

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Propriety of the)
Rate Schedules for Gas Service of) File No. GR-2018-0229
Empire District Gas Company)

In the Matter of the Propriety of the)
Rate Schedules for Natural Gas Service of) File No. GR-2018-0227
Union Electric Company, Doing Business as)
Ameren Missouri)

In the Matter of the Propriety of the)
Rate Schedules for Natural Gas Service of) File No. GR-2018-0230
Summit Natural Gas of Missouri, Inc.)

RENEW MISSOURI'S COMMENTS

COMES NOW, Renew Missouri Advocates d/b/a Renew Missouri (“Renew Missouri”), and in response the Missouri Public Service Commission’s (“Commission”) *Order Scheduling Oral Argument Regarding the Issuance of Accounting Authority Orders to Address the Effect of Federal Tax Cuts*, states:

1. The Commission opened these dockets after the passage of the Federal Tax Cuts and Jobs Act of 2017, which reduced the Federal corporate income tax rate from 35% to 21%. The purpose of each docket is to examine and track the impacts of the tax changes on customer rates, to establish a process for adjusting the rates prospectively and, if possible, to ensure that customers receive some benefit from the tax cut that has been accumulating since the law took effect.

2. Certain principles govern how the Commission and stakeholders can effectuate these broad goals. First, when setting the rates to be charged prospectively the Commission must consider “all relevant factors.” *State ex rel. Utility Consumers Council of Missouri v. Pub. Serv. Comm’n*, 585 S.W.2d 41 (Mo. 1979) (“UCCM”). Second, setting rates to recover past losses or gains directly is prohibited retro-active ratemaking. *Id* at 58. Third, the Commission has the ability to issue

Accounting Authority Orders (“AAO”) to preserve a stakeholder’s ability to argue that a cost (or benefit) should be considered during a subsequent rate case. “The whole idea of AAOs is to defer a final decision on current extraordinary costs until a rate case is in order.” *Missouri Gas Energy v. PSC*, 978 S.W.2d 434, 438 (Mo. Ct. App. 1998). However, despite having dealt with various tax increases and decreases over the years, a level of uncertainty remains as to how each of these principles applies here.¹

3. In its order scheduling an oral argument, the Commission asked parties to address the specific question of “whether the Commission should issue an accounting authority order in each of these cases to preserve any excess revenues resulting from the income tax rate changes for possible adjustment in these or future cases.” Renew Missouri understands this to be one possible method to ensure that customers receive some benefit from the tax cut that has been accumulating since the law took effect because the deferred amount could then be considered among all other factors in the companies’ next rate case but would not immediately reduce rates.²

4. Given the differing legal perspectives interested parties will offer, regardless of whether the Commission issues AAOs, it should encourage these utilities to consider ways to allocate some of the tax savings to new projects that provide a public benefit, such as modernizing the utilities’ grids to allow for better incorporation of clean energy resources to provide customer benefits or investing in additional low-income efficiency projects rather than litigating a dollar-for-dollar

¹ For example, in its motion to open these dockets the Commission’s staff suggests that rates may be reduced without considering all relevant factors citing to *State ex rel. Hotel Continental v. Burton*, 334 S.W.2d 75 (Mo. 1960).

² The Western District Court of Appeals reiterated recently, the Commission “remains the authority that determines when an item may be included in a different accounting period for the purpose of developing authorized rates.” *Kan. City Power & Light Co.’s Request v. Mo. Pub. Serv. Comm’n*, 509 S.W.3d 757, 770 (stating “we will not second-guess the PSC’s reasoned decision that only extraordinary items may qualify for deferral treatment”).

refund. One way to accomplish this is to ask the utilities to work with interested stakeholders to identify projects to be funded by the identified portion of the tax law savings. If the stakeholders are able to identify projects in the public interest, the parties may be able to agree to expedited determination of prospective rates to benefit customers as well as permitting the company to retain a portion of the savings to invest in new projects. Under such an approach, it may be that no AAO is necessary.

5. In the event the Commission is persuaded to issue AAOs for the tax cut impact in each case, it should also require the utility to identify and list investments in areas benefitting the public interest pursued during the timeframe of the deferral. Those projects and investments should be considered as offsetting factors when the deferred amounts are evaluated against other relevant factors in an eventual rate case.

WHEREFORE, Renew Missouri respectfully submits these *Comments*.

Respectfully Submitted,
/s/ Tim Opitz
Tim Opitz, Mo. Bar No. 65082
409 Vandiver Drive, Building 5, Ste. 205
Columbia, MO 65202
T: (573) 303-0394 Ext. 3
F: (573) 303-5633
tim@renewmo.org

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 17th day of May 2018:

/s/ Tim Opitz
