BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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. 18-0047-AU-COI

COMMENTS OF
THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO

In its January 10, 2018 Entry, the Commission requested comments from interested parties about the recently enacted Tax Cuts and Jobs Act (TCJA), specifically regarding the following two matters:

(1) those components of utility rates that the Commission will need to reconcile with the TCJA; and

(2) the process and mechanics for how the Commission should do so.

In accordance with that Entry, The East Ohio Gas Company d/b/a Dominion Energy Ohio (DEO or the Company) respectfully offers the following comments.

I. COMMENTS

In providing these comments, DEO would observe that the TCJA is a very recent law, affecting a complex range of issues. DEO offers the following at the request of the Commission and in the interest of promoting a dialogue regarding these issues. As it continues to digest the TCJA, DEO may modify the proposed approaches described below. As a result, they should be considered preliminary in nature and subject to modification as additional information becomes available.

A. The Commission will need to reconcile revenue requirements and accumulated deferred income taxes with the TCJA.

All utility rates that include a federal income tax component must eventually be reconciled with the TCJA. This includes base rates, certain riders, and carrying costs calculated at after-tax rates. In the case of DEO, this includes the following:

- Sales Service rate schedules;
- Transportation Service rate schedules;
- Energy Choice Transportation Service rate schedules;
- Ancillary Service rate schedules (Standby Service, Firm Storage Service);
- Automated Meter Reading (AMR) Cost Recovery Charge;
- Pipeline Infrastructure Replacement (PIR) Cost Recovery Charge; and
- Carrying costs recognized on over/under-recovered balances for the PIPP and Uncollectible Expense (UEX) Riders.

1. Revenue requirements under base rates and riders.

The restatement of base rates is simple enough mathematically: Current base rates reflect a federal income tax (FIT) expense calculated at a 35-percent tax rate. These rates could be restated under a 21-percent tax rate using test year information from the last rate case proceeding. This would be accomplished by first determining the change in the approved rate case revenue requirement by (*a*) restating income tax expense included in operating expense at 21 percent and (*b*) modifying the gross-revenue-conversion factor used to convert the operating income deficiency into a corresponding amount of revenue needed to generate the approved rate of return on rate base. The revenue requirement difference would then be proportionally allocated to each rate schedule and the impact on each base rate would be determined. Whether and to what extent such modifications would be appropriate in light of other changes since base

rates were last approved is a different question, but the calculation itself would be straightforward.

The approach is slightly different for riders. The revenue requirement for upcoming rider rates could be calculated using a pre-tax rate of return incorporating the 21-percent tax rate, resulting in revised rates. In addition, an adjustment for the impact on currently effective rates could be similarly determined and included in the revenue requirement of the upcoming rate filings. The elimination of the "bonus" tax depreciation for a portion of the investments included in a rider's rate base must also be recognized in any revised calculations. Given the annual updating of riders, potential concerns regarding single-issue or retroactive ratemaking are less problematic.

For carrying costs, where applicable, the 21-percent tax rate could be used to determine the after-tax interest rate applied to over/under-recovered balances. This is accomplished by applying the new tax rate to the nominal short-term interest rate.

2. Accumulated deferred income taxes

The impact of the TCJA on accumulated deferred income taxes (ADIT) is considerably more complicated. The largest portion of ADIT typically arises from the difference in the depreciation expense used for ratemaking and that used to determine taxable income. That difference is multiplied by the federal income tax rate to determine the accumulated balance of deferred income taxes, which in turn reduces the date-certain rate base on which utilities may earn a rate of return.

Because ADIT has been accumulated using a 35-percent tax rate, the reduction to 21 percent results in what are called "excess deferred income taxes" (or EDIT) that must be addressed without violating "normalization" rules that prescribe how those amounts must be

recognized over time. Such a violation could deny a utility and its customers the benefit of accelerated tax depreciation.

The calculation of EDIT, and the manner in which it should be recognized (*i.e.*, amortized) on a prospective basis, will take considerable time in part because it must be reviewed on an account-by-account basis. While that assessment may be more straightforward for assets that are the subject of annual rider adjustments (such as AMR and PIR), for all other ADIT components it will be considerably more complex and time consuming.

B. DEO proposes that the Commission address any changes to base rates and riders, associated deferrals, and the passing of benefits to ratepayers on a utility-by-utility basis.

In light of the substantial differences between the industries and individual companies that it regulates, the Commission should resist the urge to impose a one-size-fits-all approach. The Commission should also balance the desire for short-term ratepayer benefits with a recognition of the longer-term implications. As it seeks to balance the interest of multiple regulatory stakeholders, the Commission should take note of comments by rating agencies expressing concern over adverse cash-flow and credit-metric impacts in the utility sector caused by the imposition of rate reductions *without* a corresponding and concurrent reduction in cash outlays for tax payments.

In the long term, all of the implications of the TCJA will be resolved in rate cases, some of which may not occur in the near future. In recent cases, the Commission and its Staff have expressed concern about the balance of regulatory assets that will eventually be reflected in higher customer rates. The ability to use TCJA benefits to reduce that future burden provides an effective means to address that concern, both limiting the later impact on rates and mitigating the impact on cash flow to the utility. The ability to modify annually updated cost-recovery riders, in contrast, presents an opportunity to pass through TCJA benefits much more quickly.

With these points in mind, and subject to the caveats above, DEO offers the following considerations on how TCJA impacts could be addressed within DEO's rate structure:

- The impact of the lower tax rate could be reflected in upcoming PIR and AMR filings, which ordinarily result in new rates being implemented in the May time frame.
    - These filings could reflect a lower pre-tax return on December 31, 2017 rate base and a credit to the revenue requirement for amounts to be deferred over the January–April period in recognition of the lower tax rate applied to those revenues.
    - These filings, however, would not reflect the amortization of EDIT. Those amounts will instead flow through the next filing reflecting investments through December 31, 2018.
- The tax rate used to determine the after-tax carrying cost could be applied to PIPP and UEX over/under-recovered balances as of January 1, 2018, and thereafter. Accordingly, those impacts would be included in the annual rate filings to be made in May.
- Amounts derived from TCJA base rate implications could be recorded on DEO's books as a deferred regulatory liability and offset amounts recorded as a deferred regulatory asset under DEO's Pipeline Safety Management Program (PSMP). Any amounts recorded in excess of the cumulative deferred PSMP regulatory asset could be recorded as a deferred regulatory liability for resolution in its next rate case.
- When DEO completes its EDIT assessment, most likely in the third quarter, the results of the assessment and a proposal for its recognition could be provided to Staff.

The foregoing concepts would effectively balance the short-term benefits and long-term implications of the TCJA by (*1*) providing a near-term reduction in DEO's PIR and AMR cost recovery riders; (*2*) applying deferred TCJA liability amounts to deferred PSMP regulatory assets otherwise payable by customers; and (*3*) in so doing, avoiding both the short-term detrimental impact on DEO of a rate reduction without a concurrent reduction in the underlying tax payment and the continued deferral of significant cash outlays for PSMP that otherwise would eventually be charged to customers.

II. CONCLUSION

DEO appreciates the opportunity to provide comments in this proceeding, and respectfully requests that the Commission consider DEO's comments as it considers how to address the TCJA and its impact on rates.

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Respectfully submitted,

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Summary: Comments electronically filed by Ms. Rebekah J. Glover on behalf of The East Ohio Gas Company d/b/a Dominion Energy Ohio