

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. M-100, SUB 148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter Of)	
)	
The Federal Tax Cuts and Jobs Act)	INITIAL COMMENTS
)	OF FRONTIER NATURAL
)	GAS COMPANY
)	

Frontier Natural Gas Company, ("Frontier or the "Company"), through counsel and pursuant to the *Order Ruling That Certain Components of Certain Utility Rates are Provisional as of January 1, 2018, Initiating a Generic Proceeding and Requesting Comments* issued by the North Carolina Utilities Commission ("Commission") in this docket on January 3, 2018 ("January Order"), respectfully submits its initial comments to the Commission questions as requested in the January Order.

Background

On December 22, 2017, President Donald J. Trump signed into law the Tax Cuts and Jobs Act ("Federal Tax Cuts and Jobs Act"). Among other provisions that are contained in this tax reform are provisions that will upon implementation reduce the tax rate of most, if not all, investor-owned public utilities providing services in North Carolina. Specifically, the new federal legislation reduces the Federal corporate income tax rate from 35% to 21%, effective for taxable years beginning after December 31, 2017. This reduced tax rate when effectuated will have an immediate

and largely favorable impact on the cost of providing public utility services to consumers in North Carolina. In the January Order, the Commission requested that comments address all aspects of the Federal Tax Cuts and Jobs Act that are relevant to the particular company and/or interested party submitting comments.

Comments

Frontier is in a unique situation with regard to the provision of natural gas sales and distribution service in North Carolina at rates approved by this Commission. When Frontier was established and granted the necessary certification to serve customers in Ashe, Surrey, Watauga, Wilkes, Yadkin, and Warren Counties, the initial rates established were not based on a cost of service. At the time initial rates were approved for Frontier, the Company had not installed the necessary distribution system to attach customers, but needed to have rates established that were competitive with other available fuels. As the Commission noted in Docket No. G-38, Sub 1, “It is more accurate to describe the rates to be established in this proceeding as initial franchise rates, recognizing that they are based upon estimates of construction costs, expenses, revenues, and financing costs and upon a determination that they are competitive with alternative fuels.”¹

Pursuant to numerous intervening Commission orders and settlements, Frontier continues to operate under the same initial franchise rates with the exception of the Gross Receipts Tax removed from margin rates and recovered through a surcharge which kept the company whole in 1999, and a reduction in residential and

¹ *Order Awarding Certificate and Approving Rates for Warren County* Docket No. G-38, Sub 1 (March 27, 1997) at p. 10.

small commercial rates as agreed to in a stipulation when Frontier was acquired by Energy West Inc. in 2007. Frontier has never undergone a general rate case proceeding under G.S. 62-133 and has never had the Commission determine cost-of-service based rates for the services it provides. There has been no rate case where investment, expense, capital structure, return on equity, among other rate case items, have been considered or acted on by this Commission.

In the 2013 Docket M-100 Sub 138 – Implementation of House Bill 998 – An Act to Simplify NC Tax Structure & to Reduce Individual & Business Tax Rates, Public Staff acknowledged the unique history and status of Frontier when it acknowledged that Frontier “provides gas service pursuant to rates established in connection with the granting of its certificate, not rates established in a general rate case based on specific items of cost.”² This acknowledgement provided the foundation for a Public Staff recommendation that “the Commission not adjust Frontier’s rates as a result of HB 998.”³ With respect to the issue of whether Frontier should be required to flow-through the benefits of reductions in state corporate income tax rates to customers, the Commission ultimately found that “[t]he Commission agrees with the Public Staff, and, therefore, finds it appropriate to exclude Frontier from further consideration by the Commission in this docket.”⁴ The Commission’s ruling effectively exempted Frontier from any obligation to flow-through the State corporate tax reductions adopted in HB 998 on the grounds that its

² See Reply Comments of the Public Staff, Docket No. M-100, Sub 138 (December 16, 2013) at p. 10.

³ *Id.* at p. 11.

⁴ *Order Addressing The Impacts of HB 998 on North Carolina Public Utilities*, Docket No. M-100, Sub 138 (May 13, 2014) at p. 22.

rates were not cost-based in the first instance, therefore, it made little sense to compel the adoption of a cost-based adjustment to those rates. The same logic would compel a similar result in this docket.

Frontier's Response to Item 1:

Information on the estimated annual cost-of-service effect, on an item-by-item basis, of the changes to the levels of income tax expenses expected due to the enactment of the Federal Tax Cuts and Jobs Act. Please show the amount of each change and the related levels of tax expense before and after each change. Such information is to be presented on an NCUC jurisdictional basis (e.g., on a NC retail or NC intrastate basis, as appropriate);

In the absence of a prior Frontier rate case, there is no specific rate case detail to base a response on. Frontier respectfully requests that it be allowed to continue its existing rates that have been in effect with minimal changes for 20 years. The existing rates continue to be competitive and customers are receiving benefits from gas service as we expand and attach additional load.

Frontier's Response to Item 2:

Provide a complete detailed narrative explanation of how the Utility proposes to account for and treat excess deferred income taxes that were accrued in earlier years under Federal corporate income tax rates that were in excess of those set forth in the Federal Tax Cuts and Jobs Act.

The excess deferred income taxes will be treated in a manner specified by the IRS rules and regulations. Specifically, Frontier will amortize the excess over the remaining life of the assets.

WHEREFORE, Frontier respectfully requests that the Commission accept its initial comments in this proceeding as set forth above and ultimately grant relief in this docket consistent with those comments.

Respectfully submitted this 1st day of February, 2018.

Frontier Natural Gas Company

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached is being served this date upon all of the parties to this docket electronically or by depositing a copy of the same in the United States Mail, First Class Postage Prepaid, at the addresses contained in the official service list in this proceeding.

This the 1st day of February, 2018.

/s/ Richard K. Goley
Richard K. Goley