

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Emera Maine

)
) **Docket No. ER20-1736-000**
)

**MOTION TO AMEND AND COMMENTS
OF THE MAINE PUBLIC UTILITIES COMMISSION**

Pursuant to Rules 211 and 215 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission¹ (“Commission”), 18 C.F.R. §§ 385.211 and 385.215 (2020), the Maine Public Utilities Commission (“MPUC”) respectfully requests leave to amend its Notice of Intervention in the above captioned proceeding.

On May 1, 2020, Emera Maine filed proposed changes (“Emera Compliance Filing”) to its Maine Public District (“MPD”) Open Access Transmission Tariff (“OATT”) to comply with the requirements of Order No. 864.² On May 22, 2020, the MPUC filed a Notice of Intervention in this proceeding. Through this Motion to Amend, the MPUC provides comments on the Emera Compliance Filing.

I. MOTION TO AMEND

The MPUC respectfully requests leave to amend its Notice of Intervention to include the comments below. Due to the requirement to deliberate positions taken by the MPUC in open session and the need to follow the state process to retain consultants to examine this filing, the

¹ 18 C.F.R. § 385.214 (2020).

² *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 (2019), *order on reh’g*, Order No. 864-A, 171 FERC ¶ 61,033 (2020).

MPUC was not able to deliberate a position before the intervention date established in this matter. This motion to amend will not prejudice Emera Maine or any other party and the comments included herein will assist the Commission in determining whether Emera's Compliance Filing meets the requirements of Order No. 864.

II. ORDER NO. 864

In Order No. 864 the Commission directed public utilities to revise their transmission formula rates to account for the 2017 Tax Cuts and Jobs Act ("TCJA") and other future tax rate changes that impact Accumulated Deferred Income Taxes ("ADIT"), revise those transmission formula rates to account for changes caused by the [TCJA]," and other future tax rate changes that impact ADIT.³

Order No. 864 provides that the workpapers added to OATTs should show five categories of information:

(1) how any ADIT accounts were re-measured and the excess or deficient ADIT contained therein; (2) the accounting for any excess or deficient amounts in Accounts 182.3 (Other Regulatory Assets) and 254 (Other Regulatory Liabilities); (3) whether the excess or deficient ADIT is protected or unprotected; (4) the accounts to which the excess or deficient ADIT are amortized; and (5) the amortization period of the excess or deficient ADIT being returned or recovered through the rates.⁴

III. COMMENTS

The MPUC has examined Emera's May 1 filing and has discovered several instances in which Emera's Compliance filing does not fully comport with the requirements in Order No. 864. These deficiencies are discussed further below.

³ The discussion herein also uses the term "EADIT" to refer to excess ADIT.

⁴ See *Public Utility Transmission Rate Changes to Address Accumulated Deferred Income Taxes*, Order No. 864, 169 FERC ¶ 61,139 at P 52 (2019) ("Order 864") Information within the various categories listed above is referred to herein by its category number, e.g. "Category 2 Information."

A. Emera Maine’s Proposed ADIT Worksheet Does Not Show How Accumulated Deferred Income Taxes Were Remeasured as a Result of the TCJA.

Emera Maine has provided ADIT totals, by item, before and after the TCJA but provided no analysis to show how those ADIT totals were measured or otherwise derived in relation to the Company’s book-tax differences. This treatment provides less transparency compared to what has been provided by some other utilities and may fall short of what is required under Order No. 864.

Moreover, this approach leaves unanswered questions as to whether the various ADIT items were remeasured using a consistent methodology. For example, in Ex.B-1, WP DTA(L) – Detail, the \$(877,750) EADIT at line 42, col. (c) represents 26.558% of the pre-TCJA ADIT. However, the \$(12,393,421) EADIT at line 3, col. C represents 27.841% of the pre-TCJA ADIT. In addition, the EADIT associated with other items appears to have been measured at other rates, including but not limited to 31.332% and 40%. The worksheets should explain the methodology used to remeasure EADIT to ensure that the Compliance Filing is consistent with Order No. 864.

B. Emera Maine’s ADIT Worksheet Does Not Explain Whether Each EADIT is Accounted for in Account 182.3 (Other Regulatory Assets) or Account 254 (Other Regulatory Liabilities).⁵

Emera Maine states that Category 2 information is provided on WP DTA(L) Detail in col (d). However, col (d) has not been populated for many ADIT items. Furthermore, with respect to the items for which input has been provided, Emera Maine has simply provided “yes,” which does not indicate to which account the item has been recorded. For clarity and transparency, col (d) should be populated to clearly show the account to which each item has been recorded, either Account 182.3 or Account 254.

⁵ See Order No. 864 at P 65.

C. Emera Maine’s ADIT Worksheet Does Not Explain Whether Each EADIT was Protected or Unprotected.⁶

Emera Maine’s worksheet indicates that many EADIT items are “mixed” with respect to whether the item is protected versus unprotected. Indicating that EADIT items are “mixed” does not meet the requirements of Order No. 864. Order No. 864 requires utilities to identify each specific source of the excess or deficient ADIT, *classify the excess or deficient ADIT as protected or unprotected*,² and list the proposed amortization period associated with each classification or source in their proposed worksheets, such that sufficient detail is provided to verify excess and deficient ADIT resulting from the TCJA and future rate changes.⁷ Simply, identifying items as “mixed” does not provide any information about whether the stated amortization period is appropriate because the amortization period relates to whether an ADIT item is protected or unprotected.

D. Emera Maine’s ADIT Worksheet Provides No Information to Identify the Account to Which Each EADIT is Amortized.⁸

Emera Maine’s ADIT worksheet does not identify the account(s) to which each EADIT is amortized. Emera Maine merely provides, as part of its Transmittal letter, “EADIT is amortized by Emera Maine to Accounts 254 and 409.”⁹ Emera Maine should modify the ADIT tracking workpapers to include for each EADIT the account or accounts to which each item is amortized.

Moreover, EADIT is typically amortized to Account 410.1 (Provisions for deferred income taxes, utility operating income), and Account 411.1 (Provision for deferred income taxes

⁶ See Order No. 864 at P 52.

⁷ *Id.* at P 65

⁸ *Id.*

⁹ See Transmittal at p. 6.

– Credit, utility operating income). Emera Maine should provide additional explanation for why EADIT is being amortized to Account 254 (Other Regulatory Liabilities) and Account 409 (Reserved).¹⁰

E. Emera Maine’s Maine Public District ADIT Tracking Worksheet Doesn’t Provide “Category 5 Information” on the Amortization Period Used for Each EADIT And Contains an Error.

Emera Maine contends information on the amortization period used for each EADIT is provided on WP DTA(L) Detail, at col. (f). As an initial matter, as shown in Attachment B1 – WP Deferred Tax Asset/Liability Detail, Emera Maine has seemingly deleted column (f) in error.¹¹ More substantively, Emera Maine generically provides for many EADIT items that identify the amortization period as 10 yr/ARAM¹². The 10 yr/ARAM identification could mean that the amortization period is 10 years (which applies to unprotected assets) or a specific period under ARAM. Thus, simply providing the description, “10 yr/ARAM,” does not comport with the requirement in Order No. 864 to state the specific amortization period used for each EADIT item identified under its ADIT worksheet.

IV. CONCLUSION

For the reasons stated above, the MPUC respectfully requests permission to amend its Notice of Intervention with the comments discussed above.

¹⁰ Under 18 CFR Part 101 (“Uniform System of Accounts”), Account 409.1 (Income Taxes, Utility Operating Income), Account 409.2 (Income Taxes, Other Income and Deductions), and 409.3 (Income Taxes, Extraordinary Items) are used to account for the current income taxes. Account 409 is “Reserved.”

¹¹ See Attachment B1 – WP Deferred Tax Asset/Liability Detail, column (g) (Amortization Period). This column should likely be identified as column (f).

¹² “ARAM” is the acronym for Average Rate Assumption Method for determining the amortization period for protected ADIT.

Dated: May 28 , 2020

Respectfully submitted,

/s/ Lisa Fink

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document either by first class mail or electronic service upon each party on the official service list compiled by the Secretary in this proceeding.

Dated at Hallowell, Maine, this 28th day of May, 2020.

/s/ Lisa Fink

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