

**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  
POST-HEARING BRIEF**

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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,

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## 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.

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Summary: Brief electronically filed by Colleen L Mooney on behalf of Ohio Partners for Affordable Energy