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Division of Public Utilities

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DPU Reply Comments – Tax Reform

To: Public Service Commission

From: Division of Public Utilities:
Chris Parker, Director
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Jeffrey S. Einfeldt, Utility Analyst
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Date: April 24, 2018

Re: **Refund Savings From Tax Reform Act, Docket No. 17-057-26**,

Revenue Requirement impacts to Dominion Energy Utah 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" ("Tax Reform Act")

RECOMMENDATION (Create an immediate refund mechanism for tax benefits)

The Division of Public Utilities ("Division") supports Dominion Energy Utah's ("DEU" or "Company") plan to refund the future estimated savings from operations created by the Tax Reform Act to ratepayers through its proposed tariff changes. The Division also recommends the Company refund to ratepayers the tax savings accrued from January 1, 2018 through May 31, 2018 by the end of 2018. The Division recommends a one-time adjustment to customer bills or a rate adjustment incorporated in the tariff similar to the adjustment proposed for the tax savings going forward. The rate adjustment going forward would terminate once the new tax rates have been incorporated into base rates. The one-time rate adjustment would terminate once the accrued savings are refunded.

BACKGROUND

The Tax Reform Act was signed into law December 22, 2017, giving rise to a reduction in corporate federal income taxes from 35% to 21%. The Commission issued a Notice of Comment Period on December 21, 2017, initiating this docket to investigate the revenue requirement impacts of the Tax Reform Act. The Company provided its initial response through testimony on January 31, 2018. The Division filed comments dated February 16, 2018 in response to a Commission Action Request whereby the Division recommended a mechanism be created to refund the tax savings to ratepayers.

The Commission convened a scheduling conference on March 1, 2018 that resulted in additional comments due from the Company by April 2, 2018 with reply comments due by May 2, 2018. These comments are the Division's reply to the Company's additional comments.

ISSUE

The signing of the Tax Reform Act resulted in a reduction of the corporate federal income tax rate. This reduction translates into a significant reduction in DEU's revenue requirement and cost to provide service to its ratepayers.

The Company identified areas of operation specifically affected by the tax rate change including its base distribution non-gas ("DNG") rate, infrastructure rate, deferred income tax, and cost-of-service gas from Wexpro. The issue centers around the calculation of benefits due ratepayers from the Tax Reform Act and the timing of the return of those benefits to ratepayers.

ANALYSIS

<u>General</u>

The Tax Reform Act decreased federal corporate income tax rates from 35% to 21% resulting in reduced income tax expense going forward and reduced deferred income tax liability that was previously calculated based on the higher 35% tax rate. This is a significant and unforeseen reduction in utility expenses. The return of the tax savings to ratepayers is discussed below in more detail by the four areas previously identified by the Company.

Infrastructure Rate Adjustment Impacts

DEU calculated savings of $2,518,628 due ratepayers related to infrastructure replacement. The Company updated its most recent infrastructure rate adjustment filing in Docket No. 18-057-T01 (previously Docket No.17-057-23) to reflect the reduction in the pretax return directly related to the income tax rate reduction to 21%. The adjustment responding to the tax change was approved by the Commission on February 21, 2018 and became effective March 1, 2018 resulting in tax benefits being realized by ratepayers roughly concurrent with the business activity giving rise to the benefit.

Cost-of-Service Gas from Wexpro

During discussions, the Company indicated the price of the cost-of-service gas produced by Wexpro will also be affected by the new tax rates. While not mentioned in the Company's filing, a reduction in the Wexpro cost-of-service gas price will be passed on to ratepayers through the accounting performed in the 191 balancing account. This will also result in tax benefits being realized by ratepayers roughly concurrent with the business activity giving rise to the benefit. The Division continues to recommend the Company provide additional information to the Commission to account for the savings related to the Wexpro cost-of-service gas.

Deferred Income Tax

The Company continues to research the impacts of the Tax Reform Act on its Deferred Income Tax liability reported on its financial statements. The Company anticipates this analysis will be complete during the fourth quarter of 2018 or the first quarter of 2019 and plans on issuing additional comments to the Commission at the completion of this analysis. The deferral of the tax benefits associated with the deferred tax liability to the next general rate case is prudent because those benefits will likely not be known until shortly before the rate case filing.

Effect on Current DNG Rates

DEU's currently approved base distribution non-gas ("DNG") rate includes imputed tax expense based on the 35% tax rate in place at the time of approval.[1] DEU began calculating and accruing the DNG tax savings due ratepayers effective January 1, 2018. DEU estimates the tax savings related to DNG costs for 2018 of $14.5 million[2] and proposes spreading this savings to each class based on the Report and Order issued in Docket 13-057-19[3]. DEU proposes changes to its tariffs to begin refunding the current monthly DNG tax savings to ratepayers beginning June 1, 2018 for DNG tax savings accruing June 1, 2018 and going forward. The Company requests that it be allowed to retain the accrued savings from January 1 through May 31, 2018 until the deferred liability benefits have been identified. The Company then requests the combined tax savings from DNG accrued from January through May 2018 and the deferred tax liability analysis be included in a general rate case anticipated to be filed in July 2019. This would result in the known DNG tax benefits accrued from January through May 2018 being deferred until sometime in 2020, after the next general rate case has been litigated. The Company estimates tax savings from DNG for 2018 of $14,519,676[4]. The Company estimates the savings from January through May to be $9,049,516[5] (or roughly 62% of the annual savings). This is the amount the Company proposes to retain and incorporate into the next general rate case.

The Division believes the tax benefits related to DNG costs that have been accrued by the Company beginning January 1 through May 31, 2018 should not be retained by the Company and should be returned to ratepayers as soon as practical. The Division proposes a one-time credit to refund the accrued portion. Given the relatively small dollar amount, the Division proposes for the GS class a simple method of dividing the accrual by the number of customers in the Company's June billings to determine each customer's refund. The Company may determine a more meticulous method for other rate classes.

[1] Docket 13-057-05 (most recent general rate case).
[2] Docket 17-057-26; DEU comments filed on 4/2/2018 and accompanying exhibits 1.2 and 1.3.
[3] *Ibid*.
[4] *Ibid*.
[5] Docket 17-057-26; DEU comments filed on 4/2/2018; exhibit 1.4

Alternatively, the Company could calculate a run rate similar to the rate adjustment going forward that would refund the accrual to existing customers through the end of the year.

CONCLUSION

The Division commends the Company for its processes implemented to pass the tax savings to ratepayers related to the infrastructure rate adjustment, Wexpro cost-of-service gas, and the DNG base rate from June 1, 2018 going forward. The Division recommends the Company design a mechanism to return the deferred tax savings from January 1 through May 31, 2018 related to the DNG base rate by December 31, 2018. The Division also recommends DEU provide an accounting of the tax savings related to the Wexpro cost-of-service gas to be passed on to ratepayers.

cc: Michele Beck, Office of Consumer Services
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