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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held August 26, 2021 |
| Commissioners Present: |  |

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| Gladys Brown Dutrieuille, Chairman | | |  |
| David W. Sweet, Vice Chairman | | |  |
| John F. Coleman, Jr. | | |  |
| Ralph V. Yanora | | |  |
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|  | Docket Numbers: |
| Petition of National Fuel Gas Distribution Corporation To Establish a Mechanism to Distribute the Tax Savings Associated with the TCJA for the Period Between October 1, 2017, and June 30, 2018 | P-2021-3025909 |
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**OPINION AND ORDER**

**BY THE COMMISSION:**

On May 17, 2021, National Fuel Gas Distribution Corporation (“NFGDC” or “Company”) filed a petition pursuant to 52 Pa. Code §5.41, and the Commission’s directive in the Order entered on May 17, 2018 at Docket No. R-2018-3000527 (National Fuel Gas Distribution Compliance Order) for authority to distribute the tax savings associated with the Tax Cuts and Jobs Act of 2017 (TCJA) for the period of October 1, 2017 through June 30, 2018 (Stub Period).[[1]](#footnote-2) No party has filed an Answer or Protest to this Petition.

Consistent with the Commission’s prior order, NFGDC is required to file a petition to refund to customers the tax savings associated with the TCJA for the Stub Period on or before May 17, 2021. NFGDC proposes to begin to distribute the savings associated with the period on October 1, 2021. The Company has proposed to revise the existing TCJA Temporary Surcharge mechanism to provide for the distribution of these savings from October 1, 2021, through September 30, 2022.

**The Petition**

The National Fuel Gas Distribution Compliance Order required NFGDC to establish a deferred regulatory liability account to record the tax savings associated with the Stub Period. The account was to accrue interest at the residential mortgage lending rate as specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41. P.S. §§ 101, et seq.). The Commission further determined that the rate treatment of this account was to be addressed in a Section 1308(d) general base rate case. If a general base rate case was not filed within three (3) years of the adoption date of the National Fuel Gas Distribution Compliance Order, NFGDC shall file a petition to propose how to distribute the funds in the regulatory liability account.

Currently, the Company has a negative TCJA surcharge of -2.20%, which applies as a credit for intrastate service on all customer bills. NFGDC states that it recorded actual tax savings for the Stub Period of $3,129,413.36 plus accrued interest of $433,897.46 for a total of $3,563,310.82. The Company proposes to refund these tax saving for the Stub Period through the current TCJA mechanism.

**Discussion**

The National Fuel Gas Distribution Compliance Order required NFGDC to petition the Commission to distribute the TCJA savings if the rate treatment for this account was not addressed in a 1308(d) general base rate case within three years of the Order entered date. As NFGDC has not filed and did not intend to file a 1308(d) general base rate case on or before May 17, 2021, the Company was required to file this petition.

Pursuant to its existing tariff, the Company makes its annual TCJA filing on or before September 1 of each year to become effective on October 1. NFGDC seeks Commission approval of this filing before September 1, 2021 so that the Company can include the refund for the 2018 Stub Period in the September 1, 2021 filing to become effective October 1, 2021.

NFGDC proposes to implement this approach because it will allow the Company to distribute the tax savings for the 2018 period, in accordance with the National Fuel Gas Distribution Compliance Order, using an existing surcharge mechanism within its tariff. NFGDC further submits that this approach is consistent with or similar to the approaches used by other utilities to refunds tax savings including accrued interest for the 2018 Stub Period, where such utilities did not file a base rate proceeding on or before May 17, 2021. *See, e.g., Petition of PPL Electric Utilities Corporation to Establish a Mechanism to Distribute the Tax Savings Associated with the TCJA for the Period Between January 1, 2018, and June 30, 2018*, Docket No. P-2019-3013366 (Order entered Nov. 14, 2019) (approving a proposal to distribute the tax savings associated with the 2018 Period utilizing the utility’s existing TCJA temporary surcharge mechanism).

NFGDC has calculated the interest by taking the calculated stub period tax savings and calculating interest beginning July 2018 and applying the monthly interest rate to the total amount to be refunded. However, this is not the standard methodology for adjustment clause reconciliations which was used in both the *PPL Petition* and the NFGDC’s 1307(e) TCJA Reconciliation filings. On August 17, 2021, NFGDC proposed a new interest calculation which was consistent with the Company’s other TCJA reconciliation filings. The effect of this proposal is that the interest to be included in the Stub Period TCJA refund increases from $433,897.46 to $676,915.82 and the total refund increases from $3,563,310.82 to $3,806,329.18.

We find that NFGDC’s updated proposal to utilize the existing TCJA Surcharge Mechanism to distribute Stub Period tax savings is appropriate. We agree that the proposed methodology will be consistent with the *PPL Petition* and a distribution of the Stub Period tax savings was required per the National Fuel Gas Distribution Compliance Order. Accordingly, NFGDC’s Petition for authority to distribute the tax savings associated with the Tax Cuts and Jobs Act of 2017 for the period of October 1, 2017 through June 30, 2018 is hereby approved; **THEREFORE,**

**IT IS ORDERED:**

1. That NFGDC’s Petition for authority to distribute the tax savings associated with the Tax Cuts and Jobs Act of 2017 for the period of October 1, 2017 through June 30, 2018 utilizing the TCJA Temporary Surcharge mechanism beginning on October 1, 2021 is hereby approved.
2. That a copy of this order be served upon NFGDC, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate and the Office of Small Business Advocate.
3. That NFGDC shall include the necessary tariff updates to implement the distribution of savings with the Company’s annual TCJA tariff to be filed on or before September 1, 2021, to become effective October 1, 2021, consistent with this Order.
4. That approval of this Petition neither confirms the accuracy of the figures nor the appropriateness of the calculation.
5. That this proceeding be marked closed.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 26, 2021

ORDER ENTERED: August 26, 2021

1. NFGDC utilized its fiscal year, which runs from October 1 to September 30, for purposes of calculating the effects of the TCJA. [↑](#footnote-ref-2)