

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH  
Docket No. M-100, Sub 148**

In the Matter of	)	
	)	INITIAL COMMENTS
The Federal Tax Cuts and Jobs Act	)	OF THE
	)	ATTORNEY GENERAL'S
	)	OFFICE

The North Carolina Attorney General's Office (AGO) respectfully submits these initial comments in response to the Commission's January 3, 2018, *Order Ruling That Certain Components Of Certain Public Utility Rates Are Provisional As Of January 1, 2018, Initiating A Generic Proceeding, And Requesting Comments.*

1. As the Commission is aware, the recently enacted Federal Tax Cuts and Jobs Act reduces the federal corporate income tax rate from 35% to 21% effective for taxable years beginning after December 31, 2017, and the tax reduction has an immediate and favorable impact on the cost of providing service for investor-owned public utilities in North Carolina.

2. The Commission, in its January 3, 2018 Order, has notified North Carolina public utilities that, effective January 1, 2018, the federal corporate income tax expense component of all existing rates and charges shall be billed and collected on a provisional basis, with deferred accounting pending investigation, as detailed in the Commission's Order.

3. The Commission has requested that the major electric, natural gas, and water utilities in North Carolina file comments on the impact due to the change to the federal income tax rate on their North Carolina jurisdictional cost of

providing utility service, including details provided item by item before and after the tax rate reduction. In addition, utilities are asked to explain how they propose to account for and treat excess deferred income taxes that were accrued in earlier years under higher federal tax rates. Initial comments were requested from the Public Staff and other parties were also encouraged to comment.

4. The Attorney General's Office recommends that the Commission exercise its rulemaking authority in this proceeding to order utilities to flow through these federal tax reductions to consumers as soon as possible in the form of rate decreases.

5. Utility rates have been established by the Commission assuming that the utility pays a 35% federal corporate income tax rate, and that tax rate has changed to 21%, a substantial decrease. The impact affects investor-owned public utilities, generally, and to the extent that utility rates are not adjusted to reflect the new, lower federal income tax rates, utilities would receive large windfalls.

6. The Commission has authority to flow through the effect of tax changes to consumers in the form of rate reductions by ordering appropriate adjustments in a rulemaking proceeding, and did so when federal income tax rates for corporations were decreased from 46% to 34% effective July 1, 1987. *State ex rel. Utilities Com'n v. Nantahala Power & Light Co.*, 326 N.C. 190, 388 S.E.2d 118 (1990).

7. For the foregoing reasons, the Commission should order utilities to flow through these federal tax reductions to consumers as soon as possible in the form of rate decreases.

Respectfully submitted, this the 1<sup>st</sup> day of February, 2018.

JOSHUA H. STEIN  
Attorney General

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#### **CERTIFICATE OF SERVICE**

The undersigned certifies that she has served a copy of the foregoing INITIAL COMMENTS OF THE ATTORNEY GENERAL'S OFFICE upon the parties of record in this proceeding and their attorneys by electronic mail.

This the 1<sup>st</sup> day of February, 2018.

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Margaret A. Force  
Assistant Attorney General