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Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

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RE: ***Arizona Investment Council's Comments in COMMISSION INQUIRY INTO POSSIBLE MODIFICATIONS OF THE FEDERAL INCOME TAX REFORM RATE ADJUSTMENT (DOCKET NO. AU-00000A-17-0379)***

Dear Commissioners and Commission Staff:

Arizona Investment Council ("AIC") appreciates Commissioner Olson's timely letter to affected utilities and his effort to initiate discussion and action addressing the impact of the tax reform passed by Congress and signed into law by the President last December. AIC also appreciates the opportunity to provide comments on the issues to be addressed and offers suggestions on how the Commission could proceed.

As the Commission is aware, the process for changing the rates of utilities regulated by the ACC is often a lengthy one, involving formal filing requirements and litigated proceedings. This is because applications for rate adjustments filed by utility companies typically seek rate *increases*, since current rates are insufficient to fully recover costs or achieve reasonable returns. These cases are usually resolved in 12-18 months.

In this case, however, the expectation is that the tax legislation may decrease utility costs (at least for many utility companies), and the rate adjustment will pass the savings along to customers. As Commissioner Olson stated in his December 20 letter, "the effect of this reduction in tax liability should be passed onto every applicable utility ratepayer in an efficient and expeditious manner."

To achieve swift action on lowering rates so customers can benefit requires the Commission and its Staff to work collaboratively with the utility companies to avoid protracted proceedings and unnecessary delay. It also requires recognition that not all utility companies are in similar positions with respect to earnings and cost recovery and a "one size fits all solution" is likely not appropriate. The tax reform law has numerous provisions that could affect utilities in different industries differently. Additionally, some utility companies that have not received new rates over an extended period-of-time could be underearning, even with the tax changes. Still other companies, like telecommunications companies, face effective competition for their services and are afforded pricing flexibility and should fall outside the Commission's inquiry here.

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THE COMMISSION MUST WORK COLLABORATIVELY WITH THE UTILITIES

While some aspects of the tax reform law can be readily calculated (e.g. lowering the tax rate), other provisions affecting utility tax liability are more complex and require additional effort by accountants and auditors to fully evaluate. Certain provisions of the tax law will increase tax expense for certain utilities, such as the elimination of bonus depreciation and loss of the production tax credit. For water and wastewater utilities, money and property provided by developers as Contributions in Aid of Construction, Advances in Aid of Construction, and hook-up fees are now treated as taxable income. All of these factors will impact revenue requirement and should be examined as a whole when determining when and how to flow the rate effects of the tax legislation to customers.

Arizona Public Service Company's recent application to incorporate the lower tax rates into customer rates through a new tax adjustor mechanism was filed to comply with a provision in its recent rate case Settlement Agreement. The mechanism will allow immediate changes in APS's customers' electric bills to reflect the lower corporate tax rate. APS also proposes a Phase II for incorporating tax effects related to Accumulated Deferred Income Taxes, once those calculations are known. This multi-phase approach is appropriate for APS, which designed the adjustment mechanism as part of its rate case, in consideration of its total cost of service.

However, not all utilities are in the same position as APS. For the rate effects of the tax legislation to be implemented as fast as practicable, the Commission must work collaboratively with utility companies to quantify the tax effects and devise a solution that is appropriate for each utility individually. Some companies may be in a position to implement an adjustment mechanism, some may not. For those companies that express a desire to move quickly in passing through the tax effects, the process for implementing new rates should not be burdensome or time consuming.

UTILITY COMPANIES FACE UNIQUE CHALLENGES WHICH MUST BE CONSIDERED

The ACC regulates some 300 utility companies in several different industries. Each utility company faces unique financial challenges in providing safe and adequate services to customers. Moreover, the tax reform law contains provisions that may affect certain industries differently. For example, as noted previously, water and wastewater providers may be required to pay taxes on Contributions in Aid of Construction (CIAC), which could offset some or all savings from lower tax rates.

Some smaller regulated utilities may not have applied for new rates in several years, even though operating and capital costs may have increased. Coupled with certain aspects of the tax reform law, these unique circumstances could lead to higher rates, not lower rates.

Some companies might be facing earnings pressure when factoring-in the effects of new taxes and how to adjust rates. Some might be in the process of making significant capital expenditures and be experiencing other cost pressures, notwithstanding the lower corporate tax rate. For this reason, the Commission must look at each utility's total financial situation when determining when and how to pass the tax effect of the Tax Cuts and Jobs Act to customers.

Finally, telecommunications providers face a highly competitive market for these services. These companies should be excluded from this inquiry and allowed to use the competitive pricing methods previously authorized by the Commission.

CONCLUSION

The 2017 Tax Cuts and Jobs Act offers the prospect of rate reductions for utility customers. Given that each utility is unique in how the new law will impact it, the Commission should work collaboratively with each utility company to determine the most appropriate way to implement any rate adjustments. In moving forward, the Commission must also examine the unique financial circumstances of individual companies and provide flexibility in alternative approaches offered by the utilities.

Very truly yours,

Gary Yaquinto
President & CEO

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