

Tori L. Giesler, Esq.
(610) 921-6658
(330) 315-9263 (Fax)

May 17, 2021

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Petition of West Penn Power Company To Request Approval To Distribute
The Tax Savings Associated With The Tax Cuts and Jobs Act of 2017 For The
Period Between January 1, 2018 And June 30, 2018;
Docket No. P-2021-**

Dear Secretary Chiavetta:

Transmitted herewith for filing is the Petition of West Penn Power Company (individually referred to as “West Penn” or the “Company”) To Request Approval To Distribute The Tax Savings Associated With The Tax Cuts and Jobs Act of 2017 For The Period Between January 1, 2018 And June 30, 2018.

Copies have been served on the parties in the manner indicated, as shown on the attached Certificate of Service.

Please feel free to contact me if you have any questions.

Sincerely,



Tori L. Giesler

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of West Penn Power Company To :
Request Approval To Distribute The Tax : **Docket No. P-2021-**
Savings Associated With The Tax Cuts and :
Jobs Act of 2017 For The Period Between :
January 1, 2018 And June 30, 2018 :

PETITION OF WEST PENN POWER COMPANY

I. INTRODUCTION

West Penn Power Company (“West Penn” or the “Company”) hereby files this Petition with the Pennsylvania Public Utility Commission (“Commission”) pursuant to 52 Pa. Code § 5.541, and the Commission's directive in the Order entered on May 17, 2020, at Docket No. R-2018-3000604 (the "West Penn Compliance Order"), as modified by its Reconsideration Order entered on June 14, 2018 at the same docket (“Wets Penn Reconsideration Order”),¹ to approve the distribution of the tax savings associated with the Tax Cuts and Jobs Act of 2017 ("TCJA") for the period of January 1, 2018 through June 30, 2018.

Consistent with the Commission's prior order, West Penn is required to file a petition to propose a mechanism to distribute the tax savings to customers associated with the TCJA for the March 16, 2018 through June 30, 2018 time period on or before May 17, 2021. Within this same filing, the amount that West Penn has separately tracked for the period of January 1, 2018 through March 15, 2018 is to be addressed. As explained further in this filing, West Penn is proposing

¹ As outlined in the West Penn Reconsideration Order, the Company was also to separately record the tax savings associated with TCJA for the January 1, 2018 through March 15, 2018 period (inclusive of interest).

to distribute the total tax savings for both periods – collectively spanning January 1, 2018 through June 30, 2018, to customers as part of this filing.

In order to facilitate this distribution, West Penn proposes to revise the existing TCJA surcharge mechanism, the Tax Cuts and Jobs Act Voluntary Surcharge Rider (“TCJA Rider”), to provide for an additional component for the distribution of these savings with the next TCJA Rider update. Including the distribution of the January 1, 2018 through June 30, 2018 tax savings in the TCJA Rider would result in those tax savings flowing to customers from January 1, 2022 through December 31, 2022.

In support of this Joint Petition, the Company states as follows:

II. BACKGROUND

1. West Penn is a wholly owned subsidiary of FirstEnergy Corp. that provides service to approximately 735,000 electric utility customers in western Pennsylvania. West Penn has its principal place of business at 2800 Pottsville Pike, Reading, Pennsylvania. West Penn is a “public utility” as defined in Section 102 of the Pennsylvania Public Utility Code (“Code”). West Penn is an “electric distribution company” and a “default service provider” as defined in Section 2803 of the Code.

2. West Penn’s attorney authorized to receive service in this matter is:

Tori L. Giesler
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001

3. By Secretarial Letter dated February 12, 2018, at Docket Number M-2018-2641242, the Commission directed West Penn and other major jurisdictional utilities to file certain data concerning the effects of the TCJA.

4. On March 9, 2018, West Penn filed the required information and completed Attachment C of the Secretarial Letter, reflecting a calculation of a negative surcharge to be applied to customer bills in accordance with the formula set forth therein. The Company refiled the required information on March 12, 2018 correcting the previously submitted filing. This filing by West Penn indicated a negative surcharge of 7.34%.

5. On March 15, 2018, the Commission issued a Temporary Rates Order at Docket No. M-2018-2641242, directing West Penn and other public utilities to file their current base rates and riders as temporary rates, pursuant to Section 1310(d) of the Code.

6. Based on the data submitted by the Company, the Commission issued the West Penn Compliance Order on May 17, 2018 at Docket R-2018-3000604.

7. With regard to the information supporting the -7.34% surcharge, West Penn notes that the data used to calculate the surcharge was for the period ending December 31, 2017. The West Penn Compliance Order further noted that "the tax savings from TCJA commenced on January 1, 2018" and directed West Penn "to record on its books the tax savings associated with the TCJA for the January 1, 2018 through June 30, 2018 time period."² The Commission further explained that this account shall also accrue interest at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law.³

8. In addition, the West Penn Compliance Order stated that:

The rate treatment of this amount plus accrued interest shall be addressed in the Respondent's next base rate case. In that future proceeding, the Respondent and parties can address the appropriate negative surcharge, amortization or other disposition of this deferred regulatory liability, including any legal issues. If Respondent is required to establish deferred regulatory liability and has not filed, within three (3) years of the date this order is entered, a Section 1308(d) general base rate case, Respondent must file a petition to

² West Penn Compliance Order, p. 4.

³ *Id.*

propose how to distribute the funds in the regulatory liability account.

9. On June 1, 2018, West Penn, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, (collectively, the Companies) filed jointly a Petition for Reconsideration at Docket Number R-2018-3000597, et al. The Commission issued its Reconsideration Order on June 14, 2018 allowing the Companies to “record the tax saving associated with the TCJA for the period of January 1, 2018 to March 15, 2018, as well as the interest accrued, in a separate memorandum account.”⁴ Separation of the pre-March 15 balance is based on the Companies’ argument that requiring a refund of the tax savings accrued prior to the Commission’s March 15, 2018 Temporary Rates Order violates the prohibition against retroactive ratemaking. This memorandum account as well as the deferred regulatory liability account for the period between March 16 and June 30 will be addressed “in each Company’s next base rate proceeding or in an independent filing.”⁵

10. Consistent with the Reconsideration Order, West Penn recorded in a separate “memorandum account” rather than a “deferred regulatory liability account” the tax savings associated with the TCJA for the January 1, 2018 to March 15, 2018 time period in the amount of \$7,011,129 and in a “deferred regulatory liability account” the tax savings associated with the March 16, 2018 to June 30, 2018 period in the amount of \$5,185,889. The total amount of the tax savings associated with the TCJA for the combined January 1, 2018 through June 30, 2018 time period (hereinafter, the “2018 Period”) is \$12,197,018.

11. West Penn stands by the position it has taken to date with respect to the treatment of rates for the January 1, 2018 through March 15, 2018 period. However, it also is cognizant of

⁴ Reconsideration Order, p. 7.

⁵ *Id.*

the strain that has been placed on customers over the course of the past year or more related to the economic impacts of the global COVID-19 pandemic, from which customers of all classes continue to recover. As such, and notwithstanding its belief that its prior position remains legally viable, West Penn has determined that it is appropriate to voluntarily propose a distribution of the recorded savings associated with this January 1 through March 15, 2018 period to customers in addition to the savings associated with the undisputed March 16 through June 30, 2018 period.

III. PROPOSAL TO DISTRIBUTE 2018 PERIOD FUNDS

12. As noted above, West Penn established in a separate “memorandum account” rather than a “deferred regulatory liability account” the tax savings associated with the TCJA January 1, 2018 to March 15, 2018 time period and in a “deferred regulatory liability account” the tax savings associated with the TCJA March 16, 2018 to June 30, 2018 period. Attached hereto as Appendix A is a true and accurate copy of West Penn’s books associated with both accounts.

13. West Penn recorded actual tax savings of \$12,197,018 and calculated regulatory interest at the residential mortgage lending rate in the amount of \$2,770,602 collectively associated with both accounts, as reflected in Appendix A.

14. Accordingly, and for the reasons articulated further above, West Penn proposes to refund tax savings for the entire 2018 Period, including accrued interest, with its next rate change beginning on January 1, 2022 through its existing TCJA Rider. Currently, the TCJA Temporary Surcharge for 2021 provides for a negative surcharge of 4.24%, which applies as a credit for intrastate service on all customer bills. The amount refunded through this mechanism would be \$14,967,620, which reflects the actual tax savings associated with the 2018 Period plus applicable interest accrued as shown in Appendix A.

15. In order to implement the distribution of these savings, West Penn further proposes

to update the existing West Penn TCJA tariff supplement as reflected in Appendix B and the West Penn - The Pennsylvania State University TCJA tariff supplement as reflected in Appendix C, such updates to be effective January 1, 2022 through its annual rate filing due to be made on December 1, 2021. For this reason, the Company requests Commission approval of this Petition no later than November 1, 2021.

IV. CONCLUSION

WHEREFORE, West Penn respectfully requests that, on or before November 1, 2021, the Commission approve the mechanism to distribute the savings associated with the Tax Cuts and Jobs Act for the time period of January 1, 2018 to June 30, 2018, and approve the tariff supplement to establish this mechanism attached as Appendix B and Appendix C to this Petition.

Respectfully submitted,



Tori L. Giesler
Attorney No.
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658 – Telephone

Dated: May 17, 2021

Counsel for:
West Penn Power Company

West Penn Power Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the period January 1, 2018 through June 30, 2018

Line No.	Description	2018 Actuals (Thousands)
1	Operating Revenues	\$ 227,271
2	Less: O&M Expenses	95,447
3	Book Depreciation	31,069
4	Interest Expense	<u>13,200</u>
5	Operating Income before Taxes Total	\$ 87,556
6	Add: Premature Property Losses/ Amortizations	\$ 7,721
7	Depr- Straight Line- Remaining Life (Incl COR)	<u>31,069</u>
8	Total	\$ 38,790
	Deduct	
9	Tax Depreciation	<u>\$ 41,106</u>
10	State Taxable Income	\$ 85,239
11	Add: Federal Bonus Depreciation	\$ -
12	Less: Additional State Depreciation	10,050
13	Net adjustment to state taxable income	<u>\$ 10,050</u>
14	Income subject to State Income Tax	\$ 95,289
	State Income At:	
15	Historic, Future and Fully Projected At 9.99%	\$ 9,519
16	Income Subject To Federal Income Tax	\$ 75,720
17	Federal Income Tax at 35%	\$ 26,502
18	Federal Income Tax at 21%	\$ 15,901

West Penn Power Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the period January 1, 2018 through June 30, 2018

<u>Line No.</u>	<u>Description</u>	<u>Net Tax Effect</u> <u>(Thousands)</u>
<u>Pre TCJA Taxes</u>		
1	Federal- Current (Page 1, Line 17)	\$ 26,502
2	Federal- Deferred	\$ 12,676
<u>Less: Post TCJA Taxes</u>		
3	Federal- Current (Page 1, Line 18)	\$ 15,901
4	Federal- Deferred	6,411
5	Less: NOLs (10 yr. amort)	(374)
6	Less: Other Excess (10 year amort)	(44)
7	Federal Deferred Adjusted	<u>\$ 6,829</u>
8	Effect of TCJA On Income (A)	\$ 10,601
9	Change in ADIT	\$ 5,847
10	Add: Unamortized NOL	7,099
11	Less: Unamortized Other Excess	838
12	Change in ADIT	<u>\$ 13,784</u>
13	Rate of Return for 6 months	3.46%
14	Effect of ADIT Change on Income (B)	\$ 476
15	Earnings Excess (Line A - Line B)	\$ 10,124
16	Complement of Tax Rate	0.711079
17	Revenue Excess	<u>\$ 14,238</u>
19	Total Revenue to be Refunded	\$ 14,238

West Penn Power Company
TCJA Temporary Surcharge ("TCJA") Calculation
For the period January 1, 2018 through June 30, 2018
Interest Calculation

Month	Unbilled Refund Accrual ^A	Tax Savings	Over/(Under) Refund	Annual Interest Rate	Monthly Interest Rate	Months to the Midpoint	Interest
	(1)	(2)	(3) = (2) - (1)	(4)	(5) = (4) / 12	(6)	(7)=(3)*(5)*(6)
January	\$0	(\$4,730,990)	(\$4,730,990)	5.00%	0.42%	54	(\$1,064,473)
February	0	(1,113,940)	(1,113,940)	5.00%	0.42%	53	(245,995)
March 1- 15	0	(1,166,199)	(1,166,199)	5.25%	0.44%	52	(265,310)
March 16 - 31	0	(1,243,945)	(1,243,945)	5.25%	0.44%	52	(282,997)
April	0	(2,038,643)	(2,038,643)	5.50%	0.46%	51	(476,533)
May	0	(1,711,506)	(1,711,506)	5.50%	0.46%	50	(392,220)
June	(2,041,125)	(2,232,920)	(191,795)	5.50%	0.46%	49	(43,074)
Total	(\$2,041,125)	(\$14,238,143)	(\$12,197,018)				(\$2,770,602)

Notes:

- (A) Per Ordering Paragraph 2 of the Commission's Reconsideration Order at Docket No. R-2018-3000604 entered June 14, 2018, the amount of tax savings deferred in June 2018 shall be reduced by the amount of tax savings in June 2018 that is being refunded to customers when the Tax Cuts and Jobs Act Surcharge is applied on a bills rendered basis beginning with bills rendered on July 1, 2018.

Refund Summary by Period:

	Over/(Under)		
	Refund	Interest	Total
January 1 - March 15, 2018	(\$7,011,129)	(\$1,575,778)	(\$8,586,907)
March 16 - June 30, 2018	(\$5,185,889)	(\$1,194,824)	(\$6,380,713)
Total	(\$12,197,018)	(\$2,770,602)	(\$14,967,620)

RIDER

RIDER B
TAX CUTS AND JOBS ACT
VOLUNTARY SURCHARGE

To implement the effects of the Tax Cuts and Jobs Act (“TCJA”), on March 15, 2018 the Pennsylvania Public Utility Commission (“Commission”) issued a Temporary Rates Order at Docket No. M-2018-2641242 directing the Company to file its current base rates and riders as temporary rates, pursuant to Section 1310(d) of the Public Utility Code 66 Pa. C.S. § 1310(d). Subsequently, on May 17, 2018, the Commission entered an Order superseding the March 15, 2018 Temporary Rates Order directing the utility to establish rates as follows:

A negative surcharge of XXX% will apply as a credit for intrastate service to all customer bills rendered on and after January 1, 2022. In addition, for the application period of January 1, 2022 to December 31, 2022, this surcharge will include the effects of the TCJA tax rate changes for the period of January 1, 2018 through June 30, 2018, including applicable interest. This negative surcharge will apply equally to all customers in the Residential Customer Class, the Commercial Customer Class and the Industrial Customer Class, exclusive of STAS and all automatic adjustment clause rider revenues. (C)

This negative surcharge will be reconciled at the end of each calendar year and will remain in place until the Company files and the Commission approves new base rates for the Company pursuant to Section 1308(d) that include the effects of the TCJA tax rate changes.

The Tax Cuts and Jobs Act Voluntary Surcharge (“TCJAVSC”) shall be calculated in accordance with the formula set forth below:

$$\frac{\text{TCJAVSC} = (\text{TS} - \text{E})}{\text{Distribution Revenues}}$$

Where:

TS = The estimated current tax savings for the Company, resulting from all changes in corporate taxes resulting from the TCJA compared to taxes that would have been accrued absent TCJA, based on the Company’s most current budget for the Computational Period. Calculated consistent with Appendix A, attached to the Commission’s Order at Docket No. R-2018-3000597.

E = The over or under-refunding of the TCJAVSC that result from the billing of the TCJVSC during the Reconciliation Period, with interest. The reconciliation report showing the actual amounts of over refund / (under

(C) Change

RIDERS

RIDER B
TAX CUTS AND JOBS ACT
VOLUNTARY SURCHARGE

To implement the effects of the Tax Cuts and Jobs Act (“TCJA”), on March 15, 2018 the Pennsylvania Public Utility Commission (“Commission”) issued a Temporary Rates Order at Docket No. M-2018-2641242 directing the Company to file its current base rates and riders as temporary rates, pursuant to Section 1310(d) of the Public Utility Code 66 Pa. C.S. § 1310(d). Subsequently, on May 17, 2018, the Commission entered an Order superseding the March 15, 2018 Temporary Rates Order directing the utility to establish rates as follows:

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E = The over or under-refunding of the TCJAVSC that result from the billing of the TCJVSC during the Reconciliation Period, with interest. The reconciliation report showing the actual amounts of over refund / (under

(C) Change

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**PETITION OF WEST PENN POWER :
COMPANY TO REQUEST :
APPROVAL TO DISTRIBUTE THE :
TAX SAVINGS ASSOCIATED WITH : Docket No. P-2021-
THE TAX CUTS AND JOBS ACT OF :
2017 FOR THE PERIOD BETWEEN :
JANUARY 1, 2018 AND JUNE 30, :
2018; :**

VERIFICATION

I, Kimberly Bortz, Rates Advisor, 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).

Date: May 17, 2021


Kimberly Bortz

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of West Penn Power Company To :
Distribute The Tax Savings Associated :
With The Tax Cuts and Jobs Act of 2017 : **Docket No. P-2021**
For The Period Of January 1, 2018 :
Through June 30, 2018 :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail, as follows:

Richard Kanaskie
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120
rkanaskie@pa.gov

Tanya McCloskey
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
tmccloskey@paoca.org

Steven Gray
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101
sgray@pa.gov

Thomas J. Sniscak
Hawke McKeon & Sniscak LLP
100 North 10th Street
P.O. Box 1778
Harrisburg, PA 17105
tjsniscak@hmslegal.com
Counsel for Penn State University

Stephen S. Dunham
Vice President & General Counsel
The Pennsylvania State University
Office of the General Counsel
227 West Beaver Avenue, Suite 507
State College, PA 16801
ssd13@psu.edu

Dated: May 17, 2021



Tori L. Giesler
Attorney No.
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
(610) 921-6658 – Telephone
Counsel for West Penn Power Company