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Via E-FILE

February 15, 2018

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

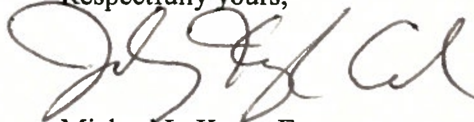
In re: Case No. 18-47-AU-COI

Dear Sir/Madam:

Please find attached the COMMENTS OF THE OHIO ENERGY GROUP REGARDING EFFECTS ON RETAIL RATES OF TAX CUTS AND JOBS ACT e-filed today in the above-referenced matters.

Copies have been served on all parties on the attached certificate of service. Please place this document of file.

Respectfully yours,



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MLKkew
Encl.
Cc: Certificate of Service

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. 18-47-AU-COI

COMMENTS OF THE OHIO ENERGY GROUP
REGARDING EFFECTS ON RETAIL RATES OF TAX CUTS AND JOBS ACT

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February 15, 2018

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COMMENTS OF THE OHIO ENERGY GROUP
REGARDING EFFECTS ON RETAIL RATES OF TAX CUTS AND JOBS ACT

INTRODUCTION AND SUMMARY

The Tax Cuts and Jobs Act of 2017 ("TCJA" or "Act") reduced the federal corporate income tax rate from 35% to 21%. This impacts regulated electric rates in two ways: 1) lowering the tax expense (reduction in the gross-up of the equity return on capital investment) that customers must pay; and 2) necessitating the amortization of excess accumulated deferred income taxes ("ADIT") (the refund to customers of taxes already collected by the utilities at the 35% rate, but which will not be paid over to the federal government). The TCJA will affect the various rate components charged by Ohio's investor-owned electric utilities in different ways.

Transmission Costs. Transmission costs are determined pursuant to the transmission owner's Federal Energy Regulatory Commission ("FERC")-approved Open Access Transmission Tariff ("OATT") formula rate. The OATT rate will reflect both the TCJA lower tax expense and amortization of excess ADIT for service rendered after January 1, 2018. But transmission purchasers (the electric utilities) may not start receiving the TCJA savings until 2019, at which time the 2018 over-recoveries will be trued-up and the ongoing effects of the TCJA will be reflected in the OATT. Therefore, unless FERC requires an interim adjustment in the OATT formula rate, there will be no savings in 2018, but two years of savings in 2019 (a return of 2018 over-collection and an ongoing reduction due to the TCJA).

The Ohio utilities recover their OATT transmission costs through Commission-approved riders which are reconciled annually for over and under recoveries, and include carrying charges. Consequently, Ohio retail customers will ultimately receive the benefits of the TCJA for transmission service received on and after January

1, 2018. The deferral of these savings as required in the Commission's January 10, 2018 Order in this case ("Order") may not be necessary due to the operation of the OATT rates as well as the Commission-approved riders. However, in order to provide Ohio customers the benefits of the TCJA transmission savings before 2019, OEG will propose in these Comments an adjustment to the Ohio retail transmission riders that is revenue-neutral to the utilities.

Distribution Investment Riders. Each of the Ohio utilities has in place a distribution investment rider to recover incremental distribution investments. Those formula rates include a gross revenue conversion factor ("GRCF") to gross-up the equity investment for taxes. Accordingly, when the distribution investment riders are reset after January 1, 2018, the associated tax expense savings will flow through to customers.

But there are two issues related to the distribution investment riders that the Commission must resolve. First, in addition to the reduced income tax expense discussed above, the distribution investment riders should flow through the amortization of excess ADIT because that is a reduction in the cost of providing distribution service. Second, there will need to be an amortization of the deferred TCJA savings (both tax expense and excess ADIT) accrued from January 1, 2018 to the time the distribution riders are reset. These savings, which have been deferred as a regulatory liability pursuant to the Commission's January 10, 2018 Order, should be returned to customers. Legally, this is no different than the deferral for later recovery of a regulatory asset for events that have already occurred, such as storm damage.

Distribution Modernization Riders. Ohio Edison Company, Toledo Edison Company, Cleveland Electric Illuminating Company (collectively, "FirstEnergy"), and Dayton Power and Light Company ("DP&L") have Distribution Modernization Riders ("DMRs"). The DMR rates are calculated pre-tax at the "*prevailing*" tax rate.[1] FirstEnergy has already submitted reduced DMR rates to be effective on March 1, 2018 in order to reflect the prevailing 21% federal corporate income tax rate, but DP&L has not.

Because the DMRs do not specifically recover investments made before January 1, 2018, no excess ADIT needs to be returned to customers through those riders. Nevertheless, the deferral and refund of the DMR-related

[1] Fifth Entry on Rehearing, Case No. 14-1297-EL-SSO (October 12, 2016) at 95; Eighth Entry on Rehearing, Case No. 14-1297-EL-SSO (August 16, 2017) at 63.

regulatory liability should be handled in the same manner as for distribution riders. The FirstEnergy DMR-related regulatory liability will be small since its DMR will be reduced to reflect TCJA tax expense savings in the next couple of weeks.

Distribution Base Rates. The Commission's flexibility to flow through TCJA savings associated with base distribution rates may be limited. In their February 9, 2018 Joint Application for Rehearing, the Ohio electric utilities argue that base distribution rates can only be prospectively reduced for the effects of the TCJA as part of a future base rate case. If the Joint Rehearing is correct on this point, then there would be no tax savings to defer as a regulatory liability and customers would not immediately see a dollar-for-dollar base rate decrease because of the tax change. In that event, customers will still receive some level of protection through the annual significantly excessive earnings test ("SEET") process.

Significantly Excessive Earnings Test. Under R.C. 4928.143(F), the Commission is required to annually review the prior year earnings of the electric utilities. The SEET review process would include all TCJA tax savings that are not otherwise flowed through to customers, including TCJA savings associated with base distribution rates. This will provide some measure of protection to customers if the Commission concludes that the Joint Rehearing is correct as it relates to base distribution rates. However, to provide meaningful protection, the SEET threshold needs to be set at a reasonable level. The SEET threshold that applied when the utilities owned generation is not appropriate now.

COMMENTS

I. How The TCJA Impacts Regulated Utility Rates.

The TCJA was enacted into law on December 22, 2017. It affects rate-regulated utilities by reducing the federal income tax rate to 21% from 35% effective January 1, 2018. This reduction in the income tax rate has two primary effects. First, it results in an immediate reduction in federal *income tax expense* starting January 1, 2018. Second, it results in the amortization of excess deferred income taxes starting January 1, 2018.

Income tax expense is calculated in the ratemaking process by "*grossing up*" the equity component of the utility's rate of return for income taxes. This ensures that the utility has the opportunity to earn its after-tax

authorized return on equity ("ROE"). For example, for a utility to earn an authorized 10% after-tax ROE at the 35% federal tax rate, the utility will charge customers the pre-tax cost of 15.40% (10%/(1-.35). For a utility to earn an authorized 10% after-tax ROE at the 21% federal tax rate, the utility needs to charge customers the pre-tax cost of 12.66% (10%/(1-.21). This example does not include the gross-up for state corporate income taxes.

ADIT is the difference between the amount of tax recovered in rates and the amount of tax actually paid by the utility to the federal government. Because of accelerated and bonus depreciation, the amount of tax actually paid by the utility is generally less than the taxes recovered from ratepayers in the early years of a new asset's life. If the income tax rate remains the same in future years, then over time, the process is reversed and the cumulative tax recovered from customers (reflected in ADIT) and paid by the utility to the federal government is generally equal over the course of an asset's life. Meanwhile, customers receive a return on this ADIT through a reduction to rate base until the utility pays these amounts to the federal government. If the income tax rate remains the same in future years, then the ADIT is not refunded to ratepayers because the tax is paid to the federal government. However, when the tax rate is lowered from 35% to 21%, a portion of the ADIT will never be paid to the federal government and "*excess*" ADIT is created. Because the excess ADIT will never be paid to the federal government, it must be refunded to customers.

All rate-regulated utilities were required to reclassify the "*excess*" portion of ADIT to regulatory liabilities as of December 31, 2017, which will be amortized as a *negative amortization expense* over varying periods. The amortization periods depend on the underlying reversal of each temporary difference and whether the ADIT was caused by a temporary difference that is required to be "*normalized*" pursuant to the Internal Revenue Code of 1986 ("IRC"). The only temporary differences that are required to be normalized pursuant to the Act are those related to accelerated tax depreciation. The excess ADIT related to these temporary differences is "*protected*" and the amortization period is based on the remaining lives of the underlying assets under the average rate assumption method ("ARAM"). [2] If it is a temporary difference that is not required to be normalized, then the excess ADIT is "*unprotected*" and the amortization period depends either on the underlying reversal of the temporary differences or the regulator's ratemaking discretion to use a shorter or longer amortization period.

[2] Tax Cuts and Jobs Act Section 13001(b)(6)(A), amending Section 1561(d)(2)-(d)(3)(B), H.R. 1, Public Law 115-97, 131 Stat. 2054 (Dec. 22, 2017).

The reduction in tax expense and the amortization of excess ADIT are on an "*after-tax*" expense and, thus must be grossed up to a revenue equivalent. If there is no state income tax, then the gross-up factor (or revenue conversion factor) is 1.266 (1/(1-0.21). Thus, if there is a reduction in income tax expense of $100, then there will be a reduction in the revenue requirement (rate decrease to consumers) of $126.66.

II. The Commission's January 10, 2018 Order.

In its January 10, 2018 Order, the Commission directed the utilities "*effective January 1, 2018...to record on their books as a deferred liability, in an appropriate amount, the estimated reduction in federal income tax resulting from the TCJA. Utilities should continue this treatment, until otherwise ordered by the Commission.*"[3] Hence, Ohio utilities must already begin accounting for the TJCA-associated cost savings received since January 1, 2018, even if the process by which those savings ultimately may flow through to customers remains in dispute.

Because the Commission did not actually engage in ratemaking by issuing its accounting directive to the utilities, that directive did not violate the prohibition on retroactive ratemaking.[4] Nor was it unprecedented for the Commission to issue an accounting directive pursuant to its authority under R.C. 4905.13 without first holding a hearing.[5] Moreover, the Commission's decision to require utilities to account for TCJA savings accruing as of January 1, 2018 is no different than its past decisions granting utilities the authority to defer storm damage costs incurred prior to issuance of the deferral order.[6]

III. Transmission Costs.

Ohio customers will receive the all of the benefits from the TCJA effective January 1, 2018 (both the reduction in tax expense and the amortization of excess ADIT) through the FERC-approved OATT rate, albeit on a delayed basis. The OATT is a formula rate that tracks actual costs such as depreciation, debt service and O&M,

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[3] Order at 2.

[4] *Elyria Foundry Co. v. Pub. Util Comm.*, 2007-Ohio-4164 at ¶19.

[5] Finding and Order, Case No. 09-712-GA-AAM (November 12, 2009) at 3-4 (*"Since the requested authority to change Duke's accounting procedures does not result in any increase in rate or charge, the Commission approves this application without a hearing. The recovery of the deferred amounts will be addressed in a base rate case proceeding should Duke ever seek to recover the deferrals."); See also* Entry, Case No. 08-606-GA-AAM (September 24, 2008) at 3.

[6] Opinion and Order, Case No. 12-3062-EL-RDR (December 17, 2014).

as well as taxes. Attachment 1 is Ohio Power Company's (AEP-Ohio") OATT, which shows line items for taxes and the amortization of excess ADIT.

The main question with respect to transmission-related TCJA benefits is timing. Customers may have to wait until 2019 to receive the 2018 TCJA benefits. To remedy this potential delay, the Commission should adopt the following retail rate mechanism to flow through the JCJA benefits to consumers earlier and on a revenue-neutral basis for the utilities.

The Commission has authorized each of the electric investor-owned utilities in Ohio to recover their transmission costs on a projected basis through retail transmission cost recovery riders.[7] The transmission riders are reconciled annually for over and under recoveries, including carrying charges. The timing of the filings and the projected twelve-month periods are different for each of the utilities (except for the FirstEnergy utilities, which are the same). The projected costs included in the retail filings are based on forecasts of OATT costs filed with the FERC. Each of these retail transmission riders includes an annual after the fact true-up for the prior twelve-month period. The OATT itself is subject to an annual true-up based on the actual costs for the prior twelve-month period. The retail tariff and the OATT tariffs include an over/under component (including carrying charges) where excess recovery in the prior period is subtracted from or added to the projected costs in the annual filings and recovered or refunded over the next twelve months until the rider again is revised for the following twelve months.

None of the retail transmission cost recovery tariffs presently reflect the reduction in the federal income tax rate from 35% to 21%. In fact, the FERC tariffs will not include the reduction in the federal income tax rate

[7] The FirstEnergy utilities each have a Non-Market Based Cost ("NMB") transmission rider. FirstEnergy filed an update on December 15, 2017 in Case Nos. 17-2378-EL-RDR and 89-6006-EL-TRF, with the updated rates to be effective March 1, 2018. The FirstEnergy utilities used transmission costs projected for the twelve months ending February 28, 2019.

AEP-Ohio has a Basic Transmission Cost Rider ("BTCR"), which recovers the Company's projected non-market based transmission expense, subject to true-up to actual costs incurred. AEP-Ohio filed an update on January 16, 2018 with the updated rates to be effective March 29, 2018. AEP-Ohio used transmission costs projected for the twelve months ending January 31, 2019.

Duke Energy Ohio, Inc. ("Duke") has a Base Transmission Rate Rider ("BTR"). Duke's present BTR rates were effective October 1, 2017 and will remain in effect through September 30, 2018. Duke will file an annual update July 2018 with revised rates effective October 1, 2018 through September 30, 2019.

DP&L has a Transmission Cost Recovery Rider – Non-Bypassable ("TCRR-N"). DP&L's present TCRR-N rates were effective June 1, 2017 and will remain in effect through May 31, 2018. DP&L will file an annual update on or before March 15, 2018 with revised rates effective June 1, 2018 through May 31, 2019.

until January 1, 2019 unless the FERC directs the various transmission owners to make interim adjustments. The FERC tariffs each include after the fact true-ups that will capture the reduction in the income tax expense for 2018, but these true-up adjustments will not be reflected in the FERC tariffs until January 1, 2019. Thus, the FERC tariffs will include both the reduction in income tax expense forecast in 2019 as well as the refunds due to the reduction in income tax expense in 2018 reflected in the true-up adjustment for that year.

That means that the retail transmission riders will not reflect the income tax expense savings in 2018, but will reflect the savings for both 2018 and 2019, in whole or part in 2019, and possibly in part in 2020. This is caused not only by the lag in reflecting the savings in the FERC tariffs, but also due to the timing of the annual updates to the retail transmission riders.

Recommendation for Transmission Costs

The delay in providing the income tax expense savings for retail customers is a timing difference, due first to the delay in revising the FERC tariffs to reflect the savings, and due second to the delay in revising the PUCO tariffs to reflect the savings in the FERC tariffs.

The Commission can provide timely relief to retail customers for this delay and smooth the retail rate effects over the three-year period 2018 through 2020 by implementing interim adjustments to the retail transmission cost recovery riders for each utility. First, the Commission should direct each utility to estimate the revenue requirement equivalent of annual savings in income tax expense and amortization of excess ADIT. Second, it should direct an interim adjustment to reduce its retail transmission cost recovery rider rates.

The difference between the utility's costs incurred pursuant to the OATT tariffs and the retail transmission rates, as reduced, will result in a temporary increase in the regulatory assets recorded by the utilities pursuant to the over/under recovery reconciliation authorized in each utility's transmission cost recovery rider tariffs. That increase in the regulatory asset will be recovered in the next annual update. This will coincide with the reduction in the projected FERC costs that include the savings for 2018 and 2019. In this manner, the retail rates will reflect an immediate reduction in 2018 for the annual savings in 2018, reflect the annual savings in

2019, and reflect the annual savings in 2020, without the aberration that otherwise will occur in 2019 to reflect the reduction in 2019 as well as the refund for 2018.

This recommendation is revenue-neutral to the utilities and is consistent with the Commission's rules on transmission cost recovery, which allow for interim rider adjustments. For instance, Ohio Adm. Code 4901:1-36-03(E) provides:

> *"If at any time during the period between annual update filings, the electric utility or staff determines that costs are or will be substantially different than the amounts authorized as the result of the electric utility's previous application, the electric utility should file, on its own initiative or by order of the commission,* ***an interim application to adjust the transmission cost recovery rider in order to avoid excessive carrying costs and to minimize rate impacts for the following update filing****. (Emphasis added).*

Finally, in its most recent transmission filing, AEP-Ohio expressed a willingness to explore alternative recovery options to promote rate stability, stating that "*[t]e current schedules do not include a forecast of tax savings that will be recognized due to the recent federal tax reductions. The Company will update the BTCR upon approval by the FERC of new OATT rates that reflect those tax savings.*"[8] "*As always, the Company is receptive to exploring alternative recovery options with Staff and the Commission in an effort to promote rate stability and to mitigate rate impacts.*"[9]

IV. Distribution Investment Riders.

The Commission has authorized each of the Ohio electric utilities to recover their incremental plant-related distribution costs through retail distribution cost recovery riders.[10] Each of these distribution riders

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[8] AEP Ohio Application, Case No. 18-96-EL-RDR, January 16, 2018 at 6.

[9] *Id*. at 5.

[10] The FirstEnergy utilities each have a Delivery Capital Recovery Rider ("DCRR"), which initially was authorized by the Commission in Case No. 14-1297-EL-SSO. It is updated quarterly, with the next filing due on March 31, 2018 and an effective date of June 1, 2018.

Ohio Power Company has a Distribution Investment Rider ("DIR"), which initially was authorized by the Commission in Case No. 12-2627-EL-RDR. It was last updated on September 26, 2017.

Duke Energy has a Distribution Capital Investment Rider ("DCIR"), which the Commission authorized in Case No. 14-841-EL-SSO. The DCIR calculates the distribution plant-related revenue requirement and subtracts the amount included in the base revenue requirement.

Duke Energy has a Distribution Investment Rider, which the Commission authorized in Case Nos. 16-395-EL-SSO, 16-396-EL-ATA, and 16-397-EL-AAM. The DCIR calculates the distribution plant-related revenue requirement.

includes an after-tax equity return, and therefore an equity gross up factor (the gross revenue conversion factor). This means that the tax expense savings will be reflected in these distribution riders once they are reset.

In this case, the Commission should make clear that the amortization of excess ADIT will also be reflected since that is a reduction in the cost of providing distribution service. The Commission should also make clear that the amortization of the regulatory liability established by the Commission's January 10 Order will be reflected.

Recommendation for Distribution Investment Riders

In its Order, the Commission directed the utilities to defer the "*estimated reduction in federal income tax resulting from the TCJA. Utilities should continue this treatment, until otherwise ordered by the Commission.*" The Commission should ensure that this directive is applied to the income tax expense recovered through the distribution investment riders that are authorized for each of the Ohio utilities.

The Commission should ensure that the distribution investment riders are reduced to reflect the federal income tax expense recovered through those riders, the amortization of the excess ADIT, and the amortization of the regulatory liabilities for the deferrals of the income tax expense savings since January 1, 2018.

Further, the protected excess ADIT should be amortized using the ARAM, as required by the TCJA, and the unprotected excess ADIT should be amortized over 3-5 years.

Finally, the regulatory liabilities should be amortized over one year to ensure that customers receive the benefit of the income tax rate reductions relatively contemporaneous with the actual reduction in income tax rates and income tax expense.

V. Distribution Modernization Rider.

The Commission has authorized FirstEnergy and DP&L to collect revenues for distribution modernization through DMRs. These revenues specifically include a gross-up for income taxes at the "*prevailing*" tax rate.

The FirstEnergy utilities each have a Rider DMR, which the Commission authorized in Case No. 14-1297-EL-SSO.[11] In that proceeding, the Commission specifically authorized a gross-up to increase Rider DMR revenues for "*additional income taxes*" at the "*prevailing Federal corporate income tax rate*." [12] The "*prevailing Federal corporate income tax rate*" now is 21%.

On January 12, 2018, the FirstEnergy utilities filed to update their DMR rates to reflect the lower income tax rate and gross-up effective on March 1, 2018. However, they did not include an amortization of the regulatory liability for the deferrals from January 1, 2018 through February 28, 2018. [13]

The Commission authorized DP&L's DMR pursuant to a settlement in Case Nos. 16-395-EL-SSO, 16-396-EL-ATA, and 16-397-EL-AAM. The Company's DMR was based on before tax revenues (income grossed-up for income taxes) necessary for the Company and its parent company, DPL Inc., to achieve credit metrics based on financial forecasts from 2017 through 2023. DP&L's DMR has not been reduced to reflect the reduction in the federal income tax rate.

Recommendation for Distribution Modernization Riders

As noted previously, the FirstEnergy utilities already have agreed to reflect the savings in their DMRs prospectively starting March 1, 2018; however, this does not address the regulatory liabilities that should have been deferred from January 1, 2018 through February 28, 2018.

In addition, the Commission should ensure that DP&L's DMR is reduced as expeditiously as possible to reflect the lower federal income tax expense.

Finally, the Commission should require that the deferrals (from January 1, 2018 through the date the DMR rates are reset going forward to reduce the income tax expense) are amortized over one year. In any event, the amortization period for the regulatory liabilities should be no longer than the number of months remaining for the DMR tariffs.

[11] Case No. 14-1297-EL-SSO, Eighth Entry on Rehearing at 29.

[12] Fifth Entry on Rehearing, Case No. 14-1297-EL-SSO (October 12, 2016) at 95; Eighth Entry on Rehearing, Case No. 14-1297-EL-SSO (August 16, 2017) at 63.

[13] Tariff Updates, Case No. 17-2280-EL-RDR (January 12, 2018).

Because the DMRs do not specifically incorporate investments made before January 1, 2018, there will be no excess ADIT that needs to be returned to consumers.

VI. Distribution Base Rates

The Commission's legal authority to flow through TCJA savings associated with base distribution rates may be limited. In their February 9, 2018 Joint Rehearing, the Ohio electric utilities made the argument that base distribution rates can only be prospectively reduced for the effects of the TCJA as part of a future base rate case. If the Joint Rehearing is correct on the limits of the Commission's base rate authority, then there would be no tax savings to defer and customers would not immediately receive a dollar-for-dollar base distribution rate decrease because of the TCJA. But customers could still receive some level of benefit and protection through the annual SEET review. This would be especially true if the SEET over-earning threshold is updated to reflect the fact that the utilities no longer own generation.

VII. Significantly Excessive Earnings Test.

The Ohio utilities remain subject to the SEET review. Under Ohio Revised Code 4928.143(F), the Commission is to consider, following the end of each annual period, whether significantly excessive earnings have resulted for an electric distribution utility under its ESP "*as measured by whether the earned return on common equity of the electric distribution utility is significantly in excess of the return on common equity that was earned during the same period by publicly traded companies, including utilities, that face comparable business and financial risk, with such adjustments for capital structure as may be appropriate.*"

As a last line of defense, the SEET may ensure that the Ohio utilities do not unduly retain the tax savings that may not be flowed through distribution base rates or distribution riders. The annual SEET review examines almost all revenues (the Commission has excluded some revenue from the SEET, such as the DMR) and all expenses. All TCJA tax expense savings and the amortization of excess ADIT will be reflected on the income statement of each utility and will increase earnings. These results will be transparent on various SEC filings and on the FERC Form 1.

Arguments that the Commission's authority to reflect TCJA savings in rates is constrained by the prohibition against retroactive ratemaking, the *Keco* decision or the filed rate doctrine do not apply to the annual SEET review. By statute, the SEET operates as a retroactive review of utility earnings. Excessive profits must be refunded. The SEET provides the Commission's clearest legal authority to address the reduced expenses and increased earnings in base distribution rates caused by the TCJA.

Recommendations For SEET

The SEET process needs to be updated to reflect current circumstances. he SEET threshold that was applied when the utilities owned generation is not appropriate now. For example, in its December 8, 2017 testimony in Case No. 17-993-EL-UNC, Staff utilized a standard deviation methodology to arrive at an earnings threshold of 16.08%. This over-earnings threshold is so high as to largely be irrelevant. While the standard deviation methodology may have been appropriate when the utilities owned generation, it is not appropriate now. Because the standard deviation methodology is not dictated by statute, the Commission has discretion to change it.

In its 2010 generic SEET Order, the Commission reserved for itself flexibility to address changed circumstances, explaining:

> *Having fully considered all the comments regarding establishing the threshold and in consideration of the discretion afforded the Commission in SB 221, the Commission concludes that 'significantly excessive earnings' should be determined based on the reasonable judgment of the Commission on a case-by-case basis.*
>
> ***
>
> *Passing a statistical test does not, in and of itself, demonstrate excessive earnings did not occur. The statute requires more from the utilities to meet the burden of proof that excess earnings did not occur. The Commission may use a standard deviation test as one tool by which to determine whether an electric utility had significantly excessive earnings.*
>
> *However, the Commission is willing to recognize a 'safe harbor' of 200 basis points above the mean of the comparable group. To that end, any electric utility earning less than 200 basis points above the mean of the comparable group will be found not to have significantly excessive earnings.*[14]

[14] June 30, 2010 Order, Case No. 09-786-EL-UNC at 28-29.

The publicly-traded companies with comparable business and financial risk to Ohio's electric utilities will all enjoy the benefits of the TCJA. Therefore, the Ohio SEET process should be updated to reflect that fact. One option would be to set the SEET threshold at 200 basis points above the mean ROE earned by comparable companies during the relevant year. This level was established by the Commission as a safe harbor in its 2010 generic SEET Order. Under current circumstances, however, the safe harbor could be used as the SEET threshold. In most years this would result in a SEET threshold of approximately 12%, which is ample for utilities that are now largely wires companies.

Respectfully submitted,

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COUNSEL FOR THE OHIO ENERGY GROUP

February 15, 2018

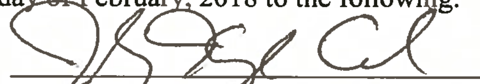
ATTACHMENT 1

AEP East Companies
Transmission Cost of Service Formula Rate
Utilizing Actual/Projected FERC Form 1 Data
COMPANY NAME HERE

Line No.	(1) EXPENSE, TAXES, RETURN & REVENUE REQUIREMENTS CALCULATION	(2) Data Sources (See "General Notes")	(3) TO Total	(4) Allocator		(5) Total Transmission
	OPERATION & MAINTENANCE EXPENSE					
80	Production	321.80.b				
81	Distribution	322.156.b				
82	Customer Related Expense	322 & 323.164,171,178.b				
83	Regional Marketing Expenses	322.131.b				
84	Transmission	321.112.b				
85	TOTAL O&M EXPENSES	(sum lns 80 to 84)	-			
86	Less: Total Account 561	(Note G) (Worksheet F, ln 14.C)	-			
87	Less: Account 565	(Note H) 321.96.b				
88	Less: Regulatory Deferrals & Amortizations	(Note I) (Worksheet F, ln 4.C)	-			
89	Total O&M Allocable to Transmission	(lns 84 - 86 - 87 - 88)	-	TP	0.00000	-
90	Administrative and General	323.197.b (Note J)				
91	Less: Acct. 924, Property Insurance	323.185.b				
92	Acct. 9260039 PBOP Expense	PBOP Worksheet O Line 9 & 10, (Note K)				
93	Acct. 9260057 PBOP Medicare Subsidy	PBOP Worksheet O Line 11, (Note K)				
94	PBOP Expense Billed From AEPSC	PBOP Worksheet O Line 13, (Note K)				
95	Acct. 928, Reg. Com. Exp.	323.189.b				
96	Acct. 930.1, Gen. Advert. Exp.	323.191.b				
97	Acct. 930.2, Misc. Gen. Exp.	323.192.b				
98	Balance of A & G	(ln 90 - sum ln 91 to ln 97)	-	W/S	0.00000	-
99	Plus: Acct. 924, Property Insurance	(ln 91)	-	GP(h)	0.00000	-
100	Acct. 928 - Transmission Specific	Worksheet F ln 20.(E) (Note L)	-	TP	0.00000	-
101	Acct 930.1 - Only safety related ads - Direct	Worksheet F ln 37.(E) (Note L)	-	TP	0.00000	-
102	Acct 930.2 - Misc Gen. Exp. - Trans	Worksheet F ln 43.(E) (Note L)	-	DA	1.00000	-
103	Settlement Approved PBOP Recovery	PBOP Worksheet O, Col. C, Line 1, (Note M)		W/S	0.00000	-
104	A & G Subtotal	(sum lns 98 to 103)	-			-
105	O & M EXPENSE SUBTOTAL	(ln 89 + ln 104)	-			-
106	Line Deliberately Left Blank					
107	Plus: Transmission Lease Payments To Affiliates in Acct 565 (Company Records) (Note H)			DA	1.00000	-
108	TOTAL O & M EXPENSE	(ln 105 + ln 107)	-			-
109	DEPRECIATION AND AMORTIZATION EXPENSE					
110	Production	336.2-6.f		NA	0.00000	-
111	Distribution	336.8.f		NA	0.00000	-
112	Transmission	336.7.f		TP1	0.00000	-
113	Line Deliberately Left Blank		-			-
114	General	336.10.f		W/S	0.00000	-
115	Intangible	336.1.f		W/S	0.00000	-
116	TOTAL DEPRECIATION AND AMORTIZATION	(Ln 110+111+112+113+114+115)	-			-
117	TAXES OTHER THAN INCOME	(Note N)				
118	Labor Related					
119	Payroll	Worksheet H ln 24.(D)	-	W/S	0.00000	-
120	Plant Related					
121	Property	Worksheet H ln 24.(C) & ln 59.(C)	-	DA		0
122	Gross Receipts/Sales & Use	Worksheet H ln 24.(F)	-	NA	0.00000	-
123	Other	Worksheet H ln 24.(E)	-	GP(h)	0.00000	-
124	TOTAL OTHER TAXES	(sum lns 119 to 123)	-			-
125	INCOME TAXES	(Note O)				
126	T=1 - {[(1 - SIT) * (1 - FIT)] / (1 - SIT * FIT * p)} =		0.00 %			
127	EIT=(T/(1-T)) * (1-(WCLTD/WACC)) =		0.00 %			
128	where WCLTD=(ln 167) and WACC = (ln 170)					
129	and FIT, SIT & p are as given in Note O.					
130	GRCF=1 / (1 - T) = (from ln 126)		-			
131	Amortized Investment Tax Credit (enter negative)	(FF1 p.114, ln 19.c)	-			
132	Excess Deferred Income Tax	(Note U)	-	DA	1.00000	-
133	Tax Effect of Permanent Differences	(Note U)	-	DA	1.00000	-
134	Income Tax Calculation	(ln 127 * ln 139)	-			-

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing COMMENTS OF THE OHIO ENERGY GROUP (OEG) was sent to the following parties of record *via* electronic transmission this 15TH day of February, 2018 to the following:



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Summary: Comments Comments of the Ohio Energy Group (OEG) Regarding Effects on Retail Rates of Tax Cuts and Jobs Act electronically filed by Mr. Michael L. Kurtz on behalf of Ohio Energy Group