



State of Utah  
Department of Commerce  
Division of Public Utilities

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## DPU REPLY COMMENTS – TAX REFORM

To: Utah Public Service Commission

From: Utah Division of Public Utilities

Chris Parker, Director

Artie Powell, Energy Section Manager

Lane Mecham, Utility Analyst

Jeffrey S. Einfeldt, Utility Analyst

Date: April 16, 2018

Re: **Reply Comments and Recommendations (Revised)**

**Docket No. 17-035-69**, Investigation of Revenue Requirement Impacts of the New Federal Tax Legislation Titled: “An act to provide for reconciliation pursuant to titles II and V of the concurrent resolution of the budget for fiscal year 2018.

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### RECOMMENDATIONS (REVISED)

In its initial filings, the Division of Public Utilities (DPU) recommended that Rocky Mountain Power (RMP or Utility) refund the accrued balance as of April 30, 2018 as a one-time refund and establish a new rate to refund the remainder of the annual \$76.2 million through the end of 2018. The DPU also recommended that any refund should not apply to certain contract customers, namely, US Magnesium and Nucor Steel, and supported the Utility’s spread to customer rate classes.

The DPU revises its recommendation as follows. The DPU continues to recommend that the Utility refund the entire annual savings of \$76.2 million dollars as previously described. The DPU also maintains that the Public Service Commission (Commission) deny the Utility’s request to pull Deer Creek mine costs from the EBA and offset it with tax savings. However, after further communication with RMP and US Magnesium, the DPU recommends that any refund include both

US Magnesium and Nucor Steel. The full refund and including these contract customers in the rate spread necessitate changes to RMP's proposed tariff.

## **ISSUE**

On March 16, 2018, Rocky Mountain Power ("RMP" or "Utility") filed its application for approval to pass through \$20 million of tax savings created by passage of the Tax Cuts and Jobs Act ("Tax Reform Act") through a new Tariff Schedule 197. RMP also requested that the Public Service Commission of Utah ("Commission") approve the continued deferral of tax savings, net of the \$20 million that it proposes to refund through Tariff Schedule 197, so that it can use the deferral to offset future costs such as the Deer Creek mine costs currently being amortized through the Energy Balancing Account ("EBA").

## **DISCUSSION**

For the reasons articulated in its initial filings (February 23, 2018 and April 9, 2018), the DPU recommends that the entire estimated annual savings of approximately \$76.2 million be refunded or credited to customers and the adjustments should begin as soon as possible. The accrued balance as of April 30, 2018 should be returned to customers as a one-time refund, and a rate created that will credit customers' bills through 2018 for the remaining balance. Future years' annual savings and potential one-time savings for deferred income tax adjustments can be addressed as they arise.

In its initial comments, the DPU recommended that the tax savings be allocated to "rate classes based on the rate base allocation from the most recent annual cost of service study, with the exception of" certain contracts, namely, US Magnesium and Nucor Steel. The DPU believed that US Magnesium and Nucor Steel would negotiate their contracts independently and any benefits from the Tax Act would be realized in the renegotiated contracts. Subsequent conversations with the Company and US Magnesium revealed that this is not the case and the renegotiated rates for these customers include the higher federal income tax rate. Therefore, the DPU recommends that US Magnesium and Nucor Steel be included in any refund of tax savings.

## **CONCLUSION**

The Division continues to recommend that the Commission order the Company to refund the accrued balance as of April 30, 2018 as a one-time refund and establish a new rate for the remainder of 2018.

Future year's savings and accumulated deferred income tax adjustments can be made at the appropriate time based on information then available. We also continue to recommend that the Commission deny the Company's request to pull Deer Creek mine costs from the EBA and offset it with tax savings. However, after further communication with RMP and US Magnesium, the DPU recommends that any refund include both US Magnesium and Nucor Steel. Refunding the entire \$76.2 million and including US Magnesium and Nucor Steel in the rate spread necessitate changes to RMP's proposed tariff.

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