COMMENTS OF THE MAINE PUBLIC UTILITIES COMMISSION ON EMERA MAINE RESPONSE TO DEFICIENCY LETTER

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal
Energy Regulatory Commission(1) (“Commission”), and the Commission’s June 13, 2018
Combined Notice of Filings #1, the Maine Public Utilities Commission (“MPUC”) hereby files
these comments in response to Emera Maine’s June 13, 2018 response (“Response”) to the
Deficiency Letter (“Deficiency Letter”) issued on May 14, 2018. As discussed below, Emera
Maine’s Response demonstrates the need to set this matter for hearing and settlement.

I. COMMENTS

The first question in the Deficiency Letter asked whether Emera Maine proposes to
recover any deficient accumulated deferred income tax (ADIT) amounts arising from the Tax
Cuts and Jobs Act of 2017 and if so, how recovery of these amounts will be reflected in the
respective formula rates. In response, Emera Maine generally describes how it intends to recover
deficient ADIT (and net that against excess ADIT) but leaves open the timeframe for taking
action and appears to suggests that it will await Commission guidance on how refunds should be
implemented.

The Response provides very little information and no work papers that would assist the
Commission and the parties in determining whether Emera Maine’s proposed tariff changes are
just and reasonable. Further, Emera Maine’s proposed open-ended time frame for making critical determinations regarding treatment of ADIT in the formula rate gives it unfettered discretion to decide when it will complete its analysis and implement refunds.¹

Specifically, Emera Maine’s response is so general that it is impossible to determine how and when the recovery of excess or deficient ADIT will be reflected in the formula and refunds will be implemented. Because Emera Maine has failed to show that its proposal is just and reasonable this matter should be set for hearing and settlement judge procedures.

In response to the third question in the Deficiency Letter, Emera Maine states that it is in the process of conducting an analysis of its excess/deficient ADIT amount resulting from the Tax Cuts and Jobs Act of 2017, and as part of doing so will identify protected and unprotected elements. Emera Maine also states that this analysis will determine whether its records are sufficient to facilitate application of the Average Rate Assumption Method to Protected elements and, if so it will use such method. Finally, Emera Maine states that it intends to amortize unprotected excess/deficient ADIT amounts over a ten-year period.

Emera Maine’s Response indicates that it plans to make decisions in the future that would address the questions in the Deficiency Letter. However, this response is not sufficient to determine that its proposal is just and reasonable. The Commission has set for hearing and settlement judge procedures, Tax Cuts and Jobs Act-related filings from other utilities that

¹ While Emera appears to suggest that it may wait for Commission guidance before submitting its analysis, there is no requirement for it to do so as is demonstrated by the filings of other utilities in the past several months. See, e.g., Potomac Electric Company filing on February 23, 2018, Docket No. ER18-905-000; Entergy Services filing on March 30, 2018, in Docket No. ER18-1247 and System Energy Resources filing on March 27, 2018 in Docket No. ER18-1182-000. Further, the Deficiency Letter does not suggest any such requirement. Finally, the Commission has an interest in ensuring that “customers obtain relief from the reduced federal corporate income tax rate in a timely manner.” Central Maine Power Company, 163 FERC ¶ 61,228 (2018).
contained more analysis and support than Emera Maine’s. Here, Emera Maine’s filing, including its Deficiency Response, contains nothing upon which a just and reasonable determination can be made and lacks any analysis or cost support. Accordingly, in order to give parties and the Commission the ability to weigh in on these decisions and to ensure a timely resolution of this matter so that ratepayers can promptly receive the benefits of the lower tax rate, this matter should be set for hearing and settlement.

With regard to Emera Maine’s plan to amortize over a ten-year period unprotected excess/deficient ADIT amounts, the amortization period has not been shown to be just and reasonable. While for unprotected assets, there is no requirement that the amortization period be the same as the life of the asset, there must be some reasonable basis for selecting an amortization period. The amortization period for unprotected assets should be developed through hearing or settlement judge procedures.

In response to the fourth question in the Deficiency Letter, Emera states that it is in the process of re-evaluating whether proration of ADIT for purposes of the BHD Formula rate is appropriate. If Emera Maine determines that proration of ADIT for purposes of the BHD Formula rate is not appropriate, it should propose an amendment to its filing to eliminate that proposal.

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2 See, e.g., System Energy Resources, Inc., 163 FERC ¶ 61,164, (2018) (the Commission determined that the utility’s filing had not been shown to be just and reasonable where the filing lacked support for (1) the calculation of the dollars of protected ADIT and unprotected ADIT and (2) the categorization of whether the ADIT related to protected or unprotected assets).

3 The MPUC notes that utilities have proposed an amortization period as short as seven months. Id.
II. CONCLUSION

Based on the discussion above and the MPUC protest filed in this matter, the MPUC respectfully requests that this matter be set for hearing and settlement judge procedures.

Dated: July 2, 2018

Respectfully submitted,

/s/ Lisa Fink

Lisa Fink, Esq.
State of Maine Public Utilities Commission
101 Second Street
Hallowell, ME 04347
Mailing Address: 18 State House Station
Augusta, ME 04333
(207)287-1389
Lisa.fink@maine.gov
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 2nd day of July, 2018.

/s/ Lisa Fink

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Lisa Fink
State of Maine Public Utilities Commission
101 Second Street
Hallowell, ME 04347
Mailing Address: 18 State House Station
Augusta, ME 04333-0018
(207) 287-1389 (telephone)
lisa.fink@maine.gov