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Ohio | **Public Utilities Commission**

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December 17, 2018

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Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus OH 43215

RE: *In the Matter of the Application of Duke Energy Ohio, Inc., for Implementation of the Tax Cuts and Jobs Act of 2017, Case No. 18-1185-EL-UNC.*

Dear Docketing Division:

Enclosed please find the Review and Recommendations of the Staff of the Public Utilities Commission of Ohio (Staff) in the Matter of the Duke Energy Ohio, Inc.'s application for implementation of the Tax Cuts and Jobs Act of 2017, Case No. 18-1185-EL-UNC.

Tamara S. Turkenton
Director, Rates and Analysis Department
Public Utilities Commission of Ohio

David Lipthratt
Chief, Research and Policy Division
Public Utilities Commission of Ohio

Enclosure
Cc: Parties of Record

Duke Energy Ohio, Inc.
Case No. 18-1185-EL-UNC

SUMMARY

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law. Among other changes, the TCJA lowered the federal corporate income tax rate from a maximum 35 percent to a flat 21 percent, effective January 1, 2018. Additionally, the reduction in the federal corporate tax rate may result in excess accumulated deferred income taxes (ADIT) balances because the amount of ADIT that a public utility has recorded in its books will exceed the amount the public utility needs to pay its future federal income tax obligations.

On January 10, 2018, the Public Utilities Commission of Ohio (Commission) opened a Commission-ordered investigation (COI), Case No. 18-47-AU-COI, in order to study the impacts of the TCJA on the Commission's jurisdictional, rate-regulated utilities and determine the appropriate course of action to pass benefits on to ratepayers. By Entry issued January 10, 2018, the Commission invited all of the rate-regulated Ohio utilities, as well as other interested stakeholders, to file comments discussing the following: (i) those components of utility rates that the Commission will need to reconcile with the TCJA and (ii) the process and mechanics for how the Commission should do so.[1] Additionally, the Commission directed utilities to record on their books as a deferred liability, in an appropriate account, the estimated reduction in federal income tax resulting from the TCJA, effective January 1, 2018. The utilities were instructed to continue this treatment until otherwise ordered by the Commission.[2]

On July 25, 2018, Duke Energy Ohio, Inc. (Duke) filed an application before the Commission to establish a rider to credit to its electric customers the benefits of the TCJA ("Application"). Duke initiated this proceeding in order to resolve issues related to the impact of the TCJA on the rates charged to customers which have not been previously recognized in rates.

Duke seeks tariff-amendment approval under R.C. 4909.18, not for an increase in rates, to flow all of the remaining benefits of the TCJA for electric distribution operation that are not already recognized in current rates through a credit mechanism in a new rider: Rider Electric TCJA (Rider ETCJA). Per the Company's Application, Rider ETCJA is designed to provide the Company's electric distribution customers with the following benefits, as a credit to base distribution rates:

1) Reduction in the Federal Income Tax (FIT):

   a) The estimated balance of deferrals recorded by the Company for electric distribution service in response to the Commission's COI Entry, accumulated from January 1, 2018, through September 30, 2018. Carrying costs calculated using the Company's most recently approved long-term debt rate will apply to deferrals relating exclusively to the impact of change in the FIT that became effective on January 1, 2018, only. Such

[1] *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, Entry at 1-2 (Jan. 10, 2018).
[2] *Id.* at 2.

carrying costs shall cease to accrue once the ETCJA Rider becomes effective.[3] Including carrying costs, the deferral balance as of September 30, 2018, is projected to be approximately $6.6 million.

b) This estimated balance of deferrals will be included in the Rider ETCJA credit amount beginning October 1, 2018. Such deferral amount shall be credited to customers over a twelve-month period.

c) Upon approval without material modification of the stipulation pending in Case No. 17-032-EL-AIR, *et al.*, establishing the Company's new base distribution rates, and effective with implementation of such new base distribution rates, Rider ETCJA will be adjusted to also include an annual credit to customers attributable to the remaining impact of TCJA's reduction in the FIT to 21 percent that is attributable to the Company's distribution base rates going forward and that is not already included in the Company's electric distribution riders. The estimated amount of the additional credit is approximately $4.7 million on an annual basis based upon the stipulation. This annual credit may be adjusted to reflect further changes in the FIT and will continue until the Commission approves new base distribution rates at which time the reduction will be incorporated into the base rates.

2) Excess ADIT (EDIT) related to electric distribution service:

a) Normalized EDIT (approximately $149.4 million) will be amortized based on the average rate assumption method (ARAM) as required to conform to normalization rules. The normalization rate will adjust annually in accordance with ARAM.

b) Non-normalized EDIT (approximately $74.9 million), including those related to property, plant, and equipment, will be amortized over 120 months (10 years), beginning with the first month the rider is effective.

c) The balance of EDIT reflected as an offset to rate base in the Rider DCI revenue requirement calculation will reflect the actual balance as of the most current date used in Rider DCI quarterly filings.

d) The amortization of all EDIT will be grossed up using a gross revenue conversion factor based on the prevailing federal income tax rate.

3) The annualized credit amount for Rider ETCJA shall be allocated to each rate class based on the percentage of base distribution rates. The credit rate to be applied to each customer will be reflected as a percentage of the customer's base distribution charges.

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[3] As EDITs already include a return based upon the Company's Weighted Average Cost of Capital, there will be no carrying costs assigned to the EDIT balances.

STAFF REVIEW

Staff performed a review of Duke's attachments to the application, including its proposed Rider ETCJA tariff language (Attachment 1); supporting calculations for the proposed Rider ETCJA, including balances of EDITs, deferrals, and estimated rates per customer class (Attachment 2); and Rider ETCJA projected bill impacts (Attachment 3).

RECOMMENDATION

The first month following a Commission order in this proceeding, Staff recommends that Rider ETCJA be established and include an annual credit to customers attributable to the remaining impact of TCJA's reduction in the FIT to 21 percent that is attributable to the Company's distribution base rates going forward and that is not already included in the Company's electric distribution rider rates. Staff also recommends that the deferrals recorded by the Company for electric distribution service in response to the Commission's COI Entry, accumulated from January 1, 2018, through the date in which ETCJA Rider becomes effective be included in the Rider ETCJA credit amount, with carrying charges, and credited to customers over a twelve-month period. Finally, Staff recommends that normalized EDIT be amortized based on the ARAM as required to conform to normalization rules and that the non-normalized EDIT be amortized over 120 months (10 years), beginning with the first month the rider is effective.