

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

In the Matter of the Revenue Effects Upon)
Small Missouri Water and Sewer Utilities) **Case No. AW-2018-0237**
of the Tax Cuts and Jobs Act of 2017)

STATUS REPORT AND RECOMMENDATION TO CLOSE WORKING DOCKET

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and for this *Status Report and Recommendation to Close Working Docket*, states as follows:

Procedural History

1. On March 1, 2017, Staff filed its *Motion to Open a Working Docket* to gather information from regulated small water and sewer utility providers to determine what effects the Tax Cuts and Job Act of 2017 (“TCJA”) may have upon them.
2. The Commission issued its *Order Directing Response* on March 7, 2018, opening a working docket, and directing responses to questions posed by Staff by March 22, 2018. The Commission's order identified that the file will serve as a repository for documents and comments.
3. Approximately twenty-four different PSC-regulated small water and small sewer corporations filed comments answering the questions posed by Staff. Several of the responding entities operate affiliated water and sewer operations.
4. On October 11, 2018, the Commission issued its *Order Directing Staff to File a Status Report*, directing Staff to provide a report on the results of its investigation of the effects of the Tax Cut and Jobs Act of 2017 on small water and sewer utilities.

Report

5. Staff reviewed the information provided by the entities in response to the questions posed in Staff's *Motion to Open a Working Docket* and the Commission's *Order Directing Response*, and in addition conducted a review of the twenty largest small water and sewer utility companies in the state, as measured by the number of water and/or sewer customers. In reviewing these companies, Staff utilized information from their last filed rate cases to determine the amount of federal income tax expense included in their current rates, and the assumed federal income tax rate in effect at the time. If applicable, Staff calculated an estimated amount of rate reduction associated with the reduction in the federal income tax rate due to the TJCA.

6. The following effects of TCJA apply to the vast majority of small water and sewer utilities in Missouri:

a. Staff expects most of the "smaller" small water and sewer utilities taxed as type C corporations to see their potential tax rate change from 15% to 21%. This is because prior to the TCJA, small companies' corporate income began to be taxed at a 15% rate, with the applicable rate escalating with higher achieved taxable income levels, up to a maximum rate of 34%. Under the TCJA, all corporate income is taxed at a flat 21% rate. Staff's research showed that most of the C corporation water and sewer utilities had their current rates set upon an assumed 15% federal income tax rate. While Staff expects these companies to experience an increase in their corporate tax rate due to the TCJA, the actual tax liability for these utilities is not known at this time. These utilities

are encouraged to voluntarily file a Staff-Assisted Rate Case under 4 CSR 240-10.075 for adjustment as needed.

b. Staff expects small water and sewer utilities taxed as type S corporations to be unaffected. Type S corporations are taxed at the level of the owner's personal income tax return rate. Therefore the change to the corporate tax rate affected by the TCJA should not result in any change in revenue requirement for these utilities.

c. In regard to the small water and sewer utilities in Missouri organized as limited liability companies, those entities must elect to be taxed as either a Type C or Type S corporation, and the above-described results thus apply.

7. However, there are exceptions to the above general effects. Some of the "larger" small water and sewer companies in the state may see a reduced corporate tax rate as a result of the passage of the TCJA; these are companies whose achieved taxable income levels have historically been high enough to experience a tax rate above 21%. Staff has determined those companies to be The Empire District Electric Company,¹ Indian Hills Utility Operating Company, and Raytown Water Company. Staff is currently in the process of contacting these companies to inquire as to their willingness to voluntarily file rate cases with the Commission. Should these discussions prove unproductive Staff will consider further action, as necessary.

8. As such, after receiving comments from several small water and sewer utilities, and after conducting a review of the twenty largest small water and sewer

¹A division of The Empire District Electric Company provides water service to approximately 4,500 customers in southwest Missouri and is regulated by the Commission as a small water utility.

utilities in the state, Staff considers this working docket to have served its designated purpose, and, as no further action in this case file is necessary at this time, recommends that File No. AW-2018-0237 be closed.

WHEREFORE, Staff prays that the Commission will accept this *Status Report* and issue an order closing this working docket; and grant such other and further relief as the Commission considers just in the circumstances.

Respectfully submitted,

/s/ Mark Johnson

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile, or electronically mailed to all parties and or counsel of record on this 13th day of November, 2018.

/s/ Mark Johnson