

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.)	
)	
COMPLAINANT)	
)	CASE NO. 2017-00477
V.)	
)	
KENTUCKY UTILITIES COMPANY, LOUISVILLE GAS AND ELECTRIC COMPANY, KENTUCKY POWER COMPANY, AND DUKE ENERGY KENTUCKY, INC.)	
)	
DEFENDANTS)	

ORDER

On December 21, 2017, Kentucky Industrial Utility Customers, Inc. (“KIUC”) filed a formal complaint, on behalf of 18 named customers, against Kentucky Utilities Company (“KU”); Louisville Gas and Electric Company (“LG&E”), operating as an electric and gas utility; Kentucky Power Company (“Kentucky Power”); and Duke Energy Kentucky, Inc. (“Duke Energy”), operating as an electric and gas utility; (collectively, “Defendants”), alleging that their respective rates are no longer fair, just, and reasonable due to the recent enactment of the Tax Cuts and Jobs Act reducing the federal corporate tax rate from 35 percent to 21 percent. The complaint states that the current rates of each of the Defendants were established by the Commission to include recovery of the 35 percent federal corporate tax rate on the equity portion of capital investments, but that as of January 1, 2018, that tax rate is reduced to 21 percent. In addition to requesting rate

reductions to reflect the lower tax rate, the complaint alleges that each of the Defendants has on its books deferred taxes which are now in excess of future liability and these excess deferred taxes need to be refunded to ratepayers over the remaining useful life of the property, estimated to be 20 years. In support of its complaint, KIUC filed an affidavit of a consulting accountant recommending revenue reductions for each of the Defendants based on its respective financial figures for the 12 months ended September 30, 2017.

Based on a review of the complaint and being otherwise sufficiently advised, the Commission finds that KIUC has established a *prima facie* case that as of January 1, 2018, the rates of each of the Defendants will no longer be fair, just, or reasonable. Rates must be set at a level to allow a utility to recover all of its reasonable expenses, including taxes, and to provide its shareholders an opportunity to earn a fair return on invested capital. Since ratepayers are required to pay through their rates the tax expenses of a utility, any reduction in tax rates must be timely passed through to ratepayers. Since the tax rate reduction is effective January 1, 2018, and the Commission's ratemaking authority is prospective in nature, each of the Defendants should record a deferred liability starting January 1, 2018, to reflect both the reduced federal corporate tax rate expense of 21 percent and the excess deferred accumulated income taxes to be returned to ratepayers over the next 20 years.

While the exact amount of the tax savings and resulting rate reductions cannot be determined with precision at this time, each of the Defendants should use its best estimate to determine the amount to be recorded as a deferred liability, subject to review and adjustment as part of this case. This is the same procedures followed by utilities in Kentucky when they seek approval of deferred assets before the final amounts are known

with certainty. Rate cases were recently concluded for KU and LG&E, and rate cases are now ongoing for Kentucky Power and Duke Energy. Thus, the issues to be addressed in this complaint case are properly limited to the savings resulting from the January 1, 2018, tax reduction, the appropriate level of deferred liabilities to be recorded on an interim basis to reflect the reduced federal corporate tax rate, and the appropriate level of reductions in utility rates to reflect the reduced federal corporate tax rate.

Finally, KU, LG&E, Kentucky Power, and Duke Energy are hereby notified that they have been individually named as Defendants in a formal complaint filed on December 21, 2017, a copy of which is attached as the Appendix to this Order.

IT IS THEREFORE ORDERED that:

1. Pursuant to 807 KAR 5:001, Section 20, KU, LG&E, Kentucky Power, and Duke Energy shall satisfy the matters complained of or file a written answer to the complaint within ten days from the date of service of this Order.

2. KU, LG&E, Kentucky Power, and Duke Energy shall commence recording deferred liabilities on their respective books for electric and gas service, as applicable, to reflect the reduction in the federal corporate tax rate to 21 percent and the associated savings in excess deferred taxes on an interim basis until utility rates are adjusted to reflect the federal tax savings.

Should documents of any kind be filed with the Commission in the course of this proceeding, the documents shall also be served on all parties of record. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

By the Commission

ENTERED
DEC 27 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2017-00477

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2017-00477 DATED **DEC 27 2017**

BOEHM, KURTZ & LOWRY

ATTORNEYS AT LAW
36 EAST SEVENTH STREET
SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

VIA OVERNIGHT MAIL

RECEIVED

DEC 21 2017

PUBLIC SERVICE
COMMISSION

December 20, 2017

Gwen R. Pinson, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: *Kentucky Industrial Utility Customers, Inc., Complainant vs. Kentucky Utilities Company, Louisville Gas and Electric Company, Kentucky Power Company and Duke Energy Kentucky, Inc., Defendants, Case No. 2017-00477*

Dear Ms. Pinson:

Please find enclosed the original (unbound) and ten (10) copies of KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.'s COMPLAINT AND PETITION FOR THE ESTABLISHMENT OF A REGULATORY LIABILITY TO PROVIDE CONSUMERS A RATE REDUCTION BECAUSE OF TAX EXPENSE SAVINGS for filing in the above-referenced matter.

By copy of this letter, all parties listed on the Certificate of Service have been served. Please place this document of file.

Very Truly Yours,



Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
BOEHM, KURTZ & LOWRY

MLKkew
Attachment

cc: Certificate of Service
Richard Raff, Esq. (via email)
Quang Nyugen, Esq. (via email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail (when available) or by regular, U.S. mail, unless otherwise noted, this 20th day of December, 2017 to the following:



Michael L. Kurtz, Esq.

Kurt J. Boehm, Esq.

Jody Kyler Cohn, Esq.

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Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 W Jefferson Street
Louisville, KY 40202-2828

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220 West Main Street
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Lexington, KY 40507

Hector Garcia
American Electric Power Service Corp.
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215-237

Amy B. Spiller
Associate General Counsel
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Cincinnati, OH 45201

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Lawrence W. Cook, Esq.
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Kentucky Utilities Company
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Lexington, KY 40507

Kentucky Power Company
1 Riverside Plaza
Columbus, OH 43215-2372

Louisville Gas and Electric
220 West Main Street
Louisville, KY 40202

Duke Energy Kentucky, Inc.
139 East 4th Street
ATTN: Teri O'Neill EA025
Cincinnati, OH 45202

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

DEC 21 2017

PUBLIC SERVICE
COMMISSION

KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC. :
:
Complainant :
v. :
KENTUCKY UTILITIES COMPANY :
:
LOUISVILLE GAS AND ELECTRIC COMPANY :
:
KENTUCKY POWER COMPANY :
:
DUKE ENERGY KENTUCKY, INC. :
:
Defendants :
:

Case No. 2017- 00477

COMPLAINT AND PETITION FOR THE ESTABLISHMENT OF A
REGULATORY LIABILITY TO PROVIDE CONSUMERS A RATE REDUCTION
BECAUSE OF TAX EXPENSE SAVINGS

INTRODUCTION

Pursuant to KRS 278.260, KRS 278.270, KRS 278.040, KRS 278.030 and 807 KAR 5:001 Section 20, Kentucky Industrial Utility Customers, Inc. (“KIUC” or “Complainant”) submits this Complaint against Kentucky Utilities Company, Louisville Gas and Electric Company, Kentucky Power Company, and Duke Energy Kentucky, Inc. (collectively, “Defendants”) to the Kentucky Public Service Commission (“Commission”). Complainant submits that because of the tax expense savings that

Defendants will almost certainly receive from the Tax Cuts and Jobs Act,¹ Defendants' rates will no longer be fair, just, and reasonable beginning January 1, 2018.²

Effective January 1, 2018, the Tax Cuts and Jobs Act will lower the maximum federal corporate income tax rate from 35% to 21%. This reduction in federal corporate income tax expense is not currently reflected in Defendants' tariff rates, including, but not limited to, their base rates, environmental surcharges, and demand-side management surcharges. Based upon per books financial information for the twelve months ending September 30, 2017, Complainant estimates that the rates of the Defendants should be reduced by \$209 million or more annually. Attachment A.³ The calculations in Attachment A are supported by the Affidavit of Mr. Lane Kollen.

Complainant petitions the Commission for an order: 1) requiring each Defendant to begin deferring as of January 1, 2018 the revenue requirement effect of all income tax expense savings resulting from the federal corporate income tax reduction, including the amortization of excess accumulated deferred income taxes, by recording those savings in a regulatory liability account; and 2) establishing a process by which Defendants' federal corporate income tax savings will be passed back to all retail customers. Although it will vary by utility, we estimate that the rate reductions sought by this Complaint will average 4% – 7%. In support of its request, Complainant states as follows:

¹ The bill's long title is "*An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018.*"

² The Tax Cuts and Jobs Act was passed by the both the United States Senate and House of Representatives on December 20, 2017. In a formal White House ceremony, President Trump confirmed his intent to sign the bill into law as soon as possible. But President Trump cannot presently sign the bill before the end of this year without triggering automatic spending cuts to Medicare and other spending categories under the so-called PAYGO law unless he receives a Congressional waiver. Therefore, the White House has stated that the formal signing by the President may not occur until early 2018.

Because this issue and its expeditious resolution are of utmost importance to customers in Kentucky, KIUC has chosen to submit this Complaint now. Should the Commission determine that KIUC's Complaint does not establish a prima facie case because of this formality, then KIUC will amend this Complaint in accordance with 807 KAR 5:001, Section 20(4)(a).

³ Kentucky Utilities Company and Louisville Gas & Electric Company received rate increases earlier this year. Kentucky Power Company and Duke Energy Kentucky, Inc. both have pending rate increases. The rate increases granted will substantially increase annualized income and income tax expense compared to the per books expense for the twelve months ending September 30, 2017. This will increase the rate reductions shown in Attachment A.

BASES FOR THE COMMISSION'S JURISDICTION

1. The Kentucky Public Service Commission has jurisdiction and venue to hear this complaint under KRS 278.260, KRS 278.270, KRS 278.040, KRS 278.030 and 807 KAR 5:001, Section 20.

PARTIES

2. The Complainant is a non-profit Kentucky corporation. The members of Complainant who purchase utility services from the Defendants are: AAK, USA K2, LLC, Air Liquide Industrial U.S. LP, Air Products and Chemicals, Inc., Airgas, USA, LLC, AK Steel Corporation, Alliance Coal, LLC, Carbide Industries LLC, Catlettsburg Refining LLC, a subsidiary of Marathon Petroleum LP, Cemex, Clopay Plastic Products Co., Inc., Corning Incorporated, Dow Corning Corporation, Ford Motor Company, Ingevity, North American Stainless, Schneider Electric USA, The Chemours Company and Toyota Motor Manufacturing, Kentucky, Inc. The corporate office address of the Complainant is as follows:

36 East Seventh Street, Suite 1510
Cincinnati, OH 45202

3. Counsel for Complainant is:

Michael L. Kurtz, Esq.
Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
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jkylercohn@BKLawfirm.com

4. Defendant Kentucky Utilities Company is a utility as defined in KRS 278.010(3), and a subsidiary of PPL Corporation, subject to the jurisdiction of the Public Service Commission.

PPL Corporation's office address is as follows:

2 N. Ninth Street
Allentown, PA 18101-1179

Kentucky Utilities Company's office address is:

1 Quality Street
Lexington, KY 40507

5. Counsel for Defendant Kentucky Utilities Company is:

Kendrick R. Riggs
Stoll Keenon Ogden, PLLC
2000 PNC Plaza, 500 W Jefferson Street
Louisville, KY 40202-2828

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

6. Defendant Louisville Gas and Electric Company is a utility as defined in KRS 278.010(3), and a subsidiary of PPL Corporation, subject to the jurisdiction of the Public Service Commission.

PPL Corporation's office address is as follows:

2 N. Ninth Street
Allentown, PA 18101-1179
Louisville Gas and Electric's office address is:

220 West Main Street
Louisville, KY 40202

7. Counsel for Defendant Louisville Gas and Electric Company is:

Kendrick R. Riggs
Stoll Keenon Ogden, PLLC
2000 PNC Plaza, 500 W Jefferson Street
Louisville, KY 40202-2828

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

8. Defendant Kentucky Power Company is a utility as defined in KRS 278.010(3), and a subsidiary of American Electric Power, subject to the jurisdiction of the Public Service Commission.

American Electric Power's office address is as follows:

1 Riverside Plaza
Columbus, OH 43215-2372

Kentucky Power Company's office address is:

1 Riverside Plaza
Columbus, OH 43215-2372

9. Counsel for Defendant Kentucky Power Company is:

Mark R. Overstreet
Stites & Harbison
421 West Main Street, P. O. Box 634
Frankfort, KY 40602

Kenneth J. Gish, Jr.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KY 40507

Hector Garcia
American Electric Power Service Corp.
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215-237

10. Defendant Duke Energy Kentucky, Inc. is a utility as defined in KRS 278.010(3) subject to the jurisdiction of the Public Service Commission whose office address is as follows:

139 East 4th Street
ATTN: Teri O'Neill EA025
Cincinnati, OH 45202

11. Counsel for Defendant Duke Energy Kentucky, Inc. is:

Amy B. Spiller, Associate General Counsel
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

Rocco O D'Ascenzo
Duke Energy Kentucky, Inc.
139 East Fourth Street
Cincinnati, OH 45201

BACKGROUND

12. On December 20, 2017, the Tax Cuts and Jobs Act was passed by both the United States Senate and House of Representatives.
13. President Trump has confirmed his intent to sign the bill into law either in late 2017 or early 2018.
14. The procedural formalities for a potential delay in signing were explained in footnote 2 of this Complaint.
15. The Tax Cuts and Jobs Act will lower the maximum federal corporate income tax rate from 35% to 21% effective January 1, 2018.
16. Defendants currently recover federal corporate income tax expenses at the 35% rate through tariff rates charged to the utility customers in their service territories, including, but not limited to, base rates, environmental surcharges, and demand-side management surcharges.
17. The federal corporate income tax expenses currently recovered from utility customers through Defendants' tariff rates do not reflect the lower federal corporate income tax rate established under the Tax Cuts and Jobs Act that will be effective on January 1, 2018. Complainant estimates that implementation of the new federal tax rate will lower the revenue requirements of the Defendants by \$209 million or more annually. The estimated annual revenue requirement reduction for each of the Defendants is listed in Paragraph 33. Although it will vary by utility, we estimate that the rate reductions sought in this Complaint will average 4% – 7%.

BASES FOR COMPLAINANT'S CLAIMS

18. KRS 278.030(1) provides that Kentucky utilities “*may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.*”
19. Requiring Complainant’s members in Defendants’ service territories to pay the currently applicable tariff rates, which do not reflect income tax expense savings resulting from the lowered federal corporate income tax rate, would result in unfair, unjust, and unreasonable rates in violation of KRS 278.030(1).
20. The cost savings resulting from the Tax Cuts and Jobs Act that are not currently reflected in Defendants’ rates include both: 1) lower income tax expense; and 2) an amortization of “*excess*” accumulated deferred income taxes (“ADIT”).
21. Income tax expense is calculated in the ratemaking process by “*grossing up*” the equity component of the utility’s rate of return for income taxes. This ensures that the utility has the opportunity to earn its after-tax authorized return on equity. For example, for a utility to earn an authorized 10% after-tax return on equity at the 35% federal tax rate, the utility will charge customers the pre-tax cost of 15.40% ($10\% / (1 - .35)$). For a utility to earn an authorized 10% after-tax return on equity at the 21% federal tax rate, the utility needs to charge customers the pre-tax cost of 12.66% ($10\% / (1 - .21)$). This example does not include the gross-up for state corporate income taxes. Because the federal income tax expense will be reduced from 35% to 21%, Defendants’ income tax expense will be reduced through a reduction in the equity gross-up.
22. ADIT is the difference between the amount of tax recovered in rates and the amount of tax actually paid by the utility to the federal government. Because of accelerated and bonus depreciation, the amount of tax actually paid by the utility is generally less than the taxes recovered from ratepayers in the early years of a new asset’s life. If the income tax rate remains the same in future years, then over time, the process is reversed and the cumulative tax recovered

from ratepayers (reflected in ADIT) and paid by the utility to the federal government is generally equal over the course of an asset's life. Meanwhile, ratepayers receive a return on this ADIT through a reduction to rate base until the utility pays these amounts to the federal government. If the income tax rate remains the same in future years, then the ADIT is never refunded to ratepayers because the tax is paid to the federal government. However, when the tax rate is lowered from 35% to 21%, a portion of the ADIT will never be paid to the federal government and "excess" ADIT is created. Because the excess ADIT will never be paid to the federal government, it must be refunded to customers.

23. In a February, 2013 report entitled "*Comprehensive Tax Reform Priorities: Excess Deferred Tax Transition Issues*," the Edison Electric institute agreed with Complainant's characterization of the excess ADIT issue, stating: "*One of these transition issues is the treatment of so-called excess deferred taxes. Many companies may have excess deferred tax reserves after a federal income tax rate reduction because the change in law requires a recalculation of deferred tax liabilities. However, unlike other companies that would recognize excess deferred taxes as income, regulated shareholder-owned electric utilities are required to refund excess deferred taxes, related to asset depreciation, to their customers...When a tax rate reduction creates excess deferred taxes, all companies must account for the excess. A non-regulated company generally would recognize the excess deferred taxes as income for financial statement purposes. However, an electric utility must refund the excess deferred taxes to ratepayers, requiring the recording of a regulatory liability.*" Attachment B.

24. The Commission has previously acted expeditiously to lower utility rates in light of a federal corporate income tax rate reduction, as it did in response to the Tax Reform Act of 1986.⁴ The Tax Reform Act of 1986 lowered the federal corporate income tax rate from 46% to 34%.
25. In the Tax Reform Act of 1986 cases, the Commission held that it *“does not view retaining the savings that result from tax reform as a proper way for a utility to improve its earnings. Likewise, if the Tax Reform Act should result in major cost increases, these costs should be recognized in rates expeditiously.”*⁵
26. The Commission also explained that *“[b]ecause the Tax Reform Act represents such a historic change in federal tax policy....it was in the best interests of all concerned--utilities and ratepayers alike--to reflect these tax changes in each company's rates as expeditiously as possible.”*⁶

⁴ *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Kentucky Utilities Company*, Case No. 9780 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Louisville Gas and Electric Company*, Case No. 9781 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Kentucky Power Company*, Case No. 9779 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Kentucky-American Water Company*, Case No. 9815 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Union Light, Heat and Power Company - Electric*, Case No. 9782 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Union Light, Heat and Power Company - Gas*, Case No. 9788 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Western Kentucky Gas Company*, Case No. 9789 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Delta Natural Gas Company*, Case No. 9785 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of South Central Bell Telephone Company*, Case No. 9803 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Continental Telephone Company of Kentucky*, Case No. 9799 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of ALLTEL Kentucky*, Case No. 9796 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Thacker-Grigsby Telephone Company, Inc.*, Case No. 9804 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Brandensorg Telephone Company, Inc.*, Case No. 9797 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Harold Telephone Company, Inc.*, Case No. 9801 (June 11, 1987); *In the Matter of the Effects of the Federal Tax Reform Act of 1986 on the Rates of Leslie County Telephone Company, Inc.*, Case No. 9802 (June 11, 1987).

⁵ *Id.*

⁶ *Id.*

27. The Commission’s chosen resolution in the Tax Reform Act of 1986 cases was to make one-time adjustments lowering the revenue requirements of major utilities (those with revenues in excess of \$1 million) by an amount in excess of \$75 million.⁷
28. In 1986, Kentucky was not alone in taking action to reduce utility rates to reflect the lower tax expense. According to Regulatory Research Associates, “*About 40 of the 50 jurisdictions then covered by RRA initiated generic proceedings to address the impacts of the lower tax rates...*”
Attachment C.
29. The Commission has also previously ordered utilities to defer certain rate components to be considered for future recovery.⁸
30. Such Commission-ordered deferrals have included anticipated cost savings that could ultimately be passed on to customers.⁹
31. The Commission has explained that deferral authority may be granted “*when a utility has incurred: (a) an extraordinary, nonrecurring expense which could not have reasonably been anticipated or included in the utility's planning; (b) an expense resulting from a statutory or administrative directive; (c) an expense in relation to an industry-sponsored initiative; or (d) an extraordinary or nonrecurring expense that over time will result in a saving that fully offsets the cost.*”¹⁰

⁷ *Id.*

⁸ *In the Matter of the Application of Big Rivers Electric Corporation for an Adjustment of Rates*, Case No. 2012-00535 (October 29, 2013); *In the Matter of the Application of Big Rivers Electric Corporation for a General Adjustment in Rates Supported by Fully Forecasted Test Period*, Case No. 2013-00199 (April 25, 2014); *In the Matter of the Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with Two 2015 Major Storm Events*, Case No. 2016-00180 (November 3, 2016).

⁹ *In the Matter of the Joint Application of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, Louisville Gas and Electric Company, and Kentucky Utilities Company for Approval of an Acquisition of Ownership and Control of Utilities*, Case No. 2010-00204 (September 30, 2010).

¹⁰ *In the Matter of the Application of Kentucky Power Company for an Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities Related to the Extraordinary Expenses Incurred by Kentucky Power Company in Connection with Two 2015 Major Storm Events*, Case No. 2016-00180 (November 3, 2016).

32. At least two of those criteria apply here. First, the reduction in federal corporate income tax rates resulting from the Tax Cuts and Jobs Act is “*extraordinary*,” “*nonrecurring*,” and “*could not have reasonably been anticipated or included in the utility’s planning*.” Second, the tax savings stemming from the Tax Cuts and Jobs Act result from a federal statutory directive.
33. There is no legal constraint on the Commission’s authority to act upon this Complaint. On the contrary, the Kentucky Supreme Court has expressly recognized the Commission’s authority to reflect single issues in rates so long as the end result is fair, just, and reasonable rates. “*In fact, we find nothing in the statutes that would prohibit ‘single-issue ratemaking’*” Kentucky Pub. Serv. Comm’n v. Com. ex rel. Conway, 324 S.W.3d 373, 382 (Ky. 2010). “*...the plain language of KRS 278.190 does not actually require that the PSC proceed with a general rate case or other particular process every time some new rate or change in rates is requested.*” Id. at 378. “*While the power to approve the AMRP rider at issue may not have been expressly granted by statute before the enactment of KRS 278.509, we, nonetheless, conclude that the PSC has the power to allow such a rider based upon (1) its plenary ratemaking authority derived from KRS 278.030 and KRS 278.040, which essentially require that the PSC act to ensure that rates are “fair, just and reasonable” and (2) the absence of any statutes specifically requiring a particular procedure when determining if rates are fair, just, and reasonable.*” Id. at 380-81.
34. If the Commission were to deny Complainant’s request for an immediate deferral of Defendants’ federal corporate income tax expense savings, then customers would pay unfair, unjust, and unreasonable rates for an extended period of time before Defendants’ rates are altered to reflect the effects of the Tax Cuts and Jobs Act. And because the Commission bars retroactive ratemaking under most circumstances, customers may never be refunded for unfair, unjust, and

unreasonable rates paid during that extended consideration period.¹¹ This is the primary reason for bringing this matter to the attention of the Commission as soon as possible.

35. Attachment A is a quantification of the probable tax savings to Defendants' customers. Attachment A is based upon per books accounting information for the twelve months ending September 30, 2017. Attachment A includes an assumption that excess ADIT will be amortized over twenty years, which we believe is a reasonable proxy for the remaining useful lives of the utility's assets. Attachment A shows representative annual rate reductions as follows:

Kentucky Utilities Company:	\$ 76,088,393 per year
Louisville Gas & Electric Company (gas and electric):	\$ 90,690,505 per year
Kentucky Power Company:	\$ 25,310,650 per year
Duke Energy Kentucky, Inc. (gas and electric):	<u>\$ 17,053,495</u> per year
TOTAL	\$209,143,043 per year

¹¹ *In the Matter of the Notice of Adjustment of the Rates of Kentucky-American Water Company*, Case No. 92-452 (November 19, 1993).

REQUESTED RELIEF

WHEREFORE, Complainant petitions the Commission for an order: 1) requiring each Defendant to begin deferring as of January 1, 2018 the revenue requirement effect of all cost savings resulting from the federal corporate income tax reduction, including the amortization of excess accumulated deferred income taxes, by recording those savings in a regulatory liability account; and 2) establishing a process by which Defendants' regulatory liability for the deferred federal corporate income tax expense savings will be passed back to retail customers. Complainant requests that the Commission issue an expedited ruling in this matter on or before the January 1, 2018 effective date of new tax rates.

Respectfully submitted,



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Jody Kyler Cohn, Esq.
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December 20, 2017

**COUNSEL FOR KENTUCKY INDUSTRIAL
UTILITY CUSTOMERS, INC.**

Attachment A

AFFIDAVIT OF LANE KOLLEN

**STATE OF GEORGIA
COUNTY OF FULTON**

Before me, the undersigned Notary Public in and for the County of Cobb, State of Georgia, personally came and appeared Lane Kollen, who was sworn by me and attested to the following facts:

1. I am a Vice President and Principal of J. Kennedy and Associates, Inc. ("Kennedy and Associates"), 570 Colonial Park Drive, Suite 305, Roswell, Georgia. Kennedy and Associates is an economic consulting firm that provides expert analysis and testimony on issues involving rate regulated electric, gas, water and sewer utilities. I am a Certified Public Accountant, Certified Management Accountant, and Chartered Global Management Accountant. I am a member of numerous professional organizations.

2. I have testified before state and federal regulatory commissions and courts on hundreds of occasions on accounting, tax, ratemaking, planning, and other issues related to regulated electric and gas utilities. I have testified before the Kentucky Public Service Commission ("Commission") on these issues in investor owned and cooperative utility base rate, environmental rate, fuel adjustment clause rate, and other proceedings, including proceedings involving the landmark 1986 federal tax legislation and tax rate reductions from 46% to 34%.

3. I was retained by Kentucky Industrial Utility Customers, Inc. to advise it on the effects of tax legislation pending in the U.S. Congress for much of this year.

4. The President recently signed into law the Tax Cuts and Jobs Act, which provides for a reduction in the federal corporate income tax rate from 35% to 21% effective January 1, 2018. The reduction in the income tax rate will result in significant tax expense savings for the investor owned utilities regulated by the Commission. These tax savings will increase the utilities' earned returns if they are allowed to retain the savings rather than deferring the savings starting January 1, 2018 and/or reducing rates on or after January 1, 2018.

5. Federal income tax expense and the return on accumulated deferred income taxes ("ADIT") are significant components of the revenue requirement for all investor owned utilities regulated by the Commission. Federal income tax expense will decline by 40%, all else equal. In addition, 40% of the ADIT will become "excess," meaning that it no longer will be paid to the federal government at some time in the future. As such, the excess ADIT must be amortized as an additional reduction to income tax expense and returned to customers as an additional reduction to the revenue requirement.

6. I have prepared an estimate of the tax savings resulting from the federal corporate income tax rate reduction and the appropriate reduction in base and rider revenues for Kentucky Utilities Company, Louisville Gas & Electric Company, Kentucky Power Company, and Duke Energy Kentucky, the defendants named in the KIUC Complaint. I used per books public information filed by these utilities with the Federal Energy Regulatory Commission for the twelve months ending September 30, 2017. Counsel for KIUC has attached a summary of these estimates as Attachment A to the KIUC Complaint.

7. The estimates of the tax savings are understated for Kentucky Utilities Company and Louisville Gas & Electric Company because the annualized effect of the rate increases that were authorized earlier this year are not yet reflected in the per books revenues and income tax expense during the twelve months ending September 30, 2017. The estimate of tax savings is understated for Kentucky Power Company because the pending rate increase in Case No. 2017-00179 was not yet implemented during the twelve months ending September 30, 2017. The estimate of tax savings is understated for DEK, if, in fact, the Commission authorizes a base rate increase and environmental surcharge in the pending Case No. 2017-00321 because no increases were implemented during the twelve months ending September 30, 2017.

8. The appropriate rate reductions to reflect the tax savings, even though understated, are more than \$200 million annually.

9. Although the tax savings commence on January 1, 2018, they will not automatically be deferred by the utilities as a regulatory liability and rates will not automatically be reduced. The Commission must direct the utilities to defer the revenue requirement effect of the savings until it can determine the necessary base and rider rate reductions and the disposition of the regulatory liabilities.

AFFIDAVIT OF LANE KOLLEN


The foregoing testimony is true to the best of my knowledge and belief.



Lane Kollen

State of Georgia)
) SS
County of Fulton)

Sworn to and subscribed before me on this
19th day of December, 2017



Notary Public



ESTIMATED REVENUE REQUIREMENT EFFECTS OF FEDERAL INCOME TAX RATE REDUCTION FROM 35% TO 21% ON KENTUCKY ELECTRIC UTILITIES*

Data Source: 2016 FERC Form 1s and 3rd Qtr 2017 FERC Form 3Qs	Kentucky Power Company ⁽¹⁾	Kentucky Utilities Company ⁽²⁾	Louisville Gas and Electric ^{(3) **}	Duke Energy Kentucky ^{(4) ***}	Total Kentucky
FEDERAL INCOME TAX RATE ASSUMPTIONS					
New Federal Income Tax Rate	21%	21%	21%	21%	
Old Federal Income Tax Rate	35%	35%	35%	35%	
Percentage Reduction in Federal Income Tax Rate	40%	40%	40%	40%	
REDUCTION IN FEDERAL INCOME TAX EXPENSE					
Current Income Tax Expense	3,665,047	(35,720,271)	(2,350,008)	(13,605,989)	
Deferred Income Tax Expense -Debit	91,174,070	361,341,480	315,294,906	120,202,825	
Deferred Income Tax Expense -Credit	<u>(79,048,558)</u>	<u>(239,775,392)</u>	<u>(187,485,676)</u>	<u>(89,849,065)</u>	
Total Federal Income Tax Expense @35%	15,790,559	85,845,817	125,459,222	16,747,771	243,843,369
Federal Income Tax Expense @21%	9,474,335	51,507,490	75,275,533	10,048,663	146,306,021
Reduction in Federal Income Tax Expense to 21%	(6,316,224)	(34,338,327)	(50,183,689)	(6,699,108)	(97,537,348)
Gross-Up Factor Using 21% Federal Rate	1.27	1.27	1.27	1.27	
Reduction in Annual Revenue Requirement	<u>(7,995,220)</u>	<u>(43,466,236)</u>	<u>(63,523,657)</u>	<u>(8,479,884)</u>	<u>(123,464,997)</u>
REDUCTION IN DEF INCOME TAX EXP DUE TO AMORT OF EXCESS ADIT					
Acct 190 (Asset)	52,424,245	258,240,706	210,421,679	31,647,540	
Acct 281 (Liability)	(56,212,721)	-	-	(330,074)	
Acct 282 (Liability)	(409,970,123)	(1,380,616,565)	(1,131,472,272)	(335,656,481)	
Acct 283 (Liability)	<u>(270,200,898)</u>	<u>(166,199,333)</u>	<u>(152,039,898)</u>	<u>(34,318,626)</u>	
Total ADIT @35%	(683,959,497)	(1,288,575,192)	(1,073,090,491)	(338,657,641)	(3,384,282,821)
Total ADIT @21%	(410,375,698)	(773,145,115)	(643,854,295)	(203,194,585)	(2,030,569,693)
Excess ADIT Due to Federal Rate Change	(273,583,799)	(515,430,077)	(429,236,196)	(135,463,056)	(1,353,713,128)
Estimated Amortization Period (Years)	20	20	20	20	
Negative Deferred Income Tax Expense (Amortization)	(13,679,190)	(25,771,504)	(21,461,810)	(6,773,153)	(67,685,656)
Gross-Up Factor Using 21% Federal Rate	1.27	1.27	1.27	1.27	
Reduction in Annual Revenue Requirement	<u>(17,315,430)</u>	<u>(32,622,157)</u>	<u>(27,166,848)</u>	<u>(8,573,611)</u>	<u>(85,678,046)</u>
TOTAL REDUCTION IN ANNUAL REVENUE REQUIREMENT	<u>(25,310,650)</u>	<u>(76,088,393)</u>	<u>(90,690,505)</u>	<u>(17,053,495)</u>	<u>(209,143,043)</u>

(1) Kentucky Power Company rates are expected to increase in early 2018 resulting from the Commission's pending decision in Case No. 2017-00179. Rate increase not proformed.

(2) Kentucky Utilities Company rates increased during 2017 due to the Commission's June 22, 2017 final order in Case No. 2016-00370. Rate increase not proformed.

(3) Louisville Gas and Electric rates increased during 2017 due to the Commission's June 22, 2017 final order in Case No. 2016-00371. Rate increase not proformed.

(4) Duke Energy Kentucky's request for a basic rate increase is pending in Case No. 2017-00321. No rate increase is assumed or proformed.

* Quantifications based on the twelve months ended September 30, 2017 data. Quantifications will change somewhat if calendar year 2017 data is used. Quantifications include effects on riders, but do not include effects on the costs of transmission services purchased pursuant to cost-based tariffs.

** Louisville Gas and Electric includes both electric and gas effects. Electric Utility share of net utility operating income (FERC Form 1 and 3Q, pg 115, line 26) (2015, 82.56%) (2016,83.01%) (3 Quarters Ended September 30, 2017, 85.72%)

*** Duke Kentucky includes both electric and gas effects. Electric Utility share of net utility operating income (2016 FERC Form 1 and 3Q, pg 115, line 26) (2016, 76.89%) (3 Quarters Ended September 30, 2017, 81.99%)

**ESTIMATED EFFECTS ON EARNINGS (NOT REVENUE REQUIREMENTS)
OF FEDERAL INCOME TAX RATE REDUCTION FROM 35% TO 21% ON KENTUCKY ELECTRIC UTILITIES***

Data Source: 2016 FERC Form 1s and 3rd Qtr 2017 FERC Form 3Qs	Kentucky Power Company ⁽¹⁾	Kentucky Utilities Company ⁽²⁾	Louisville Gas and Electric ⁽³⁾ **	Duke Energy Kentucky ⁽⁴⁾ ***	Total Kentucky
FEDERAL INCOME TAX RATE ASSUMPTIONS					
New Federal Income Tax Rate	21%	21%	21%	21%	
Old Federal Income Tax Rate	35%	35%	35%	35%	
Percentage Reduction in Federal Income Tax Rate	40%	40%	40%	40%	
REDUCTION IN FEDERAL INCOME TAX EXPENSE					
Current Income Tax Expense	3,665,047	(35,720,271)	(2,350,008)	(13,605,989)	
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Deferred Income Tax Expense -Credit	(79,048,558)	(239,775,392)	(187,485,676)	(89,849,065)	
Total Federal Income Tax Expense @35%	15,790,559	85,845,817	125,459,222	16,747,771	243,843,369
Increase in Earnings Due to Reduction in Income Tax Expense	6,316,224	34,338,327	50,183,689	6,699,108.40	97,537,348
REDUCTION IN DEF INCOME TAX EXP DUE TO AMORT OF EXCESS ADIT					
Acct 190 (Asset)	52,424,245	258,240,706	210,421,679	31,647,540	
Acct 281 (Liability)	(56,212,721)	-	-	(330,074)	
Acct 282 (Liability)	(409,970,123)	(1,380,616,565)	(1,131,472,272)	(335,656,481)	
Acct 283 (Liability)	(270,200,898)	(166,199,333)	(152,039,898)	(34,318,626)	
Total ADIT @35%	(683,959,497)	(1,288,575,192)	(1,073,090,491)	(338,657,641)	(3,384,282,821)
Excess ADIT Due to Federal Rate Change	(273,583,799)	(515,430,077)	(429,236,196)	(135,463,056)	(1,353,713,128)
Amortization Period (Years)	20	20	20	20	
Increase in Earnings Due to Amort of Excess ADIT	13,679,190	25,771,504	21,461,810	6,773,153	67,685,656
INCREASE IN ANNUAL EARNINGS	19,995,414	60,109,831	71,645,499	13,472,261	165,223,004

(1) Kentucky Power Company rates are expected to increase in early 2018 resulting from the Commission's pending decision in Case No. 2017-00179. Rate increase not proformed.

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ESTIMATED EARNINGS EFFECTS OF FEDERAL INCOME TAX RATE REDUCTION FROM 35% TO 21%*

Data Source: 2016 FERC Form 1s and 3rd Qtr 2017 FERC Form 3Qs

	<u>Kentucky Power Company⁽¹⁾</u>	<u>Kentucky Utilities Company⁽²⁾</u>	<u>Louisville Gas and Electric⁽³⁾ **</u>	<u>Duke Energy Kentucky⁽⁴⁾ ***</u>	<u>Total Kentucky</u>
EARNINGS					
Net Income (Three Quarters Ended September 30, 2017 Form 3Q page 117)	19,949,397	194,721,259	162,267,661	27,096,051	404,034,368
Net Income (2016 Form 1 page 117)	50,210,335	265,627,602	203,173,880	42,583,938	561,595,755
Net Income (Three Quarters Ended September 30, 2016 Form 3Q page 117)	40,174,861	207,892,946	159,364,604	34,870,116	442,302,527
Net Income 4th Quarter 2016	10,035,474	57,734,656	43,809,276	7,713,822	
Net Income (12 Months Ended September 30, 2017)	29,984,871	252,455,915	206,076,937	34,809,873	523,327,596
COMMON EQUITY					
Common Stock Issues (201)	50,450,000	308,139,978	425,170,424	8,779,995	792,540,397
Premium on Capital Stock (207)				18,838,946	18,838,946
Other Paid-In Capital (208-211)	526,135,279	2,616,446,834	1,682,167,368	148,655,189	4,973,404,670
Capital Stock Expense (214)		(321,289)	(835,889)		(1,157,178)
Retained Earnings (215, 215.1, 216)	86,870,006	423,902,076	382,339,314	287,837,418	1,180,948,814
Accumulated other Comprehensive Income (219)	(1,290,989)				(1,290,989)
Total Common Equity	662,164,296	3,348,167,599	2,488,841,217	464,111,548	6,963,284,660
EARNED RETURN ON EQUITY					
Earned Return on September 30, 2017 Common Equity Per Books	4.53%	7.54%	8.28%	7.50%	7.52%
Increase in Earnings Due to Reduction in Federal Income Tax Rate	19,995,414	60,109,831	71,645,499	13,472,261	165,223,004
Earned Return Adjusted for Reduction in Federal Income Tax Rate	7.55%	9.34%	11.16%	10.40%	9.89%

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(3) Louisville Gas and Electric rates increased during 2017 due to the Commission's June 22, 2017 final order in Case No. 2016-00371. Rate increase is not proformed.

(4) Duke Energy Kentucky's requests for a base rate increase and environmental surcharge are pending in Case No. 2017-00321. No rate increase is assumed or proformed.

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** Louisville Gas and Electric includes both electric and gas effects. Electric Utility share of net utility operating income (FERC Form 1 and 3Q, pg 115, line 26) (2015, 82.56%) (2016,83.01%) (3 Quarters Ended September 30, 2017, 85.72%)

*** Duke Kentucky includes both electric and gas effects. Electric Utility share of net utility operating income (2016 FERC Form 1 and 3Q, pg 115, line 26) (2016, 76.89%)

Attachment B



Comprehensive Tax Reform Priorities: Excess Deferred Tax Transition Issues

Shareholder-owned electric utilities support the goals of tax reform to simplify the U.S. tax code, broaden the tax base, and reduce rates. Reducing federal income tax rates for heavily regulated shareholder-owned electric utilities, however, will create a number of transition issues that Congress should address in any tax reform legislation.

One of these transition issues is the treatment of so-called excess deferred taxes. Many companies may have excess deferred tax reserves after a federal income tax rate reduction because the change in the law requires a recalculation of deferred tax liabilities. However, unlike other companies that would recognize excess deferred taxes as income, regulated shareholder-owned electric utilities are required to refund excess deferred taxes, related to asset depreciation, to their customers.

Electric utilities support a fair and equitable distribution of excess deferred taxes across their customer base. To meet this goal, any tax reform legislation should include a provision to require state public utility commissions (PUCs) to refund excess deferred taxes, related to asset depreciation, over the remaining lives of the assets being depreciated.

Understanding Deferred Taxes And Excess Deferred Taxes

A deferred tax liability—or a deferred tax—is the amount of taxes currently saved by a company that will be repaid in the future due to a temporary timing difference between the “book” treatment of an asset on a company’s financial records and the tax treatment based on Internal Revenue Code rules.

The most common example of a deferred tax occurs when a company claims accelerated tax depreciation for an asset. (For an electric utility, an asset could be a power plant or large power transformer, for example.) Accelerated depreciation means that a company will record more depreciation in the first few years of an asset’s life and less depreciation in the later years, relative to book or regulatory depreciation. While this approach results in a timing difference, cumulative tax and book depreciation generally are equal over the course of an asset’s life.

Following is a basic example of how deferred taxes work:

- Assume the tax depreciation of an asset is \$20.00 in the year the asset is placed in service.
- If the book depreciation of the asset is \$10.00 that year, there is a \$10.00 temporary difference between the tax depreciation and the book depreciation.
- The \$10.00 temporary difference creates a current tax savings of \$3.50 (\$10.00 taxed at the current 35 percent federal income tax rate) and a future (deferred) tax liability in the same amount. This future liability is recorded in a reserve on the balance sheet and generally is titled “Accumulated Deferred Income Taxes.”

Excess deferred taxes arise as the result of an income tax rate reduction. If the federal income tax rate is reduced from 35 percent to 25 percent, for example, the amount of deferred taxes that would be needed to

pay the future obligation to the federal government would decrease by approximately 28 percent (10 percent divided by 35 percent).

Using the accelerated depreciation example, the \$3.50 of deferred taxes would be reduced to \$2.50 (\$10.00 of future income taxed at the 25 percent tax rate). For a company with an accumulated deferred income tax liability, the tax rate reduction is equivalent to the federal government reducing a portion of future tax liabilities. This reduction is known as the excess deferred taxes which, in this the example, would be \$1.00 (\$3.50 minus \$2.50).

How Electric Utilities Manage Excess Deferred Taxes

Because shareholder-owned electric utilities are heavily regulated by state PUCs, these utilities must handle excess deferred taxes differently than other businesses. A state PUC sets the rates that a regulated electric utility may charge its customers for electricity service. The PUC allows the utility to recover its “cost of service” and also gives the utility an opportunity to earn a reasonable rate of return on its invested capital (i.e., its “rate base”). Among the items included in cost of service are fuel costs, operations and maintenance costs, depreciation expense, and income tax expense.

If an electric utility accelerates the depreciation of an asset, the IRS requires utilities to follow specific accounting rules, called normalization, that follow this process:

- Collect the deferred taxes from current customers;
- Use the deferred taxes to reduce the rate base; and
- Return the deferred taxes to future customers.

When a tax rate reduction creates excess deferred taxes, all companies must account for the excess. A non-regulated company generally would recognize the excess deferred taxes as income for financial statement purposes. However, an electric utility must refund the excess deferred taxes to ratepayers, requiring the recording of a regulatory liability.

The challenging issue facing electric utilities is the timing of the payments to customers. Generally, if the excess deferred taxes are returned to the customers immediately, the utility’s cash flow is sharply reduced. In addition, an immediate payment disproportionately benefits current customers—who receive the entire refund—and unfairly penalizes future customers, who pay for the cost of long-lived utility assets over their remaining useful lives and who may not receive any of the refund.

When Congress last reduced corporate tax rates in the Tax Reform Act of 1986, lawmakers resolved this issue by enacting a provision that would require state PUCs to refund the excess deferred taxes related to depreciation over the remaining lives of the assets. Congress should include a similar provision in any tax reform legislation that reduces the federal income tax rate. This would allow all customers who pay for the cost of utility assets over their useful lives to share in the return of the excess deferred taxes.

February 2013



**Edison Electric
Institute**

www.eei.org

Edison Electric Institute (EEI) is the association of U.S. shareholder-owned electric companies. Our members serve 95% of the ultimate customers in the shareholder-owned segment of the industry, and represent approximately 70% of the U.S. electric power industry. We also have as Affiliate members more than 80 International electric companies, and more than 200 industry suppliers and related organizations as Associate Members.

Attachment C

SNL



SNL RRA REGULATORY FOCUS

Wednesday, January 25, 2017 1:43 PM ET RRA

The past sheds light on how utility regulators may address tax changes

By Lillian Federico

Over the last several weeks, speculation has run rampant with respect to which of newly-inaugurated President Donald Trump's campaign positions will actually be implemented as national policy. Based on post-election pronouncements by Trump and House Republicans, there appears to be a consensus that an initiative to lower the corporate tax rate will come to fruition. Trump proposes to lower the corporate tax rate to 15%, and others have expressed support for a decrease in the tax rate to 20%, from the current 35%.

While the details of that change are far from certain, and there may or may not be other tax law changes that serve to offset or increase the associated reduction in utilities' ultimate tax liabilities, one thing is certain: regulators will want to see any resultant net tax expense reduction flow to ratepayers. However, when and how this will occur is likely to vary from state to state.

Some thoughts on the likely impact of a lower tax rate

Below are some initial thoughts on how a lower corporate tax rate might impact utility ratemaking.

Current/test year expense — Simplistically, a lower tax rate would mean lower tax expense that would need to be reflected in utility rate cases prospectively. In addition, the revenue conversion factor used to gross up targeted net operating income to determine the revenue requirement in a rate case would be reduced, thus lowering the overall revenue requirement. Depending on how soon after the new tax law becomes effective a utility has a rate case, there could be some refund exposure relative to existing rates reflecting the higher rate, depending on what approach the state regulatory commissions take, e.g., if commissions require all or the tax portion of utility revenue requirements to be collected subject to refund until a permanent solution is developed.

Depreciation — The lower corporate tax rate would, all else being equal, reduce the cash flow benefit of accelerated/bonus depreciation for tax purposes, which may or may not reduce the tendency of utility holding companies to take advantage of this favorable tax treatment. Assuming that there is a pull-back in reliance on accelerated depreciation, the build-up of accumulated deferred tax balances would slow. Since accumulated deferred tax balances are either used as an offset to rate base, or included in utility capital structures as zero-cost capital—both of which tend to reduce the overall revenue requirement—the prospective reduction in deferred tax balances, would at least partially offset the impact of the lower tax rates on revenue requirements.

Existing accumulated deferred tax balances — It is uncertain whether a reduction in the corporate tax rate would require a re-valuation of the existing deferred tax balances, but this could be the case since the philosophy behind the current treatment is designed to reflect the fluctuations in tax expense as a timing difference. In other words, all else being equal, if you looked at taxes on an asset-specific basis, the utility is paying lower taxes in the years where it is recognizing accelerated depreciation, i.e., recognizing a higher depreciation expense level than would be the case under a straight-line depreciation method, due to accelerated depreciation, but would pay higher taxes in later years once the asset is fully depreciated and there is theoretically no depreciation expense left to recognize.

Consolidated tax adjustments — A handful of states utilize consolidated tax adjustments in the context of setting rates for the utilities that are part of holding companies that file consolidated tax returns. The idea behind a consolidated tax adjustment, also referred to as an "actual-taxes-paid" methodology for determining the amount of tax expense to be reflected in a utility's revenue requirement, is essentially to capture for ratepayers the benefits associated with losses on non-utility operations. (For a more detailed discussion of this issue, refer to the Topical Special Report CONSOLIDATED TAX ADJUSTMENTS (a.k.a. Regulatory Confiscation?). The philosophical pros and cons of consolidated tax adjustments notwithstanding, their impact would be reduced if the corporate tax rate were reduced.

Will history repeat itself?

It has been 30 years since the Tax Reform Act of 1986 lowered corporate income tax rates to the current 34% from the previous 40% — the corporate tax rate increased to 35% during former President Bill Clinton's administration — and much about the framework of the industry and the state of the economy has changed since then.

- At that time, many utilities were stand-alone, vertically integrated, entities and were not part of holding companies, not to mention that foreign ownership was virtually non-existent. In addition, mergers and consolidations have markedly reduced the number of players, at least in the traditional power and gas utility space.
- The prior corporate tax reduction predated the introduction of electric wholesale and retail competition, and utilities were a more homogeneous group overall.
- The U.S. was coming to the end of the generation construction boom and capital spending was trending downward, while today capital spending is trending upward, and is focused largely on "non-revenue-producing" investments in infrastructure, i.e., investments that are not meant to meet demand growth or expand their service territories/acquire new customers.
- Demand growth while slowing, was robust by today's standards, and the related growth in revenue allowed utilities to stay out of the rate case arena to fund new investment and/or offset increases in expenses.
- The use of riders and other mechanisms to expedite the recognition of changes in costs and capital investment were much less prevalent than they are today.

These changes in the economy and the industry may alter the impact that a change in corporate tax rates will have on a given company and, as a result, regulators' responses may not be uniform. Even so, a look at how regulators addressed the issue in the past might be instructive.

Looking at two reports published in 1987 by Regulatory Research Associates, which is now an offering of S&P Global Market Intelligence, entitled *The Tax Reform Act of 1986—A State by State Response*, one published in February and a follow up published in June, four of the 50 jurisdictions then covered by RRA had tax adjustment mechanisms in place for one or more companies in each jurisdiction that would allow for a more-or-less current recognition of the change in corporate tax rates. As reported by RRA in an August 2016 report entitled *Adjustment Clauses—A State-by-State Overview*, about 20 of the 53 jurisdictions now covered by RRA has some mechanism in place to flow through to ratepayers changes in "certain taxes and fees." While these mechanisms are primarily related to municipal taxes and franchise fees, they do provide some precedent for the use of limited-issue mechanisms to address tax changes. Hence, these or mechanisms like them could potentially serve as vehicles for addressing at least the ongoing expense portion of the revenue requirement impact of a reduction in tax rates.

In addition, the 1987 report noted that in certain states where formula rate plans, and/or earnings sharing mechanisms are in place, the impact of the change in corporate tax rates would flow through those mechanisms in due course. Examples of such states include Alabama, Louisiana, and Mississippi, where most, if not all, all of the investor-owned electric and gas utilities are subject to formula rate plans, Texas, where many of the local gas distribution companies have implemented annual rate review mechanisms for at least a portion of their service territories, and also New York where many of the companies are subject to multi-year rate plans that include earnings sharing provisions, to name just a few. (Refer to the Alternative Regulation sections of RRA's state Commission Profiles for additional information on each state.)

About 40 of the 50 jurisdictions then covered by RRA initiated generic proceedings to address the impacts of the lower tax rates, 22 took action on a case-by-case basis, regardless of whether a generic proceeding had been conducted, 11 instituted rate cuts to reflect the lower tax rate or were ordered to do so on an issue-specific basis, and five jurisdictions declared rates to be temporary/subject to refund or required the utilities to set up a deferral account to capture tax expense difference, pending some type of proceeding addressing rates on an issue-specific or general basis.

At least one utility commission has already taken action in anticipation of a tax reduction. In a rate case decision for United Illuminating Co. issued on Dec. 14, 2016, the Connecticut CT Public Utilities Regulatory Authority stated: "If income tax rates change in the future, which materially impacts the revenue requirement allowed herein, the Authority may reopen this proceeding."

For a complete, searchable listing of RRA's in-depth research and analysis please go to the Research Library. Arizona Corporation Commission

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S&P Global Market Intelligence, 55 Water Street, New York, NY 10041

REGULATORY STUDY
February 14, 1987

TAX REFORM ACT OF 1986--STATE-BY-STATE RESPONSE

During the week of February 9, 1987 the RRA Staff surveyed utility regulatory agencies in 49 states and the District of Columbia with regard to any Commission, Staff, or utility company actions taken as a result of the Tax Reform Act of 1986 (TRA). In conducting the survey one of our primary goals was to determine whether studies had been initiated and/or data requests filed. In the course of the survey, which is comprehensive, but is not represented as all-encompassing, we determined that four states have tax adjustment mechanisms in place that impact one or more companies. We also ascertained that several utilities have implemented specific rate changes, or depreciation adjustments, to counter-balance the impact of the TRA, or have been authorized to do so. In some general rate cases completed in recent months, recognition was given to the impact of the TRA. Verbal descriptions of the Commission, Staff, or company actions taken in each state with regard to the TRA are contained in the paragraphs that follow. For additional information concerning developments in a particular state, please contact the RRA analyst responsible for regulatory coverage of that jurisdiction. While the data gathered does not lend itself to clear tabular summarization, we have compiled a summary table, which is presented on page 16. In this table we present a rough compendium of some aspects of the treatment, to date, of TRA savings on a state-by-state basis.

ALABAMA--The largest utilities in the state, Alabama Power, Alabama Gas, and South Central Bell Telephone, each has a Rate Stabilization and Equalization (RSE) provision in effect which provides for periodic adjustments to revenues based on the achievement of certain earned return on equity levels. Additionally, the tariffs of the major energy utilities include adjustment provisions to allow for reflection in customer rates of changes in income tax rates. Any tax impacts not covered through the tax riders for the energy companies are expected to be reflected through the RSE provisions. (For additional information concerning the RSE provisions of the companies see pages 3 through 5 of the November 1986 Alabama Annual Review.) The PSC has directed that a task force be established to review the potential impacts of the TRA, with the probable impacts on the telephone companies expected to receive the closest attention since telephone rates do not now contain a tax rider.

ARIZONA--The Staff of the Arizona Corporation Commission (ACC) is holding a series of informal workshops with companies to discuss the effects of the TRA. No pronouncements have been made or action taken by the ACC. The major concern seems to be over the TRA's effect on water companies, especially with

(Summary table appears on page 16.)

regard to the treatment of contributions in aid of construction. On December 19, 1986, Arizona Public Service, a subsidiary of AZP Group, filed revisions to its Palo Verde 2 rate case. The company's revised filing fully reflects an anticipated \$80 million revenue reduction impact of the TRA.

ARKANSAS--On August 28, 1986, the Arkansas Public Service Commission (PSC) approved Rate Rider M38 for Arkansas Power & Light (AP&L), a subsidiary of Middle South Utilities. The M38 Rider, as proposed by AP&L, and adopted by the PSC, was designed to reflect the estimated annual reduction in AP&L's revenue requirement as a result of then pending tax reform legislation. The M38 adjustment was based upon a 33% corporate tax rate, effective January 1, 1987, with any deviations from that tax rate or effective date to be reflected in a true-up to be conducted in August 1987. The M38 Rider provides for AP&L to refund, over a four-year period, that portion of its accumulated deferred income tax balance which exceeds the balance required under revised tax rates, where not prohibited by law. Additionally, the PSC initiated an informational docket requiring all jurisdictional utilities (except cooperatives) to file information that would indicate what, if any, tax savings are anticipated as a result of the TRA and to file informational tariffs to reflect the anticipated impact. Companies were asked to use a recent rate case test year or the data contained in the annual reports as filed with the PSC. The calculations are to reflect the corporate tax rate reduction from 46% to 34% and the refunding, over a two-year period, of the non-depreciation-related excess deferred income taxes. Companies may include comments regarding extenuating circumstances that they believe mitigate the need for rate reductions. While the initial filing deadline was February 10, 1987, extensions have been granted in some instances. No schedule has been established for Commission action.

CALIFORNIA--On November 14, 1986, the California Public Utilities Commission (PUC) initiated an investigation into the methods to be utilized by the state's major utilities to establish the proper level of tax expense for ratemaking purposes. The PUC ordered the Public Staff Division (PSD) and the state's major utilities to review and analyze the regulatory implications of the TRA. In establishing the Order Instituting Investigation (OII), the PUC ordered that all rates in effect for these utilities as of January 1, 1987 be collected subject to refund pending a final Commission decision in the OII. The investigation will be conducted through the workshop process. Hearings are expected to commence in March 1987, with the final order to be issued by mid-1987. In its final order the PUC will determine "if and how rates for each utility shall be adjusted." As part of a December 26, 1986 rate filing based on a calendar-1988 test year, Southern California Edison (SCE) has given recognition to the effects of the TRA. SCE has indicated that the TRA will have a cumulative effect of reducing the 1988 revenue requirement by approximately \$250 million. In the Pacific Gas & Electric rate case decided in December 1986, the rate award was determined after giving recognition to roughly \$85 million of TRA savings.

COLORADO--The Colorado Public Utilities Commission (PUC) has sent letters to all utilities requesting information as to the effects of the TRA and of FASB 87 (pension accounting) on operations. The PUC Staff is also meeting formally with some utilities to discuss the general effects of the TRA. The PUC plans to hire an outside consultant to prepare a questionnaire for utilities to use to provide information to the PUC by July 1, 1987, that will specifically identify the effects of the TRA on their operations. The Staff and the consultant will both submit reports and recommendations to the PUC based on data gathered, after which the PUC may take specific action with regard to the TRA.

CONNECTICUT In September 1986, the Connecticut Department of Public Utility Control (DPUC) initiated a proceeding to review the financial and operating results of the state's major investor-owned utilities. Testimony filed in conjunction with this proceeding reflected each utility's best estimate of how

the TRA would affect its revenue requirement. Based upon the Department's conclusion in this docket, the DPUC determined that additional action was necessary in several specific instances. Further action will be required with regard to Connecticut Natural Gas, Southern New England Telephone, United Illuminating, and Connecticut Light & Power. Southern Connecticut Gas is planning to file a rate application during the first quarter of 1987. The impact of the TRA will not be isolated, but will be considered in the context of each company's anticipated overall financial performance. (Additional detail concerning the DPUC's conclusions in the financial and operational review is presented on page 1 of the January 16, 1987 issue of FOCUS NOTES) The DPUC ordered utilities to elect one of three options regarding the treatment of contributions in aid of construction. A company can elect to: 1) charge additional tax-related expense to developers; 2) spread additional tax expense across-the-board to all customers; or 3) use a formula proffered by the Department.

DELAWARE--The PSC is examining the impacts of the TRA as part of separate earnings investigations initiated by the Commission in 1986 for Delmarva Power & Light and Diamond State Telephone. A decision in the Delmarva case is expected in April 1987 and hearings in the Diamond State case are scheduled for June 1987.

DISTRICT OF COLUMBIA--In December 1986, Potomac Electric Power (PEPCO) and District of Columbia Natural Gas (DCNG), together with the Office of People's Counsel (OPC), filed a joint stipulation and agreement with the PSC providing for the companies to institute rate decreases to reflect the impact of the TRA. PEPCO's filing proposed an \$18.2 million rate decrease to be effective as of January 1, 1987, and specified that the PSC not entertain any petition to change rates that would affect PEPCO's authorized revenue level. DCNG filed to institute a rate reduction of slightly less than \$0.5 million. The PSC held hearings for DCNG's petition on February 5, 1987 and has scheduled hearings for PEPCO on February 18, 1987. A final PSC decision is expected in each of these cases during March 1987. In January 1987 the PSC instituted a TRA-related investigation for Chesapeake and Potomac Telephone (C&P). On February 10, 1987 C&P, the OPC, and the Commission's Staff filed a joint stipulation and agreement with the PSC to institute a rate reduction of \$3.3 million to reflect the impact of the TRA. C&P's filing specifies that the Commission not institute any further rate change during 1987.

FLORIDA--One of the Florida Public Service Commission's (PSC) regulations is its Tax Savings Rule, which provides that any earnings in excess of the mid-point of the last authorized return on equity range are required to be refunded to the extent these earnings are generated by changes in tax rates. In each rate case the PSC establishes the mid-point of a 200 basis point return on equity range as the target equity return for the utility. For most major utilities the target return last established was between 14.5% and 16%. However, various actions and settlements have provided that lower return levels be utilized for the measurement of any refund obligation under the Tax Savings Rule for calendar 1987.

On November 4, 1986, the PSC approved a settlement agreement entered into between Florida Power Corporation (FPC) and the Florida Office of Public Counsel (OPC) which provided for FPC to institute a temporary rate reduction of approximately \$54 million for calendar-year 1987. FPC agreed to "credit the monthly rates charged its retail customers in the total annual amount of \$54,000,000," with the provision that this reduction "contemplates savings from pending federal income tax revisions" based on a blended statutory tax rate of approximately 40% for 1987 versus the 1986 statutory rate of 46%. It was anticipated that the company's federal income tax requirement would be reduced by approximately \$30 million in calendar-1987. Since the rates provided for in the settlement affect only 1987, FPC's rates will revert to 1986 levels effective January 1, 1988, barring some further regulatory action.

On December 16, 1986, the PSC approved a settlement agreement in the Southern Bell Telephone (SBT) earnings investigation proceeding. In the settlement, SBT, a subsidiary of BellSouth, identified the tax benefits related to the TRA to be \$54 million in calendar-1987 and applied this amount toward increased capital recovery expense.

On December 16, 1986, the PSC first considered the request by the Staff that the Commission initiate an investigation into the effects the TRA on the revenue requirements of the regulated utilities, but the PSC did not require revenues to be collected subject to refund. However, the Commission indicated that the docket would be changed from investigatory to a show cause proceeding, and all parties (except those that had previously settled), were encouraged to work towards settling contested issues in an expeditious manner. On January 20, 1987, the PSC accepted the offers of Florida Power & Light, Gulf Power, and Tampa Electric that any rate refunds that might be required as a result of the application of the Tax Savings Rule should be calculated based upon a 13.6% return on equity rather than utilizing the previously authorized equity return levels established for each company. (For additional information see pages 1 and 2 of the January 23, 1987 issue of FOCUS NOTES.) Settlement talks are continuing between the parties with regard to the appropriate action, if any, to be taken with regard to General Telephone Company of Florida, Central Telephone of Florida, and United Telephone of Florida.

GEORGIA--The Georgia Public Service Commission (PSC) has not held or ordered a generic proceeding with respect to the TRA, however, the hiring of a consultant to review and make recommendations on handling of the TRA is probable. With Georgia Power and Atlanta Gas Light expected to file rate cases in 1987, TRA issues are expected to be considered as part of these proceedings.

HAWAII--On January 21, 1987, Hawaiian Electric Industries announced that its subsidiaries had filed with the Hawaii Public Utilities Commission (PUC) to reduce rates by a total of approximately \$4.9 million on a system-wide basis. The rate reduction proposed is composed of the following base rate reductions: \$3.3 million for Hawaiian Electric, \$1.2 million for Maui Electric and \$0.4 million for Hawaiian Electric Light. All the companies are subsidiaries of Hawaiian Electric Industries. The proposed rate reductions reflect the impact of the TRA as well as higher sales and lower debt costs. The filings are based on the rates of return last authorized by the PUC for each company and are proposed to become effective February 1, 1987. A PUC response is now pending. No such action regarding the TRA has been undertaken by Hawaiian Telephone.

IDAHO--On January 7, 1987, the Idaho Public Utilities Commission (PUC) ordered all utilities under its jurisdiction to file data comparing the utility's tax expense for 1986 under the old tax law with the utility's hypothetical tax expense for 1986 utilizing new tax rates. These filings are to be submitted by March 31, 1987. Companies showing a decrease in tax expense are required to file tariffs designed to reflect the reduction, and revised tariffs will become effective July 1, 1987.

ILLINOIS--On December 31, 1986, the Chief Accountant of the Rate Review Department of the Public Utilities Division of the Illinois Commerce Commission (ICC) wrote to all the state's major utilities requesting them to file data and a rate rider with the ICC within 30 days in order for the Commission "to implement the ratemaking effects of the new tax law on a timely basis." It was requested that "the rider state the percentage by which all utility rates must be reduced to reflect the use of a 40% tax rate for 1987" based on each company's most recent rate order. This percentage reduction would be applied to all utility billings, however, customer bills would not be reduced. Instead, the amount would be accrued in a deferred credit account, with an offsetting debit to revenue. This deferred credit account would continue to accrue until a final ICC determination with regard to each company's financial position. It was the Chief

Accountant's view that "if the Commission determines that current earnings when adjusted to reflect all aspects of the new tax law are excessive, refunds will then be made to customers from the deferred credit account." Although not specifically described, excess earnings were indicated to be earnings above the previously authorized return on equity level. No formal ICC action has as yet been forthcoming with regard to implementation of any rate changes. On January 27, 1987, the ICC ordered Northern Illinois Gas (NIGAS), a subsidiary of NICOR, to temporarily reduce base rates by approximately \$7.4 million (1.9%). The ICC concluded that the company was earning a 16.29% return on equity compared to its previously authorized 15.55% and, therefore, a \$7.4 million rate reduction was necessary "to ensure that the Company's rates are not excessive." The ICC also ordered a general rate case for NIGAS, which has not had a rate case since 1982. The rate case will examine, along with the usual issues, the effect of the TRA on the company's revenue requirement. The recent rate settlement proposal by Commonwealth Edison gives effect to the impacts of the TRA in 1987 and years following.

INDIANA--On November 26, 1986, the Indiana Public Service Commission (PSC) appointed an Executive Committee and provided for the establishment of four task forces to examine the effect that the TRA will have on utilities in Indiana. This investigation will help the PSC develop uniform procedures in making any necessary changes in accounting treatment or adjustments to rates as a result of the new law. The Committee, chaired by the PSC Utilities Director Robert Glazier, appointed four separate task forces representing the telephone, electric, gas, and water and sewer industries. The task forces are to report by March 16, 1987. A comprehensive report recommending a specific course of action should be filed by the Executive Committee by April 1, 1987. On December 2, 1986, Northern Indiana Public Service announced it was reducing the requested rate increase amount in its pending rate case by \$59.4 million to adjust for the impact of the TRA. Indiana and Michigan Electric Company also has a rate case in progress, and on October 15, 1986, the company lowered its requested rate increase amount to give recognition to the effects of the TRA.

IOWA--On October 24, 1986, the Iowa Utilities Board (IUB) ordered the state's large utility companies to report on the expected impact of the TRA. The investor-owned utilities were ordered to submit the following information: 1) Estimated change in current income tax payments, deferred federal tax accruals, and revenue requirements; 2) Anticipated effect of eliminating the investment tax credit; 3) The overall effect on the company of tax reform, including estimates of when the effects will occur; and 4) A plan for distribution of the benefit or detriment between stockholders and ratepayers. On February 6, 1987, the IUB adopted emergency rules, effective April 1, 1987. "The purpose of these rules is to recognize the substantial impact on the tax liability of rate-regulated investor-owned utilities as a result of the Tax Reform Act of 1986 and prevent unnecessary utility revenue shortfalls or windfalls." The IUB has ordered the utilities to determine a revised revenue requirement and to design rates which reflect the adjusted revenue requirement. The revised tariffs must be filed by May 1, 1987, and are expected to become effective July 1, 1987. The IUB devised a formula, which is to be applied to 1986 financial data and will isolate the revenue requirement impact of the new tax law. Comments on the rulemaking are to be filed by March 17, 1987.

KANSAS--The Staff of the Kansas State Corporation Commission is conducting an investigation into the TRA's impact on each of the state's utilities. Each utility has been asked to submit an analysis of the TRA on its operations for the 1987 to 1991 time period. When the Staff's investigation has been completed, a report will be prepared for the Commissioners. It has not yet been determined whether rate adjustments, if any, will be considered in a generic docket or whether each utility will be treated on a case-by-case basis.

KENTUCKY--On December 11, 1986, the Kentucky Public Service Commission (PSC) initiated a proceeding to review the effects of the TRA on the state's investor-owned utilities with revenues in excess of \$1 million. The Commission intends to isolate the effects of the TRA and not consider additional rate case issues. The PSC indicated that it intends to reflect the revenue effects of the TRA in consumer rates as expeditiously as possible--whether savings or additional costs are identified. The Commission stated that it "does not view retaining the savings that result from tax reform as a proper way for a utility to improve its earnings. Likewise, if the Tax Reform Act should result in major cost increases, these costs should be recognized in rates expeditiously." While testimony from the affected utilities was originally due by January 26, 1987, some companies have been granted filing extensions. The PSC will review the impact of the TRA on General Telephone of the South's revenue requirement in conjunction with its pending general rate case.

LOUISIANA--On December 2, 1986, the Louisiana Public Service Commission (PSC) approved a petition by Central Louisiana Electric Company (CLECO), filed the same day, proposing that its electric rates be reduced by \$11.5 million over the next two years. This filing was tendered by CLECO on December 2, 1986 in order to pass along to customers the benefits of the TRA. The rate decrease for calendar-1987 is \$5.3 million, with an additional decrease of \$6.2 million to become effective in 1988. The average decrease in residential customers bills will be roughly 4% over the two years. The PSC recently authorized a rate increase for Louisiana Power & Light (LP&L). In establishing LP&L's rates the PSC gave recognition to the impacts of the TRA. For other utilities in the state the TRA impacts will be considered on a case-by-case basis. No other specific actions have yet been initiated.

MAINE--The Maine Public Utilities Commission (PUC) has issued a Procedural Rule for the purpose of obtaining from utilities information regarding the TRA, cost of capital, and other revenue requirement data. Other than the two instances noted below, the PUC intends to informally discuss with each company whether any rate changes will be implemented as a result of the new data. On February 2, 1987, New England Telephone (NET) submitted a rate case filing in which the company supported the continuation of present rate levels. A PUC order issued on November 26, 1986 directed NET to file a rate case in order to provide an opportunity for the PUC to examine the company's jurisdictional earnings and the effects of the new tax law. NET's filing includes rate of return data, but the company did not request a change in the 11.21% rate of return last authorized in a case concluded in 1983. (The company calculates that the overall return last authorized equates to about a 13% return on equity currently.) According to NET, the filed data support current rate levels because the effects of the new tax law changes and other known and measurable changes are offset by increased capital recovery expenses incurred because of depreciation represcription. Bangor Hydro-Electric has been directed to file a rate case by February 23, 1986, and the TRA impacts are expected to be reviewed in that case.

MARYLAND--On January 2, 1987, the PSC adopted a stipulation calling for Delmarva Power & Light (DP&L) to reduce base rates by \$3.3 million (2.3%) to reflect the impact of the TRA. The stipulation had been filed on December 31, 1986 by DP&L, the PSC Staff and the Office of People's Counsel. The stipulation occurred in the Phase II proceeding initiated by the PSC in its October 2, 1986 order. That order accepted a settlement in DP&L's earnings level investigation which resulted in the implementation of a \$5.6 million (5.2%) base electric rate reduction. The January 2, 1987 PSC action, as set forth in the stipulation, directs DP&L to propose, by December 1, 1987, an additional base rate reduction to reflect the TRA's impact on the company's financial position on and after January 1, 1988.

On November 10, 1986, Potomac Electric Power (PEPCO) filed testimony in a PSC-initiated earnings investigation, with the testimony supporting a \$23.2 million (3.5%) rate increase. As the PSC had directed, PEPCO's filing provides for the impact of the TRA. Hearings are scheduled to conclude in this case in the spring of 1987, with a PSC decision likely by June 1987. Also on November 10, 1986, Baltimore Gas and Electric (BG&E) filed testimony in a PSC-initiated earnings investigation, without proposing any dollar amounts of rate change. Though no tariffs were specified, BG&E's position incorporates the impact of the TRA, as directed by the PSC. Hearings are scheduled to conclude in this case in the spring of 1987, with a PSC decision likely by June 1987. In January 1987, the Commission sent letters directing the remaining utilities in the state to file data reflecting the estimated financial impact of the TRA. The utilities are to file their responses during February 1987. The Commission's Staff shall review the responses and determine if any further steps need to be taken for the utilities involved.

MASSACHUSETTS--On January 28, 1987, the Massachusetts Department of Public Utilities (DPU) ordered the state's utilities to file information computing the effect that the decrease in the federal corporate tax rate will have on their revenue requirements as of July 1, 1987. Each company is being required to submit a method to implement adjustments in its rates to reflect any reduction in revenue requirements resulting from the change in the corporate tax rate. The utilities are to submit their financial plans, with supporting documentation, to the DPU by February 27, 1987. Depending upon the DPU's findings following a Department review of the companies' filings, rate cases to more fully investigate the revenue requirements of individual companies may be initiated. The Department noted that while the total impact resulting from all of the changes in the federal tax law affecting utilities will have to be considered in detail, present utility rates are based on a higher tax rate, and therefore it is appropriate to consider an immediate adjustment to utility rates to pass through to ratepayers any benefits derived from the decrease in the federal corporate tax rate. The Department stated that "while we recognize that resolving all of the ratemaking consequences of the new tax code is a complicated matter that may eventually have to be considered in more detail in the context of each company's next general rate proceeding, it is administratively impossible for the Department to conduct a complete rate proceeding for every Massachusetts company before July 1, 1987. It is for this reason that we are voting to open this limited proceeding."

Western Massachusetts Electric's (WMECO) currently pending rate request reflects the impact of the TRA on WMECO's revenue requirement based upon a blended tax rate of 39.5%. WMECO is a subsidiary of Northeast Utilities. New England Telephone (NET), a subsidiary of NYNEX, incorporated the effect of the TRA in the revenue requirement data filed with the DPU on January 5, 1987 in conjunction with the cost-of-service docket in which the Department is reviewing NET's earnings.

MICHIGAN--On October 28, 1986, the Michigan Public Service Commission (PSC) opened an official docket to receive information with regard to the impact of the TRA on the state's utilities. In this docket the PSC required that all investor-owned, state-regulated companies submit information on how each would be affected by the TRA. The action came on the PSC's own motion, and was a follow-up of a September 3, 1986 memorandum from the PSC's Director of Technical Services to each jurisdictional utility. That memo requested each company to submit to the PSC, 30 days after the signing of the new tax law, data to show the effect of the new law on utility rates. On December 17, 1986, the PSC ordered the state's electric, gas and telephone utilities to file data by February 17, 1987, indicating the impact of the TRA on their 1986 test year operations. The PSC noted that the lower federal tax rates will mean increased profits for most utilities and may make possible a downward adjustment of present rates. The

utilities were ordered to file the documentation showing the net effects of the new tax law on their rates and to show cause why their rates should not be reduced to reflect the lower taxes. While it appears that settlements will be encouraged for TRA items only, a separate docket will be established for each utility, and in instances where settlements are not achieved a contested rate proceeding will be commenced in which interested parties will be permitted to address the effects of the tax bill on the prospective utility rates. Rate revisions for most utilities are likely to become effective July 1, 1987; however, the effective dates of any rate changes will be decided on a case-by-case basis.

MINNESOTA--The Minnesota Public Utilities Commission (PUC) initiated a rulemaking proceeding requiring the state's utilities to file recomputed 1986 data utilizing the 34% tax rate that will become effective July 1, 1987. In addition, the PUC is intending to introduce a bill to the state legislature which would effectively make all utility rates in the state interim rates, subject to refund, July 1, 1987. The PUC has already issued rulings regarding the TRA for two companies, Northern States Power (Gas) and People's Gas, in recently decided rate cases. The effect of the TRA will be considered in Otter Tail Power's currently pending rate case and in Minnesota Power's forthcoming rate proceeding, which is likely to be filed in May 1987. The effects of the TRA for the remaining companies will be considered generically, although the PUC has yet to determine an appropriate methodology. For the electric division of Northern States Power, the TRA effects will likely be considered in conjunction with a yet-to-be-filed proceeding to reflect the rate base inclusion of Sherco 3, which is coming on line later in 1987.

MISSISSIPPI--The impact of the TRA is, for the most part, being dealt with on a case-by-case basis. Mississippi Power & Light (MP&L) and the gas distribution companies have income tax riders in place which are adjusted routinely to reflect tax law changes; however, the anticipated effects of tax law changes were incorporated into MP&L's rates when the second step of the Grand Gulf phase-in was approved by the Mississippi Public Service Commission (PSC). Discussions are underway to determine how the revenue impact of the TRA can be factored into Mississippi Power's (MP) Performance Evaluation Plan (PEP). The PEP is used by the PSC to evaluate MP's financial and operational performance and to review the reasonableness of the company's rates quarterly. The PSC opened a docket for South Central Bell (SCB) for the specific purpose of investigating the impact of the TRA. Based upon the analysis of the data filed by SCB, rate adjustments are expected to be made. The PSC has not determined whether the rate adjustments will be across-the-board, to particular services, or to access charges.

MISSOURI--On November 3, 1986, the Missouri Public Service Commission (PSC) established an investigatory docket to receive information from utility companies as to how they will be affected by the TRA. The utilities were required to file information regarding their revenue requirement based on calendar-1985 data under the current tax law and the new tax law by December 15, 1986. Similar data based upon calendar-1986 results must be filed with the PSC by March 2, 1987. Furthermore, each company was asked to file comments addressing procedural alternatives for recognizing the effects of the TRA. The companies generally indicated that they did not contemplate filing tariffs to implement rate reductions in the near future. On January 30, 1987, the PSC ordered the Staff to set up informal meetings with the parties for the purpose of negotiating settlements regarding rate reductions to reflect the effect of the TRA. If a negotiated settlement is not reached between a specific company and the other parties, the Staff is expected to file a formal complaint seeking a rate reduction, thereby paving the way for a full rate review. On February 12, 1987, the PSC approved a \$5 million rate reduction following a stipulation between St. Joseph Light & Power, the Public Counsel and the Staff. Approximately \$2.4 million of the reduction is related to the TRA.

MONTANA--In November 1986 the Montana Public Service Commission (PSC) issued an Order to Show Cause requiring each Montana public utility to submit data, on February 1, 1987, reflecting the impact of the TRA. Most of the state's utilities filed the required data by February 1, 1987, but some of the smaller utilities were granted extensions. The PSC has not taken any action on the data submitted thus far. In those instances where a company has a rate case pending before the PSC, the effect of the TRA will be treated within the context of that rate case. Where no rate case is pending, the issue will be handled on a case-by-case basis. Each utility not currently before the PSC, is expected to file a limited issue proceeding, incorporating the effects of the TRA as well as updated test period items. Intervenor will be free to propose the expansion of the scope of any proceeding to include the examination of the allowed rate of return.

NEBRASKA--No action has been taken by either the PSC or by the utilities with respect to the impacts of the TRA.

NEVADA--In October 1986 the Nevada Public Service Commission (PSC) opened a generic docket to establish new rules and policies concerning the TRA, but has not yet required the state's utilities to file data reflecting the impact of the TRA. A prehearing conference was held February 3, 1987, and a workshop involving all interested parties will take place during the first two weeks of April 1987. Hearings will be held in June 1987 concerning all items not resolved by the April workshop. The PSC is expected to issue its new rules and policies in the fall of 1987. No rate changes related to the TRA are expected to be implemented prior to 1988, and it is uncertain at this time whether the changes will take place in the context of a general rate case or a limited-issue case.

NEW HAMPSHIRE--On December 1, 1986, the New Hampshire Public Utilities Commission (PUC) issued an order directing the state's public utilities to file, by February 1, 1987, data concerning the effect on each company of the TRA. While some of the smaller utilities in the state were granted extensions, the two largest utilities, Public Service Company of New Hampshire (PSNH) and New England Telephone (NET), submitted their data by the appointed deadline. For PSNH the revenue requirement reduction expected to flow from the TRA will be considered in the context of the company's currently pending rate case. While NET currently has no rate case pending, the impact of the TRA is expected to be considered in the company's depreciation rescription proceeding, which is to be decided in April 1987.

NEW JERSEY--The New Jersey Board of Public Utilities (BPU) has taken a series of actions with regard to the TRA. On October 10, 1986, BPU President Barbara Curran directed the Board Staff to conduct a review of utility company obligations under the new TRA and to determine whether customer rates could be reduced without detriment to company services. She stated that the tax reform legislation allows a significant reduction in corporate tax rates and might "possibly warrant Board action to insure that utility companies reduce their rates to reflect this reduction in operating costs," and noted that the legislation reduces certain tax benefits for companies undertaking building programs. She specifically requested that the review be undertaken to determine if rates could be reduced "without affecting the ability of these companies to raise funds for necessary capital improvement programs" and noted that it would be "important as well to take care that this is not done at the expense of their services." On December 10, 1986, the BPU voted to allow New Jersey Bell Telephone (NJBT), a subsidiary of Bell Atlantic, to accelerate the amortization of its depreciation reserve deficiency, effective January 1, 1987, with the deficiency to be amortized over a 3.5-year period versus a 15-year period. NJBT calculated that the effect of the TRA would be to reduce its revenue requirement by \$37 million in 1987 and \$82.6 million thereafter, and the company proposed that the BPU require a rate reduction July 1, 1987 only of the net difference

between recognized revenue requirement increases associated with increased depreciation and the reductions associated with the TRA. The BPU largely adopted NJBT's proposal, but voted to give further consideration to the precise amount of revenue reduction to become effective July 1, 1987, initially estimated at \$33.7 million annually.

On December 18, 1986, the BPU approved the \$23.3 million rate reduction proposal that had been submitted by Jersey Central Power & Light (JCP&L) on November 24, 1986. JCP&L, a subsidiary of GPU, had requested effectuation of the \$23.3 million (1.6%) rate cut on January 1, 1987, to reflect the 1987 impact of the TRA. A similar decrease will be proposed to recognize further tax rate changes scheduled to become effective January 1, 1988. The rate proposal, and BPU action, make no revision in the company's presently established rate of return. The rate change approved by the BPU provides that 1988 rates will be adjusted for further tax rate changes and to reflect any corrections or revisions that Congress makes to the tax law during 1987. Elizabethtown Gas currently has a proceeding before the BPU in which it seeks a \$21.5 million rate increase. As part of the proceeding the company gives recognition to the provisions of the TRA. In the recent Public Service Electric & Gas (PSE&G) electric rate case the BPU gave consideration to the \$77 million 1987 rate reduction impacts of the TRA when calculating the Electric Department revenue increase requirement. The 1988 impacts of the TRA will be considered for PSE&G's electric operations along with other rate changes to become effective January 1, 1988.

On January 6, 1987 the BPU issued an order directing that the effects of the TRA "should be deferred upon the utilities' books and records effective January 1, 1987, so as to preserve its effect and ultimately pass along fully the likely reduction in revenue requirement to ratepayers." This directive, which applies to all companies not covered by earlier settlements, was issued to "permit the Board full latitude for review and disposition of full recognition of the tax savings to ratepayers." The companies' have been required to submit data showing detailed calculations of the TRA upon their revenue requirement by comparing the last BPU approved test year data under the old and the new tax laws. The utilities were also directed to submit tariff design proposals. The TRA tax deferral impacts are to continue until the effective date of the first base rate, fuel clause or Phase II proceeding for each company during 1987. If no rate change is anticipated or planned during calendar-1987 the utilities affected are to have the 1987 effects of the TRA reflected in rates no later than March 31, 1987. All investor-owned utilities with 1986 annual revenues equal to or greater than \$2 million are covered by the order.

NEW MEXICO--The Staff of the New Mexico Public Service Commission (PSC) filed a petition, asking the Commission to require each jurisdictional utility to file an updated cost-of-service based upon a recent test year, including the impacts of the TRA. On December 31, 1986, the PSC ruled that it would not docket the case, but issued a formal letter requesting that each company file the information sought by the Staff by March 30, 1987. The New Mexico State Corporation Commission has not initiated any action regarding the TRA.

NEW YORK--On November 13, 1986, the New York Public Service Commission (PSC) adopted the Staff's recommendation that the Commission seek comments from interested parties regarding the Staff's proposed accounting and ratemaking procedures related to the TRA. The Staff proposed that "the lower tax expense be preserved for ratepayers and that it not enhance the earnings of the State's utilities....We recommend that the utilities defer the impact of TRA-86 until the benefits can be passed on to customers in a rate proceeding....The most effective mechanism for capturing the benefits of the new tax laws for ratepayers is to initially prescribe deferred accounting for the impact of tax changes. The changes can be implemented in the first rate increase (including second or third stage filings) subsequent to the changes. This will provide some measure of rate

stability for the near term." On December 10, 1986, in response to the Commission's above-noted solicitation for comments, the Consumer Protection Board (CPB) filed a petition for "temporary rate reductions to reflect Tax Reform Act savings and cost of capital decreases." The CPB stated that it was "firmly opposed to Staff's general proposal for deferral accounting. Instead, we recommend prompt temporary rate reductions to reflect the TRA savings as well as the recent sharp decline in the utilities' cost of capital, a factor that Staff's proposal does not address."

On January 28, 1987 the PSC voted to have each of the state's utilities defer the savings attributable to the TRA as of January 1, 1987. The PSC ruled that the changes resulting from the TRA would be considered in the next rate case for each company. National Fuel Gas Distribution (NFGD) became the first New York company to receive rate treatment related to the TRA. On January 14, 1987, the PSC adopted a settlement agreement for NFG&D that was based on a calculation of the current revenue requirement effect of the TRA through March 31, 1988, with the exception of the effects resulting from uncollectable accounts, contributions in aid of construction, and unbilled revenue. On January 8, 1987, the PSC initiated a proceeding to consider a comprehensive rate plan for New York Telephone (NYT). The plan, which calls for a \$50 million rate reduction in August 1987 and extends a rate increase moratorium until January 1990, is to be financed by, among other items, a return reduction and cost savings from the TRA. On February 10, 1987, the PSC directed Consolidated Edison to show cause why its electric rates should not be reduced immediately by \$165 million, with approximately \$53 million of the reduction flowing from anticipated lower tax expense under the TRA. The PSC actions for NYT and Con Ed stem from the fact that these companies do not have a pending rate case and apparently have no plans to file a rate petition in the near future.

NORTH CAROLINA—On October 23, 1986, the North Carolina Utilities Commission ordered initiation of an investigation to determine the effects of the TRA on the obligations of each of the utility companies under its jurisdiction. The NCUC ordered each utility to determine the dollar impact of the tax law change and to file such with the Commission no later than November 30, 1986. The NCUC stated that certain provisions contained in this wide-ranging tax reform will, upon implementation, significantly reduce the effective tax rate of most, if not all, investor-owned public utilities engaged in providing electric, telecommunications, and natural gas distribution services in North Carolina. In addition, the NCUC order placed the affected utilities on notice that the federal income tax expense component of all existing rates and charges, effective January 1, 1987, will be billed and collected on a provisional rate basis pending further investigation and disposition of this matter. In December 1986, Duke Power filed with the NCUC recommending an approximate \$48 million TRA-related rate reduction. The NCUC subsequently accepted Duke's proposal and made the rate reduction effective as of January 1, 1987. Several other utilities have filed proposed TRA-related tax reductions, however the Commission has not yet issued orders in these cases. Carolina Power & Light has included the TRA's impacts in its pending rate case. All the TRA-related filings, including Duke's, are to be examined by the NCUC with decisions likely later in the year. In all likelihood, the treatment of deferred taxes balances will be an issue in the Commission's study, and further investigation may be undertaken in the future with regard to the tax rate reductions scheduled to take effect January 1, 1988.

NORTH DAKOTA—The North Dakota Public Service Commission (PSC) has issued an order directing the utilities to file information on the TRA and its effect on revenue requirements. The companies were also asked to submit proposals regarding rate changes occasioned by the TRA. The PSC will then informally deal with each company when deciding what, if anything, will be done to rates. A January 27, 1987 rate decision for Montana-Dakota Utilities reflected the effect of the TRA.

OHIO--On November 12, 1986, the Chairman of the Ohio Public Utilities Commission (PUC) sent a letter to all of the major utilities in the state requesting that each company submit an estimate of the effects of the TRA by December 31, 1986. In addition, the Chairman requested that each utility submit a proposal recommending an appropriate methodology to dispose of the tax issue. Each of the major Ohio utilities have responded to the Chairman's request, and the responses have included proposals to reduce rates to reflect the tax savings as well as proposals to retain the tax savings in order to postpone the filing of future rate cases. Two companies, Monongahela Power and East Ohio Gas, have already received rate recognition of the TRA in rate cases decided in December 1986. The PUC will be issuing independent responses to the remaining utilities on this issue. In fact, two utilities have already received PUC action on their respective TRA proposals. On January 13, 1987, the PUC adopted Columbia Gas' proposal to reduce rates by \$6.7 million and on February 10, 1987, the PUC approved Ohio Power's proposal to reduce rates by \$7.1 million. Each of these companies will file a report to the PUC at the end of 1987 estimating the effects of the TRA for 1988.

OKLAHOMA--On October 23, 1986 the Staff of the Oklahoma Corporation Commission (OCC) filed an application seeking OCC approval to commence an investigation of the state's 12 largest investor-owned utilities to determine if rate decreases should be required as a result of changes in federal tax laws. The Staff proposed that the Commission order a technical conference to establish a time schedule for audits of company records and public hearings. The companies named in the Staff's application included: Empire District Electric, Oklahoma Gas & Electric (OG&E), Public Service of Oklahoma (PSO), Southwestern Public Service, Arkansas-Louisiana Gas, Arkansas-Oklahoma Gas, Lone Star Gas, KPL/Gas Service, Oklahoma Natural Gas (ONG), General Telephone of the Southwest, and Southwestern Bell Telephone (SWBT). The OCC has not acted on the Staff's application; however, the information sought by the Staff has been provided by the utilities. Based upon data which incorporated a 40% blended tax rate, the Staff determined no immediate rate action was necessary. The Staff is now asking for information regarding the impact of a 34% corporate tax rate. The Staff is about to begin expedited audits of ONG and PSO. Mini-rate case proceedings are expected to be conducted following the audits. The impact of the TRA, as well as the appropriate allowed rate of return will be reviewed. The Staff intends to conduct audits of OG&E and SWBT as well. On October 22, 1986, OG&E petitioned the OCC for a \$50.2 million rate reduction with approximately \$32.8 million to become effective July 1, 1987 to reflect the impact of the TRA. On December 31, 1986, a rate reduction of \$0.1 million was ordered for Empire District Electric in conjunction with the company's biennial review and to reflect the impact of the TRA.

OREGON--In early 1987 the Oregon Public Utility Commissioner (PUC) informed the state's utilities that the disposition of the savings from the TRA would be considered in the context of an open docket, if one was available. For those utilities without an open docket, the PUC requested that information be filed indicating the effect of the TRA in 1987. The PUC will apparently order that the savings from the TRA be flowed through to customers in those situations where utilities are determined to be "over-earning" the allowed return on equity. Conversely, the PUC will consider allowing those utilities which are "under-earning" allowed returns on equity to retain the benefits from the TRA. The TRA was not an issue in the rate case for PacifiCorp that was concluded January 8, 1987, when the PUC authorized a \$22.6 million rate increase following the signing of a stipulation by the parties. The TRA issue for PacifiCorp is now being considered in a one-issue proceeding, with hearings in this case to occur in late March 1987.

PENNSYLVANIA—On December 18, 1986, the Pennsylvania Public Utility Commission (PUC) issued a ruling requiring the state's large utilities to establish temporary rates effective January 1, 1987, pending final PUC action with regard to any rate changes ultimately occasioned by passage of the TRA. Those utilities that had previously settled rate cases that accounted for the TRA impacts, or that have rate cases in progress in which the impacts of the Act will be considered, are to be accorded different treatment. Although not specifically stated, the implication of the PUC action establishing temporary rates appears to be that the Commission will ultimately require a dollar-for-dollar adjustment of the rates of each utility to reflect the full impact of the TRA. Further company filings are expected to be called for, with final PUC action anticipated by mid-1987. The PUC declined to adopt a proposal that had been offered by the Office of Consumer Advocate that the Commission establish a negative federal tax adjustment surcharge. No action was taken on the petition by Philadelphia Electric (PECO) that would provide a credit for ratepayers rather than passing back dollars at this time. PECO requested that there be a credit of the savings from the TRA against deferred revenues for the Limerick Nuclear Unit No. 1 which is being phased into rates, with this credit tending to reduce the amount of uncollected deferred revenues. Also on December 18, 1986, the PUC largely approved the request by Pennsylvania Power & Light (PP&L) to place the impact of three proposed rate changes into effect simultaneously on January 1, 1987 one of the changes being the \$47 million impact of the TRA. Duquesne Light, Pennsylvania Power, and Columbia Gas of Pennsylvania, are major utilities in the state with rate cases currently in progress. The effects of the TRA are being considered in these rate proceedings. On January 30, 1987 the PUC approved settlement petitions providing for TRA rate reductions for Metropolitan Edison and Pennsylvania Electric, both subsidiaries of GPU. These rate reductions were negotiated as provided for in settlement rate orders for both companies issued on November 25, 1986. The rate reductions negotiated for 1987 are based on estimated blended tax rate of 40% for this year, with next year's reductions assuming a further corporate tax rate reduction to 34%. (See page 3 of the February 6, 1987 issue of FOCUS NOTES for additional detail.)

RHODE ISLAND—During the first week of February 1987, the Division of Public Utilities (DPU) sent letters to utilities requesting cost-of-service, rate base, and return data for calendar-1986, and also asked for information on the impact of the TRA on revenue requirements. The DPU is expected to review the information with the companies in March 1987, with any PUC action to follow. A January 12, 1987 rate decision for Blackstone Valley Electric Company (BVE) included the effect of the TRA. BVE was also ordered to file a second set of tariffs that will reflect the further lowering of the tax rate in 1988 under the TRA. The secondary tariffs will be implemented when the additional tax rate reduction takes effect.

SOUTH CAROLINA—In July 1986 the South Carolina Public Service Commission (PSC) directed utilities to file data on "the impact of federal tax changes as applied to the company's 1985 operations" within 60 days after Congress and the President act on tax reform legislation. As well, the PSC had separately directed the Staff to investigate the cost of common equity for the major utilities in the state and determined that if the Staff's cost of equity determinations are available by the time the tax-impact reports are filed, the PSC would be in a position to formulate its position and make any decisions on the basis of the knowledge provided from both reports. On December 16, 1986, the PSC voted to order Duke Power to lower its base electric rates by approximately \$20.2 million (2.3%) effective January 1, 1987 to reflect the impact of the TRA. On December 12, 1986, Duke had filed data with the PSC indicating that it would experience approximately \$20.2 million of savings due to the TRA. The PSC indicated its intention to continue to investigate the impact of the tax bill on Duke and to ensure that the company's customers receive the full benefits of any tax savings. On January 14, 1987, the PSC directed South Carolina Electric &

Gas (SCE&G) to reduce retail electric rates by approximately \$25.5 million (3%) to reflect anticipated savings from the TRA. In December 1986 SCE&G had filed its report setting forth its estimated tax savings under the TRA. The Commission voted unanimously to pass the full savings through to customers. The PSC instructed its Staff to continue its analysis of SCE&G's tax savings report and to notify the Commission if any further rate adjustments should be made, especially in 1988 or thereafter. Carolina Power & Light indicated in its recently filed letter of intent for a full rate case that it will incorporate the impacts of the TRA in that filing. The Commission's investigations into the TRA impacts on other utilities are ongoing, with decisions not expected until the latter half of 1987.

SOUTH DAKOTA--The South Dakota Public Utilities Commission (PUC) has formally opened a generic docket to examine the effects of the TRA and the current earnings of South Dakota utilities. The PUC is in the process of gathering data, and any change in rates is not likely before the middle of 1987.

TENNESSEE--On December 30, 1986, the PSC voted for an \$11.8 million revenue requirement reduction for South Central Bell Telephone (SCBT) to reflect the financial impact of the TRA. Roughly half of the reduction was authorized to be accounted for through the recording of higher depreciation charges, with the other half coming from reductions in rates. The Commission accounted for the TRA in a recently finalized rate case for General Telephone Company of the South, and also is incorporating the impact of the TRA in a soon to be completed rate case for United Cities Gas. On December 30, 1986, in a separate order, the PSC voted to initiate a generic hearing to investigate the impact of the TRA on all other utilities within the state. Initially, the utilities were required to file their responses by the end of January; however, the PSC changed the response deadline time to June 1987.

TEXAS--The Texas Public Utility Commission (PUC) Staff sent letters to all utilities requesting comments as to the general and specific effects of the TRA on the companies, their tax liabilities and their cash flow. A task force made up of Staff members is responsible for gathering the information and making recommendations to the PUC. The Staff will likely hold a conference for interested parties, including companies and intervenors, to discuss the TRA and what, if any, action the PUC should take in response to it.

UTAH--The Utah Public Service Commission (PSC) has informally requested information from the major utilities in the state regarding the TRA. The information will be analyzed by the Department of Public Utilities at which time a determination will be made by the PSC concerning any further action.

VERMONT--On January 9, 1987, the Vermont Public Service Board (PSB) sent letters to the state's utilities requesting that the companies file with the PSB estimates of the effects of the TRA for 1987 and 1988. The letter required responses to be filed by January 30, 1987, and all of the major Vermont utilities have submitted their estimates. For Central Vermont Public Service, the PSB disposed of the issue in the company's general rate case, which was decided January 2, 1987. Green Mountain Power has indicated to the PSB that it will soon file for a rate decrease reflecting not only the savings attributable to the TRA, but also those flowing from a reduction in return on equity from 15.5% to 14%. As for New England Telephone (NET), on January 6, 1987 the Vermont Department of Public Service (DPS) and the company agreed on a new regulatory framework that will provide for the stabilization of basic telephone rates with most other services partially or totally deregulated. The plan provides for an immediate revenue requirement reduction of \$5.4 million, which reflects, among other items, the TRA. The State Legislature must pass a bill allowing the Vermont Public Service Board (PSB) to deregulate certain services prior to the PSB's approval of the plan.

VIRGINIA--On February 4, 1987, the Virginia State Corporation Commission (SCC) informed the utilities in its jurisdiction that due primarily to the impetus of the TRA, investigations of the financial conditions of large electric and telephone companies may soon be undertaken. Continental Telephone Company has responded with a proposal to reduce rates by approximately \$3.3 million, but no SCC action has yet been taken on this proposal. On February 12, 1987 Chesapeake & Potomac Telephone (C&P) filed with the SCC to institute a \$15 million rate reduction to reflect the impact of the TRA. C&P's filing proposes that the rate reduction be effective July 1, 1987 and it be implemented as an across the board reduction. SCC action is pending in this case. The Commission's staff, as directed by the SCC in late 1986, has been receiving data from the utilities with regard to estimates of the TRA's impact.

WASHINGTON--The Washington Utilities & Transportation Commission (WUTC) required each of the state's utilities to file data by December 31, 1986 estimating the effects on cost of service resulting from the TRA. The WUTC Staff is currently analyzing the data provided by the companies, and, over the next few months, will be recommending to the WUTC an appropriate methodology to have the tax changes reflected in the companies' rates.

WEST VIRGINIA--On January 20, 1987, the PSC issued an order directing utilities within the state to file written statements estimating the potential impact of the TRA on their operations. These responses are due by March 16, 1987 and hearings are scheduled to commence on April 29, 1987.

WISCONSIN--The Wisconsin Public Service Commission (PSC) requires the state's 12 largest utilities to file forecasted financial data each year, and the effects of the TRA will be dealt with in each of these annual reviews on an individual company basis. Companies not undergoing annual reviews, will be required to submit data by April 1, 1987 to show the impact of the TRA on their operations and then to file new rates effective July 1, 1987 reflecting that impact.

WYOMING--The PSC has informally requested information from utilities regarding the effect of the TRA. No proceedings have been commenced to date.

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February 14, 1987

State	(A) Data Req./ Study Started	(B) Case-By- Case Action	(C) Rate Cut Made	(D) Mechan- ism in Place	(E) Temp Rates/ Def. Acct.	State	(A) Data Req./ Study Started	(B) Case-By- Case Action	(C) Rate Cut Made	(D) Mechan- ism in Place	(E) Temp Rates/ Def. Acct.
ALABAMA	X	-	-	X	-	MONTANA	X	X	-	-	-
ARIZONA	X	-	-	-	-	NEBRASKA	-	-	-	-	-
ARKANSAS	X	-	X	X	-	NEVADA	X	-	-	-	-
CALIFORNIA	X	-	-	-	X	NEW HAMPSHIRE	X	-	-	-	-
COLORADO	X	-	-	-	-	NEW JERSEY	X	X	X	-	X
CONNECTICUT	X	X	-	-	-	NEW MEXICO/PSC	X	-	-	-	-
DELAWARE	-	X	-	-	-	NEW MEXICO/SCC	-	-	-	-	-
DIST. OF COL.	X	X	-	-	-	NEW YORK	X	X	-	-	X
FLORIDA	-	-	X	X	-	NORTH CAROLINA	X	X	X	-	X
GEORGIA	-	-	-	-	-	NORTH DAKOTA	X	-	-	-	-
HAWAII	-	X	-	-	-	OHIO	X	X	X	-	-
IDAHO	X	-	-	-	-	OKLAHOMA	X	-	-	-	-
ILLINOIS	X	-	-	-	-	OREGON	X	X	-	-	-
INDIANA	X	-	-	-	-	PENNSYLVANIA	X	X	X	-	X
IOWA	X	-	-	-	-	RHODE ISLAND	X	X	-	-	-
KANSAS	X	-	-	-	-	SOUTH CAROLINA	X	X	X	-	-
KENTUCKY	X	-	-	-	-	SOUTH DAKOTA	X	-	-	-	-
LOUISIANA	-	X	X	-	-	TENNESSEE	X	X	X	-	-
MAINE	X	X	-	-	-	TEXAS	X	-	-	-	-
MARYLAND	X	X	X	-	-	UTAH	X	-	-	-	-
MASSACHUSETTS	X	-	-	-	-	VERMONT	X	X	-	-	-
MICHIGAN	X	X	-	-	-	VIRGINIA	X	X	-	-	-
MINNESOTA	X	-	-	-	-	WASHINGTON	X	-	-	-	-
MISSISSIPPI	-	X	-	X	-	WEST VIRGINIA	X	-	-	-	-
MISSOURI	X	X	X	-	-	WISCONSIN	-	X	-	-	-
						WYOMING	X	-	-	-	-

A - A TRA study has been initiated or data requested. In some instances studies are informal, while in others task forces have been established.
B - Case-by-case action has been initiated for a major company or has been called for as a result of the TRA.
C - One or more companies have reduced rates or is slated to do so as a result of recognition of TRA savings.
D - A tax adjustment mechanism is in place for one or more companies.
E - Rates have been declared temporary, interim or subject to refund, or accrual accounting required for part or all of TRA amounts.



REGULATORY STUDY
July 6, 1987

TAX REFORM ACT OF 1986--STATE-BY-STATE RESPONSE

The RRA Staff has reviewed actions taken by the utility regulatory commissions in 49 states and the District of Columbia as a result of the Tax Reform Act of 1986 (TRA). In making this review we attempted to determine whether studies had been conducted by the commissions and to what extent rate changes have been implemented or accounting for TRA impacts have been required. This study, completed July 2, 1987, is a follow-up to our initial study published February 14, 1987. In the course of this review, which is comprehensive but is not represented as all-encompassing, we determined that four states have tax adjustment mechanisms in place that impact one or more companies. We also ascertained that several utilities have implemented or have been authorized specific rate changes or depreciation adjustments to counter-balance the impact of the TRA. In most general rate cases completed in recent months recognition was given to the impact of the TRA, thereby eliminating the need for separate single-issue treatment. Verbal descriptions of the Commission, Staff, or company actions taken in each state with regard to the TRA are contained in the paragraphs that follow. For additional information concerning developments in a particular state, please refer to the FOCUS NOTES references given within this report or to those contained in the July 6, 1987 Regulatory Focus Index.

ALABAMA--The largest utilities in the state, Alabama Power, Alabama Gas, and South Central Bell Telephone, each has a Rate Stabilization and Equalization (RSE) provision in effect which provides for periodic adjustments to revenues based on the achievement of certain earned return on equity levels. Additionally, the tariffs of the major energy utilities include adjustment provisions to allow for reflection in customer rates of changes in income tax rates. Any tax impacts not covered through the tax riders for the energy companies are expected to be reflected through the RSE provisions. (For additional information concerning the RSE provisions of the companies see pages 3 through 5 of the November 1986 Alabama Annual Review.) The PSC has directed that a task force be established to review the potential impacts of the TRA, with the probable impacts on the telephone companies expected to receive the closest attention since telephone rates do not now contain a tax rider.

ARIZONA--The Staff of the Arizona Corporation Commission (ACC) is holding informal workshops with companies to discuss the effects of the TRA. Arizona Public Service, Southwest Gas, and AT&T Communications have rate petitions pending before the ACC in which the companies have reflected the revenue requirement impact of the TRA.

ARKANSAS--On August 28, 1986, the Arkansas Public Service Commission (PSC) approved Rate Rider M38 for Arkansas Power & Light (AP&L), a subsidiary of Middle South Utilities. The M38 Rider, as proposed by AP&L, and adopted by the PSC, was designed to reflect the estimated annual reduction in AP&L's revenue requirement as a result of then pending tax reform legislation. The M38 adjustment was based upon a 33% corporate tax rate, effective January 1, 1987, with any deviations from that tax rate or effective date to be reflected in a true-up to be conducted in August 1987. The M38 Rider provides for AP&L to refund, over a four-year period, that portion of its accumulated deferred income tax balance which exceeds the balance required under revised tax rates, where not prohibited by law. Additionally, the PSC initiated a docket requiring all jurisdictional utilities (except cooperatives) to file information and tariffs reflecting the impact of the TRA. Companies were asked to use a recent rate case test year or the data contained in the annual reports as filed with the PSC. The calculations were to reflect the corporate tax rate reduction from 46% to 34% and the refunding, over a two-year period, of the non-depreciation-related excess deferred income taxes. On May 20, 1987, the PSC ordered all utilities to file data reflecting the impact of the TRA on their earned return, "utilizing unadjusted data" for calendar 1986, and giving recognition to a 34% tax rate. The PSC has not yet established a schedule for considering the impact on individual companies and any rate action will be on a prospective basis.

CALIFORNIA--On November 14, 1986, the California Public Utilities Commission (PUC) initiated an investigation into the methods to be utilized by the state's major utilities to establish the proper level of tax expense for ratemaking purposes. The PUC ordered the Public Staff Division (PSD) and the state's major utilities to review and analyze the regulatory implications of the TRA. In establishing the Order Instituting Investigation (OII), the PUC ordered that all rates in effect for these utilities as of January 1, 1987 be collected subject to refund pending a final Commission decision in the OII, with the investigation to be conducted through the workshop process. Hearings concluded June 10, 1987, and a final order is to be issued later in 1987. In its final order the PUC will determine "if and how rates for each utility shall be adjusted." As part of rate filings based on a calendar-1988 test year, Southern California Edison and General Telephone of California have recognized the effects of the TRA. In the Pacific Gas & Electric rate case decided in December 1986, the rate award was determined after giving recognition to roughly \$85 million of TRA savings.

COLORADO--The Colorado Public Utilities Commission (PUC) hired an outside consultant to prepare a questionnaire for utilities to use to provide information specifically identifying the effects of the TRA on their operations. The Staff will make recommendations to the PUC based on data gathered, after which the PUC will determine what specific action should be taken with regard to the TRA.

CONNECTICUT--In September 1986, the Connecticut Department of Public Utility Control (DPUC) initiated a proceeding to review the financial and operating results of the state's major investor-owned utilities. Testimony filed in conjunction with this proceeding reflected each utility's best estimate of how the TRA would affect its revenue requirement. Based upon the Department's conclusion in this docket, the DPUC determined that additional action was necessary regarding, Connecticut Natural Gas (CNG), Southern New England Telephone (SNET), United Illuminating (UI), and Connecticut Light & Power (CL&P). Southern Connecticut Gas indicated that it planned to file a rate application during 1987. Settlement agreements have been approved for SNET, UI and CL&P which give recognition to the impact of the TRA. The impact of the TRA was not isolated, but considered in the context of each company's anticipated overall financial performance. Following a DPUC review of the

earnings of CNG, on June 30, 1987 the Department concluded that no rate change was necessary. (See the July 2, 1987 issue of FOCUS NOTES.) The DPUC ordered utilities to elect one of three options regarding the treatment of contributions in aid of construction. A company can elect to: 1) charge additional tax-related expense to developers; 2) spread additional tax expense across-the-board to all customers; or 3) use a formula proffered by the Department.

DELAWARE--The Commission incorporated its analyses of the impact of the TRA into its recently completed earnings investigation of Delmarva Power & Light and is doing so in its ongoing earnings investigation of Diamond State Telephone. In its April 14, 1987 order for DP&L the PSC utilized a 38% blended corporate tax rate for 1987 and ordered use of a 34% tax rate as of January 1, 1988 which equates to a \$4.4 million rate reduction as of that date. The Diamond State proceeding is pending and the company has reported that revenue deferrals have been recorded to reflect the estimated effect on revenue requirements for ratemaking purposes of lower tax rates effective in 1987 due to the TRA. A final PSC decision is expected in this case during October 1987.

DISTRICT OF COLUMBIA--On February 27, 1987, the PSC approved a joint petition calling for Potomac Electric Power (PEPCO) to reduce base electric rates by \$18.2 million (3.2%). On December 23, 1986, PEPCO and the District of Columbia Office of People's Counsel (OPC) had filed a joint petition with the PSC seeking expedited PSC approval of an \$18.2 million decrease in PEPCO's rates to reflect the impact of the TRA. The rate decrease was effective retroactive to January 1, 1987. The PSC approved the settlement's provision that neither PEPCO nor the OPC may apply for a further change in the company's rates prior to January 1, 1988.

On April 1, 1987, the PSC approved a joint settlement petition calling for District of Columbia Natural Gas (DCNG), a division of and formerly known as Washington Gas Light, to reduce rates by approximately \$0.4 million. On December 31, 1986, DCNG and the OPC filed a joint stipulation and agreement with the PSC providing for DCNG to institute this rate reduction to reflect the impact of the TRA on the company's rates. The rate decrease was implemented retroactive to January 1, 1987.

In January 1987 the PSC instituted a TRA-related investigation for Chesapeake and Potomac Telephone (C&P), a subsidiary of Bell Atlantic. On February 11, 1987 C&P, the OPC, and the Commission's Staff filed a joint stipulation and agreement with the PSC to institute a rate reduction of \$3.3 million to reflect the impact of the TRA. The stipulation specifies that the rates be reduced retroactive to January 1, 1987 and that there be no further rate changes for C&P during 1987. Hearings have been held and a PSC decision is expected during July 1987.

FLORIDA--One of the Florida Public Service Commission's (PSC) regulations, its Tax Savings Rule, provides that any earnings in excess of the mid-point of the last authorized return on equity range are required to be refunded to the extent these earnings are generated by changes in tax rates. In each rate case the PSC establishes the mid-point of a 200 basis point return on equity range as the target equity return for the utility. For most major utilities the target return last established was between 14.5% and 16%. In recent months, various actions and settlements have provided that lower return levels be utilized for the measurement of any refund obligation under the Tax Savings Rule for calendar 1987.

On November 4, 1986, the PSC approved a settlement agreement entered into between Florida Power Corporation (FPC) and the Florida Office of Public

Counsel (OPC) which provided for FPC to institute a temporary rate reduction of approximately \$54 million for calendar-year 1987. FPC agreed to "credit the monthly rates charged its retail customers in the total annual amount of \$54,000,000," with the provision that this reduction "contemplates savings from pending federal income tax revisions" based on a blended statutory tax rate of approximately 40% for 1987 versus the 1986 statutory rate of 46%. It was anticipated that the company's federal income tax requirement would be reduced by approximately \$30 million in calendar-1987. The rates provided for in the settlement affect only 1987, and FPC's rates to become effective January 1, 1988, will be determined in a PSC-ordered rate proceeding which commenced July 1, 1987. (See the May 8, 1987 and July 2, 1987 issues of FOCUS NOTES.).

On December 16, 1986, the PSC approved a settlement agreement in the Southern Bell Telephone (SBT) earnings investigation proceeding. In the settlement, SBT, a subsidiary of BellSouth, identified the tax benefits related to the TRA to be \$54 million in calendar-1987 and applied this amount toward increased capital recovery expense.

On January 20, 1987, the PSC accepted the offers of Florida Power & Light, Gulf Power, and Tampa Electric that any rate refunds that might be required as a result of the application of the Tax Savings Rule should be calculated based upon a 13.6% return on equity rather than utilizing the previously authorized equity return levels established for each company. (For additional information see pages 1 and 2 of the January 23, 1987 issue of FOCUS NOTES.)

On March 31, 1987, the PSC voted to require United Telephone of Florida, a subsidiary of United Telecom, to reduce its revenues by \$7.2 million to reflect the 1987 impact of the TRA. Approximately \$6.7 million of the total revenue requirement reduction will be accomplished through a reduction in the access charges which long distance companies pay to use the local telephone network. United was also ordered to make a one-time depreciation reserve adjustment of roughly \$0.5 million. On April 7, 1987, the PSC approved terms of a General Telephone of Florida (GTF) proposal to pass along \$12.8 million of TRA-related savings to customers. GTF, a subsidiary of GTE, had initially offered this TRA-related proposal earlier in the year. The proposal approved by the PSC includes a \$10.4 million reduction in access charges, effective May 1, 1987, a \$1.5 million reduction in zone or mileage charges and a \$0.9 million one-time increase in depreciation expenses. On June 8, 1987, Central Telephone Company of Florida and the Office of Public Counsel filed a stipulation with the PSC providing for the settlement of questions regarding Centel's 1986, 1987 and 1988 earnings. The stipulation provides for a \$19.1 million refund and a \$15 million prospective rate reduction on the part of Centel. If adopted by the PSC, the agreement would settle all open TRA questions.

GEORGIA—On June 16, 1987, the Georgia Public Service Commission (PSC) issued an accounting order with regard to the PSC's consideration of the TRA. The PSC determined that the change in the tax rate would result in an immediate reduction in utility revenue requirements and stated that the change in revenue requirements resulting from this reduction "should be identified and deferred on the books of each utility until the overall impact of the various changes resulting from the Act can be determined." Consequently, each utility was placed on notice that the federal income tax expense component of existing rates and charges in effect on July 1, 1987 "will be billed and collected on a provisional basis pending further investigation and disposition of this matter." The utilities are to place in a deferred account the "estimated annual effect on revenue requirement resulting solely from the reduction in tax expense because of the change in the federal corporate tax rate from 46 percent to 34 percent," with such amounts to accumulate pending

final disposition of the matter by the PSC. Each utility must also file with the PSC by September 1, 1987, indicating the dollar impact of the TRA on the annual level of income tax expense included in its jurisdictional cost of service, based on a calendar-1986 test period. The companies were also instructed to "file proposals as to the manner in which these impacts of the [TRA] should be reflected in their operations for the years 1987 and 1988." The order states that "Consideration could be given to tariff changes, offsetting jurisdictional cost increases, and other pertinent facts and data." On June 25, 1987, the PSC voted to approve a stipulation entered into on June 17, 1987 by Atlanta Gas Light (AGL) and the parties to its rate case. The stipulation specifically provides that the effects of the TRA were taken into account in calculating the revenue requirement, and, therefore, AGL will not be subject to the provisions of the TRA accounting order issued by the PSC on June 16, 1987.

HAWAII--On May 4, 1987, the PUC held hearings in its investigation regarding the net effect of the TRA on Hawaiian Electric Company's (HECO) 1987 rates. On January 21, 1987, HECO, together with Hawaiian Electric Industries' other utility subsidiaries, filed to voluntarily reduce base rates to reflect the impact of TRA changes on each company's 1987 revenue requirement. The PUC subsequently accepted the company-proposed rate reductions of approximately \$3.3 million for HECO, \$1.2 million for Mauui Electric (MECO), and \$0.4 million for Hawaii Electric Light (HELCO). The rate reductions were made effective February 1, 1987. The company-proposed reductions for MECO and HELCO reflected the full impact of the TRA-related savings; however, the rate reduction proposed and implemented, to date, for HECO reflected only about 50% of the TRA-related annual revenue requirement reduction for the company. Due to the limited nature of the TRA-related savings to HECO's ratepayers, on February 6, 1987 the Commission instituted a proceeding (Docket 5740) in which the company was ordered to "show cause" why its rates should not be reduced to reflect the full impact of the TRA-related savings, or, stated quantitatively, reduce rates by an additional \$3.3 million. On June 30, 1987 the PUC ordered HECO to reduce rates by an additional \$1.7 million or roughly half of the 50% additional TRA-related savings considered in the show cause proceeding. The new rates were effective July 1, 1987. On June 12, 1987, the PUC issued a "show cause" order to Hawaiian Telephone. The PUC ordered Hawaiian Telephone, a subsidiary of GTE, "to show cause why its rates and charges should not be reduced to reflect the full effect of the Tax Reform Act of 1986 [TRA] for calendar year 1987." The PUC stated that the investigation shall "be confined to the net effect" of the TRA on the company's 1987 calendar year service rates. A prehearing conference was held on June 30, 1987 with final PUC action not likely for several months. In January 1987, the PUC had approved Hawaiian Telephone's request to amortize \$5 million of central office depreciation in the calendar years, 1987 and 1988, effective January 1, 1987. The PUC noted "the proposed amortization is an initial step towards necessary resolution of the depreciation reserve imbalance in this account." The increased depreciation charge was approved without a commensurate increase in customer service rates.

IDAHO--On January 7, 1987, the Idaho Public Utilities Commission (PUC) ordered all utilities under its jurisdiction to file data comparing the utility's tax expense for 1986 under the old tax law with the utility's hypothetical tax expense for 1986 utilizing new tax rates. Companies showing a decrease in tax expense were required to file tariffs designed to reflect the reduction to become effective July 1, 1987. The PUC approved a \$0.6 million decrease for Intermountain Gas. Commission actions regarding Idaho Power, Utah Power & Light and Washington Water Power are pending. In December 1986, the PUC approved a plan for Mountain Bell Telephone to upgrade central offices with digital facilities. The Commission agreed that expected savings from tax reform could be appropriated to help fund the upgrade.

ILLINOIS—On December 31, 1986, the Chief Accountant of the Rate Review Department of the Public Utilities Division of the Illinois Commerce Commission (ICC) wrote to all the state's major utilities requesting them to file data and a rate rider with the ICC within 30 days in order for the Commission "to implement the ratemaking effects of the new tax law on a timely basis." It was requested that "the rider state the percentage by which all utility rates must be reduced to reflect the use of a 40% tax rate for 1987" based on each company's most recent rate order. This percentage reduction has been applied to all utility billings. However, customer bills have not been reduced. Instead, the amounts have been accrued in a deferred credit account, with an offsetting debit to revenue. This deferred credit account will continue to accrue until a final ICC determination later in 1987 with regard to each company's financial position. It was the Chief Accountant's view that "if the Commission determines that current earnings when adjusted to reflect all aspects of the new tax law are excessive, refunds will then be made to customers from the deferred credit account." Although not specifically described, excess earnings were indicated to be earnings above the previously authorized return on equity level. Formal ICC action has not as yet been forthcoming with regard to implementation of rate changes in contested cases, however, a number of settlements have been considered. On May 19, 1987, the ICC approved a motion by Union Electric (UEP) to revise its Callaway rate-phase-in plan in order to reflect the savings to be derived from the TRA. The company voluntarily proposed the tariff reduction so as to reduce the rate impact on customers. Effective May 19, 1987, rates rose by \$3.7 million (2.2%) rather than \$11.5 million (6.8%). The final step increase scheduled for May 19, 1988 will also be revised downward, in this instance from \$12.5 million (6.7%) to \$3.8 million (2.1%). On June 24, 1987, the ICC approved stipulation filed by Iowa-Illinois Gas & Electric (I-I) and other parties, which will produce a \$13.8 million electric rate reduction related to the TRA and provide for certain other rate modifications. No change was required in gas rates. The electric reduction became effective July 1, 1987, but was accompanied by a restructuring of the Louisa Phase-In Clause so that the final three phase-in amounts will be levelized over a six year period. Giving consideration to the base rate decrease of \$13.8 million and the Louisa Phase-In increase of \$6.6 million that became effective July 1, 1987, a net \$7.2 million reduction occurred in customer rates on that date. (See the May 29, 1987 and June 26, 1987 issues of FOCUS NOTES.) In a related matter, on January 27, 1987, the ICC ordered Northern Illinois Gas (NIGAS), a subsidiary of NICOR, to temporarily reduce base rates by approximately \$7.4 million (1.9%). The ICC concluded that the company was earning a 16.29% return on equity compared to its previously authorized 15.55% and, therefore, a \$7.4 million rate reduction was necessary "to ensure that the Company's rates are not excessive." The ICC also ordered a general rate case for NIGAS, which has not had a rate case since 1982. The rate case will examine, along with the usual issues, the effect of the TRA on the company's revenue requirement. A rate settlement proposal by Commonwealth Edison that is under consideration by the ICC gives effect to the impacts of the TRA in 1987 and years following.

INDIANA--On June 1, 1987, the Indiana Utility Regulatory Commission (URC) voted to approve, with only minor modifications, the Executive Committee Report on the TRA as filed with the Commission on April 15, 1987. This proceeding was initiated on November 26, 1986, when the URC appointed an Executive Committee and provided for the establishment of four task forces to examine the effect of the TRA on utilities in Indiana. On April 15, 1987, the Committee issued a report recommending that the utilities voluntarily file for rate reductions to reflect lower tax costs occasioned by the passage of the TRA. The Executive Committee was comprised of representatives of the URC Staff, the Utility Consumer Counselor, and members of the various utility industry associations. The Committee unanimously recommended that the

investor-owned utilities be asked to voluntarily file rate reductions through the Commission's 30-day filing procedure. These filings would be examined by the Staff and then approved or disapproved by the URC. Any utility not voluntarily filing would be subject to an investigation and hearings as to why its rates should not be reduced. Proposed rate changes are to be based on the utilities most recent cost-of-service studies. In order to avoid problems caused by a decrease in cash flow, the Committee recommended that the lower tax rates be phased in, with service rates proposed to be effective July 1, 1987 to be premised upon a 38.5% tax rate. Rate changes to be made January 1, 1988 would be based upon a 37% tax rate, with the final adjustment, July 1, 1988, to reflect a 34% rate. The Commission noted that the initial step in the TRA phase-in plan provides for a rate reduction "some 4 1/2% less than the implementation of the 34% tax rate may alone produce. This generic proposal is clearly a compromise situation designed to be applicable to that vast number of utilities whose rates presently in effect have not been reviewed and adjusted for some time." The URC stated that to achieve a high level of accuracy would have required case-by-case reviews of each utility. Such a procedure was found to be not in the public interest, with the Commission finding that "a more expedient procedure dealing with all such similarly situated utilities in a generic fashion is appropriate. It is such treatment that has been recommended by the Executive Committee report."

IOWA--On February 6, 1987, the Iowa Utilities Board (IUB) adopted emergency rules, effective April 1, 1987. "The purpose of these rules is to recognize the substantial impact on the tax liability of rate-regulated investor-owned utilities as a result of the TRA and prevent unnecessary utility revenue shortfalls or windfalls." Additionally, the IUB ordered the utilities to determine a revised revenue requirement and to design rates which reflect the adjusted revenue requirement. The IUB devised a formula, which was applied to 1986 financial data and was designed to isolate the revenue requirement impact of the TRA. Legislation was subsequently adopted ratifying the IUB's authority to require tax-related rate adjustments effective July 1, 1987. However, the legislation provides that a company may delay implementation until September 30, 1987, "if sufficient bond or corporate undertaking is approved." A company may then file a general rate proceeding. Filed tariff revisions indicate the following TRA-related decreases: Iowa Electric Light & Power, \$5.7 million; Iowa Public Service, \$11.5 million; Iowa Power, \$13.6 million; Interstate Power, \$5.1 million; and Northwestern Bell Telephone, \$12 million. Iowa Power has indicated its intention to delay implementation until September 30, 1987.

KANSAS--On March 18, 1987, the Kansas State Corporation Commission (KCC) ordered most of the state's major utilities, effective April 1, 1987, to begin placing the savings arising from the TRA into a separate account. The monies in that account will be subject to refund, pending a full review by the SCC of the effect of the TRA on each utility's revenue requirements. The utilities were instructed to use a blended 38% tax rate for purposes of calculating the tax savings. A formal docket was also opened by the SCC to initiate such an investigation, which is expected to be completed by the end of the year. The SCC specifically authorized the Staff to investigate other cost-of-service items while conducting the TRA review. The order covers all of the state's major utilities except the following companies: Kansas Gas and Electric, which was allowed to retain tax savings in the rate stabilization plan previously approved by the SCC (refer to the March 13, 1987 issue of FOCUS NOTES); KN Energy, which has a rate case pending; and KPL/Gas Service, which voluntarily filed for a rate reduction that reflects the effect of the TRA. On March 31, 1987 SCC approved electric and gas rate decreases totalling \$18.7 million for KPL/Gas Service. The rate decreases went into effect April 7, 1987, and reflect electric and gas department TRA-related revenue requirement reductions of \$11.6 million and \$0.9 million respectively. KPL estimates that additional

TRA savings for 1988 will approximate \$10.8 million for electric operations and \$1.8 million for the gas department. On June 12, 1987, the SCC voted to adopt a rate stabilization plan for Kansas City Power & Light (KCP&L) which incorporates, among other items, the impact of the TRA. KCP&L will be required to reduce rates by \$4.3 million in 1987 and by \$10.4 million in 1988.

KENTUCKY--On June 11, 1987, the Kentucky Public Service Commission (PSC) issued orders with regard to the rate reductions to be required as a result of the TRA. This proceeding was initiated on December 11, 1986, at which time the PSC determined to isolate the effects of the TRA on the state's major utilities and concluded that it would not consider additional rate increase issues. Company filings were required by January 26, 1987. Louisville Gas and Electric (LG&E) filed exhibits indicating a revenue requirement reduction of \$12.1 million based on a 40% tax rate for 1987 and an annual revenue requirement reduction of \$21.9 million based on an effective tax rate of 34% in calendar-1988. Additionally, LG&E petitioned the Commission to suspend implementation of any rate change until such time as the company filed its next general rate case. Kentucky Power (KP) filed data indicating a total tax reduction impact of \$6.7 million. For Kentucky Utilities (KU) the 1987 and 1988 rate reduction amounts indicated were \$9.8 million and \$13 million, respectively. South Central Bell Telephone (SCBT) filed data reflecting a revenue requirement reduction of \$7.9 million based on a 40% tax rate and a reduction of \$19.3 million using a 34% rate. The PSC decided to require a one-time rate reduction on July 2, 1987, for each company, with the change calculated on the basis of a 34% tax rate, and determined that LG&E should reduce rates by \$24.1 million effective July 2, 1987. KP, KU, and SCBT, were ordered to reduce rates by \$6.9 million, \$19.3 million, and \$19.4 million, respectively. The PSC approved a TRA-related revenue adjustment for General Telephone of the South in conjunction with its recently concluded general rate case, and Columbia Gas of Kentucky adjusted its rates July 1, 1987, pursuant to a stipulation entered into in its last rate case. (See the June 19, 1987 issue of FOCUS NOTES.)

LOUISIANA--On December 2, 1986, the Louisiana Public Service Commission (PSC) approved a petition by Central Louisiana Electric Company (CLECO), filed the same day, proposing that its electric rates be reduced by \$11.5 million over the next two years. This filing was tendered by CLECO on December 2, 1986 in order to pass along to customers the benefits of the TRA. The rate decrease for calendar-1987 is \$5.3 million, with an additional decrease of \$6.2 million to become effective in 1988. The average decrease in residential customers bills will be roughly 4% over the two years. The PSC authorized a rate increase for Louisiana Power & Light in February 1987, and in so doing gave recognition to the impacts of the TRA. The TRA impacts will be considered in the presently pending Gulf States Utilities (GSU) rate case. For other utilities in the state the TRA impacts will be considered on a case-by-case basis. No other specific actions have yet been initiated.

MAINE--On March 17, 1987, the Maine Public Utilities Commission (PUC) approved a stipulation in which New England Telephone (NET) agreed to implement a \$9.2 million permanent rate decrease. The stipulation, which was entered into between NET, the PUC Staff, and the Public Advocate, also calls for a one-time \$2 credit for each residential and business line. NET submitted the rate case filing in which the company supported the continuation of present rate levels. A PUC order had directed NET to file a rate case in order to provide an opportunity for the PUC to examine the company's jurisdictional earnings and the effects of the TRA. On March 3, 1987, Bangor Hydro-Electric (BHE) filed with the PUC for a two-step rate decrease totalling roughly \$6.9 million. The rate filing was ordered by the PUC in order to examine the effects of the TRA. The first step, which took effect April 1, 1987, was a \$6.2 million (9.7%) decrease, and the second-step, to be

implemented on December 1, 1987, is roughly a \$0.7 million decrease. The filing was based upon a 12% return on common stock equity (44.8% of capital) and a 12.17% return on an average rate base for a test year ended December 31, 1986. The 12% equity return used by BHE in the filing was agreed to in a stipulation between the company and the PUC Staff. On May 6, 1987, the PUC approved a stipulation between Central Maine Power (CMP), the PUC Staff, the Maine Public Advocate, and the Industrial Energy Consumers' Group that provided for a reduction in base rates of \$9.1 million, effective May 1, 1987. Almost all of the reduction was attributable to a lower, although unspecified, cost of capital for the company. The increase is in addition to, and makes permanent, the \$6.7 million rate reduction implemented on February 1, 1987, mostly to account for the effect on revenue requirements of the TRA. Another rate reduction is expected in January 1988 to adjust rates for the further reduction of the corporate tax rate under the TRA. Although no return on equity was specifically authorized, the approved stipulation provides that any CMP earnings above a 12% return on average common equity during the next two years will be set aside to cover deferred costs and increased operating and maintenance expense in later years.

MARYLAND--On January 2, 1987, the PSC adopted a stipulation calling for Delmarva Power & Light (DP&L) to reduce base rates by \$3.3 million to reflect the impact of the TRA. The stipulation had been filed on December 31, 1986 by DP&L, the PSC Staff and the Office of People's Counsel (OPC). The stipulation occurred in the Phase II proceeding initiated by the PSC in its October 2, 1986 order. That order accepted a settlement in DP&L's earnings level investigation which resulted in the implementation of a \$5.6 million base electric rate reduction. The January 2, 1987 PSC action, as set forth in the stipulation, directs DP&L to propose, by December 1, 1987, an additional base rate reduction to reflect the TRA's impact on the company's financial position on and after January 1, 1988. On March 3, 1987, Conowingo Power, a subsidiary of Philadelphia Electric was authorized a \$3.7 million rate increase in its rate case which was initiated on September 5, 1986. The final order included the impact of the TRA on the company's service rates and was based upon a 37% blended tax rate rather than the blended 40% rate used by the company.

On May 5, 1987 the PSC issued its decision in the earnings investigation of Baltimore Gas & Electric (BG&E), which it had initiated in July 1986. The impact of the TRA was incorporated into the proceeding. At the end of the case BG&E supported use of a 40% blended corporate tax rate, whereas the PSC utilized a 36% blended rate. The new service rates were ordered to be made effective by June 1, 1987. On May 12, 1987, the PSC issued its decision in the earnings investigation for Potomac Electric Power (PEPCO), which it had initiated in July 1986. The impact of the TRA was incorporated into the proceeding. At the end of the case PEPCO supported a two-step approach to the tax rate changes resulting from passage of TRA. The company proposed that customer rates for 1987 be set based upon a 40% tax rate and that a second set of service rates reflecting a 34% tax rate take effect January 1, 1988 (amounting to a \$4.1 million rate decrease). The OPC and the Staff each recommended use of a blended tax rate of 36%, which the Commission adopted, effective May 27, 1987.

MASSACHUSETTS--On January 28, 1987, the Massachusetts Department of Public Utilities (DPU) ordered the state's utilities to file information computing the effect that the decrease in the federal corporate tax rate would have on their revenue requirements as of July 1, 1987. The Department stated that "while we recognize that resolving all of the ratemaking consequences of the new tax code is a complicated matter that may eventually have to be considered in more detail in the context of each company's next general rate proceeding, it is administratively impossible for the Department to conduct a complete rate proceeding for every Massachusetts company before July 1, 1987. It is

for this reason that we are voting to open this limited proceeding." On June 1, 1987, the DPU ordered all electric, gas and telephone companies to reduce rates, effective July 1, 1987, to reflect the cut in the corporate tax rate from 46% to 34%. Rate schedules filed by various companies reflect the following rate reductions: Boston Edison, \$34 million; Commonwealth Electric, \$3.7 million; Eastern Edison, \$1.4 million; Massachusetts Electric, \$16.8 million; Bay State Gas, \$4.2 million; Boston Gas, \$7.1 million; Commonwealth Gas, \$3 million; and New England Telephone, \$29.4 million. Rates approved by the DPU in Western Massachusetts Electric's general rate case decided June 30, 1987 reflect the impact of the TRA.

MICHIGAN—On October 28, 1986, the Michigan Public Service Commission (PSC) opened an official docket to receive information with regard to the impact of the TRA on the state's utilities. In this docket the PSC required that all investor-owned, state-regulated companies submit information on how each would be affected by the TRA. The action came on the PSC's own motion, and was a follow-up of a September 3, 1986 memorandum from the PSC's Director of Technical Services to each jurisdictional utility. That memo requested each company to submit to the PSC, 30 days after the signing of the new tax law, data to show the effect of the new law on utility rates. On December 17, 1986, the PSC ordered the state's electric, gas and telephone utilities to file data by February 17, 1987, indicating the impact of the TRA on their 1986 test year operations. The PSC noted that the lower federal tax rates will mean increased profits for most utilities and may make possible a downward adjustment of present rates. The utilities were ordered to file the documentation showing the net effects of the new tax law on their rates and to show cause why their rates should not be reduced to reflect the lower taxes. Settlements were encouraged for TRA items only and as indicated below many were reached. A separate docket was established for each utility, and in instances where settlements were not achieved contested rate proceedings were conducted in which interested parties were permitted to address the effects of the tax bill on the prospective utility rates.

On May 27, 1987, the PSC approved a settlement agreement that provided for Michigan Consolidated Gas (MichCon) to make refunds and reduce rates so as to reduce customer charges by \$61.1 million during the 12-month period beginning June 1, 1987. The settlement had been entered into on April 28, 1987 by MichCon, a subsidiary of Primark, and the parties to several pending matters before the PSC. The settlement provided for \$21.9 million of refunds and a \$39.2 million rate reduction to be implemented June 1, 1987. The reduction is comprised of a \$16.2 million annualized rate reduction resulting from the benefits of the TRA and a \$23 million rate cut flowing from a temporary reduction resolving issues in a show cause proceeding with regard to alleged excess earnings. The \$21.9 million of refunds will consist of the flow through of \$9.9 million of excess deferred taxes arising from the TRA and \$12 million associated with the settlement of a gas cost issue related to years 1986 through 1988. The reductions and refunds are expected to total \$61.1 million over the 12 months ending May 31, 1988, however, the total ratepayer benefit will approximate \$64.1 million over 15 months because the TRA-related rate reduction will continue through August 1988. If new rates are not in effect by August 1988, the TRA rate reduction will be revised from \$16.2 million to \$21.5 million annually, and this level of rate reduction will be made permanent.

Also on May 27, 1987, the PSC approved a settlement agreement that provided for Michigan Bell (MB), a subsidiary of Ameritech, to reduce its rates by \$79.6 million effective July 1, 1987, to reflect the impact of the TRA. The parties to the TRA proceeding for MB reached agreement and a stipulation was filed with the PSC on April 13, 1987. The settlement is silent on all regulatory issues except the dollar value of the impact of the

TRA. The company agrees that the annual revenue value of \$79.6 million will be applied as a direct flow-through to customers commencing July 1, 1987. A \$40 million reduction will be reflected through a negative surcharge to basic exchange rates for residence and business customers, a \$20 million annual reduction will be made in interLATA access charges through the Michigan Transition Mechanism (MTM), a \$17.2 million reduction to intraLATA message toll service rates will be accomplished, and a \$2.4 million intraLATA WATS reduction will be implemented. AT&T Communications of Michigan (ATTCOM) agreed to flow through to its customers the TRA benefits resulting from the reduction of the MTM. For ATTCOM the TRA reduction approximated \$17.6 million. On June 9, 1987 the PSC approved a settlement that provided for GTE-MTO to reduce rates by \$10.4 million annually to reflect the impact of the TRA. (See the June 19, 1987 issue of FOCUS NOTES.) Contested proceedings are in progress with regard to both the electric and gas rate levels for Consumers Power (see the June 19, 1987 issue of FOCUS NOTES) and for the electric rates of Detroit Edison.

MINNESOTA--The Minnesota Public Utilities Commission (PUC) initiated a rulemaking proceeding requiring the state's utilities to file recomputed 1986 data utilizing the 34% tax rate scheduled to become effective July 1, 1987. The PUC has issued rulings regarding the TRA for, Northern States Power (Gas), People's Gas, and Otter Tail Power in recently decided rate cases. For Northern State's Power, the PUC adopted a gas rate increase with step reductions effective July 1, 1987 and January 1, 1988 to reflect the effects of the TRA. (For further details please refer to the Minnesota Final Report dated February 20, 1987.) The effect of the TRA will be considered in the currently pending rate case for Minnesota Power. For the electric division of Northern States Power, the TRA effect was considered in conjunction with a proceeding in which NSP sought rate base inclusion of Sherco 3, which is coming on line later in 1987. (For further details please refer to page 3 of the May 22, 1987 issue of FOCUS NOTES.) For the remaining companies, the PUC has developed a procedure designed to reflect the effects of the TRA in rates. The companies can either file tariffs by July 29, 1987, reflecting the TRA, utilizing a PUC developed formula, or attempt to reach a stipulated agreement with the Department of Public Service and the State Attorney General by late October 1987. Rates under the latter option would be made subject to refund subsequent to July 1, 1987.

MISSISSIPPI--The impact of the TRA is, for the most part, being dealt with on a case-by-case basis. Mississippi Power & Light (MP&L), Mississippi Power and the gas distribution companies have income tax riders in place which are adjusted routinely to reflect tax law changes; however, the anticipated effects of tax law changes were incorporated into MP&L's rates when the second step of the Grand Gulf phase-in was approved by the Mississippi Public Service Commission (PSC). The PSC opened a docket for South Central Bell (SCB) for the specific purpose of investigating the impact of the TRA. On April 23, 1987 the PSC ordered SCB to reduce rates by approximately \$10.3 million to reflect the tax rate change and changes in SCB's net operating income.

MISSOURI--On November 3, 1986, the Missouri Public Service Commission (PSC) established an investigatory docket to receive information from utility companies as to how they will be affected by the TRA. The utilities were required to file information regarding their revenue requirement based on calendar-1985 data under the old tax law and the new tax law. Similar data based upon calendar-1986 results was also required. On January 30, 1987, the PSC ordered the Staff to set up informal meetings with the parties for the purpose of negotiating settlements regarding rate reductions to reflect the effect of the TRA. Negotiated settlements have been reached between specific companies and other interested parties. Rate reductions have been approved for St. Joseph Light & Power, Laclede Gas and General Telephone. In these

instances the rate changes are also reflective of other modifications to the individual company's cost of service. Modifications to Union Electric's (UE) and Kansas City Power & Light's (KCP&L) phase-in plans were approved by the PSC. UE's revenue requirement for the third step increase was reduced by approximately \$33 million, with equivalent revenue requirement reductions to be reflected in the subsequent phase-in steps. KCP&L's second step increase was reduced from \$19.2 million to \$7.7 million. Third through seventh year phase-in increases will be reduced from 3.5% to 2.2%.

MONTANA--In November 1986 the Montana Public Service Commission (PSC) issued an Order to Show Cause requiring each Montana public utility to submit data, by February 1, 1987, reflecting the impact of the TRA. The PSC is currently considering a generic docket (Docket No. 86-1162) based on the data submitted by the 14 largest companies in the state. The purpose of this case is to determine whether the effects of the TRA warrant rate adjustments for these companies.

NEBRASKA--No action has been taken by either the Nebraska Public Service Commission or by the utilities with respect to the impact of the TRA.

NEVADA--In October 1986 the Nevada Public Service Commission (PSC) opened a generic docket to establish new rules and policies concerning the TRA. A prehearing conference was held February 3, 1987, and a workshop involving all interested parties took place in April 1987. Hearings will be held concerning all items not resolved by the April workshop. The PSC is expected to issue its new rules and policies in the fall of 1987. No rate changes related to the TRA are expected to be implemented prior to 1988, and it is uncertain at this time whether the changes will take place in the context of a general rate case or a limited-issue case.

NEW HAMPSHIRE--On December 1, 1986, the New Hampshire Public Utilities Commission issued an order directing the state's public utilities to file, by February 1, 1987, data concerning the effect on each company of the TRA. For Public Service Company of New Hampshire the revenue requirement reduction flowing from the TRA was considered in the context of the company's rate case that was decided on June 29, 1987. Since New England Telephone has no rate case pending, the impact of the TRA will be considered in the company's depreciation represcription proceeding, which is expected to be decided in the near future.

NEW JERSEY--On October 10, 1986, the New Jersey Board of Public Utilities (BPU) directed the Staff to conduct a review of utility company obligations under the TRA and to determine whether customer rates could be reduced without detriment to company services. On January 6, 1987, the BPU issued an order directing that the effects of the TRA "should be deferred upon the utilities' books and records effective January 1, 1987, so as to preserve its effects and ultimately pass along fully the likely reduction in revenue requirement to ratepayers." The companies' were required to submit data showing detailed calculations of the TRA upon their revenue requirement.

On December 22, 1986, the BPU issued an order allowing New Jersey Bell Telephone (NJBT) to accelerate the amortization of its depreciation reserve deficiency, effective January 1, 1987, with the deficiency to be amortized over a 3.5-year period versus a 15-year period. NJBT proposed that the BPU require a rate reduction July 1, 1987, only of the net difference between recognized revenue requirement increases associated with increased depreciation and the reductions associated with the TRA. The BPU largely adopted the company's proposal, but voted to give further consideration to the precise amount of revenue reduction to become effective July 1, 1987, initially estimated at \$33.7 million annually. On May 21, 1987, the BPU

adopted a stipulation that had been signed by the BPU Staff, the New Jersey Department of Public Advocate, and NJBT, concerning the disposition of the savings flowing from the TRA. Of the \$88.4 million of TRA savings, \$40.2 million will be used by NJBT to accelerate its recovery of the depreciation reserve deficiency, while the remaining \$48.2 million will flow through to customers in the form of a rate reduction. On December 18, 1986, the BPU approved a \$23.3 million rate reduction proposal submitted by Jersey Central Power & Light to reflect the 1987 impact of the TRA. Elizabethtown Gas currently has a proceeding before the BPU in which it seeks a \$21.5 million rate increase. As part of the proceeding the company gives recognition to the provisions of the TRA. On April 16, 1987, South Jersey Gas (SJG), a subsidiary of South Jersey Industries, filed for a \$16 million (8%) gas rate increase which reflects the 1988 effects of the TRA. In the recent Public Service Electric & Gas (PSE&G) electric rate case, the BPU gave consideration to the \$77 million 1987 rate reduction impact of the TRA. The 1988 impacts of the TRA will be considered for PSE&G's electric operations along with other rate changes to become effective January 1, 1988. Effective June 12, 1987, Rockland Electric (RE), a subsidiary of Orange & Rockland Utilities, implemented a \$0.7 million rate decrease to reflect the 1987 effects fo the TRA. Effective January 1, 1988, RE will reduce rates by \$1.5 million for 1988 TRA savings. This action occurred in the company's levelized energy adjustment clause filing before the BPU. On June 30, 1987, New Jersey Natural Gas a subsidiary of New Jersey Resources, filed for a \$27.4 million (11%) permanent rate increase which reflects the effects of the TRA.

NEW MEXICO--The Staff of the New Mexico Public Service Commission (PSC) filed a petition, asking the Commission to require each jurisdictional utility to file an updated cost-of-service based upon a recent test year, including the impacts of the TRA. On December 31, 1986, the PSC ruled that it would not docket the case, but issued a formal letter requesting that each company file the information sought by the Staff by March 30, 1987. The New Mexico State Corporation Commission (SCC) requested information from the state's telephone companies regarding the impact of the TRA, but no SCC action has been forthcoming.

NEW YORK--On January 28, 1987 the New York Public Service Commission (PSC) voted to have each of the state's utilities defer the savings attributable to the TRA as of January 1, 1987. The PSC ruled that the changes resulting from the TRA would be considered in the next rate case for each company. National Fuel Gas Distribution (NFGD) became the first New York company to receive rate treatment related to the TRA. On January 14, 1987, the PSC adopted a settlement agreement for NFGD that was based on a calculation of the current revenue requirement effect of the TRA through March 31, 1988. In a March 13, 1987 rate decision for Niagara Mohawk Power, the PSC reflected the impact of the TRA in the revenue requirement adopted. Recent rate decisions for Central Hudson Gas & Electric and Rochester Gas & Electric also reflected the effects of the TRA. Pending rate cases for Long Island Lighting and New York State Electric & Gas will reflect tax reform impacts. For most of the remaining companies, the PSC initiated comprehensive rate plans to consider such issues as tax reform and rate of return. On March 18, 1987, the PSC approved a settlement agreement regarding the revenue requirement of Consolidated Edison. As a result, Con Ed reduced its electric rates by \$132.5 million and will provide for rate stability for three years. Savings attributable to the TRA are reflected in this rate reduction. On April 8, 1987, the PSC adopted a comprehensive rate plan for New York Telephone Company, a subsidiary of NYNEX. The rate plan provides for a \$100 million permanent rate reduction to become effective in August 1987. On July 2, 1987, the PSC adopted a comprehensive rate plan for Orange & Rockland Utilities which calls for a rate reduction of approximately \$8 million, partly to reflect tax reform. Tax

reform is among the issues that are reflected in this rate reduction. Similar cases have been initiated for AT&T Communications of New York, ALLTEL of New York, Continental Telephone of New York, and the gas departments of Central Hudson Gas & Electric and Consolidated Edison.

NORTH CAROLINA—On October 23, 1986, the North Carolina Utilities Commission (NCUC) ordered the initiation of an investigation to determine the effects of the TRA on the obligations of each utility company under its jurisdiction. The NCUC ordered each utility to determine the dollar impact of the tax law change and to file such with the Commission no later than November 30, 1986. In addition, the NCUC order placed the affected utilities on notice that the federal income tax expense component of all existing rates and charges, effective January 1, 1987, will be billed and collected on a provisional rate basis pending further investigation and disposition of this matter. In December 1986, Duke Power filed with the NCUC recommending an approximate \$48 million TRA-related rate reduction. The NCUC subsequently accepted Duke's proposal and made the rate reduction effective as of January 1, 1987. On May 12, 1987, the NCUC ordered all utilities subject to its October 1986 order to file a statement of the amount by which accumulated deferred income taxes exceed accrued taxes due to the lower tax rates included in the TRA. The companies were directed to show calculations and workpapers reflecting the excess deferred tax amount subject to flowback restrictions and those not subject to flowback restrictions. The requisite data and comments were filed by the companies during June 1987 and NCUC action is pending. On June 29, 1987, the Commission approved ATTCOM's proposal to reduce interLATA toll rates by approximately \$8.8 million effective July 1, 1987. Approximately \$1.4 million of the approved rate reduction reflects a flow through of TRA-related tax savings. Several other utilities have filed proposed TRA-related tax reductions, however the Commission has not yet issued orders in these cases. Carolina Power & Light has included the TRA's impacts in its pending rate case and a Commission decision is expected in that case during August 1987. All the TRA-related filings, including Duke's, are to be examined by the NCUC, with decisions likely later in the year. In all likelihood, the treatment of deferred tax balances will be an issue in the Commission's study, and further investigation may be undertaken in the future with regard to the tax rate reductions scheduled to take effect January 1, 1988.

NORTH DAKOTA—On December 30, 1986 the North Dakota Public Service Commission (PSC) issued an order directing the utilities to file information on the TRA and its effect on revenue requirements. The companies were also asked to submit proposals regarding rate changes occasioned by the TRA. Based on the submitted information, the PSC determined, in orders issued on June 16, 1987, that the TRA will not cause Great Plains Natural Gas, Inter-Community Telephone and Montana-Dakota Utilities to realize excessive earnings from North Dakota operations and that the investigation of TRA impacts for these companies should be closed. Also, on June 16, 1987 the PSC ordered refunds totalling \$1.5 million in 1987 and \$3.1 million in 1988 for Otter Tail Power Company, in the form of "Tax Reform Act Credits" on customers' monthly bills. Refunds were also ordered for Northern States Power Company in the amounts of \$0.2 million for 1987 and \$0.4 million for 1988.

OHIO—On November 12, 1986, the Chairman of the Ohio Public Utilities Commission (PUC) requested that each company submit an estimate of the effects of the TRA by December 31, 1986, and that each utility submit a proposal recommending an appropriate methodology to dispose of the tax issue. All of the major Ohio utilities have responded to the Chairman's request, and the responses have included proposals to reduce rates to reflect the tax savings as well as proposals to retain the tax savings in order to postpone the filing of future rate cases. Two companies, Monongahela Power and East Ohio Gas,

received rate recognition of the TRA in rate cases decided in December 1986. On January 13, 1987, the PUC adopted Columbia Gas' proposal to reduce rates by \$6.7 million, and on February 10, 1987, the PUC approved Ohio Power's proposal to reduce rates by \$7.1 million. On April 28, 1987, Ohio Edison, the Ohio Consumers' Counsel, and the Staff of the PUC signed an agreement which, if adopted by the PUC, would permit OEC to increase its rates by approximately \$152 million (10%). TRA benefits are reflected in this stipulation. On June 9, 1987, the PUC approved a two-year rate plan that had been filed by Cincinnati Bell Telephone. The company will institute a temporary, two-year credit on customer access lines amounting to a revenue decrease of roughly \$2.4 million. This rate reduction reflects savings attributable to the TRA as well as the company's proposal to accelerate amortization of its depreciation reserve deficiency and to accelerate the retirement of the Station Connection Account. Also, on June 9, 1987, the PUC agreed with a proposal by Ohio Bell Telephone, a subsidiary of Ameritech, to utilize TRA savings to offset the effects of reduced toll and carrier access charges, reduced intra-LATA toll rates, and increased depreciation rates. On June 16, 1987, the PUC approved a request by Dayton Power & Light to reduce its electric and gas rates by a net of \$10.4 million (2%). The company's proposal included a \$14.6 million rate reduction required by the TRA, with this decrease offset by \$4.2 million for increased expenses related to conservation programs. TRA benefits are issues in the pending rate cases for Cleveland Electric Illuminating and Toledo Edison, both subsidiaries of Centerior Energy Corporation.

OKLAHOMA--On October 23, 1986 the Staff of the Oklahoma Corporation Commission (OCC) filed an application seeking OCC approval to commence an investigation of the state's largest investor-owned utilities to determine if rate decreases should be required as a result of changes in federal tax laws. The Staff held a technical conference with the state's utilities to establish a time schedule for audits of company records and public hearings. The companies named in the Staff's application included Empire District Electric, Oklahoma Gas & Electric (OG&E), Public Service of Oklahoma (PSO), Southwestern Public Service, Arkansas-Louisiana Gas, Arkansas-Oklahoma Gas, Lone Star Gas, KPL/Gas Service, Oklahoma Natural Gas (ONG), General Telephone of the Southwest, and Southwestern Bell Telephone (SWBT). On December 31, 1986, a rate reduction of \$0.1 million was ordered for Empire District Electric in conjunction with the company's biennial review and to reflect the impact of the TRA. On June 26, 1987 the OCC approved a \$32.8 million rate reduction for OG&E and a \$1.9 million rate decrease for ONG to reflect the impact of the TRA. Commission action regarding SWBT, General Telephone, Arkansas Louisiana Gas, and KPL/Gas Service has been postponed, but whatever rate determinations are subsequently made will be effective from July 1, 1987. PSO's rates will also be reviewed at a later date. Lone Star has a rate case pending before the Commission.

OREGON--In early 1987 the Oregon Public Utility Commissioner (PUC) informed the state's utilities that the disposition of the savings from the TRA would be considered in the context of an open docket, if one was available. For those utilities without an open docket, the PUC requested that information be filed indicating the effect of the TRA in 1987. On May 7, 1987, the PUC approved a stipulation for PacifiCorp which included a \$14 million revenue reduction due to the flow through of savings related to the TRA. Portland General Electric's currently pending general rate case was expanded to include the effects of the TRA. General Telephone of the Northwest, Idaho Power, and Northwest Natural Gas each have cases pending which specifically deal with tax reform.

PENNSYLVANIA--On December 18, 1986, the Pennsylvania Public Utility Commission (PUC) issued a ruling requiring the state's large utilities to establish temporary rates effective January 1, 1987, pending final PUC action

with regard to any rate changes ultimately occasioned by passage of the TRA. Those utilities that had previously settled rate cases that accounted for the TRA impacts, or that had rate cases in progress in which the impacts of the Act would be considered, were to be accorded different treatment. The PUC declined to adopt a proposal that had been offered by the Office of Consumer Advocate that the Commission establish a negative federal tax adjustment surcharge. On December 18, 1986, the PUC largely approved the request by Pennsylvania Power & Light (PP&L) to place the impact of three proposed rate changes into effect simultaneously on January 1, 1987, one of the changes being the \$47 million impact of the TRA. Major utilities in the state with rate cases in progress were to have the effects of the TRA considered in their rate proceedings. On January 30, 1987 the PUC approved settlement petitions providing for TRA rate reductions for Metropolitan Edison and Pennsylvania Electric, both subsidiaries of GPU. These rate reductions were negotiated as provided for in settlement rate orders for both companies issued on November 25, 1986. The rate reductions negotiated for 1987 are based on estimated blended tax rate of 40% for this year, with next year's reductions assuming a further corporate tax rate reduction to 34%. (See page 3 of the February 6, 1987 issue of FOCUS NOTES for additional detail.)

On April 9, 1987, the PUC acted on a petition for rehearing by Duquesne Light and voted to rehear one tax issue and to reverse one tax ruling. This reversal had the effect of revising a previously ordered rate reduction from \$18.5 million to \$15.8 million. The item reversed was related to the tax treatment of capitalized overheads. Duquesne had previously treated certain of these expenditures as deductible expenses for income tax purposes, but it is now required by the TRA to capitalize such amounts. An issue with approximately \$5 million of revenue impact has been set for rehearing. The PUC initially required that no recognition be given to taxes attributable to the unbilled revenue provisions of the TRA. The Commission has subsequently granted rate recognition of this tax impact to other utilities. The PUC rejected a plea for a stay and denied reconsideration of other issues, including the imposition of a 34% effective tax rate from March 10, 1987 forward. On April 9, 1987, Duquesne appealed the PUC action to the Commonwealth Court of Pennsylvania, including in its appeal the use of a 34% tax rate, the PUC's reliance on a 13.5% return on equity, the in-service criteria established, and certain other matters. On June 2, 1987, the Commonwealth Court of Pennsylvania granted DQU a stay of the March 10, 1987, PUC order, requiring a revised rate reduction of \$15.8 million. The Court ruling came in response to DQU's May 1, 1987 petition for a stay pending review of the PUC order. The Court found that the company had met the standards for a stay and therefore it was granted. (See the June 5, 1987 issue of FOCUS NOTES.)

On April 16, 1987, the PUC authorized Philadelphia Electric (PE) and Bell Telephone of Pennsylvania (BTP), a subsidiary of Bell Atlantic, to implement 1987 TRA rate reductions in the amounts requested. PE had proposed no change in gas rates, and this proposal was adopted. The company had proposed a \$32.2 million reduction in revenue requirement to reflect the impact of the TRA in 1987, and requested that this be applied to the uncollected revenue portion of the phase-in plan established for the Limerick 1 nuclear plant. While this specific request was denied, the PUC adopted the company-proposed amount of \$32.2 million as the 1987 rate refund, and required this amount to be returned to customers over the remainder of the year.

On June 4, 1987, the PUC adopted a Staff recommendation that 76 of the state's larger utilities be ordered to reduce rates by nearly \$54 million to reflect reductions in their taxes as a result of the TRA. Fifteen state utilities had already implemented TRA rate reductions, and certain others will

have the TRA benefits considered in rate cases that are currently awaiting PUC action. The two utilities most substantially affected by the June 4, 1987 action are West Penn Power (WPP) and Equitable Gas. WPP was ordered to implement an interim 2.27% rate reduction, estimated to reduce rates by over \$20 million, effective July 1, 1987. Equitable Gas was ordered to reduce rates by 2.12%, or about \$7 million, on the same date. The companies required to reduce rates were permitted to elect to make the new lower rates permanent, or to file complaints against such rates.

RHODE ISLAND--During the first week of February 1987, the Division of Public Utilities (DPU) of the Rhode Island Public Utilities Commission (PUC) sent letters to utilities requesting cost-of-service, rate base, and return data for calendar-1986, and also asked for information on the impact of the TRA on revenue requirements. A January 12, 1987 rate decision for Blackstone Valley Electric Company (BVE) included the effect of the TRA. BVE was also ordered to file a second set of tariffs that will reflect the further lowering of the tax rate in 1988 under the TRA. The secondary tariffs will be implemented when the additional tax rate reduction takes effect. On May 29, 1987, the PUC approved a stipulation agreement between New England Telephone (NET), the DPU, the Rhode Island Attorney General, and the Rhode Island Consumers Council that will reduce rates approximately \$5.3 million. The reduction was attributable to the tax rate reductions in the TRA and the Rhode Island Gross Receipts Tax, FCC separations changes, depreciation rescription, inside wire deregulation, changes in the Uniform System of Accounts, and a reduction in NET's overall rate of return to 11.36%.

SOUTH CAROLINA--In July 1986 the South Carolina Public Service Commission (PSC) directed utilities to file data on "the impact of federal tax changes as applied to the company's 1985 operations" within 60 days after Congress and the President acted on tax reform legislation. As well, the PSC had separately directed the Staff to investigate the cost of common equity for the major utilities in the state and determined that if the Staff's cost of equity determinations are available by the time the tax-impact reports are filed, the PSC would be in a position to formulate its position and make any decisions on the basis of the knowledge provided from both reports. On December 16, 1986, the PSC voted to order Duke Power to lower its base electric rates by approximately \$20.2 million (2.3%) effective January 1, 1987 to reflect the impact of the TRA. On December 12, 1986, Duke had filed data with the PSC indicating that it would experience approximately \$20.2 million of savings due to the TRA. The PSC indicated its intention to continue to investigate the impact of the tax bill on Duke and to ensure that the company's customers receive the full benefits of any tax savings. On January 14, 1987, the PSC directed South Carolina Electric & Gas (SCE&G) to reduce retail electric rates by approximately \$25.5 million (3%) to reflect anticipated savings from the TRA. In December 1986 SCE&G had filed its report setting forth its estimated tax savings under the TRA. The Commission voted unanimously to pass the full savings through to customers. The PSC instructed its Staff to continue its analysis of SCE&G's tax savings report and to notify the Commission if any further rate adjustments should be made, especially in 1988 or thereafter. Carolina Power & Light filed a full rate case in February 1987 which includes the impact of the TRA. A PSC decision is expected in this case during August 1987. The Commission's investigations into the TRA impacts on other utilities are ongoing, with decisions not expected until the latter half of 1987.

SOUTH DAKOTA--The South Dakota Public Utilities Commission (PUC) has formally opened a generic docket to examine the effects of the TRA and the current earnings of South Dakota utilities. The PUC is still in the process of gathering data. While it was thought that changes in rates could be expected before the middle of 1987, none have occurred to date.

TENNESSEE—On December 30, 1986, the Tennessee Public Service Commission (PSC) voted for an \$11.8 million revenue requirement reduction for South Central Bell Telephone (SCBT) to reflect the financial impact of the TRA. Roughly half of the reduction was authorized to be accounted for through the recording of higher depreciation charges, with the other half coming from reductions in rates. The Commission accounted for the TRA in a recently finalized rate case for General Telephone Company of the South, and also incorporated the impact of the TRA in a United Cities Gas rate case completed in February 1987. In all three of these completed cases the PSC allowed the use of a blended corporate tax rate for 1987 service rates, with the understanding that as of January 1, 1988, service rates for these three companies will reflect a 34% corporate tax rate. On December 30, 1986, in a separate order, the PSC voted to initiate a generic hearing to investigate the impact of the TRA on all other utilities within the state. Initially, the utilities were required to file their responses by the end of January; however, the PSC changed the response deadline time to June 1987. On June 30, 1987 the PSC voted approval of most of the companies proposals while requiring additional data from several small utilities. The Commission approved the flow through of TRA-related savings for both AT&T Communications and for United Intermountain Telephone. Final Commission orders are expected to be issued in the near future.

TEXAS--The Texas Public Utility Commission (PUC) Staff sent letters to all utilities requesting comments as to the general and specific effects of the TRA on the companies, their tax liabilities and their cash flow. A task force consisting of Staff members is responsible for gathering the information and making recommendations to the PUC, with any PUC action to be taken to occur during the second half of 1987.

UTAH--The Utah Public Service Commission (PSC) informally requested information from the major utilities in the state regarding the TRA. No further action has been taken

VERMONT--On January 9, 1987, the Vermont Public Service Board (PSB) sent letters to the state's utilities requesting that the companies file with the PSB estimates of the effects of the TRA for 1987 and 1988. The letter required responses to be filed by January 30, 1987, and all of the major Vermont utilities have submitted their estimates. For Central Vermont Public Service, the PSB disposed of the issue in the company's general rate case, which was decided January 2, 1987. On March 11, 1987, the PSB issued an order providing for a \$3.5 million (4.5%) rate reduction as requested by Green Mountain Power (GMP). GMP initiated the case February 24, 1987, when it filed for a \$3.5 million rate reduction, with roughly \$2.4 million of this amount to flow from the savings attributable to the TRA utilizing a 40% blended rate. As for New England Telephone (NET), on January 6, 1987 the Department of Public Service and the company agreed on a new regulatory framework that will provide for the stabilization of basic telephone rates, with most other services partially or totally deregulated. The plan provides for an immediate revenue requirement reduction of \$5.4 million, which reflects, among other items, the TRA. The State Legislature has passed a bill that allows the PSB to deregulate certain services.

VIRGINIA--On February 4, 1987, the Virginia State Corporation Commission (SCC) informed the utilities in its jurisdiction that due primarily to the impetus of the TRA, investigations of the financial conditions of large electric and telephone companies could soon be undertaken. During 1987 the Commission Staff, as directed by the SCC in late 1986, has been receiving data from the utilities with regard to estimates of the TRA's impact. Continental Telephone Company responded with a proposal to reduce rates by approximately \$3.3 million which the SCC subsequently accepted. On February 12, 1987

Chesapeake & Potomac Telephone (C&P) filed with the SCC to institute a \$15 million rate reduction to reflect the impact of the TRA. C&P's filing was accepted by the Commission in March 1987 and the proposed rate reduction was effective July 1, 1987 as an across the board reduction. On March 3, 1987, the SCC sent letters to the utilities within its jurisdiction directing each to defer all savings related to the TRA, effective January 1, 1987. On March 6, 1987, the SCC sent orders to the investor-owned electric utilities under its jurisdiction directing each to file an "expanded" annual informational filing (AIF) based upon a calendar-1986 test period and a hypothetical rate year beginning September 1, 1987. The AIF is normally used as a "make-whole" procedure for the utilities in the state. The SCC's stated reason for such filings was as follows, "Because of this Commission's awareness of vast improvements in the national and local economies and changes in the federal tax laws, the Commission has determined that a more detailed Commission awareness of the financial condition of the investor-owned electric utilities is necessary at the present time than will be provided by our review of the standard Annual Informational Filings required of these utilities." The expanded AIF's essentially allow the Commission to determine whether or not it should initiate a general rate case for the utility. In light of these expanded AIF filings, the SCC subsequently modified its TRA-related instructions and directed that the utilities not be required to defer savings related to the tax bill. All companies are to continue to monitor the impact of the tax changes and supply such information in their expanded AIF filings. The status of each expanded AIF is as follows: Appalachian Power, a subsidiary of American Electric Power, was required to file data by July 6, 1987. Delmarva Power & Light filed its AIF on April 10, 1987 supporting an approximate \$0.8 million rate reduction which the SCC subsequently approved on an interim basis. Final Commission action is pending. Potomac Edison filed the necessary data and SCC action is pending. In an order issued on April 16, 1987, the SCC established a schedule for Virginia Electric & Power's "expanded" AIF case which required company testimony to be filed by June 1, 1987 and hearings to commence September 14, 1987. On April 9, 1987, the SCC had severed several issues proposed in the company's fuel review filing and directed that these be considered in an "expanded" AIF proceeding. (See page 6 of the April 24, 1987 issue of FOCUS NOTES.)

WASHINGTON--The Washington Utilities & Transportation Commission (WUTC) required each of the state's utilities to file data by December 31, 1986 estimating the effects on cost of service resulting from the TRA. On March 19, 1987, the WUTC approved a \$2.8 million rate decrease for PacifiCorp to recognize the 1987 effects of the TRA. The rate decrease took into account the accrued tax savings, with interest, from January 1, 1987, to March 19, 1987. On April 17, 1987, Pacific Northwest Bell (PNB) and other parties signed an agreement regarding the company's revenue requirement. PNB agreed to reduce its rates by \$51.4 million, to reflect, in part, savings related to the TRA. (Refer to page 3 of the May 1, 1987 issue of FOCUS NOTES.) On April 23, 1987, the WUTC ordered rate reductions, effective July 1, 1987, for three companies: Puget Sound Power & Light--\$19.2 million; Washington Natural Gas--\$2.9 million; and, General Telephone of the Northwest--\$4.4 million. The rate reductions for these companies reflect a 34% tax rate.

WEST VIRGINIA--On January 20, 1987, the West Virginia Public Service Commission (PSC) issued an order directing utilities within the state to file written statements estimating the potential impact of the TRA on their operations. These responses were due by March 16, 1987 and hearings were held during April 1987. Commission action is now pending. On June 24, 1987, the PSC issued an order approving Appalachian Power Company's (APCO) proposal to reduce rates by approximately \$27.8 million. APCO, a subsidiary of American Electric Power, initiated this filing on May 28, 1987 in order to reflect in customer rates the impact of the TRA, changes in West Virginia state tax

laws, and approximately \$15.6 million of lower fuel costs which would not otherwise be reflected in rates until October 1987 (after PSC determination of the company's appropriate "expanded net energy cost factor" (ENEC). (See page 6 of the June 5, 1987 issue of FOCUS NOTES.) During hearings the Commission Staff had proposed that the PSC conditionally approve APCO's proposal, "subject to a notice requirement and certain specific recommendations." The Commission decided it should waive the notice requirements and approve the filing and concluded that "an expedited disposition will enable APCO's West Virginia customers to immediately receive the benefits of the rate reduction." The PSC clarified in its order that "APCO also recognizes that the exact amount of its ENEC level effective October 1, 1987, will be reviewed and determined by the Commission" in a separate docket. The lower rates were effective July 1, 1987.

WISCONSIN--The Wisconsin Public Service Commission (PSC) requires the state's 12 largest utilities to file forecasted financial data each year, and the effects of the TRA have been or will be dealt with in each of these annual reviews on an individual company basis. Companies not undergoing annual reviews were required to submit data by April 1, 1987 to show the impact of the TRA on their operations and then to file new rates effective July 1, 1987 reflecting that impact.

WYOMING--The PSC has informally requested information from utilities regarding the effect of the TRA. The implications of the TRA for ratemaking purposes will be handled on a case-by-case basis as part of each company's next rate case.

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July 7, 1987

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