COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF THE IMPACT	)	
OF THE TAX CUTS AND JOB ACT ON THE RATES	)	CASE NO.
OF WKG STORAGE, INC.	)	2018-00064

ORDER

This proceeding arises from a Commission-initiated investigation of the effect of the Tax Cuts and Jobs Act (TCJA) on the rates of WKG Storage, Inc. (WKG). The Commission established, in Case No. 2016-00053, WKG's current rates for gas storage, transportation service, and for the recovery of a 34 percent federal corporate tax rate on the equity portion of capital investments.[1] However, under the TCJA, that tax rate was reduced to 21 percent as of January 1, 2018. The February 19, 2018 Order initiating this case directed WKG to record deferred liabilities from January 1, 2018, forward, for gas service to reflect the federal income tax (FIT) reduction and the associated savings in excess deferred taxes.

On March 21, 2018, WKG filed the Direct Testimony of Joe T. Christian (Christian Testimony) addressing the savings resulting from the January 1, 2018 tax reduction and the impact on cost-of-service-based rates. The Christian Testimony also included proposed rates reflecting the reduced FIT rate. On that same date, WKG also filed the Direct Testimony of Jennifer K. Story (Story Testimony) that addressed the impact of the

[1] Case No. 2016-00053, *Application of WKG Storage, Inc. for Rate Adjustment for Small utilities Pursuant to 807 KAR 5:076* (Ky. PSC Sept. 30, 2016), Order at 30. WKG's rates were subsequently modified on rehearing in a manner unrelated to the tax rate by Order entered in that case on Oct. 20, 2016.

reduced FIT rate on WKG's financial operations and described WKG's recording of the deferred liabilities.

FIT REDUCTION

Based upon the cost of service approved by the Commission in Case No. 2016-00053, WKG submitted a detailed calculation of the FIT at the revised rate of 21 percent for the test year ending December 31, 2015, of $120,981. Compared to the $178,416 income tax expense at the prior FIT rate of 34 percent, WKG calculated the reduction in FIT expense to be $57,435.[2] The Commission has investigated and analyzed the methodology proposed by WKG to reduce its rates to reflect the impact of the FIT portion of the TCJA. Based on its review of the case record, including the testimony and data request responses, the Commission finds that WKG's proposed methodology is reasonable and in the public interest.

ADIT REDUCTION

Lowering the corporate statutory FIT rate on regulated utilities to 21 percent results in excess Accumulated Deferred Income Tax (ADIT) balances that should be returned to the ratepayers in accordance with current TCJA normalization rules. The TCJA separates the excess ADIT into two categories, protected and unprotected. The normalization rules apply to protected ADIT, which is attributed to public utility property subject to accelerated depreciation under Internal Revenue Code Sections 167 and 168. For the unprotected ADIT, the TCJA does not mandate normalization rules for flow back of the excess to the ratepayers.[3]

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[2] WKG's Response to Staff's First Request for Information (Staff's First Request), Item 1a.

[3] Tax News Update, *Power and Utility concerns under the TCJA*, January 25, 2018 2018-0186 https://taxnews.ey.com/news/2018-0186-power-and-utility-concerns-under-the-tcja

The TCJA normalization rules require utilities to use the Average Rate Assumption Method (ARAM) to amortize the excess ADIT over the remaining regulatory lives of the property at a rate that follows the reversal of the deferred taxes. If a utility does not have sufficient financial records to comply with the requirements of ARAM, the TCJA requires the use of a simplified alternative method, the Reverse South Georgia Method (RSGM). The RSGM amortizes the protected excess ADIT over the remaining regulatory life of the utility property using the weighted average life or composite rate that is being used for regulatory book depreciation.[4]

WKG notes that in order to amortize excess ADIT using ARAM, detailed property records at vintage level must be retained, and the book cost and book accumulated depreciation must be available by vintage account. WKG states that it does maintain vintage year data for book and tax property cost, but does not maintain vintage year data for book accumulated depreciation records.[5] Therefore, WKG has determined that the property records lack the level of detail to calculate the amortization of the protected excess ADIT under ARAM and is required to use RSGM.[6]

WKG does not file taxes on a calendar year, but rather a fiscal year ending September 30th. Because of this, Section 15 of the Internal Revenue Code requires the use of a blended tax rate to reflect three months of 2017 at the prior tax rate and nine months of 2018 at the new tax rate. Therefore, WKG's tax rate for 2018 is a weighted

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[4] *Id.*, *see also* Tax Cuts and Jobs Act, Pub. L. No. 115-97, § 13001, 131 Stat 2054, 2099 (2017) (containing note to 26 USCA § 168 discussing when ARAM and RSGM should be used).

[5] Story Testimony at 6.

[6] *Id.* at 6 and 7.

average, or 27.08 percent.[7] This blended rate will apply to all taxable income earned during the fiscal year ended September 30, 2018, and the statutory rate of 21 percent will be effective for all income earned thereafter.[8] Using the utility plant balances as of June 30, 2018, WKG estimates the annual regulatory liability to be $820,929 for the fiscal year 2018 and $1,090,767 for fiscal years 2019 and beyond.[9] WKG also determined that its RSGM amortization period to be 32 years resulting in an annual amortization of $25,654 for the fiscal year 2018 and $34,086 beginning in the fiscal year 2019.[10]

WKG explains that its proposed amortization of protected excess ADIT is based on estimates, and the actual ADIT amounts will not be known until it files its fiscal year ending September 2018 tax returns in July 2019.[11] WKG also notes that the estimation of the protected ADIT amortization is subject to change due to a possible modification of the tax systems by its parent company, Atmos Energy Corporation (Atmos).[12] WKG's proposal to use RSGM to calculate the amortization of its protected excess ADIT complies with the TCJA's normalization requirements. The Commission finds that the use of RSGM for the excess protected ADIT is reasonable and should be accepted. WKG has no unprotected excess deferred income taxes.[13]

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[7] Response to Staff's Second Request for Information (Staff's Second Request), Item 1.

[8] Response to Staff's Second Request, Item 2.

[9] Response to Staff's First Request, Item 2 and Staff's Second Request, Item 2.

[10] *Id.*

[11] Response to Commission Staff's First Request for Information, Item 3.

[12] Story Testimony at 12.

[13] Story Testimony at 8.

In the event that WKG determines that its rates need to be revised to reflect changes in its ADIT amortization, WKG should file the tariffs and supporting schedules in this case. Within 30 days of filing its 2018 federal tax return with the IRS, WKG should file with the Commission, in the form of a data response, the following information: the actual excess ADIT; whether RSGM or ARAM is being used for the protected ADIT; the actual amortization period that will be used for the protected ADIT; the revenue requirement impact of the amortization of the excess protected ADIT; and proposed revised rates, if needed. If there is a normalization violation, WKG should also propose an adjustment to its rates to correct the violation.

RATE DESIGN

The overall annual reduction to WKG's to revenue requirement is shown in the table below:

	Calendar Year 2019	Calendar Year 2020 and beyond
Current FIT Reduction	$57,435	$57,435
Amortization of Excess ADIT - Protected	$25,654	$34,086
Amortization of Excess ADIT - Unprotected	$ -	$ -
Revenue Requirement Reduction	$83,089	$91,521

WKG proposes revised rates to be charged to its contract customer, Atmos, to reflect the FIT change. WKG states that the proposed rates would reduce the monthly invoice to Atmos each month until WKG makes a future Alternative Rate Filing (ARF) and reflect the 10 percent contract discount on the storage reservation charge.[14] These rates

[14] Christian Testimony at 7.

have been revised to reflect the addition of the excess ADIT.[15] Beginning January 1, 2019, the rates will reflect the reduction due to the FIT and excess ADIT impacts. The period between January 1, 2018, and December 31, 2018 (Stub Period), has been recorded as a deferred liability and needs to be returned to the customers. Therefore, the amount related to this Stub Period will be returned to customers over the next 12 months in addition to the annual refund.[16] Beginning January 1, 2020, the rates will be adjusted to reflect only the annual return.[17] These rates will be effective until new base rates are established in WKG's next ARF or until the Commission approves revised rates after the excess ADIT amounts are known and measurable.

SUMMARY

The Commission has investigated and analyzed the methodology proposed by WKG to reduce its rates to reflect the tax expense impact of the TCJA. Based on its review of the case record, including the testimony and data responses, the Commission finds that WKG's proposed methodologies to reflect the FIT expense reduction and the estimated excess ADIT impacts are reasonable and in the public interest. Further, the Commission finds that the rates and charges, which are set forth in Appendix C to this Order, are reasonable and should be approved. This investigation is ongoing and the record needs to be further developed before a determination can be made as to the actual reduction in the rates necessary to accurately reflect the impact of the TCJA on WKG's

[15] These rates also apply the 90 percent discount, which results in an annual FIT reduction of $52,150.

[16] See Appendix A.

[17] See Appendix B.

excess ADIT. Once WKG files its fiscal year 2018 federal income tax return, it should file in this case a revision to its estimates and how those amounts will flow back to customers.

IT IS THEREFORE ORDERED that:

1. The rates and charges in Appendix C, attached hereto, are fair, just, and reasonable for WKG to charge on an interim basis, subject to future change, for service rendered on and after January 1, 2019.

2. No later than 30 days after WKG files its fiscal year 2018 federal income tax return, WKG shall file with the Commission revisions to the estimated impacts of the TCJA on excess ADIT and a proposal to reflect the revisions in rates.

3. Within 20 days of the date of this Order, WKG shall file with the Commission, using the Commission's electronic Tariff Filing System, its revised tariffs as set forth in this Order reflecting that they were approved on an interim basis, subject to future change, pursuant to this Order and a revised contract for service to Atmos reflecting the revised rates.

4. This case shall remain open on the Commission's docket.

By the Commission

ENTERED

DEC 12 2018

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Gwen R. Pinson

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2018-00064 DATED DEC 12 2018

Description	Current Rate	Proposed Rate
Firm Transportation Rates		
Storage Transportation (TS-1) Injection	$ 0.1498	$ 0.1371
Storage Transportation (TS-1) Withdrawal	$ 0.1498	$ 0.1371
Storage Service (S-1) - Reservation	$ 0.0749	$ 0.0686
2019 FIT Refund with Discount	$ (52,150)	
2019 Excess ADIT Refund	$ (34,086)	
Stub Period FIT Refund with Discount	$ (52,150)	
Stub Period Excess ADIT Refund	$ (25,654)	
TOTAL REFUND	$ (164,040)	

January 1, 2019 - December 31, 2019

	Capacity	Rate	Discount	Months	Revenue
Proof of Revenue - Proposed Rates					
TS-1 Rate - Injection	1,750,000	$ 0.1371			$ 239,925
TS-1 Rate - Withdrawal	1,750,000	$ 0.1371			$ 239,925
Total TS-1					$ 479,850
S-1 Storage Reservation	1,750,000	$ 0.0686	10%	12	$ 1,295,595
Annual Demand Charge					$ 1,775,445
Monthly Demand Charge					$ 147,954
Proof of Revenue - Existing Rates					
TS-1 Rate - Injection	1,750,000	$ 0.1498			$ 262,150
TS-1 Rate - Withdrawal	1,750,000	$ 0.1498			$ 262,150
Total TS-1					$ 524,300
S-1 Storage Reservation	1,750,000	$ 0.0749	10%	12	$ 1,415,610
Annual Demand Charge					$ 1,939,910
Monthly Demand Charge					$ 161,659
Annual Decrease - with 10% discount applied					$ (164,465)
Monthly Decrease - with 10% discount applied					$ (13,705)

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2018-00064 DATED DEC 12 2018

Description	Current Rate	Proposed Rate
Firm Transportation Rates		
Storage Transportation (TS-1) Injection	$ 0.1498	$ 0.1431
Storage Transportation (TS-1) Withdrawal	$ 0.1498	$ 0.1431
Storage Service (S-1) - Reservation	$ 0.0749	$ 0.0716
2019 FIT Refund with Discount	$ (52,150)	
2019 Excess ADIT Refund	$ (34,086)	
TOTAL REFUND	$ (86,236)	

January 1, 2020 Rates

	Capacity	Rate	Discount	Months	Revenue
Proof of Revenue - Proposed Rates					
TS-1 Rate - Injection	1,750,000	$ 0.1431			$ 250,425
TS-1 Rate - Withdrawal	1,750,000	$ 0.1431			$ 250,425
Total TS-1					$ 500,850
S-1 Storage Reservation	1,750,000	$ 0.0716	10%	12	$ 1,352,295
Annual Demand Charge					$ 1,853,145
Monthly Demand Charge					$ 154,429
Proof of Revenue - Existing Rates					
TS-1 Rate - Injection	1,750,000	$ 0.1498			$ 262,150
TS-1 Rate - Withdrawal	1,750,000	$ 0.1498			$ 262,150
Total TS-1					$ 524,300
S-1 Storage Reservation	1,750,000	$ 0.0749	10%	12	$ 1,415,610
Annual Demand Charge					$ 1,939,910
Monthly Demand Charge					$ 161,659
Annual Decrease - with 10% discount applied					$ (86,765)
Monthly Decrease - with 10% discount applied					$ (7,230)

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2018-00064 DATED DEC 12 2018

The following rates and charges are prescribed for the customers in the area served by WKG Storage, Inc. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under the authority of this Commission prior to the effective date of this Order.

Storage Transportation Service Rate TS-1

January 1, 2019 – December 31, 2019

Injection	\$0.1371 per 1000 cubic feet
Withdrawal	\$0.1371 per 1000 cubic feet

January 1, 2020

Injection	\$0.1431 per 1000 cubic feet
Withdrawal	\$0.1431 per 1000 cubic feet

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