

August 16, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce, Division of Energy Resources**
Docket No. E016/M-18-400

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce, Division of Energy Resources (the Department) in the following matter:

Northwestern Wisconsin Electric Company's Application for Authority to Refund Tax Savings from the Tax Cut and Jobs Act (TCJA) of 2017 to Minnesota Customers.

The Department reviewed Northwestern Wisconsin Electric Company's request to refund tax savings for the TCJA to Minnesota customers and recommends the Minnesota Public Utility Commission's (Commission) **approve the corrected tax refunds to Minnesota customers for the Current Period Tax Expense**. The Department is available to answer any questions the Commission may have.

Sincerely,

/s/ NANCY A. CAMPBELL
Analyst Coordinator - Financial

/s/ MARK A. JOHNSON
Analyst Coordinator - Financial

NAC/jl
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. E016/M-18-400

I. BACKGROUND

On December 22, 2017, the President of the United States signed into law Pub L. 115-97 (*H.R. 1—115th Congress: An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018*), which is referred to as the 2017 Federal Tax Act, or the Tax Cuts and Jobs Act (TCJA). Among other things, the TCJA lowered the federal corporate income tax rate from 35 percent to 21 percent, effective January 1, 2018. This enactment constituted a known and measurable change for Minnesota rate-regulated utility rates going forward.

On May 24, 2018, the Public Service Commission of Wisconsin (PSCW) issued its *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in Docket No. 5-AF-101.

On June 14, 2018, Northwestern Wisconsin Electric Company (Northwestern) filed its application with the Minnesota Public Utilities Commission (Commission) for authority to refund tax savings from the TCJA to its Minnesota customers in conformity with the PSCW order in Docket No. 5-AF-101, dated May 24, 2018.

On June 22, 2018, the Commission issued a Notice of Comment Period on the following question: “Should Northwestern Wisconsin Electric Company’s request to refund tax savings from the TCJA and to apply Wisconsin approved rates to its Minnesota customers be approved?”

On July 30, 2018, at the Department’s request, Northwestern Wisconsin Electric Company filed corrections to the May 24, 2018 PSCW Order in response to a June 19, 2018 PSCW Correction Order and provided corresponding updates to the TCJA refunds to Minnesota customers.

II. DEPARTMENT'S ANALYSIS

The Commission's June 22, 2018 Notice of Comment Period requested comments by August 17, 2018 on the following three questions:

- Should Northwestern Wisconsin Electric Company's request to refund tax savings from the TCJA to its Minnesota customers be approved?
- Should Northwestern Wisconsin Electric Company's request to apply lower Wisconsin approved rates to its Minnesota customers be approved?
- Are there other issues or concerns related to this matter?

The Department addresses three questions in its comments below.

A. Should Northwestern Wisconsin Electric Company's request to refund tax savings from the TCJA to its Minnesota customers be approved?

Yes, Northwestern's request to refund tax savings from the TCJA, specifically the Current Period Taxes, to its Minnesota customers should be approved, as discussed in more detail below.

The Department reviewed the PSCW order regarding *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in in Docket No. 5-AF-101, dated May 24, 2018 and Correction Order dated June 19, 2018 (PSCW Orders). The Department noted that Wisconsin addressed the changes to taxes caused by the 2017 Tax Reform Bill including:

- the reduction from 35% to 21% for current taxes expense (current and deferred) on the income statement;
- the reduction to the gross up due to lower tax rate on the revenue requirement deficiency;¹ and
- and the reduction to Accumulated Deferred Income Taxes (ADIT) on the balance sheet due to lower tax rate from 35% to 21%, which results in an Excess ADIT amount that is amortized.

The PSCW Orders generally required the following, which are applicable to Northwestern:

- The Current Period Tax Expense must be refunded to the customers by requiring a one-time credit for January through June 2018 and an ongoing monthly volumetric credit for

¹ Bullets one and two make-up the Current Period Tax Expense.

July 1, 2018 and beyond. The volumetric monthly volumetric credit must continue until future action in the PSCW *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in Docket No. 5-AF-101 or in a future rate case. (May 24, 2018 PSCW Order, ordering paragraph 15).

- All calculations of savings resulting from the TCJA are subject to true-up, review, and audit by Commission staff and interveners in a manner similar to the procedure used in the fuel reconciliation proceedings. (May 24, 2018 PSCW Order, ordering paragraph 2).
- Each investor-owned utility (IOU) must file with the PSCW by August 15, 2018, confirmation that the utility refunded to customers the one-time bill credit amounts specified in the PSCW Orders. Additionally each IOU must file on a quarterly basis the total amount credited to customers per the ongoing, monthly volumetric bill credits. Each IOU must file the initial quarterly report no later than October 15, 2018 for the amounts credits to customers for the ongoing volumetric credit from July 1, 2018, through September 30, 2018. Quarterly reports are to continue thereafter for as long as volumetric credits are being issue by the IOU. (May 24, 2018 PSCW Order, ordering paragraphs 17 & 18).
- The IOUs must allocate refunds to the rate classes in the same manner as the IOUs collected the income taxes in rates. (May 24, 2018 PSCW Order, ordering paragraph 20).
- All IOUs must work with Commission staff to evaluate the impacts of the balance sheet component (Excess ADIT) and address this issue in the PSCW *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in Docket No. 5-AF-101 or in the IOU's next rate case. (May 24, 2018 PSCW Order, ordering paragraph 1.)

The Department notes that the Revised Appendix H, as attached to the June 19, 2018 PSCW Corrected Order, provides the one-time credits and ongoing volumetric credits by customer class as approved by the PSCW. The Department reviewed Northwestern's July 30, 2018 corrected refunds due to the TCJA for Minnesota customers and was able to tie out the one-time credits and ongoing volumetric credits by customer class to Revised Appendix H of the PSCW Corrected Order. The Department used the customer classes and customer counts as provided in Northwestern's most recent June 26, 2017 *Initial Filing - Application to Change Rates for Minnesota Customers* in Docket No. E016/GR-17-506 and tied them to Northwestern's corrected TCJA refund. Based on the Department's review, we consider Northwestern's corrected TCJA refunds for Current Period Taxes to be reasonable.

The Department recommends that the Commission approve Northwestern's request to refund tax savings from the TCJA, specifically the Current Period Taxes, to its Minnesota customers. The Department notes that since the volumetric credit will be provided later than July 31, 2018 expected refund date, Northwestern will need to adjust the volumetric credit to ensure that the remaining refund for July 1, 2018 to December 31, 2018 is fully refunded to customers for this period. The Department notes that the Commission has authorized similar treatment in past Transmission Costs Recovery rider and other riders.

The Department recommends that the Commission require Northwestern to make an annual compliance filing on February 1, 2019 showing that both the one-time credits for January through June 30, 2018 and the ongoing volumetric credit for July 1, 2018 through December 31, 2018, are consistent with Northwestern's corrected refund filed on July 31, 2018 and PSCW Order, specifically Revised Appendix H. For the years 2019 and beyond, until addressed by the PSCW or until Northwestern's next rate case, the Company should file annual compliance filings starting February 3, 2020 to show that the Current Period Tax Refunds are consistent with Northwestern's corrected refund filed on July 31, 2018 and PSCW Order, specifically Revised Appendix H.

In addition, the Commission should require Northwestern to file an update with the Commission once the PSCW determines the refund amounts as to Excess ADIT, whether in Northwestern's next rate case or sooner.

B. Should Northwestern Wisconsin Electric Company's request to apply lower Wisconsin approved rates to its Minnesota customers be approved?

Yes. As discussed above, the one-time credits and ongoing volumetric credits to refund Current Period Tax Expense by customer class as approved by the PSCW should be applied to Minnesota customer bills until the PSCW changes this in its *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in Docket No. 5-AF-101 or in the IOU's next rate case.

As discussed above, the Excess ADIT will be addressed by the PSCW in its *Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1* in Docket No. 5-AF-101 or in the IOU's next rate case. Once the PSCW makes that determination for Northwestern, those rate reductions should likewise be refunded to Northwestern's Minnesota ratepayers.

C. Are there other issues or concerns related to this matter?

The Department does not believe there are any other issues or concerns at this time.

III. SUMMARY OF RECOMMENDATIONS AND CONCLUSIONS

Based on the review above, the Department concludes that Northwestern's corrected TCJA refunds for Current Period Taxes are reasonable.

The Department recommends that the Commission approve Northwestern's request to refund tax savings from the TCJA, specifically the Current Period Taxes, to its Minnesota customers. The Department notes that since the volumetric credit will be provided later than July 31, 2018 expected refund date, Northwestern will need to adjust the volumetric credit to ensure that the remaining refund for July 1, 2018 to December 31, 2018 is fully refunded to customers for this period.

The Department recommends that the Commission require Northwestern to make an annual compliance filing on February 1, 2019 showing that both the one-time credits for January through June 30, 2018 and the ongoing volumetric credit for July 1, 2018 through December 31, 2018 are consistent with Northwestern's corrected refund filed on July 31, 2018 and PSCW Order, specifically Revised Appendix H. For the years 2019 and beyond, until addressed by the PSCW or until Northwestern's next rate case, the Company should file annual compliance filings starting February 3, 2020 to show that the Current Period Tax Refunds are consistent with Northwestern's corrected refund filed on July 31, 2018 and PSCW Order, specifically Revised Appendix H. Once the PSCW makes a determination as to Northwestern's Excess ADIT, those rate reductions should likewise be refunded to Northwestern's Minnesota ratepayers.

/jl

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Comments**

Docket No. E016/M-18-400

Dated this 16th day of August 2018

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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John	Carlson	N/A	Pine County	Pine County Courthouse 635 Northridge Dr NW 200 Pine City, MN 55063	Paper Service Ste	No	OFF_SL_18-400_Official
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280 Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_18-400_Official
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800 St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_18-400_Official
David	Dahlberg	davedahlberg@nweco.com	Northwestern Wisconsin Electric Company	P.O. Box 9 104 South Pine Street Grantsburg, WI 548400009	Electronic Service	No	OFF_SL_18-400_Official
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