Federal Energy Regulatory Commission
November 15, 2019
Open Commission Meeting
Staff Presentation
Items E-1, E-4 & E-26

Good morning Mr. Chairman and Commissioners,

Items E-1, E-4, and E-26 are tax-related items that address the effects of the Tax Cuts and Jobs Act, which, among other things, reduced the federal corporate income tax rate from 35 percent to 21 percent. These items are just three of the Commission's continuing efforts to ensure that ratepayers receive the benefit of the reduced tax rate.

Item E-1 is a notice of proposed rulemaking that addresses the effects of the Tax Cuts and Jobs Act on accumulated deferred income taxes, or ADIT. The proposed rule applies to public utility transmission providers with transmission rates under an Open Access Transmission Tariff, a transmission owner tariff, or a rate schedule. ADIT balances are recorded on the regulated books and records of public utilities based on the requirements of the Commission's Uniform System of Accounts. ADIT arises from timing differences between the method of computing taxable income for reporting to the IRS and the method of computing income for regulatory accounting and ratemaking purposes. As a result of the Tax Cuts and Jobs Act reducing the federal corporate income tax rate from 35 percent to 21 percent, ADIT liability and ADIT asset balances on the books of public utilities have also been reduced. Further, a portion of an ADIT liability that was collected from customers will no longer be due from public utilities to the IRS and is considered excess ADIT, and therefore, must be returned to customers. Conversely, public utilities will have collected insufficient amounts to fund any ADIT asset. Commission regulations require that public utilities return or recover these excess or deficient amounts by including provisions in their costs of service.

To ensure conformance with these regulations, the proposed rule requires public utilities with transmission formula rates to (1) deduct excess ADIT from or add deficient ADIT to their rate bases, and (2) adjust their income tax allowances by amortized excess or deficient ADIT. The proposed rule also requires all public utilities with transmission formula rates to incorporate a new permanent worksheet into their transmission formula rates that will track ADIT information on an annual basis. The proposed rule does not prescribe a one-size-fits-all approach by which public utilities with transmission formula rates would make these adjustments. For public utilities with transmission stated rates, the proposed rule requires those public utilities to (1) determine the amount of excess and deferred income tax caused by the reduced federal corporate income tax rate and (2) return or recover this amount to or from customers. Comments are due within 30 days of publication of the proposed rule in the Federal Register.

Item E-4 is a policy statement that provides accounting and ratemaking guidance. The policy statement discusses the Commission's policy regarding the treatment of ADIT for both accounting and ratemaking purposes as to public utilities, natural gas pipelines, and oil pipelines. Specifically, the policy statement provides guidance regarding two questions the Commission sought comments on in a March 15 notice of inquiry: (1) in which accounts should companies record amortization of excess and deficient ADIT and (2) whether, and if so how, such entities should address excess and/or deficient ADIT that is recorded on the books of public utilities, natural gas pipelines, and oil companies after December 31, 2017, as a result of assets being sold or retired.

Among other things, the policy statement states that for a public utility or natural gas pipeline that continues to have an income tax allowance, any excess or deficient ADIT associated with an asset must continue to be amortized in rates even after the sale or retirement of that asset.

Item E-26 also pertains to accounting. The order grants an accounting request by the Edison Electric Institute for certain public utilities and centralized service companies to record an accounting reclassification of the tax effects resulting from the Tax Cuts and Jobs Act and relating only to specific income and expenses. The reclassification is necessary due to the timing of these specific income and expenses on the financial statements reported to the Commission, which cause the associated excess or deficient ADIT to become stranded. The Commission's accounting regulations require that public utilities and centralized service companies obtain prior Commission approval before making this reclassification to remove the stranded tax effects. The approval granted in the order is for accounting purposes only and is not intended to influence any future rate considerations.

This concludes our presentation. We would like to thank and recognize the members of the team that are not seated here at the table in helping to prepare these items. We are happy to answer any questions that you may have.