

rate case proceeding. A deferral is not single-issue ratemaking because it is not ratemaking at all. ***State ex rel. Office of the Public Counsel v. PSC***, 858 S.W.2d 806, 812 (Mo. App., W.D. 1993).

The Commission has express authority to order the deferral of any expense or revenue and to authorize an AAO under Section 393.140(8), which provides that the Commission shall:

Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation or person and have power, after hearing to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited.

B. How should the Commission treat Summit's excess accumulated deferred income tax ("ADIT") balances resulting from the TCJA?

STAFF POSITION:

Staff recommends that Summit defer the impact of the excess ADIT flow-back as part of its request for an AAO. The reduced federal income tax from the TCJA resulted in a portion of Summit's previously recorded ADIT balances becoming "excess" in nature, because these amounts were previously booked by Summit assuming the higher 35% federal corporate income tax rate, but will actually be paid to the Internal Revenue Service at a 21% federal tax rate. Summit's excess ADIT should be flowed back to its customers in rates over a time frame compliant with the TCJA.

There are two types of ADIT: "Protected" and "Unprotected". "Protected" excess ADIT results from accelerated depreciation tax timing differences. "Unprotected" excess ADIT results from tax timing differences other than from accelerated depreciation deductions.

Under the TCJA, the “Protected” excess ADIT balance cannot be flowed back to customers in rates any quicker than over the estimated average remaining life of the assets that created the excess ADIT under current tax normalization requirements.

The “Unprotected” excess ADIT balance is not subject to normalization requirements and may be returned to customers in rates over any period of time at the Commission’s discretion.

Summit has calculated that its balance of “Protected” excess ADIT is a “regulatory liability” which should be flowed back to customers in rates over time and its “Unprotected” excess ADIT balance is a “regulatory asset” that would require additional amounts to be collected in rates by Summit over time.

Staff supports requiring Summit to amortize the same amounts of the “Protected” excess ADIT regulatory liability and the “Unprotected” excess ADIT regulatory asset from January 1, 2018, forward to the next general rate case proceeding. This approach would result in a “revenue neutral” earnings situation for Summit. All ratemaking impacts of the TCJA, including rate treatment of remaining excess ADIT balances will be addressed as part of Summit’s next general rate case.

WHEREFORE, Staff submits its *Position Statements* as directed by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel for parties of record this 6th day of May, 2019.

/s/ Robert S. Berlin