

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**OHIO PARTNERS FOR AFFORDABLE ENERGY’S  
MEMORANDUM CONTRA  
THE APPLICATION FOR REHEARING**

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Ohio Partners for Affordable Energy (“OPAE”) hereby respectfully submits to the Public Utilities Commission of Ohio (“Commission”) this memorandum contra the February 9, 2018 Application for Rehearing of the Electric Distribution Utilities (“EDUs”). The EDUs ask the Commission to declare affirmatively that the accounting directives in the Commission’s January 10, 2018 Entry initiating this investigation are without prejudice to the outcome of this proceeding or any other rider or ratemaking proceeding. The EDUs also ask that the timing and details of reflecting tax reform benefits in retail rates be consistent with each EDU’s individual circumstances. Application for Rehearing at 4. The Commission should deny the EDU’s Application for Rehearing in its entirety for the following reasons.

First, the Commission has statutory authority to commence on its own initiative an investigation to consider whether any rate, charge, or service is in any respect unjust, unreasonable, or unlawful. Revised Code 4905.26. Therefore, the Commission has statutory authority to commence this investigation of the impact of the Tax Cuts and Jobs Act of 2017, which has

caused utilities' rates and riders to be unjust, unreasonable, and unlawful to the extent those rates and riders use the wrong federal corporate income tax rate. The January 10 Entry opening this investigation stated that the Commission would determine the appropriate course of action to pass benefits to ratepayers of the federal corporate income tax rate reduction from 35 percent to 21 percent effective January 1, 2018. The Entry stated that the Commission intends to reconcile the new federal income tax rates with the level of tax expense recovered through current base rates, riders containing a federal corporate income tax component, accumulated deferred income taxes, and deferred tax assets that include income tax components calculated using the previous tax rates. The January 10 Entry gives the EDUs no basis to complain that their individual circumstances will not be taken into account. The Commission asked each utility individually to provide the information necessary for their rates and riders to reflect the correct current federal corporate income tax rate.

Second, as for the accounting directives, it is obvious that the reduction in the federal corporate tax rate began on January 1, 2018, a fact the EDUs cannot dispute. The EDUs could avoid any issues resulting from their continued collection of unjust, unlawful, and unreasonable rates and riders containing the wrong federal corporate income tax rate by immediately filing applications to reduce their rates and riders with the effective date of January 1, 2018 to reflect the correct federal corporate income tax rate as of January 1, 2018. Utilities may file self complaints ("SLF") under R.C. 4905.26 that any service they render may

be unjust, unreasonable, or unlawful, such as a service the charges for which contain the wrong federal corporate income tax rate as of January 1, 2018.

The EDUs have all the information necessary to make these applications to reduce rates or SLFs immediately in order to avoid the need for regulatory action to refund ratepayers for unjust, unlawful, and unreasonable charges resulting from the utilities' use of the wrong federal corporate income tax rate as of January 1, 2018. The EDUs can take responsibility and initiate their own actions to avoid any issues with refunds and deferrals. If the EDUs fail to act immediately against their unjust, unlawful, and unreasonable rates and riders, they must be held accountable for their own failure to act. Their voluntary failure to act should only serve to void any argument they may make against refunds, deferrals, or other regulatory actions needed to compensate ratepayers. Utility rates and riders should reflect the correct federal corporate income tax rate as of January 1, 2018; the utilities can resolve this issue on their own initiative and need not wait for the Commission to force them to act.

Therefore, the Application for Rehearing of the EDUs should be denied in its entirety.

Respectfully submitted,

s/s Colleen Mooney

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## CERTIFICATE OF SERVICE

A copy of the foregoing Memorandum Contra the Application for Rehearing will be served by the Commission's Docketing Division electronically upon persons who electronically subscribe to this case on this 20th day of February 2018.

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Summary: Memorandum Contra Application for Rehearing electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy