

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

**IN THE MATTER OF STAFF'S
REQUEST TO INVESTIGATE THE
EFFECTS OF THE TAX CUTS AND
JOBS ACT ON SOUTH DAKOTA
UTILITIES**

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* **STAFF'S MOTION REQUESTING**
* **ORDER REQUIRING COMMENTS**
* **AND SECURING TAX EFFECTS FOR**
* **CUSTOMERS AS OF JANUARY 1, 2018**

COMES NOW, Staff of the South Dakota Public Utilities Commission (Commission) and hereby files this Motion pursuant to SDCL Chapter 49-34A, including but not limited to SDCL §§ 49-34A-4, 49-34A-6, 49-34A-8, and 49-34A-26. Specifically, Staff requests the Commission issue an Order requiring South Dakota electric and natural gas investor owned utilities to file comments discussing the effects of the Tax Cuts and Jobs Act on its South Dakota cost of service. Staff further requests the Commission issue an Order establishing that any adjustment to rates due to the Tax Cuts and Jobs Act will be effective as of January 1, 2018.

I.

On December 20, 2017, the United States Congress passed the Tax Cuts and Jobs Act. President Trump is expected to sign the bill into law in the coming days. The Tax Cuts and Jobs Act will impact each South Dakota utility's cost of service. The Tax Cuts and Jobs Act contains provisions including but not limited to lowering the corporate tax rate from 35% to 21% effective January 1, 2018. Staff believes the impact of the Tax Cuts and Jobs Act on each utility's cost of service should be investigated to ensure rates are just and reasonable.

Staff requests the Commission require all South Dakota investor owned electric and natural gas utilities to file comments discussing the effects of the Tax Cuts and Jobs Act on its South Dakota cost of service. Each utility should file an estimate of its determination of the Tax Cuts and Jobs Act effects on the most recent test year information available (for instance, the test year ending September 30, 2017), including an explanation of these effects. Each utility should also propose procedures for changing rates to reflect these impacts. Utilities serving both electric and natural gas customers in South Dakota shall discuss the impacts separately for each.

Staff's request includes the following utilities: Black Hills Power, Inc. dba Black Hills Energy, MidAmerican Energy Company, Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc., NorthWestern Corporation dba NorthWestern Energy, Otter Tail Power Company, and Northern States Power Company dba Xcel Energy. Staff recommends South

Dakota Intrastate Pipeline be excluded from this investigation at this time given Staff is currently processing a rate case and intends to investigate the effects of the Tax Cuts and Jobs Act as a part of that proceeding.

II.

Since the Tax Cuts and Jobs Act will be effective January 1, 2018, and this is a known and measurable change, South Dakota ratepayers should receive any benefits associated with this tax reform as of January 1, 2018. Given it is impractical to implement a change in rates associated with the tax reform before the Act becomes effective, rates should be subject to refund effective January 1, 2018, pending determination of the impact of the Tax Cuts and Jobs Act. Rate making treatments other than a refund may be explored in order to ensure ratepayers receive the benefits of the tax changes as of January 1, 2018 as a result of this investigation.

While Staff anticipates the Tax Cuts and Jobs Act will result in cost savings, if the Tax Cuts and Jobs Act were to result in cost increases, Staff would propose treating these cost increases in a similar manner, reflecting the known and measurable change effective as of January 1, 2018.

III.

Every rate made, demanded or received by any public utility shall be just and reasonable. 49-34A-6. When determining rates the Commission is required to “give due consideration to the public need for adequate, efficient, economical, and reasonable service and to the need of the public utility for revenues sufficient to enable it to meet its total current cost of furnishing such service, including taxes and interest, and including adequate provision for depreciation of its utility property used and necessary in rendering service to the public, and to earn a fair and reasonable return upon the value of its property.” SDCL 49-34A-8. These are the standards to which the legislature has determined every public utility operating in this state be held. As governed by this statute, taxes are one piece of a public utility’s cost of furnishing service and therefore must be examined by the Commission to determine just and reasonable rates.

Pursuant to 49-34A-26, the Commission has authority to “make such investigation as it may deem necessary and take such action as deemed necessary and appropriate to ensure rates are not “unreasonable, insufficient or unjustly discriminatory”.

IV.

WHEREFORE, Staff requests the Commission issue an Order requiring utilities to file comments discussing the effects of the Tax Cuts and Jobs Act on its South Dakota cost of service. Staff recommends the Commission establish a procedural schedule establishing deadlines for comments from all utilities and Staff.

Staff further requests the Commission's Order state that the rates in effect as of January 1, 2018 be subject to refund pending determination of the impact of the Tax Cuts and Job Act.

Staff recommends the Commission's Order be contingent on the President signing the bill into law and any changes in the Tax Cuts and Jobs Act that may occur.

Dated this 21st day of December 2017.

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