

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to consider changes in the rates of all Michigan rate regulated electric, steam, and natural gas utilities to reflect the effects of the pending federal Tax Cuts and Jobs Act, Alpena Power Company, Consumers Energy Company, Detroit Thermal, LLC, DTE Electric Company, DTE Gas Company, Indiana Michigan Power Company, Northern States Power Company, Upper Peninsula Power Company, Upper Michigan Energy Resources Corporation, Wisconsin Electric Power Company, Presque Isle Electric & Gas Co-op, Michigan Gas Utilities Corporation, and SEMCO Energy Gas Company.

Case No. **U-18494**
(e-file paperless)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
REPLIES TO THE UTILITIES COMMENTS
ON NON-BASE RATE IMPACT OF TCJA**

I. Introduction

On February 22, 2018 the Michigan Public Service Commission (MPSC) filed an Order in this matter directing captioned utilities¹ to file comments on the non-base rate impacts of the Tax Cuts and Jobs Act (TCJA) of 2017. (2/22/2018 Order, pp. 13-14.) The Order also requested the estimated dollar amount associated with

¹ Alpena Power Company, Consumers Energy Company, Detroit Thermal, LLC, DTE Electric Company, DTE Gas Company, Indiana Michigan Power Company (I&M), Northern States Power Company-Wisconsin (NSP-W), Upper Peninsula Power Company (UPPCo), Upper Michigan Energy Resources Corporation (UMERC), Wisconsin Electric Power Company (WEPCo), Presque Isle Electric & Gas Co-Op, Michigan Gas Utilities Corporation (MGUC), and SEMCO Energy Gas Company.

each non-base rate impact. (*Id.*) Per the Order, Staff and other interested persons may file, no later than April 13th, 2018, reply comments on the non-base rate impacts of the new federal income tax (FIT) rate. (2/22/2018 Order, p. 14.) Staff has reviewed the comments that were filed and has the following reply comments.

Staff's replies focus on areas of non-base rate impact by the TCJA, including: (1) Transitional Reconciliation Mechanism (TRM); (2) Customer Attachment Programs (CAP); (3) Investment Recovery Mechanism (IRM); (4) Energy Waste Reduction (EWR); (5) Renewable Energy Plans (REP); and (6) Gas Cost Recovery (GCR) and Power Supply Cost Recovery (PSCR). Staff agrees with the comments filed by the utilities, and requests that SEMCO be ordered to file a separate, contested case to calculate the TCJA reduction to the FIT rate impact on its IRM, as more fully detailed below.

II. Staff agrees that the TRM will be part of Calculation C, as DTE Electric stated in its comments.

The TRM is impacted by the change in FIT rate. The TRM case is a reconciliation of historic spending to transition former Detroit Public Lighting Department customers to DTE Electric service. The one-time reduction to deferred tax liabilities of \$2.6 million associated with the TRM should be included in Calculation C. DTE indicated in both its comments, at page 3, in the instant case and in its application in its annual TRM Case MPSC No. U-20051 that there would be no impact related to the new tax law in that case.

Because the annual TRM cases examine historic calendar year costs, the next reconciliation case will include the updated tax rate. Staff supports DTE's proposed methodology for the TRM.

III. CAP should be adjusted prospectively.

The TCJA's lower FIT rate impact on CAP should apply only to new customers. Under CAP, customers attaching to the utility system must pay the associated cost. The program has been in place for many years and has taken many forms, from Main Extension programs to Area Expansion programs to the current program, which is the CAP.

New customers are charged for expansions based on costs to install the facilities that are offset by the revenue generated by the customers attached. A 20-year period is used to calculate the charge. If the revenue calculation, over 20 years, provides a positive cash flow, there is no charge for the expansion. If the projected positive cash flow does not cover the cost of the project, the attaching customer pays their share of the cost prior to installation with carrying charges. The period for repayment is typically 5 years. A developer is required to make payment to cover the entire cost of the expansion.

Costs utilized in the calculation include: direct and indirect labor, materials, depreciation, property taxes, Operating & Maintenance (O&M), and carrying charges on plant investment. These costs are based on historical average costs for either the previous year or the costs approved by the Commission in the last rate case.

The commenting utilities explained that, due to the change in the federal tax rate, the carrying costs and deferred federal income tax (FIT) component of this surcharge will be impacted. The private investor-owned utilities (IOU) that filed comments have proposed adjusting the CAP surcharge for these changes on a prospective basis for future attaching customers only. This prospective approach would not result in any refund to customers currently participating in CAP; although, those surcharges were calculated at the historic federal income tax (FIT) rate.

The IOUs' claim is reasonable and prudent: the tariff that governs the programs explicitly states that the, "the surcharge will not be subject to adjustment, reconciliation or refund." (MGUC Comments, 3/29/2017, p 4.) Staff agrees that the proposed approach is appropriate and should be adopted by the Commission.

IV. IRM should be adjusted as part of Credit A, or in a separate contested case proceeding, filed as soon as practicable by order of the Commission.

The IRM, long-term customer surcharges to accelerate the removal of higher risk mains, are impacted by the lower FIT rate. These surcharges are calculated based on the revenue requirements of the pipe replaced in a given year and are reviewed and approved annually by the Commission.

With the passing of the TCJA, the FIT component used to calculate this surcharge was lowered. This resulted in a lower annual revenue requirement to cover the costs of the replacement of mains, than what is currently used in the calculation of the surcharges. Both DTE Gas, at page 3 of its non-base rate impact

comments, and Consumers Energy, at pages 4 and 5 of its comments, have proposed making this change in the surcharge calculation immediately as part of the Company's Credit A filing. Both utilities claim this is the most expedient way to return the benefits of the lower federal tax rate to customers. SEMCO, at page 2 of its comments, asks that this revenue requirement impact from the lower FIT rate be implemented in a separate contested case with respect to its Main Replacement Program (MRP).

Staff supports DTE Gas and Consumers Energy's plan to return the savings recognized through a lower federal income tax (FIT) rate through the Credit A filing, as the fastest possible method. Staff also agrees that SEMCO's request to consider the impacts in a separate contested case is a reasonable approach, if it is executed as quickly as possible. (SEMCO Comments, 3/29/2018, pp. 3-4.) There is no reason to delay processing the impacts to the IRM of the reduction in FIT, due to the TCJA. SEMCO, however, has not filed the information necessary to process a change in the IRM as part of Credit A. Staff recommends that for SEMCO to have its IRM reviewed, as quickly as possible, they should be ordered to file a contested case 30 days after an order, and expedite that case as a 90-day case.

V. The Staff Replies to utility comments on the TCJA's impact on EWR.

A. DTE Electric Company

DTE Electric Company stated, in its non-base rate impact comments at page 2, that the current tax impact of the TCJA on EWR is less than 1% of the 2018-19 EWR Plan Revenue Requirement. The Company is currently projecting an under-

recovery at the end of 2018 and 2019 plan years. DTE Electric proposes capturing the current impact through revised surcharges in the 2020-2021 EWR Plan Case to be filed in 2019. The estimated one-time reduction to the deferred tax liabilities of \$4.7 million will be included in Calculation C filing for the Company to be filed no later than October 1, 2018. Staff agrees with this approach.

B. DTE Gas Company

DTE Gas Company commented there is no current tax impact on EWR and no action is required in the plan filings or reconciliations. (DTE Comments 3/27/2018, p. 2.) The estimated one-time reduction to the deferred tax liability for the DTE Gas EWR of approximately \$0.4 million will be included in DTE Gas's Calculation C filing to be filed no later than October 1, 2018. Staff agrees that no action is needed at this time but agrees the EWR related tax change impacts should be captured in the 2020-2021 EWR Plan Case to be filed in 2019.

C. Participants in the State Administered EWR Plan with Efficiency United

WEPCo, MGU, UMEREC, Alpena Power Company, and NSP-W are all participants in the State Administered Energy Waste Reduction (EWR) Plan with Efficiency United. This plan is impacted by the lower FIT rate. The EWR plan fee to the State Administrator is based on 2% of annual revenues for the 2 years prior to the plan filing year. All companies listed above stated there will be a change in revenue for 2018 based on the TCJA implications. Staff recognizes this and agrees the reduction in revenues would affect the EWR Plan fee to be filed in 2019 to the

State Administrator Efficiency United for year 2020 and beyond. Staff also agrees the change in revenue can be reported through the calculation of the EWR plan fee in the next biennial plan filing in 2019 for program years 2020-2021.

D. Utilities without EWR Tax Implications

Consumers Energy, UPPCo, SEMCO Energy Gas Company, and I&M have no tax implications relating to EWR. Detroit Thermal filed comments in this docket, stating it has no FIT rate implications. (Detroit Thermal Comments, 4/3/2018, p. 2.) Detroit Thermal is not required to file EWR Plans with the Commission. Presque Isle Electric and Gas Cooperative did not file comments regarding EWR.

Staff does not oppose the comments of utilities with or without tax implications related to EWR. Rather, Staff recommends that the Commission request that any utility that discovers a change to EWR revenue or expenses based on the new tax laws report those changes in their next biennial EWR plan filing in 2019.

VI. The TCJA's impact on REPs is varied, and Staff supports the utility recommendations regarding REP.

A. Alpena Power Company, UMEREC and WEPCo do not have REPs impacted by the TCJA.

Staff has reviewed the comments filed as they relate to REPs and offers the following reply comments. Alpena Power Company, UMEREC, UPPCo and WEPCo filed comments indicating that their REPs were not affected by the Tax Cuts and Jobs Act of 2017 (TCJA). These utilities either do not own renewable generation or

have the costs of renewable generation recovered fully in base rates. Staff agrees that the REPs of these utilities will be unaffected by the TCJA.

B. Consumers Energy, DTE Electric and Indiana Michigan Power have non-base rate TCJA impacts to their REPs.

Consumers Energy, DTE Electric and I&M identified non-base rate impacts that will be reflected in each utility's respective renewable energy plan (REP) filings. Consumers Energy's filed comments in this case describe three areas within their REP with impacts due to the TCJA: weighted average cost of capital, lower gross-up factor utilized to apply tax credits, and levelized cost of energy calculations (LCOE).

On March 8, 2018, Consumers Energy filed supplemental direct testimony in its current REP case, MPSC Case No. U-18231, to address these impacts.

Consumers identified three impacts of the TCJA's reduction in FIT on its REP.

First, there is a change in the Weighted Average Cost of Capital (WACC) used to calculate the REP costs of capital. (MPSC Case No. U-18231, Prefiled Testimony of Marc R. Bleckman, p. 2.) The WACC had to be lowered, so the Consumers Energy will not over-collect tax expense from customers. (*Id.*) The company testified that in January 2018, it began using a WACC of 7.49% in place of the 8.70% WACC which lowers the customer costs of the REP. (*Id.*) Second, tax reform lowered the gross up factor applied to tax credits which increases REP customer costs. (*Id.*) Third, the LCOE calculations were adjusted for tax impacts. Consumers Energy states that the net impact of the changes is a decrease to customer costs over the REP period of approximately \$20 million which is reflected in the REP

supplemental testimony filing. (*Id.*, p. 3.) Another area that will have TCJA impacts is deferred income tax which will be addressed in future rate cases and will impact the REP as future MPSC orders are issued. That does not impact Consumers' current REP. (*Id.*, p. 3.)

DTE Electric commented that there are no current year tax impacts for the REP because there is no surcharge being charged to customers. (DTE Comments, 3/27/2018, p. 2. However, the company estimated a one-time reduction to the deferred tax liabilities of \$83.4 million. (*Id.*) This will be included in DTE's current REP, MPSC Case No. U-18232 and part of the Calculation C filing made no later than October 1, 2018. (*Id.*)

I&M has one company-owned renewable generation project; the estimated REP impact will be \$59,000. (I&M Comments, 4/2/2018, p. 3) I&M commented that the amount is reflected in its currently pending REP case, MPSC Case No. U-18233. (*Id.*)

After review of the comments filed by the utilities related to non-base-rate impacts of the TCJA on REPs, Staff recommends that each utility's method for addressing the impacts to be reasonable. Staff also recommends that REP cases are the appropriate place for review of the impacts.

VII. The Staff agrees with the utilities, in general, with respect to the impact of the TCJA on GCR and PSCR cases that the saving should be passed to customers through the reconciliation process and future plan proceedings.

A. NSP-W, SEMCo, UPPCo, UMER, MGU, WEPCo, and I&M

NSP states that changes to the PSCR and GCR calculations as result of the TCJA would be deferred and would be reflected in the reconciliation and future plan proceedings. (NSP-W comments, 3/26/2018, p. 2.) SEMCO states that the TCJA savings will be passed to customers through the GCR mechanism, consistent with the Act 304 GCR plan and reconciliation process. (SEMCO Comments, 3/29/2018, p. 4.) UPPCo states that any reduction to transmission or power supply costs will be a pass through from ATC/MISO, suppliers, etc., and will be reflected in the PSCR reconciliation and future plan proceedings. (UPPCo Comments, 3/29/2018, p. 2.) UMER states that the impact of the TCJA on PSCR and GCR is currently unknown. If UMCERC has any impact to its PSCR/GCR calculations, these would be addressed in future PSCR and GCR plan and reconciliation proceedings. MGU states, similarly, that the impact of the TCJA on GCR is unknown at this time and could be addressed, if at all, in its future GCR plan and reconciliation proceedings. (MGU Comments, 3/29/2018, p. 3.) WEPCo states that when the impact specific to transmission costs is known it will be addressed in future PSCR plan and reconciliation proceedings. (WEPCo Comments, 3/29/2018, p. 3.) I&M expects the TCJA reduction in PSCR to flow through the charges I&M pays and recovers through the PSCR. I&M will include the impact of the PSCR through its PSCR rider filings. (I&M Comments, 4/2/2018, pp. 2-3.)

B. DTE, Consumers Energy, Alpena and Presque Isle

DTE and Consumers Energy do not mention the reduction in FIT implications on PSCR and GCR. Alpena and Presque Isle do not mention the reduction in FIT impact on PSCR.

C. Staff Conclusion on FIT implication on PSCR and GCR

Due to the fact that the lower FIT impact is not currently measurable by the individual Michigan utilities, Staff agrees with the utilities that the PSCR/GCR impact does not need to be addressed in a separate case. After Staff's review of the utility filings, it is the opinion and recommendation of Staff that the PSCR and GCR calculations as a result of the TCJA be reflected in the ongoing plan and reconciliation cases for 2018.

VIII. Staff concludes that the utilities' suggestions for reflecting the lower FIT rate as a result of the TCJA should be adopted, and SEMCO should be ordered to file a contested case to adjust its IRM.

Staff recommends that the Commission adopt the utilities' suggestions regarding the non-base rate impact of the TCJA. Additionally, the Staff submits that the IRM for each utility with an IRM should be recalculated as part of Credit A, except for SEMCO, which has not filed the information to make such a calculation. SEMCO should be ordered to file a contested case for the calculation.

Additionally, Staff recommends that the Commission request that utilities report any changes to EWR plans as a result of the TCJA.

Respectfully submitted,

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PAMELA A. PUNG

Subscribed and sworn to before me
this **13th** day of **April, 2018**.

Tina L. Bibbs, Notary Public
State of Michigan, County of Clinton
Acting in the County of Eaton
My Commission Expires: 11-13-2021