

In the Matter of:
The Revision of Commission's Rules Regarding Gas Utilities

GR-2018-0230 VOL. III

June 13, 2019



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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
On-the-Record Presentation
June 13, 2019
Jefferson City, Missouri
Volume 3

In The Matter Of The Propriety Of)
The Rate Schedules For Natural Gas) File No.
Service Of Summit Natural Gas Of) GR-2018-0230
Missouri, Inc.)

RONALD D. PRIDGIN, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE
DANIEL Y. HALL, Chairman,
MAIDA J. COLEMAN
COMMISSIONERS

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P R O C E E D I N G S

1
2 JUDGE PRIDGIN: Good morning. We are on the
3 record. This is the On-the-Record Presentation in
4 Commission File No. GR-2018-0230, In the Matter of the
5 Propriety of Rate Schedules for Natural Gas Service of
6 Summit Natural Gas of Missouri, Incorporated. I'm Ron
7 Pridgin. I'm the Regulatory Law Judge assigned to
8 preside over this presentation that's being held on June
9 13, 2019, in the Governor Office Building in Jefferson
10 City, Missouri. The time is about 10:03 a.m.

11 I would like to get oral entries of appearance
12 from counsel, please. And if you would let me begin
13 with the company and when you give your entries could
14 you also please introduce any witnesses you've brought
15 to answer Commission questions. Beginning with Summit,
16 please?

17 MR. BOUDREAU: Yes, thank you. Let the record
18 reflect the appearance of Paul A. Boudreau with the law
19 firm of Brydon, Swearngen & England appearing on behalf
20 of Summit Natural Gas of Missouri, Inc. I have with me
21 today two individuals I'd like to introduce to the
22 Commission. The first individual will be Steven
23 Birchfield who is an Executive Vice President and Chief
24 Financial Officer of Summit Utilities. He's here and
25 available to answer questions that the Commission may

1 want to put to him. Also here today is Mr. Matt Kaply.
2 Mr. Kaply is Senior Director of Regulatory Affairs for
3 Summit Utilities. Thank you.

4 JUDGE PRIDGIN: Mr. Boudreau, thank you. On
5 behalf of the staff of the Commission, please?

6 MR. BERLIN: Yes, Judge. Thank you. Let the
7 record show Bob Berlin and Ron Irving appearing on
8 behalf of the staff of the Missouri Public Service
9 Commission located at the Commission's Jefferson City
10 offices. The court reporter has our contact
11 information. With me today from staff are Natelle
12 Dietrich and from staff auditing, Amanda McMellen and
13 Mark Oligschlaeger. I might mention for benefit of the
14 Commission that I have prepared or listed all of the
15 questions presented in the notice that was issued by the
16 Commission and I have answers for those questions if you
17 wish for me to address those questions. Thank you.

18 JUDGE PRIDGIN: Mr. Berlin, thank you. On
19 behalf of the Office of the Public Counsel, please?

20 MS. SHEMWELL: Good morning and thank you,
21 Judge, Commissioners. Lera Shemwell representing the
22 Office of the Public Counsel and the public. I have
23 Mr. John Riley, one of our CPAs, with me this morning.
24 And I have not listed all of the questions and prepared
25 answers as Mr. Berlin has. Mr. Riley is available if

1 you have questions for him. Thank you.

2 JUDGE PRIDGIN: Thank you. Here momentarily I
3 want to begin with some opening statements from counsel,
4 and we would like to go with Summit, then staff, then
5 public counsel and treat this, if you would, sort of
6 like an opening statement that you would in a contested
7 case or a litigated case, but understand that the
8 Commission may have questions for you at any time.

9 If the Commissioners ask questions of
10 witnesses, if those witnesses would please get to a
11 microphone. You don't have to come to the podium but if
12 you would come to the microphone so those of us who are
13 listening on the webcast can hear your answers. And so
14 before we begin, anything further from bench or from the
15 counsel before we begin with opening statements from
16 Summit? All right. Mr. Boudreau, if you'll take the
17 podium. Thank you.

18 MR. BOUDREAU: May it please the Commission.
19 Thank you and good morning to the Commissioners and the
20 Administrative Judge Pridgin. I appreciate the
21 opportunity to address the Commission. I'm going to
22 keep my comments very short.

23 Basically I just want to talk about, you know,
24 essentially how we got here today. Just looking back at
25 the agenda in this case, this file was opened in

1 February of 2018 at staff's request. On January 16 of
2 this year, a joint procedural schedule was filed with
3 the Commission by the parties. And that was followed by
4 the filing of prepared testimony by Summit Natural Gas
5 of Missouri, staff of the Commission and the Office of
6 the Public Counsel.

7 The scheduled hearing was canceled on May 10
8 and a Stipulation and Agreement was filed several days
9 later on the 14th. The Stipulation and Agreement is a
10 proposed total settlement of the issues in the case, and
11 it's a fairly succinct document in its own right. It
12 deals with two particular issues. One is the creation
13 of an accounting order that would be a deferral creating
14 a regulatory liability to address the tax differences
15 caused by the Tax Cuts and Jobs Act, the federal Tax
16 Cuts and Jobs Act.

17 The other aspect of the Stipulation and
18 Agreement deals or proposes to deal with how to handle
19 the amortization of protected and unprotected excess
20 ADIT. Essentially that proposal would have it amortized
21 on a revenue-neutral basis for an interim period of time
22 until the utility Summit Natural Gas of Missouri files
23 its next rate case. So it's a fairly straight forward
24 stipulation.

25 We think it's a good resolution of the issues

1 dealing with the Tax Cuts and Jobs Act, and I'm here to
2 recommend it to the Commission as the attorney for
3 Summit Natural Gas of Missouri, Inc., and I'm available
4 to answer any questions.

5 As I indicated earlier, as far as I know the
6 Commission has some specific questions that they put out
7 in a notice, and with me today is Mr. Steven Birchfield
8 who can address a lot of the technical questions to the
9 extent that you want to pursue those. But with that, if
10 the Commission has any questions they want to put to me
11 at this point, I'd be happy to address those. Thank
12 you.

13 JUDGE PRIDGIN: Mr. Boudreau, thank you. Any
14 bench questions for Summit?

15 COMMISSIONER HALL: Yes.

16 JUDGE PRIDGIN: Commissioner Hall?

17 COMMISSIONER HALL: Good morning. I'm looking
18 at the Stipulation and Agreement. I'm looking at page
19 2, 2A, where it indicates that there's agreement as to a
20 deferral of the amount of the annual financial impact of
21 the tax cut by a particular dollar amount starting at a
22 particular date.

23 I'm interested in the use of the word
24 deferral. Is that a regulatory liability?

25 MR. BOUDREAU: I think it would create a

1 regulatory liability, yes.

2 COMMISSIONER HALL: And is there some reason
3 that the term deferral was used in the stipulation and
4 not regulatory liability?

5 MR. BOUDREAU: I'm not sure that I'm in a good
6 position to answer that. It's a question I think that I
7 may defer to staff's counsel or somebody in the staff's
8 accounting department to address that. This was
9 language I think that was originally proposed by the
10 staff to the company. So the use of the language, I
11 don't know that I can specifically address that.

12 COMMISSIONER HALL: I would assume that the
13 use of that term was designed to avoid contradicting the
14 company's previously stated position that an AAO would
15 be inappropriate, that it was not an extraordinary event
16 and perhaps was not material. That's fine. I don't
17 hold that against -- I just want to make sure I
18 understand the situation.

19 MR. BOUDREAU: I can tell you that the use of
20 the language was not intended to avoid coming to grips
21 with that issue. It was just the language that seemed
22 appropriate under the circumstances. It was not an
23 effort to avoid the issue about whether or not an AAO
24 was appropriate in the circumstances.

25 COMMISSIONER HALL: Okay. And if -- I do have

1 questions about the figure \$1,156,535 and also the date
2 that that is to start. Would those be questions better
3 designed for your witnesses?

4 MR. BOUDREAU: I would respectfully suggest
5 that Mr. Birchfield would be in a better position to
6 answer those sort of detailed questions.

7 COMMISSIONER HALL: Okay. I just maybe have
8 one more legal question for you. My understanding as to
9 the arrangement for the unprotected ADIT versus the
10 protected ADIT that it's going to be revenue-neutral at
11 least until the next rate case, but there is language in
12 the stipulation that says that -- that sets forth the
13 dollar amount for the protected, the dollar amount for
14 the ADIT and then it says it's to be dealt with
15 consistent with Summit's calculation. And so what I'm
16 wondering is if we approve this stipulation, are we
17 binding future Commissions to that table going forward?

18 MR. BOUDREAU: No, I don't believe that that
19 was the intent of the stipulation. I think that it's as
20 it's presented in the stipulation an interim resolution
21 and at the time of the next general rate case I think
22 the Commission would be free to address either of those
23 components of ADIT as it deems appropriate.

24 COMMISSIONER HALL: So if the Commission were
25 to approve the stipulation, the company would not have

1 any objection to the order specifically stating what you
2 just said that all we are approving is revenue
3 neutrality between unprotected and protected until the
4 next rate case?

5 MR. BOUDREAU: I think the company would be
6 perfectly comfortable with some language in the order to
7 that effect.

8 COMMISSIONER HALL: As you stand here today,
9 can you provide us with any speculation as to when the
10 company might file its next rate case?

11 MR. BOUDREAU: Let me respectfully suggest
12 that that would be a good question to put to Mr.
13 Birchfield. He'd probably be in a better position to
14 answer. I think my understanding is the company is
15 looking into that right now, is trying to gather some
16 information, some financial information from consultants
17 to make an evaluation of when the filing of a rate case
18 might be appropriate.

19 COMMISSIONER HALL: I'm going to ask a
20 question that shows some ignorance. I'm a little
21 embarrassed to ask it but I'm going to ask it anyway.
22 Does Summit have an ISRS?

23 MR. BOUDREAU: No, it does not.

24 COMMISSIONER HALL: I believe that's all I
25 have. Thank you.

1 MR. BOUDREAU: Thank you, sir.

2 JUDGE PRIDGIN: Commissioner Coleman, any
3 questions? Thank you. Mr. Boudreau, thank you, and the
4 bench may have further technical questions for your
5 witnesses later, but let's move on to opening from
6 staff, please. Mr. Berlin?

7 MR. BOUDREAU: Very good. Thank you.

8 JUDGE PRIDGIN: Thank you.

9 MR. BERLIN: Thank you, Judge. May it please
10 the Commission. I'm Bob Berlin, counsel for staff.

11 I really don't have many prepared remarks
12 beyond what Mr. Boudreau said. I will say that the
13 Stipulation and Agreement is the result of extensive
14 discussions and meetings and exchange of information
15 with the company. The staff supports the Stipulation
16 and Agreement. We believe it to be a fair and a
17 reasonable settlement of the issues presented under this
18 case addressing the Tax Cuts and Jobs Act.

19 Now having said that, I took all the questions
20 from the notice issued by the Commission and I have
21 prepared responses to each of the questions and I am
22 prepared to address those questions. And should you
23 wish to do a deeper dive into the technical aspects of
24 the question, I have staff auditing present, Amanda
25 McMellen and Mark Oligschlaeger. So it depends on how

1 you wish to proceed.

2 JUDGE PRIDGIN: I think if you just want to go
3 ahead and just kind of briefly go through your prepared
4 answers on those questions.

5 COMMISSIONER HALL: Is there something in
6 writing as well? Is there something in writing that we
7 could look at as well?

8 MR. BERLIN: What I did is I prepared a cheat
9 sheet.

10 COMMISSIONER HALL: Okay. That's fine.

11 MR. BERLIN: I can certainly provide it to you
12 if you'd like.

13 COMMISSIONER HALL: I don't need your cheat
14 sheet. I'll just listen to you. That's fine.

15 MR. BERLIN: Okay. I needed one because
16 there's quite a few questions here. With that, I will
17 begin.

18 Should the deferral be a liability? The
19 deferral is a net liability in two parts. There's a
20 deferred regulatory liability for protected ADIT of 9.5
21 million and a deferred regulatory asset for unprotected
22 ADIT of 4.5 million. Therefore, the net deferred
23 liability is 5 million.

24 Does a deferral -- Or why does a deferral
25 start January 1 of 2019 instead of 2018?

1 COMMISSIONER HALL: Can I stop you for a
2 second there, Mr. Berlin. On 2A, the deferral in 2A I
3 thought was simply related to the reduction from 35 to
4 21; that it had nothing to do with protected and
5 unprotected ADIT. Did I misread that?

6 MR. BERLIN: Well, one second. There is a
7 separate deferral for the tax rate reduction and that is
8 a liability.

9 So why did we start the deferral January 1 of
10 '19 instead of 2018? January 1 of 2019 was a negotiated
11 settlement. It is based on an under earnings situation
12 experienced by the company. Staff looked at information
13 supplied by the company and has no reason to suspect
14 otherwise.

15 COMMISSIONER HALL: I will have more questions
16 for staff witnesses on this, but my understanding of
17 what you just said is that the staff looked at the
18 earnings of the company in 2018, not 2017 which is the
19 evidence that was put forth for the most part in the
20 testimony from the company, but staff looked at the
21 earnings from 2018 and determined that the company was
22 under earning?

23 MR. BERLIN: That's correct.

24 COMMISSIONER HALL: Okay. Thank you.

25 MR. BERLIN: And I would note that not every

1 company that we have addressed with the TCJA has gone
2 back to January 1 of 2018. We've looked at each of
3 these cases on a case-by-case basis.

4 So why didn't Summit --

5 COMMISSIONER HALL: Would it be safe to say
6 though, however, that it's staff's position that the
7 deferral should start January 1 of '18 unless there is
8 some evidence to the contrary? I mean, isn't that how
9 staff starts every one of these cases that that's when
10 the tax cut was effective, that's when ratepayers should
11 receive the benefit of it unless there is something to
12 the contrary from an evidentiary perspective?

13 MR. BERLIN: I think that's correct, because
14 that's how we did look at it starting with January 1 of
15 2018.

16 COMMISSIONER HALL: And that is exactly how I
17 look at it as well. But you're right, there have been
18 occasions where the Commission has determined to not go
19 all the way back to 2018, but that's based upon specific
20 evidence in that case. Thank you.

21 MR. BERLIN: The question, why didn't Summit
22 update information based on 2018 actuals? Well, staff's
23 response to that particular question is that staff did
24 not see any earnings results to be materially different
25 in 2018 from 2017 based upon information provided to us

1 by the company.

2 Did Summit revenues increase in 2018? Summit
3 revenues did increase in 2018 but so did expenses.

4 Was Summit in an over earnings position in
5 2018? In 2018, Summit was actually in an under earnings
6 situation based on staff's review of surveillance
7 reports and the company's authorized return. There was
8 no reasonable likelihood of an over earnings situation
9 as determined by staff's review of all this information.

10 How did the parties arrive at the \$1,156,535
11 amount for the financial impact of the TCJA tax rate
12 change? The financial impact of the TCJA tax rate
13 change was determined in Case AW-2018-0174 when the
14 company provided a quantification of the value of the
15 tax reduction.

16 Should the amount be tied to the income tax
17 calculation in Summit's last rate case which was
18 GR-2014-0086? It already is, because it is based upon
19 updated EMS runs, an EMS run at a 34 percent tax rate
20 level compared to an EMS run at the 21 percent tax rate
21 level. This way of comparing the valuation of the tax
22 rate change is consistent with what staff has done with
23 other companies.

24 Why doesn't the amount of unprotected ADIT
25 asset in Schedule AT-2 Confidential agree with the

1 amount in the stipulation? I point out that Schedule
2 AT-2 Confidential is the schedule for protected ADIT and
3 not unprotected.

4 Why is a tax rate stated in Schedule AT-3
5 Confidential different than 35 percent? At the time of
6 the last rate case, Summit's actual federal tax rate was
7 34 percent. The 34 percent rate was applicable in the
8 last rate case because Summit was not earning at a level
9 to be taxed at the full 35 percent tax rate.

10 Does the stipulation prohibit the Commission
11 from deciding the unprotected ADIT amortization period
12 in Summit's next rate case? No, not at all. There is
13 no set normalization period for unprotected ADIT.

14 Would the 24-year unprotected ADIT
15 amortization period that is shown in Schedule AT-2 cost
16 customers more in rates if the amortization period were
17 shortened? Since the unprotected ADIT balance is a
18 regulatory asset, if the amortization period is
19 shortened, that means customers would have to pay more
20 per year in the future. The amortization period should
21 be determined in the next rate case.

22 Staff's objective in this stipulation is to
23 make the amortization of excess ADIT revenue-neutral at
24 least until the next Summit rate case in order to avoid
25 an earnings impact at this time. Staff's

1 revenue-neutral approach is unique to Summit in that
2 staff did not want to cause any impact to the company's
3 earnings situation.

4 Those are the prepared responses I have to the
5 questions posed in the notice. Certainly if you have
6 more detailed questions staff auditors are available to
7 answer those.

8 JUDGE PRIDGIN: Any further bench questions
9 before OPC's opening? All right. Thank you. Mr.
10 Berlin, thank you. Ms. Shemwell, when you're ready.

11 MS. SHEMWELL: Thank you and good morning.
12 May it please the Commission. Mr. Riley participated in
13 the negotiations in this case and was willing to -- and
14 recommend that public counsel sign off for a number of
15 reasons. One is that the stipulation is solely for the
16 purpose of setting the issues specifically addressed
17 herein and does not affect what our position may be in
18 the next rate case.

19 The signatory shall not be prejudiced or bound
20 in any manner by the terms of this in any other
21 proceeding. The revenue-neutral matter means that it
22 does not affect customers' rates as well, so the
23 customers' rates. We had understood from staff's
24 representations that the company was not in an over
25 earning position. I believe that that was their

1 testimony. But we also came to understand that they
2 could be in a, I don't know whether to use the word
3 slight, but in an under earning position.

4 We agree with the Commission that the ADIT --
5 the issue should go back to January 1, '18 and that can
6 be addressed in the next rate case. We also agree that
7 this tax stipulation is based on unique circumstances
8 and the terms should not be considered to apply to any
9 other company's situation.

10 We also relied on information provided by the
11 company, and our agreement is explicitly predicated on
12 the representations made by Summit and staff's
13 representations as well that this company was in a
14 somewhat unique situation. So that's why public counsel
15 was comfortable signing off on this stipulation.

16 COMMISSIONER HALL: So you believe that the
17 company was under earning in 2018?

18 MS. SHEMWELL: The representation we had was
19 that they were not over earning from Mr. Oligschlaeger.

20 COMMISSIONER HALL: So either they're earning
21 exactly what they're supposed to or they're under
22 earning?

23 MS. SHEMWELL: Yes.

24 COMMISSIONER HALL: Why is that either from a
25 policy perspective or a legal perspective relevant to

1 determining when the regulatory liability should kick
2 in?

3 MS. SHEMWELL: I don't think that we would
4 want them to be in a greater under earnings position.
5 Is that --

6 COMMISSIONER HALL: So is that a policy
7 perspective, a legal perspective or both?

8 MS. SHEMWELL: I think it was just a practical
9 perspective in terms of the rates are going to stay the
10 same until they come back in. We understand that they
11 are not over earning. So customers are being charged
12 the just and reasonable rates set by the Commission or
13 slightly less perhaps because the company is in an under
14 earnings position.

15 COMMISSIONER HALL: Do you believe that
16 approval of this settlement sets an amortization table
17 for the protected or unprotected ADIT beyond the next
18 rate case?

19 MS. SHEMWELL: I do not believe that any
20 stipulation and agreement necessarily binds the next
21 Commission. So no, I don't think it is setting --

22 COMMISSIONER HALL: Would it be bind the
23 parties who would be litigating the case before the next
24 rate case? Does it bind public counsel?

25 MS. SHEMWELL: I don't know. Probably. But

1 Mr. Riley --

2 COMMISSIONER HALL: You don't know probably or
3 probably it does?

4 MS. SHEMWELL: Probably it doesn't, but
5 Mr. Riley may have a different opinion on that.

6 COMMISSIONER HALL: That's really kind of a
7 legal perspective I would imagine. Okay. Thank you.

8 JUDGE PRIDGIN: All right. Thank you. Before
9 we see if the bench has any technical questions of any
10 witnesses, if a witness wants to answer a question if
11 you'll please do so near a microphone so those -- It's
12 no so much for the people in the room. It's for people
13 who are listening online or elsewhere in the building so
14 they can hear your answers. Let me see if we have any
15 further questions from the bench for any Summit
16 witnesses?

17 COMMISSIONER HALL: I assume we should
18 probably start with Mr. Birchfield. My understanding is
19 that he adopted the testimony of Amanda Tolbert; is that
20 correct?

21 MR. BIRCHFIELD: That's correct.

22 COMMISSIONER HALL: So can you explain to me
23 where in the stipulation the 2A \$1,156,535 figure comes
24 from?

25 MR. BIRCHFIELD: Certainly. The \$1,156,535

1 was calculated based on adjusting the federal income tax
2 rate from our last rate case that was filed in 2014 and
3 that is the calculation for what the revenue requirement
4 differential would have been between those two tax
5 rates.

6 COMMISSIONER HALL: Did you perform that
7 calculation?

8 MR. BIRCHFIELD: I had oversight over staff
9 who performed the calculation.

10 COMMISSIONER HALL: Is that calculation in the
11 record anywhere?

12 MR. BIRCHFIELD: That calculation was in the
13 record. I believe the case was mentioned earlier where
14 that calculation was submitted.

15 COMMISSIONER HALL: And I've got one page of
16 direct testimony of Amanda McMellen but I don't have a
17 case number and the figure is confidential is the figure
18 we're talking about. Is that where this calculation
19 comes from?

20 MR. BERLIN: Commissioner Hall, it is the AW
21 case I referenced earlier, Case AW-2018-0174.

22 MR. BIRCHFIELD: Thank you.

23 COMMISSIONER HALL: And it's page 7 of that
24 testimony in that case where that calculation is set
25 forth; is that correct?

1 MR. BERLIN: It's actually in Summit Natural
2 Gas of Missouri, Inc.'s response to Commission questions
3 in a filing that they made. It's a confidential
4 Schedule Summary of the Impact from the Federal Income
5 Tax Change. The filing was made January 31, 2018.

6 COMMISSIONER HALL: Is that document in the
7 record in this case?

8 MR. BERLIN: No, it is not.

9 MR. BOUDREAU: Just a point of clarity. Is
10 that a document that was filed by the company in this
11 case?

12 MR. BERLIN: It was filed in the AW.

13 MR. BOUDREAU: In the AW case. Okay. Thank
14 you.

15 MR. BERLIN: Judge, I would suggest perhaps
16 the Commission could take administrative notice of the
17 company's response filing in AW-2018-0174.

18 JUDGE PRIDGIN: Any objections? The
19 Commission will take notice.

20 COMMISSIONER HALL: Then turning to paragraph
21 2B, the protected and unprotected ADIT, and there's a
22 sentence in here that says the unprotected excess ADIT
23 regulatory asset balance of \$4,450,378 shall be
24 amortized beginning January 1, 2019 in the same amounts
25 as the amortization of protected excess ADIT. So is

1 that just until the next rate case?

2 MR. BIRCHFIELD: That is the way we had viewed
3 this that it would be earnings-neutral as addressed in
4 the last second of Section B until the amortization
5 structure for the unprotected ADIT could be addressed
6 again in Summit's next general rate case.

7 COMMISSIONER HALL: So it would be your
8 position that none of the parties would be bound to the
9 tables in AT-2 and AT-3 after the next rate case?

10 MR. BIRCHFIELD: As a point of clarification,
11 the protected ADIT schedule is structured around the
12 average rate assumption method and would, in fact, be a
13 fixed schedule based on the timing differences between
14 when the book depreciation and tax depreciation rates,
15 terms of that portion of it --

16 COMMISSIONER HALL: That's the protected you
17 said, right?

18 MR. BIRCHFIELD: The protected would be set.
19 The unprotected --

20 COMMISSIONER HALL: And that's required by IRS
21 normalization?

22 MR. BIRCHFIELD: Correct. So that portion of
23 the Schedule AT-2, that 9.4, essentially \$9.5 million
24 would follow that amortization schedule through 2063.
25 The unprotected portion that we are proposing to follow

1 that until the next general rate case could then be
2 adjusted in the next general rate case.

3 COMMISSIONER HALL: Okay. That makes sense.
4 And you'd have no concerns if in any order if we do
5 approve this stipulation that we were to make that clear
6 what you just said on the record?

7 MR. BIRCHFIELD: Correct.

8 COMMISSIONER HALL: So the company's earnings
9 increased from 2018 -- from 2017, is that correct, by
10 roughly \$8 million?

11 MR. BIRCHFIELD: The company's earnings
12 increased --

13 COMMISSIONER HALL: Is that a confidential
14 figure? I don't want --

15 MR. BIRCHFIELD: I'm happy to talk about the
16 company's earnings, but I would prefer to do that
17 confidentially.

18 MR. BOUDREAU: I guess I'd request that we go
19 in camera for this portion of it.

20 JUDGE PRIDGIN: We can certainly go in camera
21 if you'll give me just a moment. I'll rely on counsel
22 if there's somebody in the room who's not supposed to be
23 here to -- I don't see anybody but just in case. We'll
24 give just a minute. If you'll give me just a minute,
25 we'll go in camera.

1 (COURT REPORTER'S NOTE: Due to a technical
2 issue with the court reporter's equipment, there is no
3 video/audio of the approximate 4-minute in camera
4 portion of the on-the-record. Judge Pridgin was advised
5 of this.)

6 JUDGE PRIDGIN: We're back in public forum.
7 Thank you.

8 COMMISSIONER HALL: Can we at some point go
9 back and look at the record and for that part of the
10 transcript that was unrelated to earnings get that put
11 into the public record?

12 JUDGE PRIDGIN: Absolutely. It would be easy
13 to entertain a motion from counsel to change the
14 designation of some of this from HC to public. I don't
15 see a problem with that.

16 COMMISSIONER HALL: Are you waiting for that
17 motion?

18 JUDGE PRIDGIN: I'm sorry. We'll probably
19 need to read the transcript to see exactly what
20 information needs to be taken from HC to public.

21 COMMISSIONER HALL: Okay. I believe that's
22 all the questions I have. Thank you.

23 JUDGE PRIDGIN: Thank you. Any further bench
24 questions for Summit's technical witnesses?

25 COMMISSIONER HALL: Thank you.

1 JUDGE PRIDGIN: Any bench questions for
2 staff's witnesses?

3 COMMISSIONER HALL: Let me start maybe with a
4 more policy-based question. If staff's position at the
5 inception of this case was that the regulatory liability
6 for the tax cut should be effective January 1, 2018, why
7 does staff now believe that it's appropriate to start
8 that January 1, 2019?

9 MS. DIETRICH: Natelle Dietrich, Commission
10 Staff Director. I think as has been discussed the
11 surveillance reports and the annual reports indicate
12 that Summit is likely in an under earnings situation.
13 So if we had gone back to January 2018, it would likely
14 have triggered a rate case which would have potentially
15 resulted in customers having higher rates as opposed to
16 receiving benefits or addressing the Tax Cuts and Jobs
17 Act in isolation. So that was one reason why we were
18 comfortable with going back to 2019 and addressing the
19 situation from then forward as opposed to potentially
20 increasing rates on customers.

21 COMMISSIONER HALL: I'm not sure who this
22 question is best directed to. I'll let you decide that.
23 That concerns the under earnings situation of the
24 company in 2018. Who on staff has done that analysis
25 and made that determination?

1 MS. DIETRICH: Ms. McMellen.

2 COMMISSIONER HALL: If you could please
3 elaborate on that, I would appreciate it.

4 MS. McMELLEN: Basically from the quarterly
5 surveillance reports I received from Summit it showed
6 their under earnings based on that information they
7 provided.

8 COMMISSIONER HALL: By how much?

9 MS. McMELLEN: From what I've looked at so
10 far, the analysis, and it's not complete --

11 MR. BOUDREAU: If I might, and I don't want to
12 interfere with the questions and answers, but if we're
13 getting into specific numbers, again I might ask that we
14 go in camera.

15 JUDGE PRIDGIN: Let's go in camera to discuss
16 those --

17 COMMISSIONER HALL: Actually before we do that
18 and I think I know the answer, but can you tell me why
19 that is confidential?

20 MR. BOUDREAU: Well, I think the idea behind
21 it is that in terms of the competitive status of the
22 company with respect to other providers of competing
23 energy, that's one consideration. I think, you know,
24 the other aspect is just generally in terms of the
25 company's position with respect to financing its

1 operations and dealing with lenders. It's just better
2 that this information be kept internal.

3 COMMISSIONER HALL: Are there any SEC
4 considerations here as well?

5 MR. BOUDREAU: I don't believe the SEC
6 considerations come into play here, no.

7 COMMISSIONER HALL: All right. Thank you.

8 JUDGE PRIDGIN: Let's go in camera to discuss
9 the HC financials. Give me just a moment, please.

10 (COURT REPORTER'S NOTE: Due to a technical
11 issue with the court reporter's equipment, there is no
12 video/audio of the approximate 1-minute in camera
13 portion of the on-the-record. Judge Pridgin was advised
14 of this.)

15 JUDGE PRIDGIN: We're back in public forum.

16 COMMISSIONER HALL: Do you have an
17 understanding as to why the company is in that earnings
18 situation?

19 MS. McMELLEN: From my understanding, the
20 majority of the under earnings are due to net losses,
21 the net loss carry forwards from previous years.

22 COMMISSIONER HALL: So nothing with the
23 operations of the --

24 MS. McMELLEN: I believe they stated that 50
25 percent of their capital investments have been over the

1 last eight years.

2 COMMISSIONER HALL: I believe that's all I
3 have. Thank you.

4 JUDGE PRIDGIN: Thank you. Further bench
5 questions for staff witnesses? Commissioner Coleman?
6 Thank you. Any bench questions for public counsel
7 witnesses?

8 COMMISSIONER HALL: I have a feeling I know
9 the answer, and it may just be ditto, but from public
10 counsel's perspective, why is it appropriate to not
11 start the regulatory liability until January 1, 2019
12 regarding the 35 to 21 tax cut?

13 MR. RILEY: We were in agreement with what
14 staff had negotiated and frankly we didn't want to rock
15 the boat as to kick that back to January 1, 2018.

16 COMMISSIONER HALL: So is there any policy
17 basis for the Commission doing so, because we're fine
18 with rocking the boat.

19 MR. RILEY: No, sir. We weren't rocking the
20 boat.

21 COMMISSIONER HALL: I'm interested in from
22 public counsel's perspective why it would be appropriate
23 to start that 2001 -- I mean January 1, 2019 and not '18
24 which was staff's original position and OPC's original
25 position? Is it simply because of the under earning

1 situation?

2 MR. RILEY: Yes, sir.

3 COMMISSIONER HALL: So from public counsel's
4 position, that is either a policy or a practical or a
5 legal rationale for not starting -- not setting the
6 regulatory liability as of the date of the actual tax
7 cut?

8 MR. RILEY: Well, it was our understanding
9 when we went into negotiations that certain entries on
10 their books and records would cause possible problems
11 with lending covenants, and if memory serves me
12 correctly this negotiated point was able to relieve some
13 of that pressure.

14 COMMISSIONER HALL: But you would also answer
15 yes to my question, my question was, is under earning a
16 policy, practical or legal rationale for essentially
17 giving the company the benefit of the tax cut for a
18 certain duration of time?

19 MR. RILEY: It would fall under a practical.

20 COMMISSIONER HALL: That's all I have. Thank
21 you.

22 JUDGE PRIDGIN: Thank you. Any further bench
23 questions? Commissioner Coleman? Thank you.

24 All right. Let me see. Is there anything
25 further from counsel or from the bench before we go off

1 the record? Going once, going twice.

2 MS. SHEMWELL: Mr. Riley has reminded me that
3 yes, we were signatories and we intend to be bound by
4 this until the next rate case. Thank you.

5 JUDGE PRIDGIN: Thank you. Anything further
6 from the bench or from counsel?

7 MR. BERLIN: Nothing, Judge. Thank you.

8 JUDGE PRIDGIN: All right. Hearing nothing,
9 that will conclude this presentation. Thank you very
10 much. We are off the record.

11 (Off the record.)

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