



Public Utilities Commission

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October 6, 2020

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

RE: *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change, Case No. 18-1656-EL-ATA*

Dear Docketing Division:

Enclosed please find the Review and Recommendations of the Staff of the Public Utilities Commission of Ohio (Staff) in the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change, Case No. 18-1656-EL-ATA

A handwritten signature in black ink, appearing to read "DL", written over a horizontal line.

David Lipthrott
Chief, Accounting and Finance Division
Public Utilities Commission of Ohio

Enclosure
Cc: Parties of Record

**Ohio Edison Company
The Cleveland Electric Illuminating Company
The Toledo Edison Company
Case No. 18-1656-EL-ATA**

SUMMARY

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law. Among other changes, TCJA lowered the federal corporate income tax rate from a maximum 35 percent to a flat 21 percent, effective January 1, 2018. Additionally, the reduction in the federal corporate tax rate may result in excess accumulated deferred income taxes (ADIT) balances because the amount of ADIT that a public utility has recorded in its books will exceed the amount the public utility needs to pay its future federal income tax obligations.

On January 10, 2018, the Commission opened an investigation into the financial impacts of TCJA on regulated utilities in this state: Commission's Investigation of the Financial Impact of the TCJA on Regulated Ohio Utility Companies, Case No. 18-47-AU-COI (TCJA Investigation). On October 24, 2018, following an extensive comment period and hearing, the Commission directed public utilities to file applications not for an increase in rates, pursuant to R.C. 4909.18, by January 1, 2019, in order to return to consumers the tax impacts resulting from the TCJA. On October 30, 2018, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) filed an application to establish a process to resolve TCJA-related issues in Case No. 18-1604-EL-UNC (TCJA Impacts Case).

On November 9, 2018, a stipulation and recommendation (Stipulation) was filed, recommending a resolution for the above-captioned cases, by the following parties: the Companies; Staff; Direct Energy Services, LLC and Direct Energy Business, LLC; Environmental Defense Fund ; Ohio Energy Group; Industrial Energy Users – Ohio; Ohio Cable Telecommunications Association; Ohio Hospital Association; and Interstate Gas Supply, Inc.. On January 25, 2019, a supplemental stipulation and recommendation (Supplemental Stipulation) was filed, which modified the original stipulation and included all of the original signatory parties as well as the Office of the Ohio Consumers' Counsel (OCC), The Northeast Ohio Public Energy Council, and Ohio Partners for Affordable Energy.

On July 17, 2019, the Commission ordered that the Supplemental Stipulation be adopted and approved, as modified in the Opinion and Order, and that the Companies file in final form, two complete copies of its tariffs consistent with the Opinion and Order.

On July 26, 2019, the Companies filed compliance tariffs for rates effective September 1, 2019. On August 28, 2019, Staff filed its Compliance Review.

On November 6, 2019, in Case No. 19-1887-EL-RDR, the Commission issued an Entry directing Staff to issue a request for proposal (RFP) for the audit services necessary to assist with the compliance audits of the Companies' Delivery Capital Recovery Rider (DCR Case). On December 18, 2019, the Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) from the submitted proposals to complete the required audit services. On June 12, 2020, Blue Ridge's audit report was filed, which included recommendations related to the balances of Excess Deferred Income Taxes (EDIT).

On July 31, 2020, the Companies filed compliance tariffs for interim rates which became effective September 1, 2020 to December 31, 2020 in order to have future tariff filings to occur on a calendar year cycle.

On September 10, 2020, OCC filed a motion to reject the Companies' July 31, 2020 revised tariff updates. On September 25, 2020, the Companies filed a memorandum contra to OCC's motion to reject the July 31, 2020 revised tariff updates.

STAFF REVIEW AND RECOMMENDATION

Staff has reviewed the tariffs filed by the Companies on July 31, 2020. Staff finds that the Companies adjustments to the beginning balances of EDIT, such as the Companies' assertion that there is no EDIT attributable to AFUDC Equity, represents potential noncompliance with the Commission's Order in the TCJA Impacts Case. Staff reiterates its recommendation in the Companies' DCR Case and recommends the beginning balances of Excess Deferred Income Taxes be adjusted to reflect the balances as of December 31, 2017, as shown in the Stipulation in this case.

Although the adjustments to the EDIT balances represent potential noncompliance with the Commission Order in the TCJA Impacts Case, Staff does not recommend that the Commission reject the Companies' tariffs filed in this case. Staff emphasizes that this recommendation does not suggest concurrence with or approval of the Companies' adjustments to the beginning balances of EDIT. Additionally, Staff recommends that at the time of the next annual tariff filing, the Companies' include any adjustments necessary to reflect the outcome of the DCR Case. Finally, Staff recommends that the balance of the TCJA-related regulatory liability only be reduced by amounts actually refunded to customers.

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Case No(s). 18-1656-EL-ATA

Summary: Staff Review and Recommendation regarding the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Tariff Change electronically filed by Zee Molter on behalf of PUCO Staff