that this credit will provide the following benefits: a reduction in the Federal Income Tax (FIT) rate; amortization of excess Deferred Income Taxes (EDIT); amortization over a ten-year time frame of unprotected EDIT; and a gross-up of the amortization of all EDITs using the revenue conversion factor based on the prevailing federal income tax rate. Aqua avers that the resulting TCJA Negative Surcharge will be applied to each applicable customer as a percentage of the customer's base water charges. Aqua proposes that the credit amount be adjusted annually to reflect further changes in both EDITs and continue until the Commission approves new base water rates at which time the reduction will be incorporated into the base rates.

{¶ 7} Aqua states that the proposed tariff revisions are not for an increase in rates under R.C. 4909.18 but rather a means to return the benefits of the TCJA to its water service customers.

{¶ 8} On July 29 and December 4, 2019, based upon Staff recommendations and discussions, Aqua filed revised schedules and updated proposed tariff sheets. Aqua submits that, with these revisions, it is the Company's position that all outstanding issues with its application have been resolved and requested that the Commission issue a Finding and Order approving the application as revised.

B. Motion to Intervene

{¶ 9} On January 31, 2019, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this matter. No memoranda contra the OCC's motion to intervene were filed. The Commission finds that the OCC's motion to intervene complies with the requirements set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11, and should, therefore, be granted.

C. Staff Recommendation and Comments

{¶ 10} On June 24, 2019, Staff filed its Review and Recommendation regarding Aqua's application. Staff recommends that the Company refund, over a period of 12 months, the deferred tax savings from January 1, 2018 through the date in which the TCJA Negative Surcharge becomes effective (Stub Period). Additionally, Staff recommends that carrying charges be applied to the monthly balance of deferrals, with such carrying charges based on the long-term debt rate of 4.88 percent approved in Aqua's most recent distribution rate case¹, and that carrying charges cease to accrue once the TCJA Negative Surcharge becomes effective. This results in a Stub Period balance of \$2,376,324 through December 31, 2018. Staff also recommends that Aqua update this balance to include deferrals from January 1, 2019 until the TCJA Negative Surcharge becomes effective.

{¶ 11} Further, Staff asserts that the FIT savings going forward should be based on the Company's *2016 Distribution Rate Case* which results in annual FIT savings of \$2,492,759. Staff recommends that the reduction in the FIT savings be included in the TCJA Negative Surcharge until the Commission approves new base water rates at which time the FIT savings will be incorporated into base rates.

{¶ 12} Regarding EDIT, Staff recommends that Normalized EDIT include only such balances that are required to be amortized in accordance with the Average Rate Assumption

¹ *In the Matter of the Application of Aqua Ohio, Inc. to Increase its Rates for Water Service*, Case No. 16-907-WW-AIR (2016 Distribution Rate Case), Opinion and Order (Mar. 22, 2017).

Method (ARAM). Additionally, Staff recommends that Non-Normalized Plant-Related EDIT balances that do not have Internal Revenue Code limitations placed on the amortization be treated the same as Non-Normalized EDIT.² Staff confirmed that Aqua is including in Normalized EDIT balances only such amounts that are required to be amortized in accordance with ARAM.

{¶ 13} In order to ensure that 100 percent of the EDIT is refunded to customers, Staff recommends: that all EDIT balances be based on the balance as of December 31, 2017; that Normalized EDIT be amortized in accordance with ARAM in order to conform to normalization rules; and that Non-Normalized EDIT be amortized over a period of ten years (120 months). Further, Staff explains that the amortization of EDIT should be grossed up using the revenue conversion factor based on the prevailing federal income tax rates.

{¶ 14} Staff recommends that the amortization of all EDIT balances be refunded through the TCJA Negative Surcharge until the balances have been fully amortized. In Staff's view, a stand-alone mechanism is the preferred means to refund EDIT to customers; therefore, Staff recommends that the Commission reject the Company's proposal to terminate the TCJA Negative Surcharge at the time new base water rates are approved.

{¶ 15} Lastly, Staff recommends that the Commission adopt Aqua's proposed rate design whereby the TCJA Negative Surcharge is reflected as a percentage of the customer's base water charges.

D. Conclusion

{¶ 16} Upon review of Aqua's application, as amended, and Staff's recommendation, the Commission finds that the application is not for an increase in any rate, joint rate, toll, classification, charge, or rental and appears to be just and reasonable. Aqua's proposed

² Aqua refers to Non-Normalized EDIT as "unprotected excess ADIT." For purposes of this Finding and Order, Non-Normalized EDIT and unprotected excess ADIT have the same meaning.

allocation, as modified by Staff, represents a fair and reasonable method to credit customers with TCJA. Further, the Commission finds it unnecessary to hold a hearing in this matter. Accordingly, we find that Aqua's amended application to establish the TCJA Negative Surcharge should be approved, subject to the Staff's recommendations.

III. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That the OCC's motion to intervene be granted. It is, further,

{¶ 19} ORDERED, That the application filed by Aqua on December 20, 2018, as subsequently revised by the Company on March 22, July 29, and December 4, 2019, be approved, as modified by Staff's Review and Recommendation. It is, further,

{¶ 20} ORDERED, That Aqua be authorized to file in final form complete copies of the tariff pages consistent with this Finding and Order and to cancel and withdraw any superseded tariff pages. It is, further,

{¶ 21} ORDERED, That the effective date of the new tariffs shall be a date not earlier than the date upon which the final tariffs are filed with the Commission. It is, further,

{¶ 22} ORDERED, That Aqua shall notify all affected customers via a bill message or via a bill insert within 30 days of the effective date of the tariffs. A copy of the customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least 10 days prior to its distribution to customers. It is, further,

{¶ 23} ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 24} ORDERED, That a copy of this Finding and Order be served upon all parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JRJ/mef

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Summary: Finding & Order that the Commission approves the application of Aqua Ohio, Inc. to establish a rider to credit customers with the benefits of the Tax Cuts and Jobs Act of 2017. electronically filed by Docketing Staff on behalf of Docketing.