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

OHIO PARTNERS FOR AFFORDABLE ENERGY'S POST-HEARING BRIEF

Ohio Partners for Affordable Energy ("OPAE") herein submits to the Public Utilities Commission of Ohio ("Commission") this post-hearing brief in the Commission-ordered investigation of the financial impact of the Tax Cuts and Jobs Act of 2017 on regulated Ohio utility companies. The hearing addressed the narrow issue whether Ohio utilities should be required to establish a deferred liability to preserve the benefits to consumers of the federal tax rate reduction from 35% to 21% effective January 1, 2018. The Commission has already directed the utilities to record the estimated impact of the reduction in federal tax as a deferred liability on their books. The liability includes savings from the reduced tax expense and excess accumulated deferred income taxes. The liability represents money that must be returned to customers because customers paid rates based on the 35% tax rate, which is no longer owed.

The Commission's Staff witness Jonathan J. Borer testified that the Commission's directive comports with Generally Accepted Accounting Principles ("GAAP"). Staff Ex. 1 at 3. Under GAAP, a regulator can impose on a regulated entity a liability that is an obligation to the entities' customers. The Commission may develop criteria for authorizing deferrals associated with regulatory liabilities.

The criteria may include the following, all of which are satisfied here. 1) Are the utility's current rates sufficient to cover the deferral? Given that current rates were developed based on a 35% federal tax rate, current rates are sufficient to cover the deferral associated with the reduction to a 21% rate. 2) Are the expense reductions material? Given that the reduction is 40%, i.e., from 35% to 21%, the expense reductions are material. 3) Is the reason for requesting the deferral outside the utilities' control? Given that Congress reduced the tax rate, the reduction was outside the utilities' control. 4) Is the expense reduction atypical and infrequent? Given that the last major reduction to federal corporate tax rates was in 1986, the reduction is atypical and infrequent. 5) Will the financial integrity of the utility be adversely affected if the deferral is required? Given that utilities' cash outflows to the federal government have decreased by the amount of the reduction, the utilities are in the same place when they defer the liability. Staff Exhibit 1 at 4-7.

The Office of the Ohio Consumers' Counsel's ("OCC") witness Wm. Ross Willis recommended that the Commission order all Ohio regulated utilities to continue to carry these deferred liabilities on their books until the full benefits of the tax reduction are refunded to customers. OCC Ex. 1 at 3. Likewise, the Industrial Energy Users' ("IEU") witness Joseph Bowser recommended that the utilities should be required to establish a deferred tax liability for the estimated reduction in federal income tax effective January 1, 2018. IEU Ex. 1 at 3.

Therefore, Ohio utilities should be required to continue to carry the deferred liabilities on their books to preserve the benefits to customers of the tax rate reduction from 35% to 21% effective January 1, 2018.

Respectfully submitted,

/s/Colleen Mooney
Colleen L. Mooney
Reg. No. 0015668
Ohio Partners for Affordable Energy
PO Box 12451
Columbus, OH 43212-2451
Telephone: (614) 488-5739

e-mail: cmooney@ohiopartners.org
(will accept e-mail service)

CERTIFICATE OF SERVICE

A copy of this Post-Hearing Brief will be served electronically by the Commission's Docketing Division upon electronically subscribed parties on this 13th day of August 2018.

/s/Colleen Mooney
Colleen L. Mooney

Christopher.healey@occ.ohio.gov
Zachery.woltz@occ.ohio.gov
Bryce.mckenney@occ.ohio.gov
Amy.botschner.obrien@occ.ohio.gov
dstinson@bricker.com
gkrassen@bricker.com
mpritchard@mwncmh.com
mkurtz@bkllawfirm.com
kboehm@bkllawfirm.com
jkylercohn@bklawfirm.com
joliker@igsenergy.com
mnugent@igsenergy.com
cdunn@firstenergycorp.com
bbingaman@firstenergy.com
rocco.dascenzo@duke-energy.com
Elizabeth.watts@duke-energy.com
Jeanne.kingery@duke-energy.com
Michael.schuler@aes.com
Randall.griffin@aes.com
cmblend@aep.com
stnourse@aep.com
sseiple@nisource.com
josephclark@nisource.com
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
glover@whitt-sturtevant.com
fdarr@mwncmh.com
mwhelan@egas.net
neil.waggoner@sierraclub.org
dsawmiller@nrdc.org
jfinnigan@edf.org
mleppla@theoec.org
mfleisher@elpc.org
selisar@mwncmh.com
mlozich@securustechnologies.com
William.Wright@ohioattorneygeneral.gov