MINNESOTA
PUBLIC UTILITIES COMMISSION

Staff Briefing Papers

Meeting Date	April 18, 2019	Agenda Item 2**

Company	All Commission Rate Regulated Electric and Natural Gas Utilities
Docket Nos.	**E, G-999/CI-17-895** In the Matter of a Commission Investigation into the Effects on Electric and Natural Gas Utility Rates and Services of the 2017 Federal Tax Act **E-017/GR-15-1033** In the Matter of the Application of Otter Tail Power Company for Authority to Increase Rates for Electric Service in the State of Minnesota
Issues	1. Should the Commission approve the utilities' TCJA-related compliance filings? 2. Should the Commission reopen its October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rider Rate in Otter Tail Power's rate case, Docket No. E-017/GR-15-1033, to correct certain LGS rate elements?

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✓ Relevant Documents	Date
<u>Docket #17-895</u>	
PUC – Order Responding to Changes in Tax Law	December 5, 2018
Minnesota Power – Compliance Filing	December 21, 2018
Otter Tail Power Company – Compliance Filing	January 3, 2019
Greater Minnesota Gas – Compliance Filing	January 3, 2019
Great Plains Natural Gas Company – Compliance Filing	January 4, 2019
Xcel Energy – Compliance Filing	January 4, 2019
Minnesota Energy Resources Corporation – Compliance Filing	January 4, 2019
PUC – Notice of Comment Period	January 11, 2019
PUC – Order Clarifying Prior Order	January 25, 2019
Department of Commerce – Comments	February 4, 2019
PUC – Public Comment – Speak Up Report	February 7, 2019
PUC – Ex Parte Communication	February 12, 2019
Xcel Energy – Reply Comments	February 14, 2019
Otter Tail Power Company – Reply Comments	February 14, 2019
Minnesota Power – Compliance Letter	February 14, 2019
Xcel Energy – Reply Comments on Ninth DOE Settlement Payment	March 20, 2019
<u>Docket #15-1033</u>	
Otter Tail Power Company – LGS Rate Design Agreement (Trade Secret)	October 14, 2016
Otter Tail Power Company and Minnesota Chamber of Commerce – Joint Request	March 30, 2018
OAG – Letter	April 9, 2018
Department of Commerce – Letter	April 11, 2018
Department of Commerce – Comments	May 24, 2018
Otter Tail Power Company – Reply Comments	January 3, 2019
Otter Tail Power Company – Letter (Trade Secret)	February 20, 2019
<u>Docket #s 17-895 & 15-1033</u>	
Department of Commerce – Response to Reply Comments (Trade Secret)	March 8, 2019
Otter Tail Power Company – Additional Reply Comments	March 26, 2019
Department of Commerce – Letter	April 3, 2019

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I. Statement of the Issues

- Should the Commission approve the utilities' TCJA-related compliance filings?

- Should the Commission reopen its October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rider Rate in Otter Tail Power's rate case, Docket No. E-017/GR-15-1033, to correct certain LGS rate elements?

II. Background

On December 22, 2017, the President of the United States signed into law what is known as the Tax Cuts and Jobs Act (TCJA). Since the TCJA contained a number of provisions that affected public utilities' revenue requirements and rates, on December 29, 2017, the Commission opened an investigation into the TCJA's impact on them.

By March 2, 2018, utilities made their initial filings quantifying the TCJA's impact and proposing their handling of those impacts. On December 5, 2018, after reviewing the utilities' initial filings, comments from the Department of Commerce, Division of Energy Resources (Department or DOC), the Office of the Attorney General-Residential and Antitrust Division (OAG) and various advocate groups, the Commission issued its Order Responding to Changes in Tax Law (Order) prescribing how each utility is to incorporate the TCJA's impact into rates.

By January 4, 2019, the utilities made their compliance filings and, on February 4, 2019, the Department filed comments recommending approval of some compliance filings and changes to others.

On February 12, 2019, Commission Staff filed a report on permissible ex-parte communication related to Staff's concerns that Xcel Energy Electric's (Xcel Electric) compliance filing did not comply with the Commission's Order.

On February 14, 2019, Xcel Electric filed reply comments addressing Staff's concerns. On the same day, Otter Tail (OTP) filed reply comments stating that it had complied with the Department's request for additional information related to the proposed handling of its Large General Service (LGS) class. Also on that day, Minnesota Power (MP) made a compliance filing updating MP's proposed handling of the 2018 excess ADIT amount.

On March 8, 2019, the Department filed comments recommending, with a small adjustment, the adoption of Otter Tail's proposed handling of the LGS class.

On March 20, 2019, Xcel filed reply comments proposing to add the refund for the Department of Energy's ninth settlement[1] to the 2019 TCJA one-time refund.

[1] Filing was also made in dockets E-002/M-15-1089, E-002/M-17-828.

On March 26, 2019, Otter Tail replied to the Department's March 8, 2019 recommendation and stated that the Company no longer has any customers in the LGS – Standard Transmission Class; therefore, no ratepayers will be negatively impacted by OTP's proposed handling of the LGS class.

On April 3, 2019, The Department responded to Otter Tail's March 26, 2019 filing and recommended approval of Otter Tail's revised rate design, as presented in OTP's January 3, 2019 reply comments.

III. Commission's Order

The Commission's Order prescribed a utility-specific procedure to be followed by each company and those ordering points will be discussed in each company's section. However, the Order included the following general points that apply to all:

12. The utilities addressed in this order shall do the following:

    A. Reflect the TCJA's changes back to January 1, 2018, in all relevant compliance filings, including compliance filings for –

        1. Net operating losses,

        2. For utilities with revenue decoupling, the periodic revenue decoupling adjustments, and

        3. For Xcel, sales true-up calculations.

    B. Exclude carrying costs from TCJA-related refund calculations.

13. The Commission adopts the following procedural schedule:

    A. Within 30 days, all rate-regulated energy utilities shall make a compliance filing including—

        • a proposed implementation date,

        • all supporting calculations for the Commission-required refund and adjustment to base rates (as applicable), and

        • a proposed customer notice.

    B. Within 30 days of each compliance filing, interested parties may file comments on the filing.

IV. Xcel Energy Electric

A. Commission's Ordering Points

Ordering Point No. 1 applied to Xcel Energy Electric and stated that:

1. Xcel Electric shall return to ratepayers the savings resulting from the Federal Tax Cut and Jobs Act.

   A. The utility shall allocate $2 million of the savings to its PowerOn program.

   B. The utility shall reduce its base rates, consistent with its current rate design, to reflect the following annual savings:

      1. $80,246,667, less the $2 million allocated to its PowerOn program, plus
      2. Protected excess accumulated deferred income tax liability, amortized using the Average Rate Assumption Method as early as the federal Internal Revenue Service provisions allow, plus
      3. Unprotected excess ADIT liability, amortized over ten years.

   C. The utility shall also provide a one-time refund, consistent with its current rate design, capturing the TCJA's impacts that have already accrued.

B. Xcel's Compliance Filing

Regarding Ordering Point 1A, Xcel stated that, until the Company's next rate case, it will annually allocate the $2 million to the PowerOn program. Effective September 2018, Xcel began including this amount in its Low Income Program tracker, which allowed for the PowerOn program to reopen and resume enrolling participants.

Regarding all Ordering Points under 1B, Xcel noted that the $80,246,667 was originally based on the assumption that Protected Excess ADIT would be amortized over 5 years and Unprotected Excess ADIT would be amortized over 15 years. Since the Commission ordered both amounts to be amortized over 10 years, Xcel provided the following revised calculations:

Table 1 - Revised Xcel Energy Electric 2018 TCJA Impact Refund[2]

2018 Current Period Tax Reduction	$80,506,903
Allocation to PowerOn Budget	($2,000,000)
Protected Excess ADIT	$52,855,254
Unprotected Excess ADIT	$1,602,401
Total 2018 Refund – Xcel Electric	**$132,964,558**

As a result of Xcel Electric's multi-year rate plan (MYRP), approved 2019 rates are different than those for 2018. Since data for 2019 TCJA impacts was not previously provided in this

[2] Xcel Energy, Compliance Filing, Attachment A.

proceeding, the Order instructed Xcel to, as part of its compliance filing, provide that information. 2019 TCJA impacts are shown in Table 2:

Table 2 - Xcel Energy Electric 2019 TCJA Impact Refund[3]

2019 Current Period Tax Reduction	$51,311,270
Allocation to PowerOn Budget	($2,000,000)
Protected Excess ADIT	$54,597,070
Unprotected Excess ADIT	$1,602,401
Total 2019 Refund – Xcel Electric	**$105,510,741**

Xcel attributed the lower 2019 refund to the elimination of the Section 199 Production Deduction Tax Credit.

For the 2018 amount, Xcel proposed to issue a one-time bill credit.[4] Additionally, Xcel proposed to include the refunds required in the annual incentive compensation (AIP) Commission Orders[5] with the 2018 TCJA refund. Based on a 30-day negative checkoff period, Xcel estimated that 2018 refunds would post to customer accounts in the May 7-21, 2019 timeframe.

For the 2019 TCJA refund, the Company proposed to implement a rider with monthly rate adjustments that, starting on March 1, 2019, would have refunded ratepayers that month's amount plus the pro-rated (essentially 1/10th) impact of the January and February 2019 amounts.

C. Department of Commerce Comments

The Department reviewed Xcel's compliance filing and agreed with Xcel's revised 2018 and 2019 TCJA refund amounts. The Department also confirmed the accuracy of Xcel's AIP-related refunds.

Regarding Xcel's plan to issue one-time 2018 refunds separately, the Department found the Company's approach to be reasonable. The DOC added that, although technically not compliant with the Commission's Order, it supported Xcel's proposal to include the two AIP refunds with the 2018 TCJA refund.

Regarding the use of a rider for 2019 refunds, the DOC acknowledged that, although technically not compliant with the Order, Xcel's proposal has the advantage of reducing rates overall without requiring Xcel to adjust base rates which would require Xcel Electric to redo all of its tariffed rates in its billing system and rate book.

While the use of a rider would allow for easier tracking of the returned tax savings and, since Xcel intends to file a rate case later this year, it would not be in effect for long, the Department

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[3] Xcel Energy, Compliance Filing, Attachment B.

[4] Xcel estimated the average residential refund to be $43.48.

[5] $1,268,656 approved in Docket E,G-002/M-17-429 and $1,957,622 approved in Docket E,G-002/M-18-121.

explained that the settlement in Xcel's 2015 rate case precludes the Company from creating a new rider. Since the proposed TCJA Rider would violate that settlement, the Department recommended that the 2019 TCJA refund be processed through the existing sales true up mechanism. The Department noted that Minnesota Power was allowed to implement its tax refunds through a rider mechanism.

D. Xcel's Reply Comments

In response to Commission Staff's concerns that the initial compliance filing may not be consistent with the Commission's Order, Xcel modified its refund plan. Xcel now proposes to adjust base rates effective June 1, 2019 and, by October 21, 2019, issue a one-time $39.4 million refund for the January 1, 2019 through May 31, 2019 time period.

The Department did not file supplemental comments related to Xcel's reply; however, Staff received verbal confirmation from the DOC that it does not oppose Xcel's revised proposal.

E. Xcel's Reply Comments – Regarding Ninth DOE Settlement Payment

On March 20, 2019, Xcel filed Reply Comments related to the Department of Energy's (DOE) ninth settlement payment in both this docket and its corresponding nuclear-related dockets.[6] The Company's reply addressed the Department's concerns related to Xcel's inability to issue DOE-related refunds until the first quarter of 2020.

Xcel explained that its refund process can take up to eight weeks to set up. Additionally, the Company is unable to process more than one refund at a time. The unusually high backlog of pending refunds has resulted in the Company being unable to issue the DOE refund until next year.

In order to mitigate the congestion in its refund queue, Xcel proposed to include the DOE refund with the 2019 TCJA electric refund which is scheduled to post to customer accounts in October 2019.

The Department did not file written comments on Xcel's proposal; however, since Xcel's proposal would expedite the DOE refund, the DOC verbally confirmed to Staff that it does not object to Xcel's revised proposal.

F. Staff Analysis

To comply with the Commission's Order, Xcel had to slightly revise the 2018 TCJA impact calculations. Additionally, since Xcel's 2019 rates change as a result of Xcel's MYRP, the Company was the only utility that needed to provide a revised calculation for 2019. Staff has reviewed Xcel's 2018, as revised, and 2019 TCJA impacts and concurs with the Department assessment that the calculations should be approved.

[6] Dockets E-002/M-15-1089 and E-002/M-17-828.

Initially, Staff was concerned that Xcel's compliance filing did not follow the Commission's Order for the following reasons:

- The Commission instructed Xcel to prospectively reset base rates.
- Commission had expressly authorized Minnesota Power to be the only utility that could use a rider.
- Xcel was ordered to issue a one-time refund for the period of January 1, 2018 through the implementation of revised base rates, however, Xcel's rider proposal only included a refund for calendar 2018.
- Based on the rider's proposed start date of March 1, 2019, January and February 2019 refunds would have been rolled into the rider and refunded over the March-December 2019 period.
- The Commission expressed the importance of making sure that tax-related refunds were "clean" and easily identifiable by ratepayers. Use of the rider would have resulted in loss of granularity for 2019.

After the Department recommended approval of Xcel's proposed rider, Staff informed the Company, based on the concerns listed above, that its filing did not comply with the Commission's Order. This resulted in the revised proposal presented in the Company's reply comments.

Although Staff considers the process laid out in reply comments to reasonably comply with the Order, Staff notes the following:

- Xcel still plans to bifurcate the 2018 and 2019 one-time refunds. Although technically not compliant with the Order, Staff considers Xcel's proposal to issue calendar-year 2018 refunds as soon as possible to be reasonable. Making 2018 and 2019 one-time refunds at the same time would needlessly delay issuance of the 2018 refunds.

- Adding the incentive compensation refund to the 2018 refund incorporates an item that has no relationship to the TCJA. While this is true, the incentive compensation amount in relation to the 2018 tax refund is small; therefore, Staff does not consider the Company's proposal to materially distort the amount of the tax-related refund. Nonetheless, if the Commission still wants to have a "clean" 2018 tax refund, then it should order Xcel to complete the incentive compensation refund as soon as possible. Since Xcel has stated that its refund queue is full through the end of 2019, the Commission may want to instruct Xcel to make a compliance filing stating the anticipated date this refund will be issued.

Staff points out that, in the event the Commission decides that rider implementation is reasonable, the Commission will need to a) establish a new implementation date – perhaps 60 days after the Commission's Order and b) how to handle refunds for the period of January 1, 2019 through the rider's revised implementation date, i.e., should there be a 2019 one-time refund or should that amount be included in the proposed rider's calculation. Staff *does not* support this option.

Finally, regarding Xcel's proposal to add the DOE's refund to the 2019 TCJA refund, Staff notes that the Company's proposal returns the DOE's refund faster than Xcel's initial proposal to refund *both* the ninth and tenth settlement payments in early 2020. The issue here is whether the Commission wants to preserve a "clean" 2019 TCJA refund. If the Commission decides the DOE refund should not be comingled with the TCJA refund then the Commission may want to decide how to handle the DOE refund in the nuclear dockets.[7]

G. Decision Alternatives

<u>2018 TCJA Refund Amount</u>

1. Approve Xcel's revised refund amount of $132,964,558. (Xcel, DOC)

<u>Incentive Compensation Refunds</u>

2. Allow Xcel to add refunds related to incentive compensation from docket nos. 17-428 and 18-121 to the 2018 TCJA Refund. (Xcel, DOC)
3. Order Xcel to separately issue refunds related to incentive compensation as soon as possible.
4. Order Xcel to make a compliance filing that provides the anticipated date the incentive compensation refunds will be issued.

<u>2018 Refund Implementation</u>

5. Order Xcel to issue one-time refunds for calendar-year 2018 by May 21, 2019. (Xcel, DOC)

<u>2019 TCJA Refund Amount</u>

6. Approve Xcel's 2019 refund amount of $105,510,741. (Xcel, DOC)

<u>2019 Use of a Rider</u>

7. Authorize Xcel to, within 60 days of the Commission's Order, implement a 2019 TCJA Refund Rider that captures all 2019 TCJA refunds. (Xcel initial position, slightly modified)
8. Order Xcel to issue 2019 TCJA refunds by using the sales true-up mechanism. (DOC)
9. Take no action.

[7] DOE refund dockets are scheduled to be the next item to be heard in this Agenda Meeting.

<u>2019 Base Rates</u>

10. Order Xcel to prospectively reset 2019 base rates by June 1, 2019. (Xcel reply position, DOC does not oppose, Staff)

11. Take no action.

<u>2019 Refund Implementation</u>

12. Order Xcel to issue 2019 one-time refunds by October 21, 2019. (Xcel reply position, DOC does not oppose, Staff)

13. Order Xcel to issue 2019 one-time refunds by a different date.

<u>DOE Ninth Settlement Payment Refund</u>

14. Order Xcel to issue refunds related to the DOE Ninth Settlement Payment at the same time it issues the 2019 TCJA-related refund. (Xcel, DOC does not oppose)

15. Order Xcel not to commingle refunds related to the DOE Ninth Settlement Payment at the same time it issues the 2019 TCJA-related refund.

16. Order that Xcel's handling of refunds related to the DOE Ninth Settlement Payment be determined in Dockets E-002/M-15-1089 and E-002/M-17-828.

V. Xcel Energy Gas

A. Commission's Ordering Points

Ordering Point No. 4 applied to Xcel Energy Gas and stated that:

4. Xcel Gas shall return to ratepayers its TCJA-related savings.

    A. The utility shall reduce its base rates, consistent with its current rate design, to reflect the following annual savings:

        1. $2,412,004, plus
        2. Protected excess accumulated deferred income tax liability, amortized using ARAM as early as IRS provisions allow, plus
        3. Unprotected excess ADIT liability, amortized over ten years.

    B. The utility shall also provide a one-time refund capturing the TCJA's impacts that have already accrued, consistent with its existing rate design, and shall track the refunds separately.

B. Xcel's Compliance Filing

Regarding all Ordering Points under 4A, Xcel noted that the $2,412,004 was originally based on the assumption that Protected Excess ADIT would be amortized over 5 years and Unprotected

Excess ADIT would be amortized over 15 years. Since the Commission ordered both amounts to be amortized over 10 years, Xcel provided the following revised calculations:

Table 3 - Revised Xcel Gas Electric 2018 & 2019 TCJA Impact Refund[8]

2018 Current Period Tax Reduction	$2,359,203
Protected Excess ADIT	$3,509,326
Unprotected Excess ADIT	($242,004)
Total 2018 Refund – Xcel Gas	$5,626,525

Similar to its proposed handling of the 2018 refund on the electric side, Xcel proposed to issue its gas customers a one-time bill credit for the 2018 amount. Based on the same 30-day negative checkoff period, Xcel estimated that 2018 gas refunds would post to customer accounts in the July 2-16, 2019 timeframe.

Similar to its electric proposal, for the 2019 impact, Xcel planned to implement a monthly rider that, starting on March 1, 2019, would have refunded ratepayers that month's amount plus the pro-rated (essentially 1/10th) impact of the January and February amounts.

C. Department of Commerce Comments

The Department reviewed Xcel's compliance filing and agreed with Xcel Gas' revised annual TCJA refund amounts.

The Department's comments regarding Xcel Gas' proposed handling of the 2018 refund mirror the DOC's comments on the Company's electric side and found the Company's proposal to be reasonable.

For the 2019 refunds, the Department did not support the use of a rider. The DOC explained that, unlike Xcel Electric, Xcel Gas has not indicated any intention to file a rate case this year; therefore, the Department recommended that, as ordered, Xcel Gas reset its base rates and issue a one-time refund for the period of January 1, 2019 through the implementation of new base rates.

D. Xcel's Reply Comments

In response to Commission Staff's concerns that Xcel's initial compliance filing may not be consistent with the Commission's Order, Xcel modified its refund plan. Xcel will now adjust base rates effective June 1, 2019 and, by December 23, 2019, issue a one-time $3.2 million refund for the January 1, 2019 through May 31, 2019 time period. Since the revised implementation plan eliminates the use of a rider, Xcel's filing addresses the Department's recommendation.

The Department did not file comments related to Xcel's reply; however, Staff received verbal confirmation that the Department does not oppose Xcel's revised refund proposal.

[8] Xcel Energy, Compliance Filing, Attachment C.

E. Staff Analysis

Xcel initially proposed to handle 2018 and 2019 refunds for its gas utility using the same methodology they proposed for the electric refunds: issue a one-time refund for 2018 and implement a rider for all of 2019. For the same reasons explained in the electric section of these briefing papers, Staff did not consider Xcel's proposal to be compliant with the Commission's Order. However, if the Commission decides that implementing a 2019 rider is reasonable then a new implementation date will be required.

Just like they did for their electric refunds, in reply comments, Xcel proposed resetting base rates on June 1, 2019 and issuing 2019 one-time refunds for the January 1 to May 31 period by December 23, 2019.

F. Decision Alternatives

<u>2018 & 2019 TCJA Refund Amount</u>

17. Approve Xcel's revised annual refund amount of $5,626,525. (Xcel, DOC)

<u>2018 Refund Implementation</u>

18. Order Xcel to issue one-time refunds for calendar-year 2018 by July 16, 2019. (Xcel, DOC)

<u>2019 TCJA Refund Rider</u>

19. Order Xcel to, within 60 days of the Commission's Order, implement a Rate Reduction Rider that reduces rates prospectively and captures all 2019 TCJA refunds accrued prior to the implementation of the Rate Reduction Rider. (Xcel initial position, slightly modified)

20. Order Xcel to prospectively implement a Rate Reduction Rider within 60 days of the Commission's Order and issue a 2019 TCJA one-time refund for the period of January 1, 2019 through the Rate Reduction Rider's implementation date.

21. Take no action.

<u>2019 Base Rates</u>

22. Order Xcel to prospectively reset 2019 base rates by June 1, 2019. (Xcel reply position)

23. Take no action.

<u>2019 Refund Implementation</u>

24. Order Xcel to issue 2019 one-time refunds for the January 1 to May 31, 2019 time period by December 23, 2019. (Xcel reply position, DOC)

25. Order Xcel to issue 2019 one-time refunds by a different date.

VI. Minnesota Power

A. Commission's Ordering Points

5. Minnesota Power (MP) was ordered to return its TCJA-related savings as follows:

A. The utility shall use a rider to return the following annual savings, to be implemented in conjunction with the implementation of final rates in Docket No. E-015/GR-16-664, In the Matter of the Application of Minnesota Power for Authority to Increase Rates for Electric Service in Minnesota:

    1. Protected excess accumulated deferred income tax liability, amortized using ARAM as early as IRS provisions allow, plus
    2. Unprotected excess ADIT liability, amortized over ten years.

B. The utility shall also return to ratepayers the benefits of the excess ADIT impacts that have already accrued by –

    1. A one-time refund, consistent with its current rate design, or
    2. Incorporating the benefits into the rate case interim refund calculation.

6. Minnesota Power shall make compliance filings by March 1 of each year.

B. Department of Commerce – Comments

The Department reviewed MP's compliance filing, noting that MP stated it has already modified its base rates in its general rate case.[9]

The Department reviewed and agrees with MP's calculation of excess ADIT, $9,996,825 and agreed with MP that the rate reduction should be effective January 1, 2019. The Commission's Order, and MP's stated position throughout the TCJA docket, specified that the rate reduction occur in conjunction with the December 1, 2018 implementation of final rates. However, as the Department noted, the Commission's order was issued on December 4, 2018.

MP's proposed 2018 one-time refund and MP's 2019 rate reduction rider both result in an annual refund of $9,996,852. The Department noted that MP did not specifically address Ordering Point No. 6, which requires it to make compliance filings by March 1 of each year. The Department requested MP confirm that it intends to comply with its compliance filing requirements.

C. Minnesota Power – Reply Comments

MP responded to the Department's request to discuss its intentions to make compliance filings.[10]

[9] Docket E-015/GR-16-664

[10] Minnesota Power – Compliance Filing, February 14, 2019, Page 1

> Order Point 6 simply states "Minnesota Power shall make compliance filings by March 1 of each year." While there is little discussion in the December 5 Order about what should be included in the compliance filings, the Company interprets Order Point 6 to mean reporting the amount of excess accumulated deferred income taxes ("Excess ADIT") returned to customers in the previous year through the new tax rider.
>
> Minnesota Power confirms that it will make compliance filings by March 1 of each year, until the Commission decides the annual compliance filings are no longer required. The Company intends to incorporate the benefit of the Excess ADIT balances in base rates in the next rate case and will request at that time to suspend future compliance requirements in the current docket.

D. Staff Comment

In its Order,[11] the Commission recognized that MP's rate case had advanced to a stage that made it difficult to incorporate the full effects of the tax law change into base rates. However, in Reconsideration of the rate case order,[12] the Commission utilized current-period tax savings to unwind an accounting life adjustment for Boswell Units 3 and 4, and the Common Facilities:[13]

> In light of the more detailed information Minnesota Power provided about the federal income tax savings it will realize this year and in the future, the Commission agrees with the parties that have argued that the tax cut is a known and measurable change that warrants a reduction in the Company's revenue deficiency in this case. And because the appropriate amount of the reduction is comparable to, in fact slightly larger than, the Boswell facilities' depreciation adjustments, those adjustments are no longer warranted and so should end.
>
> [footnote omitted]

Therefore, MP has already resolved the issue of current-period taxes in its rate case, but left the issue of excess ADIT to be resolved in the current docket. The Parties agree on the amount of excess ADIT, $9,996,852 of excess ADIT, and have agreed that the appropriate effective date is January 1, 2019 due to the Commission Order being issued on December 4, 2018.

Regarding the 2018 excess ADIT, Staff confirmed that MP completed issuance of those refunds in March 2019.[14] Just so that there is a complete record, the Commission may want to instruct MP to make a compliance filing confirming that fact.

MP was the only utility to specifically request and receive approval to use a rider to return the benefits to ratepayers. Requiring MP to adjust base rates would have added an additional layer

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[11] PUC Order – Responding to Changes in Federal Tax Law, December 5, 2018, Page 9-10

[12] Docket E-015/GR-16-664, PUC Order – Order on Reconsideration, May 29, 2018

[13] Id. Page 3-4

[14] MP confirmed that refunds totaled $9,997,197.

of complexity to an already complex rate case that included issues such as the energy-intensive trade-exposed (EITE) rider.

E. Decision Alternatives

26. Approve Minnesota Power's compliance filing, requiring an annual rider to refund $9,996,852 of excess ADIT, effective January 1, 2019. (MP, Department, Staff)

27. Instruct Minnesota Power to make a compliance filing within 60 days of the Commission's Order confirming that refunds related to the 2018 excess ADIT were completed in March 2019. (MP, Department, Staff)

28. Deny or modify Minnesota Power's request for an annual rider.

VII. Otter Tail Power Company (Otter Tail or OTP)

A. Commission's Ordering Points

9. Otter Tail Power Company shall refund TCJA-related savings to ratepayers as follows:

A. The utility shall reduce its base rates, consistent with its current rate design, to reflect the following annual savings:

1) $4,894,671, plus
2) Protected excess accumulated deferred income tax liability, amortized using ARAM as early as IRS provisions allow, plus
3) Unprotected excess ADIT liability, amortized over ten years.

B. The utility shall also provide a one-time refund, consistent with its existing rate design, capturing the TCJA's impacts that have already accrued, and shall track the refunds separately.

10. The utility shall use its 2017 year-end ADIT balance to calculate its excess ADIT balance.

B. Otter Tail – Compliance Filing

1. Ordering Point 9A

Otter Tail calculated the annual savings, and annual rate reduction, due to the TCJA to be $7,999,790. This includes the ordered $4,894,671 plus $2,976,413, the protected excess accumulated deferred income tax liability, amortized using ARAM as early as IRS provisions allow, plus $129,458, the unprotected excess ADIT liability, amortized over ten years.[15] The resulting reduction to base rates is 3.8718 percent.[16]

[15] OTP Compliance Filing at 1 and Attachment 1 and 2.

[16] Id at 2.

Otter Tail proposed to pass these savings back to customers by implementing new base rates on April 1, 2019.[17]

Otter Tail stated:

- New base rates are calculated by reducing demand and energy charges consistent with its current rate design.[18]

- Otter Tail has allocated the savings to each class based on the revenues Ordered in Docket No. E-017/GR-15-1033. Attachment 3 is the calculation of the refund percentage by class and change in revenues by class.[19]

- Attachment 5A includes a table of the new rates (similar to Otter Tail's E-schedule in Docket No. E-017/GR-15-1033) and Attachment 5B is the proposed rate schedules revised with the new rates. [Footnote omitted] For the majority of rates, Otter Tail first reduced the energy charge and in cases where the energy charge alone couldn't accomplish the reduction, the demand charge was also reduced. In the case of the LGS class, adjustments were first made to demand, then to energy charges. In classes where there are only one or two rates the reduction to the rate(s) matches the 3.8718 percent reduction. And finally, in classes where there are multiple rates, some rates are adjusted to retain the proportionality of rate design from Docket No. E-017/GR-15-1033.[20]

2. Ordering Point 9B

Otter Tail proposed to implement new base rates April 1, 2019 and to implement the one time refunds 2 months after that. Otter Tail estimated the one-time refund for January 1, 2018 through March 31, 2019 to be $10,222,307. OTP's one-time refund calculations are shown in Attachment 4 of its compliance filing and were determined using a percentage-of-bill methodology. OTP stated that the estimated refund will be applied across the board using an adjustment that represents 3.8718 percent of the amount of the bills rendered during the Refund Period, with a proposed exception for the Large General Service (LGS) class.[21] The proposed LGS class rate design is discussed below in these briefing papers.

3. Ordering Point 10

OTP confirmed on page 2 and in Attachment 2 of its Compliance Filing that it used its 2017 year-end ADIT balances to calculate excess ADIT.

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[17] Id at 4.

[18] OTP Compliance Filing at 2.

[19] Ibid.

[20] Id at 3.

[21] Id at 2.

4. LGS Rate Design

Background - Docket 15-1033

On March 30, 2018, in Docket No. E-017/GR-15-1033 (OTP's rate case docket), Otter Tail and the Minnesota Chamber of Commerce (Chamber) jointly requested (Joint Request) the Commission reopen its October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rider Rate:

> to correct certain Large General Service (LGS) rate elements so they: (1) conform to the intent and principles of the October 31, 2016 Large General Service Class Rate Design Agreement between Otter Tail and the Chamber [Staff notes the Agreement is dated October 13, not October 31]; and (2) avoid unintended and unreasonable rate increases that incorrectly incentivize certain members of the LGS class to migrate away from Time of Day (TOD) service to non-TOD service and to change voltage levels. This correction will not change Otter Tail's overall revenues or LGS class revenues from the levels previously approved by the Commission.

On April 9, 2018, the Office of the Attorney General-Residential Utilities and Antitrust Division (OAG) filed a letter in response to the Joint Request to inform the Commission that the OAG does not object to the Joint Request.

The Department filed a letter on April 11, 2018, and on May 24, 2018 filed Comments in which it concluded that, to date, Otter Tail has not met its burden of proof to show why the rates approved in OTP's most recent rate case must be changed. However, the Department stated it remains open to considering further information from Otter Tail in Reply Comments, including:

- a detailed discussion of what, if any, harm has occurred, or may likely occur in the near future, because of current LGS rates;
- why the issues with current rates exist;
- how Otter Tail apportioned revenue responsibility within subclasses of the LGS class;
- how Otter Tail's proposed rates would result in better outcomes; and
- anything else Otter Tail believes will help the Company demonstrate that its proposal is reasonable.

On January 3, 2019, concurrent with its compliance filing in the TCJA docket (17-895), OTP filed its reply to the Department's May 24, 2018 *Comments* in 15-1033. In its reply, Otter Tail continues to request the Commission reopen its October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rider Rate (the Rate Case Compliance Order) to correct certain LGS rate elements. However, OTP proposes a single rate design solution to address both the unintended consequences in this docket (15-1033) as well as the TCJA compliance filing (17-895). OTP requests "to implement the proposed single rate design solution for the LGS Class as soon as practical in order to relieve the unintended consequences of the current LGS and expedite the TCJA for this class."

OTP assembled the following rate design guidelines in proposing its single rate design solution:

- Continue to work with the Chamber for appropriate class rate design adjustments,
- Utilize rate case revenue allocations for the two rate class categories (LGS & LGS TOD) as well as rate case billing determinants,
- Follow marginal cost structures across voltage levels,
- Strive for revenue neutrality across "like" voltage levels, and
- Make rate adjustments for the LGS & LGS TOD rates first to demand, then to energy charges.

On February 20, 2019, OTP submitted two customer letters to support the Joint Request to Reopen Order Approving Compliance Filing. This provided evidence that some customers are considering a change in service as a result of OTP's current LGS rate design.

Docket 17-895

In its January 3, 2019 Compliance filing in docket 17-895, OTP stated with regard to the LGS rate design:

> The rate design for Large General Service Rates (LGS) in this compliance filing required specific changes due to the magnitude of the reduction for LGS (almost $4,000,0000, [sic] half of the total Minnesota reduction) and the impacts of the reduction on each of the rates in LGS. The rate design also corrects for the issues raised in the request to correct certain LGS rate elements in Docket No. E017/GR-15-1033. Based on the impacts of the TCJA reduction, Otter Tail has filed (January 3, 2019) an update to the request in Docket No. E017/GR-15-1033 to implement the rates determined for the TCJA reduction as soon as practical.
>
> If Otter Tail's request to implement the rates resulting from the TCJA calculation for the LGS class is approved in Docket No. E017/GR-15-1033 earlier than the implementation of new rates in this Docket, No. E,G999/CI-17-895, the refund for the impacts of the TCJA will be adjusted for the LGS class to include only the period for which prior rates were in effect.

The single rate design solution maintains the currently approved revenue apportionment between the LGS standard and the LGS-TOD rate group categories.

C. Department of Commerce – Comments

1. Ordering Point 9A

The Department stated that it "reviewed and agrees with OTP's calculations and new base rates to reflect the savings under the TCJA." The Department concluded "that OTP complied with Ordering Point No. 9A, with the possible exception of OTP's proposal to include other rate design changes to its LGS class stemming from its 2015 Rate Case (Docket No. E017/GR-15-1033)." The LGS Rate Design is discussed in more detail later in these briefing papers.

2. Ordering Point 9B

The Department stated that it "reviewed and agrees with OTP's calculations and proposal for its one-time refund." The Department concluded that OTP complied with Ordering Point 9.B.[22]

3. Ordering Point 10

The Department concluded that OTP complied with Ordering Point No. 10.

4. LGS Rate Design

<u>Docket 15-1033</u>

On March 8, 2019, the Department submitted Response Comments in Dockets 15-1033 and 17-895. The Department provided the impact of the Tax Docket on current rates to Otter Tail's proposed single rate design proposal from its January 3, 2019 Reply Comments in the following Table 2, copied from page 7 of the Department's Response Comments:

Line No.	Rate Schedule	Operating Revenues: Present	Operating Revenues: Proposed TCJA with LGS Correction	Difference "A"	Percent Change
1	10.04 Large General Service - Secondary Service (Rate 603)	$ 26,852,874	$ 25,873,040	$ (979,834)	-3.6489%
2	10.04 Large General Service - Primary Service (Rate 602)	$ 3,768,507	$ 3,543,984	$ (224,523)	-5.9579%
3	10.04 Large General Service - Transmission Service (Rate 632)	$ 273,666	$ 281,825	$ 8,159	2.9814%
4	10.05 Large General Service Time of Day - Secondary Service (Rates 611, 615, 613)	$ 9,898,586	$ 9,811,792	$ (86,794)	-0.8768%
5	10.05 Large General Service Time of Day - Primary Service (Rates 610, 614, 612)	$ 14,629,415	$ 13,240,598	$ (1,388,817)	-9.4933%
6	10.05 Large General Service Time of Day - Transmission Service (Rates 639, 637, 640, 649)	$ 47,834,401	$ 46,508,292	$ (1,326,109)	-2.7723%
7	Total Large General Service:	$ 103,257,449	$ 99,259,531	$ (3,997,918)	-3.8718%
Line No.	**Rate Schedule**	**Operating Revenues: Present**	**Operating Revenues: TCJA without LGS Correction**	**Difference "B"**	**Percent Change**
8	10.04 Large General Service - Secondary Service (Rate 603)	$ 26,852,874	$ 25,813,184	$ (1,039,690)	-3.8718%
9	10.04 Large General Service - Primary Service (Rate 602)	$ 3,768,507	$ 3,622,598	$ (145,909)	-3.8718%
10	10.04 Large General Service - Transmission Service (Rate 632)	$ 273,666	$ 263,070	$ (10,596)	-3.8718%
11	10.05 Large General Service Time of Day - Secondary Service (Rates 611, 615, 613)	$ 9,898,586	$ 9,515,333	$ (383,253)	-3.8718%
12	10.05 Large General Service Time of Day - Primary Service (Rates 610, 614, 612)	$ 14,629,415	$ 14,062,993	$ (566,422)	-3.8718%
13	10.05 Large General Service Time of Day - Transmission Service (Rates 639, 637, 640, 649)	$ 47,834,401	$ 45,982,349	$ (1,852,052)	-3.8718%
14	Total Large General Service:	$ 103,257,449	$ 99,259,527	$ (3,997,922)	-3.8718%

The Department stated:

> Based on its review Otter Tail's revised rate design proposal and addition[al] information, particularly in the February 20, 2019 *Letter*, the Department concludes that harm appears to exist with the Company's current LGS rate design. Although the Department is typically reluctant to reopen rates between rate cases, in particular for a single issue, the customer information in the Company's February 20, 2019 *Letter*, and sales data provided in response to informal discovery, suggests that there may be an appreciable risk that certain LGS customers would change service as a result of the current rate design. These changes in rate group may in turn have a detrimental effect in future rate cases.

[22] Department February 4, 2019 *Comments* at16.

> The Department recommends that the Commission approve Otter Tail's revised rate design proposal presented in its January 3, 2019 *Reply Comments* with a minor adjustment. The Department notes that Otter Tail proposes a small increase in rates to the LGS-Standard Transmission rate group. To avoid a rate increase for any customer, the Department recommends that the Commission require Otter Tail to re-allocate the rate increase amongst other LGS rate groups such that the LGS-Standard Transmission rate group is held harmless by the Company's revised rate design proposal.

Docket 17-895

The Department recommended that the Commission approve Otter Tail's revised rate design proposal presented in its January 3, 2019 Reply Comments with an adjustment. Specifically, the Department recommended that the Commission require OTP to re-allocate the Tax Docket rates changes such that no rate group experiences a rate increase.

D. Otter Tail Power – Additional Reply Comments (Docket 15-1033 and Docket 17-895)

On March 26, 2019, Otter Tail filed reply comments addressing the Department's recommendation that OTP re-allocate the Tax Docket rates changes such that no rate group experiences a rate increase. Otter Tail explained that the only class that was scheduled to have an increase was the LGS-Standard Transmission; however, since the Company no longer has customers in that class, no reallocation is necessary. Consequently, Otter Tail requested that the allocation proposed in its January 3, 2019 reply comments be approved.

E. Department of Commerce – Letter (Docket 15-1033 and Docket 17-895)

On April 3, 2019, the Department filed a letter stating that, based on Otter Tail's March 26, 2019 reply comments, it no longer takes issue with Otter Tail's proposed rate increase for the LGS-Standard transmission rate. Since no customers will be directly harmed, the Department recommended approval of Otter Tail's revised rate design, as presented in OTP's January 3, 2019 reply comments.

F. Staff Analysis

As OTP states, "the LGS class rates must be corrected to at least conform to the intent and principles of the October 31, 2016 [sic] Large General Service Class Rate Design Agreement between Otter Tail and the Chamber; and (2) avoid unintended and unreasonable rate increases that incorrectly incentivize certain members of the LGS class to migrate away from Time of Day (TOD) service to non-TOD service and to change voltage levels."

With the exception of the LGS subclass rate design, the Department reviewed and agreed with OTP's calculations and new base rates to reflect the savings under the TCJA and recommended that OTP's compliance filing be approved.

Staff notes that in its compliance filing, OTP proposed to implement the new base rates resulting from the TCJA reduction April 1, 2019. That will not occur since the Commission meeting is not until April 18, 2019. The Commission may wish to enquire of OTP when would be the earliest they could implement the new rates. OTP also proposed to issue the one-time refunds of the TCJA savings occurring January 1, 2018 through the date of the rate change two months after the new rates were implemented. Staff believes that is a reasonable time frame.

G. Decision Alternatives

29. Reopen the October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rate Rider, Docket No. E-017/GR-15-1033 and:

    a) Approve OTP's proposed single LGS Class rate design solution to remove the unintended rate designs and incorporate the TCJA rate reduction calculation, or (OTP, DOC revised position)

    b) Approve OTP's revised rate design proposal presented in its January 3, 2019 Reply Comments, but require OTP to re-allocate the Tax Docket rate changes such that no rate group experiences a rate increase. (DOC initial position)

OR

30. Do not reopen the October 30, 2017 Order Approving Compliance Filing and Provisionally Approving Transmission Cost Recovery Rate Rider, and:

    a) Require OTP to maintain its compliance filing rate design for the LGS classes and to allocate the Tax Docket rate changes without the LGS Correction as shown in part 2 of Table 1 of its Response to Department Information Request No. 333, included in the Department's March 8, 2019 Response Comments. That is, an across the board 3.8718% rate reduction. (No party recommended this).

31. With the exception of the LGS Class rate design and allocation of Tax Docket rate changes decided above, approve OTP's compliance filing and require OTP to implement the rate changes as soon as practical after the Commission's decision, and to issue the one-time refunds two months after the rate change implementation.

VIII. Great Plains Natural Gas (GP)

A. Commission's Ordering Points

8. Great Plains Natural Gas shall refund TCJA-related savings to ratepayers as follows:

A. The utility shall reduce its base rates, consistent with its current rate design, to reflect the following annual savings:

1) $235,708, plus

2) Protected excess accumulated deferred income tax liability, amortized using ARAM as early as IRS provisions allow, plus

3) Unprotected excess ADIT liability, amortized over ten years.

B. The utility shall also provide a one-time refund capturing the TCJA's impacts that have already accrued, consistent with its existing rate design, and shall track the refunds separately.

B. Great Plains – Compliance Filing

GP proposed to refund a total of $395,206 ($235,708 + $159,458) by applying it equally to its currently authorized distribution revenues to establish and implement new base rates, beginning January 1, 2019.

C. Department of Commerce – Comments

The Department reviewed GP's proposal and agrees with the calculation and refunding mechanism. Additionally, the Department agrees with GP's proposal to initiate its one-time refund plan 90 days after the implementation of new base rates.

D. Decision Alternatives

32. Approve Great Plains' compliance filing, requiring a total annual refund of $395,206 to be made effective by using currently authorized distribution revenues to establish and implement new base rates beginning January 1, 2019 or as soon as practical following the Commission's Order, not to exceed 60 days. (MP, Department, Staff)

33. Approve Great Plains' refund plan to initiate its one-time refund 90 days after the implementation of new base rates. (MP, Department, Staff)

34. Deny or make modifications to Great Plains' compliance filling.

IX. Greater Minnesota Gas Company (GMG)

A. Commission's Ordering Points

11. Greater Minnesota Gas shall refund TCJA-related savings to ratepayers as follows:

A. The utility shall reduce its base rates, consistent with its current rate design, to reflect net annual savings of $48,258.

B. The utility shall also provide a one-time refund, consistent with its existing rate design, capturing the TCJA's impacts that have already accrued, and shall track the refunds separately.

B. Greater Minnesota Gas Company – Compliance Filing

For both the one-time refund and the adjustment to base rates, GMG proposed to employ a per CCF refund factor.[23]

Total Annual Refund	$48,258.00	divided by
2018 Total CCFs Billed	17,979,173	equals
Refund Factor Per CCF	$0.002684	

For each customer, the refund factor will be multiplied by the customer's total billed usage from January 1, 2018 through the end of the first full billing cycle following receipt of Commission approval of GMG's methodology. GMG will employ the same unit factor to adjust its base rates beginning with the month immediately following the final refunded month.

C. Department of Commerce – Comments

The Department agreed with GMG's refund plan and methodology to reduce base rates.

D. Staff Comments

Throughout the TCJA proceeding, GMG has maintained that it has been incurring net operating losses. Therefore, GMG has had no incentive to accelerate depreciation of its assets and carries a negative ADIT balance, not an excess balance like other utilities. No party has disputed GMG's position on the issue of excess ADIT and, as a result, the Commission did not order GMG to provide any "refund" of ADIT balances to ratepayers. However, the refund ordered by the Commission includes a five-year amortization of GMG's deferred tax asset,[24] which is discussed in greater detail in GMG's Capital Structure filing, Docket G-022/S-18-749.

E. Decision Alternatives

35. Approve Greater Minnesota Gas' compliance filing, requiring a one-time refund and an annual adjustment to base rates of $48,258 using the refund factor of $0.002684 per CCF as proposed by Greater Minnesota Gas. (MP, Department, Staff)

36. Approve Greater Minnesota Gas' refund plan to initiate its one-time refund following a

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[23] Department Comments, filed February 4, 2019, Page 17

[24] The Commission's December 5, 2018 Order Responding to Changes in Federal Tax Law, in the TCJA docket 17-895, required GMG, among other things, to reduce its base rates, consistent with its current rate design, to reflect net annual savings of $48,258. The net annual savings of $48,258 was calculated as follows: Current Period Tax Expense of $34,531 + Tax Gross-up on Revenue Requirement Deficiency of $119,212 = $153,743 annual amount to be refunded without considering the deferred tax asset reduction. GMG had positive excess ADIT in Rate Base (a deferred tax asset) of an estimated $365,000 proposed to be amortized over 5 years and grossed up. $365,000/5 years = $73,000; $73,000 * 1.4450 gross up factor = $105,485.

The $153,743 annual amount to be refunded without considering the deferred tax asset less the amount of ADIT amortized over a 5 year period with gross up $105,485 is the $48,258 amount by which GMG was required to reduce its base rates.

full billing cycle after receiving Commission approval. (MP, Department, Staff)

37. Deny or make modifications to Greater Minnesota Gas' compliance filling.

X. Minnesota Energy Resources Corporation (MERC), CenterPoint Energy (CenterPoint) and Northwestern Wisconsin Electric Company

MERC[25] and CenterPoint[26] had all TCJA-related issues addressed in their most recent rate cases and had the impacts implemented with final rates in those proceedings. Northwestern Wisconsin Electric Company had its TCJA impacts addressed in a separate proceeding.[27]

XI. General Housekeeping

A. Staff Comments

Due to each utility's unique circumstances, implementation dates for riders, 2018 refunds, 2019 refunds, and revised base rates will vary. To ensure that the proposed timelines were met, the Commission may want to order all utilities to make a compliance filing within 60 days of completion of each of the following, if applicable: 2018 one-time refund, 2019 TCJA Rider implementation, 2019 base rates revision and implementation, 2019 one-time refund.

Additionally, some proposed implementation dates may have already passed. If they have, some final amounts such as the 2019 one-time refund will be different. For that reason, for those utilities impacted by implementation date changes, the Commission may want to order a compliance filing that provides the revised calculations. If the compliance filing discussed in the paragraph above is approved, then this compliance filing could be made at the same time.

B. Decision Alternatives

38. Order all utilities to make a compliance filing within 60 days of completion of each of the following, as applicable: each one-time refund(s), TCJA-related Rider implementation, base rates revisions and implementations, and related rate and tariff book information. If as a result of revised implementation and/or effective dates, any final amounts differ from the ones approved, the compliance filings shall provide calculations and explanations for any such variances. (Staff)

[25] Docket G-011/GR-17-563.

[26] Docket G-008/GR-17-285.

[27] Docket E-016/M-18-400.