

**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 )

**AMENDED ORDER REQUIRING  
CERTAIN 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 January 23, 2018)

This matter came before the Wyoming Public Service Commission (Commission) upon its own motion at the Regular Open Meeting of January 22, 2018. Notice was provided on January 18, 2018, by issuance of the Commission's Open Meeting agenda.

The Commission, having considered the potential effects of the Tax Cuts and Jobs Act of 2017<sup>1</sup> (Tax Cuts and Jobs Act), public comments, statutory limits on the scope of the Commission's authority to adjust prices charged by telecommunications companies, and other applicable Wyoming utility law, FINDS and CONCLUDES:

1. Wyo. Stat. § 37-3-101 requires that "all rates (charged by public utilities) 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. Unjust or unreasonable rates may be adjusted by the Commission after hearing and investigation pursuant to Wyo. Stat. § 37-2-121.

3. Certain prices charged by telecommunications companies for non-competitive essential services are subject to adjustment pursuant to Wyo. Stat. § 37-15-405 upon a finding that they are unjust or unreasonable. These include prices charged by telecommunications companies for noncompetitive essential service that have been increased since July 1, 2006, pursuant to Wyo. Stat. § 37-15-203(f)(iv).

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<sup>1</sup> 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."

4. Applicable taxes are a standard component of public utilities' and telecommunications companies' 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, 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 generally 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 certain 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 on the earnings of each public utility and telecommunications company, 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 be accounted for as a deferred regulatory liability by each public utility directly or indirectly subject to payment of federal income taxes, and by each telecommunications company directly or indirectly subject to payment of federal income taxes whose prices for non-competitive essential services have been increased since July 1, 2006, pursuant to Wyo. Stat. § 37-15-203(f)(iv).

10. Further proceedings are necessary to determine whether any refund or adjustment of rates is warranted.

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

12. These amendments clarify the Commission's initial Order, issued on December 29, 2017, and exclude from the scope of this proceeding those telecommunications companies whose prices are not subject to adjustment by the Commission to account for the effects of the Tax Cuts and Jobs Act.



NOW THEREFORE, IT IS ORDERED:

1. Pursuant to action taken at the Regular Open Meeting on December 28, 2017, and further consideration and action at the Regular Open Meeting on January 22, 2018, beginning January 1, 2018, all public utilities directly or indirectly subject to payment of federal income taxes and all telecommunications companies directly or indirectly subject to payment of federal income taxes whose prices for non-competitive essential services have been increased since July 1, 2006, pursuant to Wyo. Stat. § 37-15-203(f)(iv) shall calculate on an ongoing basis the difference between its federal income tax liability under the laws in effect on December 31, 2017, and those 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 affected public utility and telecommunications company as clarified above, as a deferred regulatory liability, potentially subject to refund.

3. All terms of the Order issued on December 29, 2017, not specifically altered by this Order shall be and remain in full force and effect.

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 January 23, 2018.

PUBLIC SERVICE COMMISSION OF WYOMING

WILLIAM F. RUSSELL, Chairman



(SEAL)

Attest:

Christopher Petrie, Secretary

ROBIN SESSIONS COOLEY, Commissioner