MPSC Issue Brief

Michigan Public Service Commission

Tax Cuts and Jobs Act

1. What is the Tax Cuts and Jobs Act?

At the end of 2017, Congress passed and the President signed into law the Tax Cuts and Jobs Act (TCJA). Among other changes, TCJA **lowered the federal corporate income tax rate** from 35 percent to 21 percent, effective January 1, 2018.

2. How does TCJA affect utilities regulated by the Michigan Public Service Commission?

When setting rates for regulated electric, natural gas, and steam utilities, the Michigan Public Service Commission (MPSC) takes into consideration the utilities' costs to provide service, which include any taxes utilities are required to pay to local, state, and federal governments. The new federal requirements affect both the current tax expense and deferred tax accounting methods used by utilities. Current utility rates paid by customers were set by the MPSC in previous utility rate cases using the 35 percent federal income tax rate. **As a result of the new 21 percent tax rate going into effect, utility rates will need to be reset in order to ensure customers realize the benefits of the lower tax rate.**

3. What steps did the MPSC take to address TCJA?

In an order issued December 27, 2017, in Case No. U-18494, the MPSC **ordered all rate-regulated utilities** under its jurisdiction to use "regulatory accounting treatment" **to keep track of the impacts of the new law on current and deferred taxes**, beginning January 1, 2018. The MPSC indicated that it was likely to initiate contested case proceedings for each affected utility to address the impact of TCJA on the utility's rates. In addition, the MPSC asked each utility to comment on the estimated impacts of the tax law changes, and to suggest a method to flow benefits back to customers. The MPSC also asked for comments from other interested parties.

4. What is the impact of TCJA on costs for utilities regulated by the MPSC?

Utilities regulated by the MPSC estimate that **current and future long-term deferred tax payments would be reduced by nearly $3.7 billion** due to the tax law changes.

5. What does the MPSC's February 22, 2018 order require?

After reviewing the comments from utilities and interested parties submitted in Case No. U-18494, the MPSC issued an order on February 22, 2018. This order adopts the proposal submitted by MPSC Staff for returning the benefits attributable to the lower federal income tax rate. Staff's proposal includes three guiding principles:

- allow sufficient time for the utilities to **calculate customer impacts accurately**
- **ensure that the benefits inure to ratepayers as quickly as is practicable**
- measure the tax changes to **avoid accounting pitfalls**, such as unnecessary complexity, large annual rate fluctuations for ratepayers, penalty interest, and cash flow volatility for investors

Further, Staff's proposal includes a three-step approach to addressing the tax law change, including implementing credits to customer bills to account for lower current tax expenses, and holding a separate proceeding for each utility to calculate the remaining impacts of the new tax law. Specifically, the MPSC would establish and implement the following for each rate-regulated utility:

- "**Credit A**" is the going-forward credit to rates resulting from lower income taxes
- "**Credit B**" is the backward-looking credit to rates resulting from lower income taxes for the period from January 1, 2018 through the time when Credit A is implemented
- "**Calculation C**" includes all remaining impacts of the tax law change, and would be determined in a separate contested case proceeding

6. Why did the MPSC adopt the proposal submitted by MPSC Staff?

The MPSC Staff's proposal offers **a plan for addressing the TCJA that ensures all potential impacts will be dealt with in a timely and deliberate manner, and that all ratepayers will be made whole in realizing benefits due to the federal tax reduction.** In addition, the MPSC Staff's guiding principles also strike a balance between ensuring customers see the benefits of the tax law changes in the form of lower utility bills, and the need to calculate those benefits accurately and thoroughly. The MPSC Staff's approach best achieves that balance by providing clear definitions for each proceeding and maximizing the ability of affected parties to participate in the determinations on each category of benefit.

7. What are next steps?

The MPSC intends to address the impacts of the tax law changes as quickly as possible to allow customers to see the benefits of the changes in the form of lower utility bills.

- By *March 30, 2018*, each utility is required to file its "Credit A" application, to determine the going-forward credit to rates; the MPSC intends to issue a final order by June 30, 2018 in these cases, which represent the lion's share of customer benefits from the tax law changes.
    - Consumers Energy, DTE Electric, and Indiana Michigan Power, which all have rate cases pending before the MPSC with final orders expected by the end of April, are required to file Credit A applications within 30 days of a final order in their respective case.
- Within *30 days of an order establishing Credit A*, each utility is required to file its "Credit B" application, to determine tax savings due to ratepayers from January 1, 2018 through the implementation of Credit A.
- By *October 1, 2018*, each utility is required to file an application with the MPSC to determine "Calculation C," which deals with all other impacts of TCJA, including excess deferred taxes and bonus depreciation, not accounted for under Credit A or Credit B.

February 22, 2018

For more information, visit:
www.michigan.gov/mpsc
MPSC Proceeding on TCJA Impacts – Case No. U-18494