

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

Tax Cuts and Jobs Act of 2017

**PUBLIC MEETING: May 17, 2018
2641242-LAW
Docket No. M-2018-2641242**

**Tax Cuts and Jobs Act of 2017 – People’s Gas
Company LLC, *et al.***

Docket No. R-2018-3000502, *et al.*

STATEMENT OF VICE CHAIRMAN ANDREW G. PLACE

Before us for disposition is the Staff recommendation regarding the rate effects of the federal Tax Cuts and Jobs Act of 2017 (TCJA) on certain categories of fixed energy, water and wastewater public utilities operating under the Commission’s jurisdiction. First, let me formally thank the Staff bureaus and their members involved in this challenging effort and proceeding. As evidenced by the comments of interested stakeholders and the volume of data received, addressing the regulatory ratemaking implications of the TCJA has not been and is not a simple mechanistic task. Rather, our Staff has carried out an extensive and detailed review of the relevant parameters and has presented us with a workable framework for moving forward.

I agree with the recommendations regarding the implementation of temporary rates and a negative surcharge for the relevant utilities’ respective distribution services so that the benefits of the TCJA will start flowing to Pennsylvania ratepayers. I also agree with the fundamental premise of establishing for each utility a “deferred regulatory liability” account to deal with the federal tax savings associated with the TCJA for the time period of January 1, 2018 to June 30, 2018. However, I disagree that this “deferred regulatory liability” account should accrue interest at the residential mortgage lending rate that is specified by Pennsylvania’s Secretary of Banking in accordance with the Loan Interest and Protection Law, 41 P.S. §§ 101 *et seq.* This “deferred regulatory liability” account cannot be treated as a simple “overcollection” from each utility’s ratepayers. Rather, each utility’s “deferred regulatory liability” account is the result of national tax policy and it is akin to capital borrowing (albeit at a temporary zero interest rate) in the open economy and financial markets. The associated “avoided cost” rate for such borrowing is each utility’s overall cost of capital and rate of return (ROR). The following considerations also support the use of each utility’s ROR for the computation of interest on the respective “deferred regulatory liability” accounts:

1. Absent the regulatory intervention of this Commission, monetary capital amounts associated with the “deferred regulatory liability” accounts could and most probably would have been used totally or in part by public utilities for infrastructure improvements.¹ Utility infrastructure improvements that become part of a public utility’s rate base are associated with its overall cost of capital and ROR.
2. In the more distant past national tax policy had created a specific category of investment tax credits such as the “post-1971 Job Development Investment Credit” or JDIC. Applicable federal rules at that time had mandated the regulatory treatment of unamortized JDIC balances with

¹ Certain public utilities have already argued that the overall TCJA federal tax savings should be used for infrastructure improvements. *See generally* Duquesne Light Company Response at 2; PPL Electric Utilities Corporation Response to Data Request No. 3

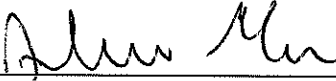
revenue requirement effects for public utilities through the use of a non-zero cost rate which usually was the utility's overall cost of capital and ROR.²

3. The assignment of the cost of capital and ROR rate to the "deferred regulatory liability" accounts of individual utilities can provide appropriate incentives to decrement these accounts at a faster pace for the ultimate benefit of their respective ratepayers.
4. The use of the utilities' cost of capital and ROR for the calculation of accrued interest on the "deferred regulatory liability" accounts provides a better degree of stability in comparison to the use of other interest rates that may need to be tracked on a more frequent basis.

These concerns are applicable to all those cases that concurrently deal with the application of the TCJA effects for individual public utilities. These include:

Docket No. R-2018-3000502	Peoples Gas Company LLC
Docket No. R-2018-3000503	Peoples Natural Gas Company LLC – Equitable Division
Docket No. R-2018-3000512	PECO Energy Company – Gas Division
Docket No. R-2018-3000527	Natural Fuel Gas Distribution Corporation
Docket No. R-2018-3000558	Citizens Electric Company of Lewisburg
Docket No. R-2018-3000562	Wellsboro Electric Company
Docket No. R-2018-3000597	Metropolitan Edison Company
Docket No. R-2018-3000599	Pennsylvania Electric Company
Docket No. R-2018-3000602	Pennsylvania Power Company
Docket No. R-2018-3000604	West Penn Power Company
Docket No. R-2018-3000724	Pennsylvania American Water Company
Docket No. R-2018-3000725	Pennsylvania American Water Company – Wastewater
Docket No. R-2018-3000736	UGI Utilities Inc. – Gas Division
Docket No. R-2018-3000737	UGI Penn Natural Gas Inc.
Docket No. R-2018-3000738	UGI Central Penn Gas Inc.
Docket No. R-2018-3000775	PPL Electric Utilities Corporation
Docket No. R-2018-3000942	Pike County Light & Power Company

For the reasons outlined above, I am respectfully concurring in part and dissenting in part in the disposition of these matters.



Andrew G. Place
Vice Chairman

Dated: May 17, 2018

² See generally *In re: Investigation into the earnings and authorized return on equity of Gulf Power Co., et al.*, Florida PSC Docket No. 990250-EI, *et al.*, Order No. PSC-99-1047-PAA-EI, May 24, 1999, at 18, 1999 Fla. PUC LEXIS 915; *Petition of Indiana Michigan Power Company, an Indiana Corporation, for Authority to Increase its Rates and Charges for Electric Service, for Approval of New Schedules of Rates, and Rules and Regulations, for Approval of Revised Depreciation Rates and for Approval to Establish and Implement a System Sales Tracking Provision*, Indiana URC Cause No. 39314, November 12, 1993, at 185, 1993 Ind. PUC LEXIS 460; *In re Indiana Bell Telephone Company, Inc.*, Indiana PSC Cause No. 37686, December 30, 1985, 72 PUR4th 1, 12-16; *In re: General Adjustment in Electric Rates of Kentucky Power Company*, Kentucky PUC Case No. 9061, December 4, 1984, 1984 Ky. PUC LEXIS 800.