

The New Tax Law and Choices for State Utility Commissions

Dolores Midkiff-Powell, CPA

Email: Midkiff-PowellD@michigan.gov

Chair, NARUC Staff Subcommittee on Accounting and Finance

Audit Manager, Michigan Public Service Commission

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Quick Points

How the new tax law effects the utilities?

Corporate Tax Rate from 35% to 21%, a 40% reduction in taxes

Deferred Taxes Liability will be reduced, but needs to be normalized over the life of the plant that initiated the deferred tax over the life left

Utilities are able to continue to deduct state and local taxes

Why is it a big deal for the utilities?

Plant intensive business

Part of Revenue Requirement Calculation is increased for the taxes to be paid by utility

$$RR_t = (RB_t)R_t + OC_t + D_t + T_t + F_t$$

What are states doing?

Staff Subcommittee sent a survey out in late December asking the group if other state commissions are planning any action(s)/proceeding(s) for regulated utilities because of the new tax law. If so, what action(s)/proceeding(s) are being considered and are there any plans for immediate action(s)/proceeding(s) (such as deferrals) or delay of action(s)/proceeding(s) (such as rate cases)?

The following are the responses I got from some of the states:

What are states doing?

MAINE:

Opened up individual investigations for five of the state's investor owned utilities (IOU)

Set up case conference for February 1 to determine process

Investigation notices to address areas of concern, such as overcollections since January 1

Cases were assigned docket numbers 2018-00004 through 2018-00008

Two on-going rate case proceedings will address the tax issue

Fairly small investor owned will be evaluated on an individual basis

What are states doing?

Connecticut:

Public Utilities Regulatory Authority reopening the most recent rate cases

Authority also opened Docket No. 18-01-15 for the purpose of administering the reopened rate case in a consolidated proceeding.

Decisions for each of the regulated utilities to evaluate the impact of the Federal Tax Cuts and Jobs Act on currently allowed base rates.

What are states doing?

New York:

Commission to commence a proceeding (Case 17-M-015) to begin the process of addressing the impact on state's utilities and ratepayers

Solicit information from utilities to quantify the impacts of the new law

Commission will hold at least one technical conference

Ultimate goal is to preserve any net tax benefits for ratepayers

What are states doing?

Delaware:

Public Service Commission states in their order (docket 17-1249):

“That each rate-regulated utility in Delaware shall file estimates of their determination of the 2017 Tax Act’s effects on their cost of service for the most recent test year available (including new rate schedules) and propose procedures for changing rates to reflect those impacts on or before March 31, 2018.”

What are states doing?

Maryland:

Staff and OPC filed a petition to show cause the effect of the tax impact. Maryland PSC opened a docket directing IOUs of gas electric, telephone, water to track the impacts beginning January 1 and apply regulatory accounting treatment as well as file with the Commission by February 15 the impacts.

What are states doing?

Michigan:

Commission ordered 13 utilities to study the impact of new federal tax cuts and how the savings will be passed along to consumers by January 19. Commissioners want the savings calculated from the effective date of the federal law, January 1.

Commission will then determine how and when the savings will flow back to ratepayers.

What are states doing?

Wisconsin:

Commission opened one docket (5-AF-101) to address deferral authorization of any tax benefits associated with the tax law applicable to all investor-owned utilities. Utilities are requesting deferral authorization.

What are states doing?

Minnesota:

Commission is studying how the 1986 tax reform was handled.

What are states doing?

Indiana:

Commission has opened an investigation into the impacts of the tax cuts on utilities, 45032.

What are states doing?

Oklahoma:

The Oklahoma Attorney General filed several causes on rate regulated gas and electric companies. The Commission issued orders in each of these causes directing each utility to record a deferred liability beginning on the associated savings in excess ADIT and any other tax implications of the new tax law on an interim basis subject to refund until utility rates are adjusted to reflect the federal tax savings and final order is issued in the utility's next rate proceeding. Commission also ordered any refunds to be determined to be owed to customers shall accrue interest at rate equivalent to the utility's cost of capital determined in the most recent rate proceeding.

What are states doing?

Idaho:

If utility has an open rate case, the tax change will be addressed in those cases. Otherwise the generic case will be the action for each of the rate regulated companies.

What are states doing?

Washington:

Any pending rate cases will address the tax reform within those dockets. Commission is expected to have a general proceeding to establish deferral accounting immediately and determine an amortization schedule during the company's next general rate filing.

Additional Information

www.ipu.msu.edu/taxreform

Dr. Janice Beecher, Director, Institute of Public Utilities Policy Research & Education (IPU), Michigan State University, has set up this website where she has been collecting data from states across the United States.

Each states is doing something a little different than the other states.

Still a wait and see.

It will be interesting to watch how the leadership at the state commissions will play a key role to address these issues in a timely, predictable and equitable manner