UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Emera, Maine and ISO New England Inc.  )  Docket No. ER18-1213-000

Emera Maine  )  Docket No. ER18-1244-002

(Not Consolidated)

PROTEST OF THE MAIN PUBLIC UTILITIES COMMISSION, THE MAINE OFFICE OF PUBLIC ADVOCATE, AND THE MAINE CUSTOMER GROUP TO EMERA MAINE’S RESPONSE TO DEFIENCY LETTER

Pursuant to Rule 211 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.211 and the Commission’s September 10, 2018 Combined Notice of Filings # 1, the Maine Public Utilities Commission (“MPUC”), the Maine Office of Public Advocate (“OPA”) and the Maine Customer Group (“MCG”) file this Protest to Emera Maine’s September 10, 2018 Response to Deficiency Letter (“Deficiency Response”). For the reasons discussed below, the Deficiency Response fails to demonstrate that a ten-year amortization period for unprotected excess/deficient Accumulated Deferred Income Tax (“ADIT”) is just and reasonable.

I. BACKGROUND

ER18-1244-000.\textsuperscript{1} The MPUC filed comments in both dockets outlining the additional information that would be needed to determine whether the Emera Tax Change Filings are just and reasonable and asked that these matters be set for hearing and settlement judge procedures. The Maine Customer Group (MCG) protested the filing in Docket No. ER18-1244, also outlining the need for additional information to be included in Emera’s tariff. On May 14, 2018, the Commission Staff sent a deficiency letter (“Deficiency Letter”) addressed to Emera Maine regarding its filing in both dockets. The Deficiency Letter requested information similar to that requested by the MPUC and MCG in their comments. On June 13, 2018, Emera Maine made a filing (“Deficiency Response”) in response to the Deficiency Letter. On June 21, 2018 MCG responded to the Deficiency Response, reiterating the concern that additional work papers were needed to evaluate the inputs to be included in the Formula Rate and contending that the unprotected assets have amortization rates more properly in the 3-5 years range rather than the 10-year range proposed by Emera. On July 2, 2018, the MPUC responded to the Deficiency Response.\textsuperscript{2} On July 17, 2018, Emera Maine filed an Answer to the MPUC and MCG comments, and the MPUC and the MCG separately filed Requests to Answer and Answers to Emera Maine’s Answer. The Deficiency Letter issued on August 10, 2018 requests a specification of the nature of the underlying assets associated with Emera Maine’s unprotected excess/deficient ADIT

\textsuperscript{1} These rate change proposals are collectively referred to herein as the “Emera Tax Change Filings.”

\textsuperscript{2} Although the MPUC filed a response in both dockets, FERC accepted the MPUC comments in only Docket No. ER18-1244-000, notifying counsel that the comments in Docket No. ER18-1213 were duplicative.
amounts and also asks Emera Maine to explain why its proposal to use an amortization of period of ten years for unprotected excess/deficient ADIT amounts is just and reasonable.

II. PROTEST

A. Emera’s Proposed Ten-Year Amortization Period for Unprotected ADIT is Not Supported by Commission Precedent and Has Not Been Shown to Be Just and Reasonable

The Deficiency Letter required Emera Maine to explain why Emera Maine’s proposal to use an amortization period of ten years for unprotected ADIT is just and reasonable. The Deficiency Response bases its justification of its proposed ten-year amortization period on a misreading of *Midcontinent Indep. Sys. Oper., Inc & Ameren Illinois Co.*

Emera Maine suggests that this case supports allowing a utility to apply the same amortization *period* to protected and unprotected assets. Emera then goes on to assert that the underlying assets upon which protected ADIT is based have a longer remaining life than ten years and that given Emera’s interpretation of *Midcontinent*, “it stands to reason that it would also be just and reasonable for Emera Maine to amortize unprotected excess/deficient ADIT amounts over a period shorter than that used for protected excess/deficient ADIT amounts.”

Emera Maine’s argument rests on a mistaken interpretation of *Midcontinent*. In *Midcontinent*, the Commission allowed the utility to amortize the non-protected excess ADIT over the remaining net life of the associated assets which was the same *methodology* used for protected ADIT. The case does not support the proposition that the same amortization *period* can be used for both protected and unprotected ADIT. Thus, *Midcontinent* provides no support for Emera Maine’s proposal to use a ten-year amortization period for unprotected ADIT amounts.

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3 163 FERC ¶ 61,163 (2018).

4 Deficiency Response at 2.
amortization period for unprotected ADIT, and Emera Maine has failed to demonstrate that its proposal is just and reasonable.

B. Emera Maine’s Assertion that it Lacks Detailed Information on the Remaining Lives of Assets Associated with Unprotected ADIT Confirms that this Matter Should Be Set for Hearing and Settlement Judge Procedures

In response to the Deficiency Letter’s request that Emera Maine “further specify the nature of the underlying assets associated with these Emera Maine’s unprotected excess/deficient ADIT amounts,” Emera Maine generally describes what ADIT liabilities and assets “can include” but does not identify any assets specific to Emera Maine. Instead, it states that it is compiling such information which it expects to have completed by September 30, 2018. Emera then states that, even though it has not completed its analysis, it “lacks detailed information on vintage and/or remaining asset/liability lives.” Response at 2. Emera further suggests that based on its claim that it lacks information, the Commission should assume that the assets have a depreciable life of 40 years. It then asks the Commission to make further assumptions:

Lacking data to the contrary, it is reasonable to assume that utility assets are halfway through their depreciable lives and, thus, the ADITs associated with them have been accrued over 20 years. It would be just and reasonable in Emera Maine’s view to amortize these ADITs over the same period that (one assumes) they have been collected—namely 20 years. A shorter amortization period is similarly just and reasonable because it will result, all things being equal, in lower rates for ratepayers than amortization over 20 years. Accordingly, an amortization of unprotected excess/deficient ADITs over 10 years is just and reasonable as well.

Emera Maine has provided no support for its assertion that it lacks information or for any of the other assumptions it has made. These unsupported statements provide additional reasons to those outlined in the earlier MPUC and MCG pleadings to set this matter for hearing and settlement so that the intervenors can conduct discovery on these matters.
Providing the Commission with a series of unsupported assumptions fails to make any showing that the ten-year amortization period for unprotected assets is just and reasonable.\(^5\)

**III. CONCLUSION**

Based on the discussion above and the MPUC and MCG protests and answers filed in this matter, the MPUC, the OPA, and MCG respectfully request that the Commission accept the March 30 filing in Docket No. ER18-1244 and the March 29 filing in Docket No. ER18-1213 and allow the tariff changes to go into effect on June 1, 2018, subject to refund, and set these matters for hearing and settlement judge procedures.

Dated: October 1, 2018

Respectfully submitted,

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\(^5\) Emera Maine’s claim that a shorter than 10-year amortization period will result in rate shock is impossible to evaluate in the absence of any information about the amount of unprotected/excess ADIT amounts.
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 1st day of October, 2018.

/s/ Lisa Fink

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