

## Green Delaware

Alan Muller, Executive Director

January 3, 2018

Delaware Public Service Commission  
via efilings

Regarding: Dockets 17-1239 (Staff Petition) and 17-1240 (Public Advocate's Petition)

Dear Commissioners:

First, we note that having two docket numbers in the same matter is confusing. We suggest that all the filings in these two dockets be consolidated into 17-1240 because this docket contains the largest number of filings.

We have considered the Petitions and Draft Orders filed in these dockets, and the 8 public comments so far filed in 17-1240, and a recent letter from 26 Delaware state legislators supporting the Petition of the Public Advocate.

So far all the public comments, including that of Representative Kowalko, as well as the letter from legislators, support the Petition of the Public Advocate. I have seen no comments or filings in support of Staff's Petition.

The basic issue here is that the recent "2017 Tax Act," Pub L. 115-97 (H.R. 1—115th Congress), "Tax Cuts and Jobs Act," has the potential to create windfall profits for utilities unless rates are adjusted to channel any and all resulting savings to ratepayers.

While the two Petitions may appear similar, there is at least one significant difference:

The Public Advocate's Petition makes clear that his objective is to ensure that **all** savings resulting from the Tax Act be returned to ratepayers.

The Staff's Petition states (at page 2, line 3, *et seq.*):

"Staff recommends the Commission order a limited regulatory review of the rates of each rate-regulated utility that is subject to the TCJA ["Tax Cuts and Jobs Act"] to ensure that ratepayers **and the utility** [emphasis added by Muller] receive the appropriate benefits of the TCJA's reduction of the tax burden on corporations."

This could just be a case of inartful wording, but taken at face value it suggests the Staff believes some part of the "benefits" of the Tax Act should appropriately remain with regulated utilities.

Green Delaware recommends that the Commission make very clear its intent that 100 percent of any "savings" or "benefits" should accrue to ratepayers, and that no windfall profits should be retained by regulated utilities.

We close with these thoughts:

- (1) So far as we know, few if any evaluators of the “Tax Cuts and Jobs Act” consider it sound as a matter of public policy, or equitable. Thus, the implications of this Act should be viewed with the greatest caution and a strong focus on minimizing the damage.
- (2) Regulated utility ratepayers are already burdened with unjustified rate increases, due to various systemic failures that fit under the umbrella term “regulatory capture.” The Delaware Public Service Commission should make every effort to avoid further such failures.

Respectfully submitted,

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