

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE)	
COMMISSION'S CONSIDERATION ON)	
ITS OWN MOTION OF THE EFFECT OF)	
THE TAX CUTS AND JOBS ACT OF 2017)	DOCKET NO. 90000-134-XO-17
ON THE PROPRIETY OF RATES)	(RECORD NO. 14915)
CHARGED BY PUBLIC UTILITIES AND)	
TELECOMMUNICATIONS COMPANIES)	
PROVIDING SERVICE IN WYOMING)	

**ORDER REQUIRING
WYOMING PUBLIC UTILITIES AND TELECOMMUNICATIONS COMPANIES
TO ACCOUNT FOR FINANCIAL BENEFITS ASSOCIATED WITH PASSAGE OF
THE TAX CUTS AND JOBS ACT OF 2017
AS DEFERRED REGULATORY LIABILITIES**

(Issued December 29, 2017)

This matter came before the Wyoming Public Service Commission (Commission) upon its own motion at the Regular Open Meeting of December 28, 2017. Notice was provided on December 22, 2017, by issuance of the Commission's Open Meeting agenda.

The Commission, having considered the potential effects of the Tax Cuts and Jobs Act of 2017¹, public comments, and applicable Wyoming utility law, FINDS and CONCLUDES:

1. Wyo. Stat. § 37-3-101 requires that "all rates shall be just and reasonable," and prohibits "all unjust and unreasonable rates."
2. Just and reasonable rates are those rates sufficient to allow a public utility to recover its prudently incurred costs and an opportunity to earn a reasonable return on its investment in plant used and useful in the provision of service.
3. Price increases charged by telecommunications companies since July 1, 2006, for essential noncompetitive service are subject to refund and adjustment upon a finding of unreasonableness.² Price increases mandated by federal law or approved pursuant to Wyo. Stat. 37-15-203(e), (f)(i)-(ii), and (j) are not subject to such refund or adjustment.

¹ Formally, "H.R.1 – An Act to Provide for Reconciliation pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018."

² Wyo. Stat. § 37-15-405. A telecommunications company whose rates have increased since July 1, 2006, except for increases mandated by federal law or approved pursuant to Wyo. Stat. 37-15-203(e), (f)(i)-(ii), and (j), shall be considered a public utility for the purpose of this order.

4. Applicable taxes are a standard component of a public utility's costs, and the recovery thereof is included in rates approved by the Commission in most, if not all, cases.

5. The hallmark of the Tax Cuts and Jobs Act of 2017, signed into law by the President of the United States on December 22, 2017, is the reduction of the federal corporate income tax rate from 35% to 21%.

6. Owners of public utilities and telecommunications companies organized as "pass-through" entities not subject to the federal corporate income tax rate, such as S corporations, limited liability companies, and limited liability partnerships, are expected to incur significantly reduced federal income liability in 2018 as compared to 2017 and previous years.

7. This reduction in the corporate federal income tax rate from 35% to 21% and reductions in effective federal income tax rates applicable to pass-through entities are material changes from the rates contemplated by the Commission in setting existing approved rates, with the potential to increase the earnings of the affected public utilities and telecommunications companies such that the currently approved rates would cease to be just and reasonable as required by law.

8. The actual effects of the Tax Cuts and Jobs Act of 2017 on the earnings of each public utility, and consequently on the justness and reasonableness of currently approved rates, is yet unknown.

9. To ensure that Wyoming public utility and telecommunications company customers are not required to pay unjust or unreasonable rates for service, it is necessary that the financial benefits of the Tax Cuts and Jobs Act of 2017 be accounted for as a deferred regulatory liability by all public utilities and telecommunications companies whose federal income tax liabilities are materially altered by the Tax Cuts and Jobs Act of 2017, and that the rates charged be subject to refund and adjustment as may be necessary.

10. Further proceedings are necessary, however, to determine whether any refund or adjustment of rates is warranted, and if so, the amount necessary to ensure just and reasonable rates for Wyoming customers.

11. The efficacy of such further proceedings would be enhanced by consideration of additional comments from all interested parties.

NOW THEREFORE, IT IS ORDERED:

1. Pursuant to action taken at the Regular Open Meeting on December 28, 2017, beginning January 1, 2018, all public utilities and telecommunications companies directly or indirectly subject to payment of federal income taxes shall calculate, on an ongoing basis, the difference between its federal income tax liability under the law in effect on December 31, 2017, and the law in effect on and after January 1, 2018.

2. The difference calculated as described in the previous paragraph shall be accounted for and recorded by each public utility and telecommunications company as a deferred regulatory liability.

3. The currently approved rates of each public utility and telecommunications company charged for services rendered on and after January 1, 2018, shall be subject to refund and adjustment commensurate with the difference between its federal income tax liability under the law in effect on December 31, 2017, and the law in effect on and after January 1, 2018.

4. Any interested party may file comments concerning the type, scope, and timing of additional proceedings in this docket.

5. This *Order* is effective immediately.


MADE and ENTERED at Cheyenne, Wyoming, on December 29, 2017.

PUBLIC SERVICE COMMISSION OF WYOMING

WILLIAM F. RUSSELL, Chairman

KARA BRIGHTON FORNSTROM, Deputy Chairman

ROBIN SESSIONS COOLEY, Commissioner



Christopher Petrie
Secretary