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January 4, 2018

David J. Collins
Executive Secretary
Public Service Commission
Of Maryland
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

Re: Petition of the Office of People's Counsel to Investigate the Regulatory Impacts of the Tax Cuts and Jobs Act Of 2017 and Provide for Rate Relief for Customers of Investor-Owned Utilities

Dear Mr. Collins:

Please accept for filing this Petition of the Office of People's Counsel requesting that the Commission investigate the rate impacts of the Tax Cuts and Jobs Act of 2017 and provide rate relief to Customers.

As a courtesy, copies of this Petition will be provided by email to counsel or other regulatory contact for each investor-owned electric, gas, water and sewage disposal utility in Maryland on behalf of the Office of People's Counsel.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

/electronic signature/
Paula M. Carmody
People's Counsel

PMC/eom
Enclosure

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

**IN THE MATTER OF THE PETITION OF THE
OFFICE OF PEOPLE’S COUNSEL TO INVESTIGATE
THE REGULATORY IMPACTS OF THE TAX CUTS
AND JOBS ACT OF 2017 AND PROVIDE FOR RATE RELIEF
FOR CUSTOMERS OF INVESTOR-OWNED UTILITIES**

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PSC No.

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**PETITION OF THE OFFICE OF PEOPLE’S COUNSEL TO
INVESTIGATE THE REGULATORY IMPACTS OF THE TAX CUTS
AND JOBS ACT OF 2017 AND PROVIDE FOR RATE RELIEF FOR CUSTOMERS
OF INVESTOR-OWNED UTILITIES**

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**BEFORE THE
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**PETITION OF THE OFFICE OF PEOPLE’S COUNSEL TO
INVESTIGATE THE REGULATORY IMPACTS OF THE TAX CUTS
AND JOBS ACT OF 2017 AND PROVIDE FOR RATE RELIEF FOR CUSTOMERS
OF INVESTOR-OWNED UTILITIES**

Pursuant to Section 2-204(a) of the Public Utilities Article (“PUA”), the Office of People’s Counsel (“OPC” or “People’s Counsel”) respectfully submits this petition (“Petition”) requesting that the Public Service Commission (“Commission”) open a docket to investigate the impact of the federal Tax Cuts and Jobs Act (“TCJA”) of 2017 on customer distribution rates, and direct each investor-owned utility to provide immediate and appropriate rate reduction relief to their customers. In support thereof, OPC states the following:

1. The Office of People’s Counsel is a statutory agency that represents the interests of all residential customers of electric, gas, water and sewage disposal utilities in Maryland (“Utilities”) in proceedings before the Maryland Public Service Commission. See PUA § 2-204(a) (2).

2. Section 2-204(a) (3) of the Public Utilities Article provides that OPC “shall conduct investigations and request the Commission to initiate proceedings to protect the interests of residential and noncommercial users.”

3. On December 22, 2017, President Donald Trump signed the TCJA into law. Among other things, the TCJA reduces the federal corporate income tax rate from 35 percent to 21 percent. The effective date of the changes to the tax code is January 1, 2018. The TCJA tax rate reduction will have an immediate impact on the federal corporate income tax rate applicable to investor – owned Utilities in Maryland. As a result, the rates paid by customers will no longer be just and reasonable, in violation of PUA § 4-201.

4. In order to ensure that utility customers receive the benefits of this major corporate tax reduction in a timely manner, the Commission should require each Utility to reflect that tax reduction in its distribution rates. Without an immediate review and Commission action, the utilities will be able to use the revenues resulting from the tax reduction for other purposes, without regard to customer rate impacts or the requirements of PUA §4-201.

5. Furthermore, as part of that review, the Commission should ensure that each Utility adjusts its excess reserve for deferred federal income taxes. Each utility has accrued the reserve at the previous tax rate of 35%, but now will pay back the reserve at the new rate of 21%. That difference must be accounted for and returned to customers in a meaningful way.

6. Similar Petitions have been filed in Massachusetts, South Dakota and Delaware.¹ In addition, other state commissions in Michigan, Montana, Kentucky and West Virginia have issued orders or instituted proceedings on this issue². The Michigan Public Service Commission has

¹ *Petition of the Attorney General for the Department of Public Utilities to open an investigation to reduce rates paid by electric, gas and water ratepayers, pursuant to G.L. c. 164, § 93, Dkt. 17-181* at www.mass.gov; *In the Matter of Staff's Request to Investigate the Tax Cuts and Jobs Act on South Dakota Utilities, Dkt. GE17-003*, at <https://puc.sd.gov>; *Petition of the Delaware Division of the Public Advocate to Reduce the Rates of Regulated Utilities as a Result of the Tax Cuts and Jobs Act of 2017's Reduction in Corporate Income Taxes and Other Tax Changes, Dkt. 17-1240*, at <https://depssc.delaware.gov>.

² *In the matter, on the Commission's own motion, to consider changes in the rates of all of the following Michigan rate-regulated electric, steam, and natural gas utilities to reflect the effects of the federal Tax Cuts and Jobs Act of*

ordered all affected utilities, beginning January 1, 2018, to “apply regulatory accounting treatment, which includes the use of regulatory assets and regulatory liabilities, for all impacts resulting from the [TCJA].”³ This directive is in anticipation of the opening of separate dockets for each utility to address the impacts of the TCJA on the utility’s rates. In requiring regulatory accounting treatment, the Michigan Commission stated the Commission’s intention “that utilities begin accruing the ratepayer benefits of the TCJA, using regulatory accounting, *beginning on the effective date, January 1, 2018.*”⁴ The Kentucky Commission has ordered its investor-owned electric and gas utilities to begin tracking any tax savings. The Montana Commission has issued an order requiring utilities to calculate changes to their tax liability resulting from the TCJA, and to submit proposals for providing the tax benefits to their customers. The South Dakota Commission has issued a similar directive to its utilities. The issuance of such orders for regulatory accounting treatment is critical, to ensure that the Commission retains the authority to determine how the additional revenues, based on the 34% rate, will be treated, and avoid retroactive ratemaking.

7. OPC recognizes that certain investor-owned utilities may submit their own proposals to address the impact of the TCJA’s tax rate reduction on customer rates prior to issuance of a Commission order in response to this Petition. OPC appreciates any such prompt action. With this filing, OPC does not intend to delay the submission of such proposals, to the extent that they deliver rate relief to their customers. The Commission could simply require those utilities to supplement their submissions, if necessary. OPC also recognizes that, given the speed with which the TCJA was passed and signed into law at the end of the year, the Commission, utilities and

2017, Dkt. U-18494 “Michigan Order”), at www.michigan.gov/psc; *In the Matter of An Investigation of the Impact of the Tax Cuts and Job Act on the Rates of [various utilities]*, Dkt. 2017-00481, at <https://psc.ky.gov>; <http://psc.mt.gov/news/pr/2018pr/PSCTaxReformUtility.pdf>; *In the Matter of the Effects on Utilities of the 2017 Tax Cuts and Jobs Act, General Order No. 236.1* at www.psc.state.wv.us.

³ Michigan Order, p. 2.

⁴ Id.

other stakeholders may identify additional tax law changes that affect these Utilities and require further scrutiny by the Commission. The Commission could address any additional tax impacts through further orders or proceedings in this docket.

Wherefore, OPC respectfully requests that the Commission:

1. Open a docket to investigate the regulatory impacts of the TCJA on investor-owned utility rates;

2. Direct all Maryland investor-owned Utilities to apply regulatory accounting treatment, which includes the use of regulatory assets and regulatory liabilities, for all impacts resulting from the Tax Cuts and Jobs Act of 2017;

3. Direct all Maryland investor-owned Utilities to submit a filing to the Commission within 15 days of the Order with the following information:

(a) Identification of known and expected impacts of the TCJA on the utility's revenue requirements;

(b) Detailed calculation of the impact of the TCJA on income tax calculations used in the utility's last rate case and on recent income tax calculations;

(c) A proposal to adjust its revenue requirements and its tariffed rates to reflect a reduction in the corporate income tax rate from 35% to 21%; and

(d) A proposal to adjust the excess reserve for deferred income taxes, and a proposal for returning that excess to its customers;

4. If necessary and in the interests of ensuring that customers pay only just and reasonable rates, set a temporary rate for an affected Utility, in accordance with PUA § 4-205; and

5. Provide for any other procedural and substantive relief to ensure that customers receive the benefits of the tax changes provided by the TCJA.

Respectfully submitted,

/electronic signature/

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