

## Staff Briefing Papers

Meeting Date January 17, 2019 Agenda Item 1\*\*

Company All Commission Rate Regulated Electric and Natural Gas Utilities

Docket No. **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**

Issues What action should the Commission take on Great Plains Natural Gas Company's Petition for Clarification?

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 **Relevant Documents**

**Date**

PUC – Order Responding to Changes in Federal Tax Law	December 5, 2018
Great Plains Natural Gas Company – Petition for Clarification	December 21, 2018

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## I. Statement of the Issue

What action should the Commission take on Great Plains Natural Gas Company's Petition for Clarification?

## II. Minnesota Statutes and Rules

Great Plains Natural Gas Co. submitted its petition for clarification under Minn. Stat. § 216B.27, and Minn. Rules, part 7829.3000. As such, it is a petition for reconsideration and rehearing. Petitions for reconsideration are denied by operation of law unless the Commission takes action within sixty days of the request. If the Commission takes no action on the petitions in this docket, the requests will be considered denied as of February 16, 2019. Because February 16 is a Saturday and February 18 is a state and federal holiday, the statutory deadline is Tue., February 19, 2019. The Commission may also take specific action to deny the requests.

If the Commission takes up a party's request for reconsideration, the Commission can: (1) grant reconsideration, and (a) affirm, (b) modify or (c) reverse its initial decision, or (2) deny the petition for reconsideration and thereby affirm the initial decision. The Commission may also reconsider its Order on its own motion.

## III. 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).

The 2017 Federal Tax Act (TCJA) 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 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
- For each utility, how to amortize the reduction in accumulated deferred income taxes (ADIT) and pass the benefits of each utility's 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

On December 5, 2018, the Minnesota Public Utilities Commission (PUC or the Commission) issued its ORDER RESPONDING TO CHANGES IN FEDERAL TAX LAW (December 5, 2018 Order or Order) specific to each utility's specific circumstances. For Great Plains Natural Gas Company (Great Plains of the Company), the Commission ordered Great Plains to refund ratepayers \$235,708 of annual TCJA-related savings as well as the value of excess ADIT.

On December 21, 2018, Great Plains filed its *Petition for Clarification*. None of the other parties in this docket answered or commented on Great Plains' petition.

The December 5, 2018 Order required all of the utilities to submit a compliance filing within 30 days of the Commission's Order. The thirty day deadline for submitting these compliance filings was January 4, 2019. The Commission received compliance filings from Minnesota Power on December 21, 2018, compliance filings from Otter Tail Power Company and Greater Minnesota Gas on January 3, 2019, and the Commission received compliance filings from Great Plains Natural Gas Co., Northern States Power Company, doing business as Xcel Energy, and Minnesota Energy Resources Corporation on January 4, 2019. Comments from interested parties on the compliance filings are due within 30 days of each filing.

#### IV. Parties' Comments

##### A. Great Plains

In its Petition for Clarification, Great Plains noted that it proposed revisions to the decision alternatives, replacing the term "protected assets" to "plant-related assets" and the term "unprotected assets" to "non-plant related assets." The Company proposed these alternatives in the August 9, 2018 agenda meeting and the Commission supported these revisions.

Great Plains described the modification as being "discrete" and financially "immaterial" but requested the Commission allow this revision for three reasons:<sup>1</sup>

(1) Great Plains is a division of MDU Resources, which is a multi-jurisdictional Company with utility assets allocated among several jurisdictions.

(2) MDU's regulators in other states address excess ADIT on a plant v. non-plant basis – rather than a protected and unprotected basis.

(3) The Company's tax and plant accounting software (PowerPlan) is designed to treat all components of plant and tax in a consistent manner, which would require manual manipulation of the data to conform if treated differently in one jurisdiction.

Great Plains "requests that the Commission confirm that notwithstanding the Order's references to protected and unprotected excess ADIT with respect to Great Plains, the

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<sup>1</sup> Great Plains, Petition for Clarification, Page 2

Company may continue to account for excess ADIT by categorizing as ‘plant-related’ or ‘non-Plant-related.’”

## **V. Staff Comments**

At the August 9, 2018 Agenda Meeting, the Commission discussed the Company’s modified decision alternatives and ultimately unanimously approved the Company’s modifications. The Commission’s oral acceptance of the revised decision alternatives can be viewed at 3:24:30<sup>2</sup> of the video linked in the footnotes.

Throughout the development of the record, Staff has largely treated the phrases “protected” and “plant-related” along with “unprotected” and “non-plant-related” interchangeably. Great Plains stated that there are a small percentage of plant-related assets that are “unprotected.” These accounts, as Great Plains noted, are immaterial. Therefore, the Commission could consider clarifying its intent that the goal of the Order is for utilities to comply with Federal IRS guidelines and return the benefits of the TCJA back to ratepayers, specifying that the terms can be considered interchangeable for the purposes of meeting this intent.

## **VI. Decision Alternatives**

1. Approve Great Plains petition for clarification and confirm that notwithstanding the December 5, 2018 Order’s references to protected and unprotected excess ADIT with respect to Great Plains, the Company may continue to account for excess ADIT by categorizing excess ADIT as being either “plant-related” or “non-plant-related.”
2. Approve Great Plains petition for clarification by amending the December 5, 2018 Order to replace the term “protected” with “plant-related” and “unprotected” with “non-plant-related” for all of the decision alternatives relevant to Great Plains.
3. Deny Great Plains petition for clarification.

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<sup>2</sup> [http://minnesotapuc.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=759](http://minnesotapuc.granicus.com/MediaPlayer.php?view_id=2&clip_id=759)