

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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| IN THE MATTER OF STAFF'S REQUEST TO INVESTIGATE THE TAX CUTS AND JOBS ACT ON SOUTH DAKOTA UTILITIES |)))))))))) | ORDER REQUIRING COMMENTS; ORDER REQUIRING RATES IN EFFECT JANUARY 1, 2018, ARE SUBJECT TO REFUND; ORDER GRANTING INTERVENTION |
| | | GE17-003 |

On December 21, 2017, the South Dakota Public Utilities Commission (Commission) received a filing from Commission staff (Staff) requesting a docket be opened to investigate the Tax Cuts and Jobs Act on South Dakota utilities. Staff also filed a Motion Requesting Order Requiring Comments and Securing Tax Effects for Customers as of January 1, 2018 (Motion). In the Motion Staff requested the Commission investigate the effect the Tax Cuts and Jobs Act (Act) will have on South Dakota utilities and requests the Commission issue an order requiring utilities to submit comments on the effect the Act will have on each utility. Additionally, Staff requests the Commission issue an order that any adjustment to rates due to the Act will be effective on January 1, 2018. Staff requests that the filing and any order issued by the Commission be contingent on the President signing the Act into law. On December 22, 2017, the President signed the Act into law.

On December 22, 2017, the Commission issued an Order for and Notice of Motion Hearing on Less than 10 Days' Notice. On December 28, 2017, the Commission electronically transmitted notice of the filing and the intervention deadline of January 12, 2018, to interested persons and entities on the Commission's PUC Weekly Filings electronic listserv. On December 22, 2017, NorthWestern Corporation dba NorthWestern Energy (NorthWestern) filed a Petition to Intervene and at the December 29, 2017 Ad Hoc Commission Meeting, Black Hills Power Inc. dba Black Hills Energy (BHP), MidAmerican Energy Company (MidAmerican), Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (MDU), Otter Tail Power Company (OTP), Northern States Power Company dba Xcel Energy (Xcel), and South Dakota Intrastate Pipeline Company (SDIP) verbally requested intervention in the docket.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-34A, specifically 49-34A-4, 49-34A-6, 49-34A-8, and 49-34A-26.

At its Motion Hearing on December 29, 2017, the Commission considered this matter. Staff recommended the Commission grant Staff's motion and clarified that all rates impacted by the federal income tax, not limited to base rates, should be adjusted effective January 1, 2018, and therefore are subject to refund as of that date. Staff further recommended the utilities identify how federal income taxes will be adjusted through the Federal Energy Regulatory Commission (FERC) transmission tariffs that are collected through the adjustment clause to determine if the Commission needs to make any filings before the FERC.

Having heard from the impacted utilities and Staff as to how to proceed, the Commission voted unanimously to require BHP, MidAmerican, MDU, NorthWestern, OTP, and Xcel to file initial comments in this matter by February 1, 2018, regarding the general effects of the Act on the utility's cost of service in South Dakota and possible mechanisms for

adjusting rates. Staff will work with the utilities to determine a deadline for additional comments including more specific proposals and impacts and, at a minimum to address: 1) an estimate of the company's determination of the Act's effects on its South Dakota cost of service, inclusive of all elements; 2) include an explanation of these effects, and 3) propose a procedure for changing the company's rates to reflect these impacts. Each utility shall file separate comments for electric and natural gas, if applicable; and, pending a determination of the impact of the Act on the utilities' rates, the rates in effect as of January 1, 2018, shall be subject to refund or any other ratemaking treatment which ensures ratepayers receive the benefits of the tax change. Any utility collecting FERC transmission tariff rates though an adjustment clause shall inform the Commission of any FERC proceedings addressing how federal income taxes will be adjusted. The Commission further voted unanimously to grant intervention to all parties. It is therefore

ORDERED, that BHP, MidAmerican, MDU, NorthWestern, OTP, and Xcel shall file initial comments by February 1, 2018, regarding the general effects of the Act on the utility's cost of service in South Dakota and possible mechanisms for adjusting rates. It is further

ORDERED, that BHP, MidAmerican, MDU, NorthWestern, OTP, and Xcel shall file additional comments including more specific proposals and impacts and shall work with Staff to determine a deadline for the additional comments. The comments shall, at a minimum, address: 1) an estimate of the company's determination of the Act's effects on its South Dakota cost of service, inclusive of all elements; 2) include an explanation of these effects, and 3) propose a procedure for changing the company's rates to reflect these impacts. Each utility shall file separate comments for electric and natural gas, if applicable. It is further

ORDERED, that all rates impacted by the federal income tax, not limited to base rates, shall be adjusted effective January 1, 2018, and are subject to refund or any other ratemaking treatment which ensures ratepayers receive the benefits of the tax change as of January 1, 2018, pending a determination of the impact of the Act. It is further

ORDERED, that any utility collecting FERC transmission tariff rates though an adjustment clause shall inform the Commission of any FERC proceedings addressing how federal income taxes will be adjusted. It is further

ORDERED, that the Petitions to Intervene by NorthWestern, BHP, MidAmerican, Xcel, MDU, OTP, and SDIP are hereby granted.

Dated at Pierre, South Dakota, this 29th day of December 2017.

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| CERTIFICATE OF SERVICE | |
| The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail. | |
| By: | <u>Karen E. Bremer</u> |
| Date: | <u>12/29/17</u> |
| (OFFICIAL SEAL) | |

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson
Gary Hanson
GARY HANSON, Commissioner
Chris Nelson
CHRIS NELSON, Commissioner