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| PUC logo | COMMONWEALTH OF PENNSYLVANIA  PENNSYLVANIA PUBLIC UTILITY COMMISSION  P.O. BOX 3265, HARRISBURG, PA 17105-3265 | **IN REPLY PLEASE REFER TO OUR FILE** |

**March 2, 2018**

M-2018-2641242

Re: Tax Cuts and Jobs Act of 2017

To All Affected Pennsylvania Telecommunications Carriers:

On December 22, 2017, Public Law No. 115-97 was signed into law by the President of the United States. The short title of this law is the Tax Cuts and Jobs Act (TCJA). Pursuant to the TCJA, effective January 1, 2018, various provisions of the Tax Reform Act of 1986 (TRA) have been repealed or amended. One of the many modifications to the TRA resulting from the passage of the TCJA is a reduction in the corporate Federal Income Tax (FIT) rate from 35% to 21%.

In reviewing the federal tax changes concomitant with the provisions of the Public Utility Code, the Commission is charged with the statutory obligation of ensuring that all rates charged are just and reasonable. 66 Pa. C.S. § 1301 (“[e]very rate made, demanded, or received by any public utility…shall be just and reasonable.”). Rates charged by Commission-regulated public utilities to their ratepayers reflect, among other things, annual taxes paid both to the federal and state governments. This Secretarial Letter notifies telecommunications carriers that their existing price cap rates, rates for interconnection service and rates for other retail and wholesale services are under review as they may not be just and reasonable, as required by 66 Pa. C.S. § 3015(g), following the reduction in their federal income tax rate through the TCJA.

Pursuant to the TCJA, commencing in 2018 the corporate FIT rate will be reduced to 21% from the prior effective rate of 35% upon which current customer rates are based. This change in the FIT rate for corporations will also impact their reserves for deferred income tax liabilities. Given this substantial change in federal income tax rates for corporations, the Commission will examine any reduced annual federal tax obligations, the effect on accumulated deferred income taxes of Commission-regulated public utilities resulting from implementation of the TCJA, and the manner in which the reduced annual tax obligations will be addressed in rates charged to Pennsylvania’s utility customers by public utilities.[[1]](#footnote-1)

Regarding tax obligations of Commission-regulated public utilities owed to the Commonwealth of Pennsylvania, such public utilities currently pay a Corporate Net Income (CNI) tax rate of 9.99%. Chapter 61 of the Pennsylvania Code governs the CNI tax rate and defines “taxable income” as:

[f]ederal taxable income before net operating loss deduction and special deductions as returned to and ascertained by the Federal government[.]

61 Pa. Code § 153.11. Therefore, the Pennsylvania CNI tax rate of 9.99% is assessed on a public utility’s *federal* taxable income. With the implementation of the TCJA, public utilities will continue to pay 9.99% of their federal taxable income to the Commonwealth. However, if implementation of the TCJA results in lower federal taxable income amounts for public utilities, i.e., lower amounts upon which the 9.99% Pennsylvania CNI rate is applied, it is the Commission’s intention to ascertain how such reduced annual *state* tax obligations may be reflected in rates charged to ratepayers by public utilities.

To determine any effects of the TCJA on the tax liabilities of Pennsylvania telecommunications carriers for 2018 and future years, the Commission requests that the telecommunications carriers listed in Attachment A to this Secretarial Letter provide verified responses to the data requests in Attachment B.[[2]](#footnote-2)

Additionally, the Commission is requesting that interested parties submit comments addressing: (1) all provisions, under either Chapter 30, the telecommunications carriers’ alternative regulation plans, or any other provision of the Public Utility Code and Commission regulations addressing the carriers’ or the Commission’s ability to adjust customer rates to account for the tax changes, including the rate reductions in the TCJA; (2) whether the Commission should adjust current retail and wholesale rates to reflect the effect of the tax rate reductions; (3) if so, the appropriate negative surcharge or other methodologies that would permit immediate modifications to consumer rates; and (4) whether the surcharge or other methodology should provide that any refunds to customers due to these tax rate reductions be effective as of January 1, 2018.

The Commission requests that responses to the data requests in Attachment B be provided within 25 days of the date of this Secretarial Letter. Likewise, the Commission requests that comments addressing possible rate reflections of TCJA impacts also be provided by this date. The Commission reserves the right to provide a reply comment period as necessary. Please reference Docket No. M-2018-2641242 on correspondence.

All information requested in this Secretarial Letter shall be submitted by eFile or mailed to:

Rosemary Chiavetta, Secretary

Pennsylvania Public Utility Commission

400 North Street, 2nd Floor

Harrisburg, PA 17120

Utility responses should be verified per 52 Pa. Code § 1.36. Accordingly, you must provide the following statement with your responses:

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter.  I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

The blank should be completed with the name of the appropriate company representative, and the signature of that representative should follow the statement.

Please direct any questions concerning this Secretarial Letter to Erin Laudenslager (elaudensla@pa.gov) and/or Colin W. Scott (colinscott@pa.gov).

**** Sincerely,

# Rosemary Chiavetta

Secretary

cc: Pennsylvania Office of Consumer Advocate

Pennsylvania Office of Small Business Advocate

PA Telecommunications Association

Philip J. Wood, Verizon Pennsylvania LLC

Carl Yastremski, Frontier Communications

1. As entities incorporated in the Commonwealth of Pennsylvania, Commission-regulated public utilities are corporations subject to the FIT. [↑](#footnote-ref-1)
2. Commissioners John F. Coleman, Jr. and Norman J. Kennard respectfully disagree with the majority regarding the scope of the data requests initiated by this Secretarial Letter. [↑](#footnote-ref-2)