

that adoption of Option C, or the issuance of any order maintaining the tax addendum tariff sheets, would be in error.

5. Staff correctly notes that the *Amended Report and Order*, like the original *Report and Order*, does not specifically address the continuation or elimination of the Tax Cut and Jobs Act of 2017 (“TCJA”) tax addendum tariff sheets. This is likely because no party proposed this as an issue for the Commission’s determination. Empire’s direct filing in this case proposed the discontinuation of the tax addendum tariff sheets, no party filed testimony opposing their discontinuation, and, to the Company’s knowledge, all financial calculations were made and presented based on the understanding that the tax addendum tariff sheets would no longer be in place.

6. Additionally, the tax addendum tariff sheets were designed and implemented to provide a credit to customers for the reduction in the federal tax rate pursuant to the TCJA, prior to new rates reflecting the tax rate reduction being implemented in a general rate case. New rates for Empire are now being implemented in this general rate case, and those rates will reflect the current federal tax rate. The tax addendum tariff sheets can no longer serve the purpose for which they were designed and implemented.

7. All rate design options presented in Staff’s Additional Motion for Clarification have the same financial impact on the Company. As noted above, adoption of Option C would be in error. The Company submits that the methodology of Option A is the most logical and prudent and that Option A most closely aligns with the Company’s interpretation of the *Amended Report and Order*. The amount reflected in Staff’s revenue requirement for the TCJA credits (\$17.85M), however, is the appropriate amount to use to allocate the tax credit rather than the approximate \$18.1 million set forth in Staff’s Additional Motion for Clarification. Adoption of Option A, but

utilizing the amount of \$17.85 million,¹ ensures that the allocation of the TCJA credits provided for in Case No. ER-2018-0366 is maintained at the existing levels and that the increase or decrease authorized in this case is allocated proportionately to all classes based on the existing revenue allocation.

WHEREFORE, Empire submits its Response to Staff's Additional Motion for Clarification.

Respectfully submitted,

/s/ Diana C. Carter

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CERTIFICATE OF SERVICE

I hereby certify that the above document was filed in EFIS on this 3rd day of August, 2020, with notification of the same being sent to all counsel of record.

/s/ Diana C. Carter

¹ Pursuant to the Commission's order in Case No. ER-2018-0366, at page 14, Empire's rates were adjusted prospectively, effective August 30, 2018, to reflect a reduction in Empire's annual base rate revenue requirement of \$17,837,022.