



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

February 12, 2018

M-2018-2641242

Re: Tax Cuts and Jobs Act of 2017

To All Affected Pennsylvania Public Utilities:

On December 22, 2017, Public Law No. 115-97 was signed into law by the President of the United States. The short title of this law is the Tax Cuts and Jobs Act (TCJA). Pursuant to the TCJA, effective January 1, 2018, various provisions of the Tax Reform Act of 1986 (TRA) have been repealed or amended. One of the many modifications to the TRA resulting from the passage of the TCJA is a reduction in the corporate Federal Income Tax (FIT) rate from 35% to 21%.

The purpose of this Secretarial Letter is to establish a docket and commence a proceeding by which the Commission shall seek to determine the effects of the TCJA on the tax liabilities of Commission-regulated public utilities for 2018 and future years and the feasibility of reflecting such impacts in the rates charged to Pennsylvania utility ratepayers.

In reviewing the federal tax changes concomitant with the provisions of the Public Utility Code, the Commission is charged with the statutory obligation of ensuring that all rates charged are just and reasonable. 66 Pa. C.S. § 1301 (“[e]very rate made, demanded, or received by any public utility . . . shall be just and reasonable.”). Rates charged by Commission-regulated public utilities to their ratepayers reflect, among other things, annual taxes paid both to the federal and state governments.

Pursuant to the TCJA, commencing in 2018 the corporate FIT rate will be reduced to 21% from the prior effective rate of 35% upon which current customer rates are based. This change in the FIT rate for corporations will also impact their reserves for deferred income tax liabilities. Given this substantial change in federal income tax rates for corporations, the Commission will examine any reduced annual federal tax obligations, the effect on accumulated deferred income taxes of Commission-regulated public utilities resulting from implementation of the TCJA, and the manner in which the reduced annual tax obligations will be addressed in rates charged to Pennsylvania’s utility customers by public utilities.¹

¹As entities incorporated in the Commonwealth of Pennsylvania, Commission-regulated public utilities are corporations subject to the FIT.

Regarding tax obligations of Commission-regulated public utilities owed to the Commonwealth of Pennsylvania, such public utilities currently pay a Corporate Net Income (CNI) tax rate of 9.99%. Chapter 61 of the Pennsylvania Code governs the CNI tax rate and defines “taxable income” as:

[f]ederal taxable income before net operating loss deduction and special deductions as returned to and ascertained by the Federal government[.]

61 Pa. Code § 153.11. Therefore, the Pennsylvania CNI tax rate of 9.99% is assessed on a public utility’s *federal* taxable income. With the implementation of the TCJA, public utilities will continue to pay 9.99% of their federal taxable income to the Commonwealth. However, if implementation of the TCJA results in lower federal taxable income amounts for public utilities, i.e., lower amounts upon which the 9.99% Pennsylvania CNI rate is applied, it is the Commission’s intention to ascertain how such reduced annual *state* tax obligations may be reflected in rates charged to ratepayers by public utilities.

In order to determine any effects of the TCJA on the tax liabilities of Commission-regulated public utilities for 2018 and future years, the Commission requests that the utilities listed in Attachment A to this Secretarial Letter provide verified responses to the data requests in Attachment B in order to calculate, among other things, the net effect on income tax expense and rate base as a result of implementation of the TCJA. The Commission further requests that the utilities listed in Attachment A complete the template (Attachment C) in order to assist the Commission in its calculation of the effects on taxable income and customer rates related to the TCJA.²

Additionally, the Commission is requesting that interested parties submit comments addressing: (1) whether the Commission should adjust current customer rates to reflect the reduced annual state and federal income tax expenses of public utilities due to the tax rate changes in the TCJA; (2) if so, the appropriate negative surcharge or other methodologies that would permit immediate modifications to consumer rates; and (3) whether the surcharge or other methodology should provide that any refunds to customers due to these reduced taxes be effective as of January 1, 2018.

The Commission requests that responses to the data requests in Attachment B and completed templates (Attachment C) be provided within 25 days of the date of this Secretarial Letter. Likewise, the Commission requests that comments addressing possible rate reflections of TCJA impacts also be provided by this date. Please reference Docket No. M-2018-2641242 on correspondence.

² This template will also be made available electronically on the Commission’s website.

All information requested in this Secretarial Letter shall be submitted by eFile or mailed to:

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

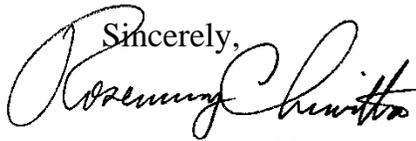
Utility responses should be verified per 52 Pa. Code § 1.36. Accordingly, you must provide the following statement with your responses:

I, _____, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

The blank should be completed with the name of the appropriate company representative, and the signature of that representative should follow the statement.

Finally, please be advised that, in addition to the utilities listed in Attachment A, the Commission also intends to examine the effect of the TCJA on telecommunications utilities and the smaller public utilities not listed in Attachment A.

Please direct any questions concerning this Secretarial Letter to Erin Laudenslager (elaudensla@pa.gov) and/or James Mullins (jamullins@pa.gov).

Sincerely,

Rosemary Chiavetta
Secretary

cc: Pennsylvania Office of Consumer Advocate
Pennsylvania Office of Small Business Advocate
Energy Association of Pennsylvania
Northeast Gas Association
National Association of Water Companies
PA Telecommunications Association
Philip J Wood, Verizon Pennsylvania LLC
Carl Yastremski, Frontier Communications