Ohio | Public Utilities Commission

Mike DeWine, Governor
M. Beth Trombold, Interim Chair

FILE

March 5, 2019

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

RE: *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio re: Implementation of the Tax Cuts and Jobs Act of 2017.*

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 East Ohio Gas Company d/b/a Dominion Energy Ohio's Application for Implementation of the Tax Cuts and Jobs Act of 2017, Case No. 18-1908-GA-UNC, et al.

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

Dominion Energy Ohio
Case No. 18-1908-GA-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 (EDIT) 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]

The East Ohio Gas Company d/b/a Dominion Energy Ohio (Dominion or Company) has already begun the process of returning TCJA savings to customers via the Pipeline Infrastructure Replacement (PIR) Cost Recovery Charge[3] and the Automated Meter Reading (AMR) Cost Recovery Charge.[4] Both PIR and AMR Charges put into effect in May 2018 already reflect the reduction in the FIT expense.

On December 31, 2018, Dominion filed an application before the Commission to establish a rider to credit to its customers the benefits of the TCJA (Application). Dominion initiated this proceeding in order to resolve issues related to the impact of the TCJA on the rates charged to customers.

Dominion seeks tariff-amendment approval under R.C. 4909.18, not for an increase in rates, to return to consumers the remaining tax savings resulting from the TCJA which are not currently

[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.
[3] See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval of Tariffs to Adjust its Automated Meter Reading Cost Recovery Charge and Related Matters* Case No. 17-2178-GA-RDR
[4] See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion Energy Ohio for Approval an Adjustment to its Demand Side Management Rider Rate* Case No. 17-2179-GA-RDR

reflected in various riders. Dominion has proposed to refund base rate-related tax savings through a credit mechanism in a new rider, Tax Savings Credit Rider (TSCR). Per the Company's Application, Rider TSCR is designed to provide the Company's 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 associated with the reduction of the FIT expense recorded by the Company for base distribution service in response to the Commission's COI Entry, accumulated from January 1, 2018, through such time as a mechanism to pass back TCJA tax savings is implemented (Stub Period). Carrying charges at an annual interest rate of 3.00 percent to be applied to the monthly deferred regulatory liability balances associated with the Stub Period. Such carrying costs shall cease to accrue once the TSCR becomes effective.[5]

   b) Dominion proposes to credit the Stub Period over a 12-month period. Due to the timing of implementation of the TSCR, the savings for the final months of the Stub Period may be estimated and subsequently trued-up to the actual amount. In order to apply deferred TCJA savings to customer bills in the same manner as a change in customer base rates, the TSCR will be calculated and applied as a percentage of the base rate charges included in customer billings.

   c) Dominion has estimated the prospective annual FIT expense savings attributable to base rates to be approximately $18.9 million. The Company has proposed two alternatives to addressing this ongoing impact to base rates associated with the reduction in the FIT expense:

      i) Dominion proposes reducing base rates for all sales, transportation, and storage service rate schedules by 5.608 percent, based on the test year information in Dominion's previous rate case.[6]

      ii) Alternatively, rather than implementing a base rate reduction, the Company proposes to record the revenue generated by the 5.608 percent reduction as a regulatory liability and use the liability to offset the regulatory asset being deferred under the Pipeline Safety Management Program (PSMP).[7]

---

[5] 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.
[6] See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for Its Gas Distribution Service* Case No. 07-0829-GA-AIR.
[7] See *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval to Change Accounting Methods* Case No. 15-1712-GA-AAM.

2) Excess ADIT:

   a) Normalized EDIT (total pre-tax balance as of December 31, 2017 of approximately $369.1 million) will be amortized in accordance with the Internal Revenue Code (IRC) Average Rate Assumption Method (ARAM) as required to conform to tax normalization rules. The normalization rate will adjust annually in accordance with ARAM.

   b) Non-Normalized, Plant-Related EDIT (total pre-tax balance as of December 31, 2017 of approximately $27.8 million) will be amortized over a period of ten years. Dominion will confer with Staff to determine if any Non-Normalized Plant-Related EDIT balances should be categorized as Normalized EDIT.

   c) Non-Normalized EDIT (total pre-tax balance as of December 31, 2017 of approximately $181.5 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.

   d) EDIT balances associated with the PIR and AMR riders will be amortized and flowed back to customers through their respective rider mechanisms.

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

   f) EDIT to be amortized and returned to customers in the TSCR will be based on the following:

      i) In order to reflect the date certain amount in Dominion's last rate case, the monthly amortization amount will be based on the ADIT balances at March 31, 2007, adjusted for recognition of the "turn-around[8]" through December 31, 2017. Normalized EDIT amortized and re-deferred[9] during the Stub Period, but not yet returned through rates, will be returned to customers as part of the TSCR over a 12 month period. The current period Normalized EDIT amortization commencing in the month the TSCR is implemented will be returned to customers as part of the TSCR until such time as new base rates reflecting an appropriate annualized test year amount are established in a subsequent base rate case proceeding.

---

[8] In response to Staff DR #1, the Company informed Staff that the turnaround of Normalized EDIT through December 31, 2017 refers to the change in the ADIT-related temporary differences in book vs tax accounting between March 31, 2007 and December 31, 2017. The Company advised that although pension-related ADIT was included in the date certain of the previous rate case, the Company anticipates only making adjustments for the turnaround associated with ADIT related to book vs. tax depreciation because the continued growth of the pension assets may make it difficult to isolate the turnaround of the associated ADIT

[9] In response to Staff DR #1, the Company informed Staff that Normalized EDIT amortized and re-deferred refers to the accounting mechanism to defer the amortization of the regulatory liability associated with the Normalized EDIT. Pursuant to the Commission Order in Case No. 18-0047-AU-COI, the Normalized EDIT was already deferred as a regulatory liability, so as the balance was amortized, the Company "re-deferred" the amount amortized, thus re-deferring amounts previously deferred.

ii) The Non-Normalized EDIT, including Non-Normalized Property-Related EDIT, will be amortized over ten (10) years. Unlike Normalized EDIT, the Non-Normalized EDIT has not been amortized and re-deferred and thus remains at its December 31, 2017 balance. Once the treatment of Non-Normalized EDIT is finalized and approved, the current period Non-Normalized EDIT amortization commencing in the month the TSCR is implemented will be returned to customers as part of the TSCR until such time as new base rates reflecting an appropriate annualized test year amount are established in a subsequent base rate case proceeding.

iii) Although an application to increase distribution rates is not currently pending for Dominion, the Company intends to file either an application to increase its base rates or an application to establish an alternative rate plan for the recovery of costs related to its Capital Expenditure Program (CEP) in 2019.[10] In conjunction with a filing providing rate relief, Dominion believes it would be feasible to consider a more aggressive amortization, which could both speed the pass through of the Non-Normalized EDIT balance, and offset a significant portion of the impact that would otherwise accompany a base rate increase or cost recovery under alternative regulation.

3) Financing Costs:

a) As Dominion's EDIT balances are amortized, ADIT will decrease by a corresponding amount, net of the FIT gross-up. Since for ratemaking purposes ADIT is treated as non-investor supplied funds and used to offset rate base, reduction in ADIT will increase base, all other things being equal. In order to reflect the ratemaking impact of the EDIT pass through, the associated financing costs as measured by Dominion's post-TCJA pre-tax rate of return on the cumulative increase in rate base should be recognized.

b) Dominion proposes to offset otherwise applicable TSCR amounts by such financing costs by doing the following:

i) Preparing a schedule of the monthly EDIT-related amount to be passed through the TSCR, such monthly amount to reflect the sum of the Normalized and Non-Normalized EDIT grossed up for federal taxes;

ii) Removing the tax gross-up portion of each monthly amount to quantify the reduction in ADIT;

iii) Determining the resulting cumulative increase in rate base attributable to the reduction in ADIT;

iv) Developing an average monthly balance of the cumulative rate base increase based on the prior and current months' balances divided by 2;

[10] See Case Nos. 11-6025-GA-UNC, 12-3279-GA-UNC, and 13-2410-GA-UNC.

v) Calculating the monthly financing cost by multiplying each month's average balance calculated in the preceding paragraph iv. by Dominion's post-TCJA pre-tax return on rate of 9.91% divided by 12; and

vi) Summing the monthly financing cost for the upcoming year and using that Figure to reduce the TSCR amount to be passed through to customers over that period.

4) True- Up of Pass Back Amounts and Actual TCJA Savings

a) The difference between the aggregate amount returned through the TSCR and the actual TCJA impacts, net of the financing cost amounts described above, accrued over the Stub Period and post-Stub Period time frames will be recognized as a regulatory asset or liability as appropriate. The resolution of the resulting regulatory asset or liability will be addressed in Dominion's next base rate case proceeding.

STAFF REVIEW

Staff performed a review of Dominion's attachments to the Application, including the Calculation of Base Rate Reductions (Attachment A); and Financing Cost Calculation Example (Attachment B). In addition, Staff has reviewed the Company's EDIT balances to verify the accuracy of the amounts.

STAFF RECOMMENDATION

Reduction in the FIT Recommendations:

The first month following a Commission order in this proceeding, Staff recommends that immediate recognition of the tax savings is preferred and Rider TSCR be established to 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. Staff recommends that the Commission reject the Company's proposal to defer the FIT savings as a regulatory liability to be used to offset the regulatory asset under PSMP.

Staff also recommends that the deferrals recorded by the Company for gas distribution service in response to the Commission's COI Entry, accumulated from January 1, 2018, through the date in which Rider TSCR becomes effective (Stub Period) be included in the Rider TSCR credit amount and credited to customers over a twelve month period. Staff further recommends that carrying charges, based on the Company's most recently approved long-term debt, be applied to the monthly balance of Stub Period deferrals, as illustrated on Staff Attachment A, and such carrying charges cease to accrue once the TSCR becomes effective.

EDIT Recommendations:

Staff recommends that Normalized EDIT include only such balances that are required to be amortized in accordance with ARAM. In addition, Staff recommends that Non-Normalized Plant-

Related EDIT balances that do not have IRC limitations placed on the amortization be treated the same as Non-Normalized EDIT.

Staff recommends that normalized EDIT be amortized based on ARAM as required to conform to normalization rules, and that the monthly amortization of Normalized EDIT to be included in the TSCR be based on the 12/31/2017 balance, less any balance of Normalized EDIT accounted for in the PIR and AMR riders. This would ensure that the full balance of Normalized EDIT as of 12/31/2017 is returned to customers. Additionally, the amortization of PIR and AMR rider-related EDIT will be recognized in the respective riders. This amortization will be based on 100 percent of the PIR- and AMR-related EDIT balances as of 12/31/2017.

Staff recommends that the non-normalized EDIT be amortized over 72 months (six years) beginning with the first month the rider is effective.

Financing Costs Recommendations:

The amortization of PIR and AMR rider-related EDIT will be recognized in the respective riders, and all else equal, the amortization of EDIT increases the revenue requirements, the Company will have the opportunity to recover this incremental revenue requirement in the PIR and AMR riders.[11]

A mechanism does not currently exist to recover the incremental return on rate base associated with the amortization of the remaining EDIT, so as part of the TSCR, the Company is requesting a means to recover this incremental return on rate base. Staff does not believe a new mechanism should be established to recover the incremental return, and recovery should only be permitted through existing mechanisms. Staff believes that a base rate case is the appropriate means to recover the return associated with the amortization of the remaining EDIT. Therefore, Staff recommends that the Commission reject the Company's proposal to recover the incremental return on rate base associated with the amortization of EDIT in the TSCR.

True- Up of Pass Back Amounts and Actual TCJA Savings:

Staff recommends that Rider TSCR be trued up annually in order to mitigate large variances between the amount refunded through the TSCR and the actual tax impact of the TCJA[12]. This annual true up would assist in minimizing the resulting regulatory asset or liability that will be incorporated into the Company's next base rate case filing.

[11]EDIT is treated as an offset to rate base, so it functions as a reduction the revenue requirement. As the EDIT is amortized and refunded to customers, the balance by which rate base is offset is reduced, thus increasing the revenue requirement (all else equal).

[12] As calculated on Company's Attachment A of the Application.

Staff Attachment A

Description	January	February	March	April	May	June	July	August	September	October	November	December
Monthly Beginning Balance (Previous Month Line 5)	$ -	$ (1,578,372)	$ (3,165,294)	$ (4,760,811)	$ (6,364,971)	$ (7,977,821)	$ (9,599,406)	$ (11,229,775)	$ (12,868,975)	$ (14,517,054)	$ (16,174,061)	$ (17,840,042)
Monthly Tax Expense Savings (Line 9)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)	$ (1,574,109)
Balance Subject to Interest (Line 1 + [Line 2 ÷ 2])	$ (787,055)	$ (2,365,427)	$ (3,952,348)	$ (5,547,866)	$ (7,152,026)	$ (8,764,875)	$ (10,386,460)	$ (12,016,829)	$ (13,656,030)	$ (15,304,109)	$ (16,961,115)	$ (18,627,097)
Debt Carrying Charge (Line 3 * [Line 11 ÷ 12])	$ (4,263)	$ (12,813)	$ (21,409)	$ (30,051)	$ (38,740)	$ (47,476)	$ (56,260)	$ (65,091)	$ (73,970)	$ (82,897)	$ (91,873)	$ (100,897)
Monthly Ending Balance (Line 1 + Line 2 + Line 4)	$ (1,578,372)	$ (3,165,294)	$ (4,760,811)	$ (6,364,971)	$ (7,977,821)	$ (9,599,406)	$ (11,229,775)	$ (12,868,975)	$ (14,517,054)	$ (16,174,061)	$ (17,840,042)	$ (19,515,048)

Annual FIT Expense Savings[1]	$ 18,889,308
Monthly FIT Savings (Line 7 ÷ 12)	$ 1,574,109
Cost of Long Term Debt[2]	6.50%

Total Stub Period Amount (Including Carrying Charges) $ **(19,515,048)**

[1]Company Attachment A

[2]Cost of Long-Term Debt of 6.50% most recently approved in Case No. 07-0829-GA-AIR