



Missouri Public Service Commission

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P.O. BOX 360
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MISSOURI 65102

July 7, 1983

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TO ALL REGULATED TELEPHONE COMPANIES, ALL REGULATED ELECTRIC COMPANIES, ALL REGULATED GAS COMPANIES, ALL REGULATED SEWER AND WATER COMPANIES, ALL TRANSPORTATION ASSOCIATIONS, CONSUMER GROUPS AND ALL REGULAR AND FREQUENT INTERVENORS IN RATE PROCEEDINGS BEFORE THIS COMMISSION.

CASE NOS. 00-83-220 and AX-84-3

Pursuant to Commission's order, I am forwarding to you this copy of the Commission's ORDER of July 7, 1983.

Sincerely,

Harvey G. Hubbs
Secretary

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 7th
day of July, 1983.

CASE NO. 00-83-220

In the matter of the inquiry into whether
tax timing differences should be
normalized.

CASE NO. AX-84-3

In the matter of the proposed Rulemaking
on Tax Normalization.

ORDER ESTABLISHING RULEMAKING DOCKET
AND CLOSING GENERIC DOCKET

In Case No. TR-82-199, this Commission established a generic proceeding, Docket No. 00-83-220, on the subject of normalization versus flow-through treatment of tax timing differences. Having again reviewed the comments filed in its Docket No. 00-82-277 on "Tax Normalization", the Commission has determined that a rulemaking docket should be established on this subject and the generic docket closed.

The Commission has not found or concluded whether its current case-by-case "cash flow" method of addressing normalization issues for public utilities should be changed in any way. By proposing the attached rule in the form of a change for public utilities from the present practice, the Commission does not intend to indicate otherwise. Rather, the Commission believes that the quality and quantity of the presentations in the comments will be maximized through the proposal of a change for public utilities from, rather than a mere recitation of, the status quo. Such a change is, however, supported by many commentators in Docket No. 00-82-277 and by FERC's rule on the subject. Based on these considerations, the Commission has proposed the attached rule, 4 CSR 240-2.190 "Tax Normalization".

The Commission notes that all comments filed in Docket No. 00-82-277 on "Tax Normalization" shall be incorporated herein by reference and a copy placed in the file in this new rulemaking docket. This will eliminate any need for a respondent to refile those comments although respondents shall check to make certain that their comments are so incorporated. Both initial and reply comments may be filed. Specific instruction as to the comments are in the attached rule. The

affected utility companies and Commission Staff should and other interested persons may file comments on the specific subjects listed by the Commission in the attached rule, as well as upon all other relevant factors which they may wish to bring to the attention of the Commission.

The Commission is of the opinion that the Secretary of the Commission should serve a copy of this order on all regulated companies, all regulated electric companies, all regulated gas companies, all regulated sewer and water companies and all transportation associations. In addition, the Secretary should send notice of this order to the publisher of each newspaper in Missouri as listed in the Newspaper Directory of the current Official Manual of the State of Missouri and to all members of the General Assembly.

It is, therefore,

ORDERED: 1. That Docket No. AX-84-3 shall be established for the purpose of promulgating a rule on Tax Normalization.

ORDERED: 2. That Docket No. 00-83-220, "In the matter of the inquiry into whether tax timing differences should be normalized" shall be closed.

ORDERED: 3. That the affected utility companies and Commission Staff shall and all other interested parties may comment on the proposed rule 4 CSR 240-2.190 Tax Normalization as specified in the attached rule.

ORDERED: 4. That the Secretary of the Commission shall serve a copy of this order on all regulated telephone companies, all regulated electric companies, all regulated gas companies, all regulated sewer and water companies, all transportation associations, consumer groups and all regular and frequent intervenors in rate proceedings before this Commission.

ORDERED: 5. That the Secretary of the Commission shall send notice of this order to the publisher of each newspaper in Missouri as discussed herein, and to all members of the General Assembly.

ORDERED: 6. That this order shall be effective on the date hereof.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Shapleigh, Chm., Fraas, Dority
and Musgrave, CC., Concur.

Title 4 - DEPARTMENT OF
CONSUMER AFFAIRS, REGULATION

AND LICENSING

Division 240 - Public Service Commission

Chapter 2 - Practice and Procedure

PROPOSED RULE

4 CSR 240-2.190 Tax Normalization

PURPOSE: This rule establishes a uniform practice for ratemaking purposes which permits normalization of tax timing differences. Tax timing differences generally result from the recognition of expenses for book purposes in a period other than that in which such expenses are considered in the determination of taxable income for tax purposes in accordance with the Internal Revenue Code.

In the past the commission has had a practice of utilizing the cash flow test on a case-by-case basis in utility ratemaking in determining whether to use normalization versus flow through treatment of such tax timing differences for public utility ratemaking purposes. Normalization versus flow through treatment of tax timing differences has not been a contested issue in common carrier ratemaking proceedings before the commission to date.

The commission has not found or concluded whether its current case-by-case method of addressing normalization issues should be changed in any way. By proposing the attached rule in the form of a change from the present practice in public utility ratemaking, the commission does not intend to indicate otherwise. Rather, the commission believes that the quality and quantity of the presentations in the comments will be maximized through the proposal of a change from, rather than a mere recitation of, the status quo in public utility ratemaking. Such a change is, however, supported by many commentators in Docket No. 00-82-277 and by FERC's rule on the subject. Based on these considerations, the commission is proposing this rule. The commission has adapted FERC Tax Normalization for Public Utilities, 18 C.F.R. section 35.25 (1982), to apply to public utilities and common carriers under commission jurisdiction.

(1) Applicability. This section applies to a regulated company's ratemaking treatment of the tax effects of all transactions for which there are timing differences, beginning with the effective date of the commission's report and order in a regulated company's rate application or tariff case next following the effective date of this rule.

General rules.

(A) Tax normalization required.

1. A regulated company must compute the income tax component of its cost of service by using tax normalization for all transactions to which this rule applies.

2. Except as provided in section (3) of this rule, application of tax normalization by a regulated company under this rule to compute the income tax component will not be subject to case-by-case adjudication.

(B) Reduction of, and addition to, rate base.

1. The rate base of a regulated company using tax normalization under this rule must be reduced or increased by the balances that are properly recordable in the accumulated deferred income tax accounts.

2. Such rate base reductions or additions must be limited to deferred taxes related to rate base, construction or other jurisdictional activities.

3. If a public utility uses an approved purchased gas adjustment clause, the rate base reductions or additions required under this paragraph must apply only to the extent that the balances under accounts for accumulated deferred income taxes are not used, for purposes of calculating carrying charges, as an offset to balances properly recordable under accounts for unrecovered purchased gas costs as appropriate.

(3) Special rules.

(A) This subsection applies:

1. If the regulated company had not provided deferred taxes in the same amount that would have accrued had tax normalization been applied for the tax effects of timing difference transactions originating at any time prior to the test period; or

2. If, as a result of changes in tax rates, the accumulated provision for deferred taxes becomes deficient in or in excess of amounts necessary to meet future tax liabilities as determined by application of the current tax rate to all timing difference transactions originating in the test period and prior to the test period.

(B) The regulated company must compute the income tax component in its cost of service by making provision for any excess or deficiency in deferred taxes described in paragraphs (3)(A)1. or (3)(A)2. of this subsection.

(C) The regulated company must apply a commission-approved ratemaking method made specifically applicable to the regulated company for determining the cost of service provision described in subsection (B) of this section. If no commission-approved ratemaking method has been made specifically applicable to the regulated company, then the regulated company must use some ratemaking method for making such provision, and the appropriateness of this method will be subject to case-by-case determination.

(4) Definitions. For purposes of this rule, the term:

(A) "Tax normalization" means computing the income tax component as if the amounts of timing difference transactions recognized in each period for ratemaking purposes were also recognized in the same amount in each such period for income tax purposes.

(B) "Timing differences" mean differences between amounts of expenses or revenues recognized for income tax purposes and amounts of expenses or revenues recognized for ratemaking purposes, which differences arise in one time period and reverse in one or more time periods so that the total amounts of expenses or revenues recognized for income tax purposes and for ratemaking purposes are equal.

(C) "Commission-approved ratemaking method" means a ratemaking method approved by the commission in a final decision including approval of a settlement agreement containing a ratemaking method only if such settlement agreement applies that method beyond the effective term of the settlement agreement.

(D) "Income tax purpose" means for the purpose of computing income tax under the provisions of the Internal Revenue Code or the income tax provisions of the laws of a state or political subdivision of a state (including franchise taxes).

(E) "Income tax component" means that part of the cost of service that covers income tax expenses allowable by the commission.

(F) "Rate-making purpose" means for the purpose of fixing, modifying, approving, disapproving or rejecting rates under the commission's authority pursuant to sections 387.190, 387.200, 392.230 and 393.150, RSMo (1978).

(G) "Tax effect" means the tax reduction or addition associated with a specific expense or revenue transaction.

(H) "Transaction" means an activity or event that gives rise to an accounting entry that is used in determining revenues or expenses.

(I) "Regulated company" means every common carrier, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, heat or refrigerating corporation, and sewer corporation as defined in section 386.020, RSMo (1978).

(J) "Public utility" means every regulated company as defined under section (I) except for common carriers. Auth: sections 386.410, 387.190, 387.200, 392.230 and 393.150, RSMo (1978). Original rule filed July 7, 1983.

STATE AGENCY COST: This rule is estimated to cost certain state agencies and political subdivisions \$9,569,034 for the period April 16, 1984 through June 30, 1984 and \$46,564,929 for the period July 1, 1984 through June 30, 1985. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

PRIVATE ENTITY COST: This rule is estimated to cost certain private entities \$9,636,960 for the period April 16, 1984 through June 30, 1984 and \$46,895,429 for the period July 1, 1984 through June 30, 1985. A fiscal note containing a detailed estimated cost of compliance has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS: Interested persons are invited to submit written comments: Data, views or arguments with respect to this proposal. Comments should be submitted to the Secretary, Public Service Commission of Missouri, P. O. Box 360, Jefferson City, Missouri 65102, telephone number (314) 751-4113, and should reference Docket No. AX-84-3. An original and ten copies should be filed if the comments are in excess of two pages. Two of these copies will be available for any interested person to check out

during regular business hours of the commission for copying. Initial comments shall be filed prior to November 2, 1983, to be considered by the commission. Reply comments shall be filed by December 21, 1983.

All comments filed in the Public Service Commission Docket No. 00-82-277 on "tax normalization" shall be incorporated by reference and a copy shall be placed in the file in Docket No. AX-84-3. This will eliminate the need for a respondent to refile those comments, although each respondent should check to make certain its comments have been so incorporated.

1) In addition, comments including data are specifically invited on the impact of normalization on the overall tax situation of the company;

2) Regulatory or legal authority supporting or rejecting normalization of tax timing differences from this jurisdiction or other jurisdictions and comments on the FERC Tax Normalization for Public Utilities, 18 C.F.R. section 35.25 (1982) are requested.

3) Interested persons are also requested to provide any available data pertinent to the additional timing difference transactions both quantified and not quantified, as well as identification and impact of any additional timing difference transactions other than those listed below and the impact of the proposed rule on both consumers and industry;

4) Respondents are invited to comment on any unique problems that might be encountered in complying with the rule as proposed, any necessary delay in the effective date of a final rule following issuance of that rule in order to insure satisfactory compliance, and any limitations on the manner in which the rule should be applied to timing differences;

5) Comments are invited on any problems that may result under this proposed rule from differences in accounting for ratemaking purposes versus accounting for book purposes.

6) Interested persons are invited to comment on whether accumulated deferred income taxes should be separated between those associated with plant in service and those associated with construction activities such that the latter would be utilized for the calculation of the Allowance for Funds Used During Construction (AFUDC) rather than for the calculation of rate base. Further, comments are also requested on whether gross-of-tax or net-of-tax AFUDC rates should be used.

7) Comments are further requested on the following tax timing differences:

A) Differences that result from the use of accelerated depreciation;

B) Differences that result from the use of class life asset depreciation range (ADR) provisions of the Internal Revenue Code;

C) Differences that result from the use of accelerated amortization provisions on certified defense and pollution control facilities;

D) Differences that arise from recognition of extraordinary property losses as a current expense for tax purposes but as a deferred and amortized expense for book purposes;

E) Differences that arise from recognition of research, development, and demonstration expenditures as a current expense for tax purposes but as a deferred and amortized expense for book purposes;

F) Differences that result from different tax and book reporting of deferred gains or losses from disposition of utility plant;

G) Differences that result from the use of the asset guideline class "repair allowance" provision of the Internal Revenue Code;

H) Differences that result from recognition of purchased gas costs as a current expense for tax purposes but as a deferred expense for book purposes;

I) Differences that result from expensing intangible drilling costs, delay rentals, geological and geophysical costs, abandoned leases, franchise costs, permits, patents and organization costs for tax purposes and capitalizing such costs for book purposes;

J) Differences that result from expensing hydrostatic testing costs for tax purposes and capitalizing such costs for book purposes;

K) Differences that result from expensing coal mining development costs for tax purposes and capitalizing such costs for book purposes;

L) Differences that result from expensing preoperating expenses for tax purposes and deferring and amortizing such costs for book purposes;

M) Differences that result from expensing regulatory expenses for tax purposes and deferring and amortizing such costs for book purposes;

N) Differences that result from expensing storm damage costs for tax purposes but deferring and amortizing such costs for book purposes;

O) Differences that result from amortizing computer software costs for tax purposes over a shorter period than for book reporting purposes;

P) Differences that result from nuclear fuel burn-up charges being greater during the burn cycle for book purposes than for tax purposes;

Q) Differences that result from deferred compensation profit-sharing, bonuses, vacation and severance pay being charged to expense for book purposes as accrued and expensed for tax return purposes when later paid;

R) Differences that result from pension costs being charged to expense for book purposes as accrued and expensed for tax return purposes when later contributed to pension fund;

S) Differences that result from expensing costs for repairs and maintenance for book purposes on an estimated basis and expensing such costs for tax purposes when later paid;

T) Differences that result from expensing inventory losses for book purposes on an estimated basis and expensing for tax return purposes when actual losses are later determined;

U) Differences that result from amounts collected subject to refund being included in revenues for tax purposes but deferred in the accounts for book purposes;

V) Differences that result from gains on reacquired debt being included in taxable income but deferred and amortized for book purposes;

W) Differences that result from transportation revenues being included in taxable income and such revenues being deferred for book purposes;

X) Differences that result from revenues being included in income for tax purposes and credited to exploration funds for book purposes;

Y) Differences that result from gains on sales of property leased back being included in taxable income and deferred and amortized for book purposes;

Z) Differences that result from revenues on long-term contracts being reported for book purposes on percentage-of-completion basis and reported in tax returns on a completed-contract basis;

AA) Differences that result from installment sales being recorded for book purposes on date of sale and reported in tax returns when later collected;

BB) Differences that result from the use of accelerated cost recovery system (ACRS) provisions of the Internal Revenue Code; and

CC) Differences that result from the use of the Tax Equity and Fiscal Responsibility Act (TEFRA) provisions of the Internal Revenue Code.

No public hearing is scheduled.