

Staff Briefing Papers

Meeting Date	October 11, 2018	Agenda Item	*3
Company	Northwestern Wisconsin Electric Company		
Docket No.	E-016/M-18-400		
	In the Matter of 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		
Issue	<ul style="list-style-type: none"> Should the Commission approve Northwestern Wisconsin Electric Company's proposed handling of TCJA-related refunds? 		
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Relevant Documents

Date

Northwestern Wisconsin Electric Company – Initial Filing	June 18, 2018
Northwestern Wisconsin Electric Company – Correction to Initial Filing	July 30, 2018
Department of Commerce – Comments	August 16, 2018

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I. Statement of the Issue

Should the Commission approve Northwestern Wisconsin Electric Company's proposed handling of TCJA-related refunds?

II. Introduction

On December 22, 2017, the President of the United States signed into law the Tax Cut and Jobs Act ("TCJA" or the "2017 Federal Tax Act").¹

The 2017 Federal Tax Act contains a number of provisions that may affect public utility revenue requirements, rates, and services. Among many other provisions, the Act significantly lowers federal corporate tax rates and may affect the buildup and crediting of accumulated deferred income tax liability (ADIT). The issues that need to be decided in this proceeding are:

- How to incorporate the change in the tax rate into utility revenue requirements and rates effective January 1, 2018 and to ensure the benefit of this change is passed on to consumers, and
- How to amortize the reduction in accumulated deferred income taxes (ADIT) and pass the benefits of this change on to ratepayers.

The key provisions of the 2017 Tax Act for all companies (not just utilities) include:

- Corporate federal tax rate reduction from 35 percent to 21 percent
- Normalization of resulting plant-related excess deferred taxes
- Continued interest expense deductibility and discontinued bonus depreciation for rate regulated utilities
- Elimination of corporate alternative minimum tax
- Repeal of the section 199 manufacturing deduction
- Limitations on certain deductions for NOLs arising after Dec. 31, 2017
- Changes to certain deductions for expenses related to executive compensation, meals and entertainment, as well as state and local lobbying

III. Background

On December 29, 2017, the Commission issued a notice notifying all utilities that it had opened an investigation into the effects on electric and natural gas utility rates and services resulting from the Tax Cuts and Jobs Act (TCJA).

On January 19, 2018, the Commission requested that all utilities provide preliminary, pro-forma estimates of the effect of the new, lower federal income tax rate and the effect of all other aspects of the 2017 Federal Tax Act on their Minnesota jurisdictional revenue requirements and rates. Additionally, all utilities were requested to provide a copy and explanation of any

¹ 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).

information (including SEC disclosure filings) provided to shareholders and other stakeholders related to the effects of the 2017 Federal Tax Act.

Since Northwestern Wisconsin Electric Company (NWECE, the Company) has approximately 100 Minnesota customers and the Commission generally adopts the decisions made by the Public Service Commission of Wisconsin (PSCW) regarding changes to NWECE's rates in Minnesota, pursuant to Minn. Stat. § 216B.16, subd. 12a, the Exemption for Small Electric Utility Franchise statute, NWECE was exempted from the January 19, 2018 filing requirements.

Following the PSCW's May 24, 2018 Order, on June 14, 2018, NWECE filed a request to refund TCJA-related savings for its Minnesota ratepayers. NWECE proposed making one-time refund for impacts retroactive to January 1, 2018 and to reflect those changes prospectively by adjusting rates.

IV. Parties' Comments

A. Northwestern Wisconsin Electric Company – Initial Filing

Consistent with PSCW's May 24, 2018 Order,² NWECE's initial filing requested authority to refund Minnesota ratepayers TCJA-related tax savings that are consistent with those approved in Wisconsin.

The table below summarizes, by class, the estimated TCJA-related tax savings to Minnesota ratepayers.³

Customer Class	Jan - June 2018			July - Dec 2018			2018
	Customer Count	One-time Credit	Credit Amount	Projected kWh Sales	Volumetric Credit	Volumetric Amount	Total Credit
Rg-1	36	\$11.97	\$430.92	84,181	\$0.0036	\$303.05	\$733.97
Rgs-1	6	\$11.97	\$71.82	2,053	\$0.0036	\$7.39	\$79.21
Fg-1	21	\$12.31	\$258.51	58,671	\$0.0040	\$234.68	\$493.19
Fg-2	1	\$12.31	\$12.31	6,763	\$0.0040	\$27.05	\$39.36
Fgs-1	17	\$12.31	\$209.27	14,652	\$0.0040	\$58.61	\$267.88
Gs-1	23	\$29.86	\$686.78	99,932	\$0.0049	\$489.66	\$1,176.44
Ms-1	1	\$6.69	\$6.69	529	\$0.0090	\$4.76	\$11.45
YI-1	4	\$6.69	\$26.76	1,360	\$0.0090	\$12.24	\$39.00
TOTALS:	109		\$1,703.06	268,140		\$1,137.45	\$2,840.51

² A copy of the Wisconsin Order was provided in the initial filing.

³ Table 1 reflects the corrected data provided in the Company's July 30, 2018 filing.

B. Department of Commerce – Comments

The Department reviewed the PSCW Order and stated that it addressed the following tax changes resulting from the TCJA:

- the reduction from 35% to 21% for tax expense (current and deferred) on the income statement;
- the reduction to the gross up due to the lower tax rate on the revenue requirement deficiency;⁴ and
- the reduction to Accumulated Deferred Income Taxes (ADIT) on the balance sheet due to the lower tax rate from 35% to 21%, which results in an Excess ADIT amount that is amortized.

The PSCW Order required the following from the Company:

- The Current Period Tax Expense must be refunded to customers by requiring a one-time credit for January through June 2018 and an ongoing monthly volumetric credit for July 1, 2018 and beyond. The monthly volumetric credit must continue until action is taken in the PSCW docket for Accounting Treatment of the Impacts Resulting from the Passage of the 2017 Tax Reform Bill H.R.1⁵ or in a future rate case.
- All calculations of savings resulting from the TCJA are subject to true-up, review, and audit by PSCW staff and interveners in a manner similar to the procedure used in the fuel reconciliation proceedings.
- By August 15, 2018, NWEAC must file confirmation that one-time bill credit have been refunded. Additionally, on a quarterly basis beginning October 15, 2018, NWEAC must file the total amount credited to customers per the ongoing, monthly volumetric bill credits. The quarterly reporting requirement will remain in place as long as volumetric credits are being issued.
- Refunds must be allocated to the rate classes in the same manner as income taxes were collected in rates.
- NWEAC must work with PSCW staff to evaluate the balance sheet impacts (excess ADIT) and address this issue in the PSCW Docket 5-AF-101 or in the Company's next rate case.

The Department reviewed NWEAC's July 30, 2018 TCJA corrected refunds due to 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

⁴ Bullets one and two make-up the Current Period Tax Expense.

⁵ Wisconsin Docket No. 5-AF-101.

customer classes and customer counts as provided in NWECC's most recent rate case⁶ initial filing and tied them to NWECC's corrected TCJA refund.

The Department recommended approval of NWECC's request to refund TCJA-related Current Period tax expense reductions and noted that, similar to Commission action in past Transmission Costs Recovery riders and other riders, since the volumetric credit will be provided later than the July 31, 2018 proposed 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 recommended that the Commission require NWECC 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 volumetric credit for July 1, 2018 through December 31, 2018, are consistent with NWECC's corrected refund filed on July 31, 2018 and the PSCW Order, specifically Revised Appendix H. For the years 2019 and beyond, until addressed by the PSCW or until NWECC'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 NWECC's corrected refund filed on July 31, 2018 and PSCW Order, specifically Revised Appendix H.

Additionally, once the PSCW determines the refund amounts related to Excess Accumulated Deferred Income Taxes (ADIT), the Commission should require Northwestern to file an update with the Commission, whether in NWECC's next rate case or sooner.

V. Staff Analysis

The Department recommended that, on February 1, 2019, the Company should show the one-time credit for the January through June 30, 2018 and the ongoing volumetric credit for July 1, 2018 through December 31 on customer bills. These dates are based on the Wisconsin Order that instructed NWECC to refund the January-June credit in July 2018 bills. Since the one-time Minnesota refund will not be reflected in ratepayers' bills, at the earliest, until November or December 2018, the Commission may want to clarify that the one-time refund should encompass the January 1 through the end of the month prior to the issuance of the one-time credit. For instance, if the credit will be reflected in December's bills the credit should cover the January 1 through November 30 period. The ongoing volumetric credit would then be accruing at the proposed rate in December and start being reflected in January 2019 bills. This handling would be consistent with decisions recently made in the TCJA tax investigation docket.⁷

The Department also recommended that, once the PSCW determines the refund amounts related to Excess ADIT, the Company make a compliance filing that updates the Commission on the ADIT issue. However, since the Department's recommendation does not specify a deadline for that filing, the Commission may want to order such a deadline. Since, less than a month after the Wisconsin Order on the Current Period Tax Expense was issued, the Company filed its

⁶ Docket E-016/GR-17-506.

⁷ Docket E, G-999/CI-17-895, final Order pending.

request in this docket, Staff would recommend a 30-day deadline for the ADIT compliance filing.

VI. Decision Options

Current Period Tax Expense

1. Consistent with the Public Service Commission of Wisconsin's Order, approve refunds of the Current Period Tax Expense. (NVEC,DOC)
2. Do not approved the proposed refund methodology and order the Company to develop an alternate one.

One-Time Refund

3. Order a one-time refund of the Current Period Tax Expense for the January 1 through June 30, 2018 period. (DOC, Wisconsin Order)
4. Order a one-time refund of the Current Period Tax Expense for the January 1 through the end of the month prior to implementation of the ongoing volumetric credit. (Staff)

Ongoing Volumetric Credit

5. Order that the ongoing volumetric credit begin on July 1, 2018. (DOC, Wisconsin Order)
6. Order that the ongoing volumetric credit be reflected in ratepayers' bills beginning the month after the issuance of the one-time credit. (Staff)

Future Compliance Filings

7. Order NVEC to make a compliance filing by February 1, 2019 showing that both the one-time credits and the ongoing volumetric credit are consistent with NVEC's July 31, 2018 corrected filing, specifically the PSCW Order's Revised Appendix H. (DOC)
8. Starting February 3, 2020, for the years 2019 and beyond, and until addressed by the PSCW or until NVEC's next rate case, order the Company make annual compliance filings showing that the Current Period Tax Refunds are consistent with NVEC's July 31, 2018 corrected filing, specifically the PSCW Order's Revised Appendix H. (DOC)
9. Order NVEC to file an update with the Commission once the PSCW determines the ADIT-related refund amounts. (DOC)
10. If the Commission adopts the decision alternative above, order NVEC to make its compliance filing within 30 days of the PSCW Order. (Staff)