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January 16, 2018

The Honorable Joseph C. Reynolds, Chairman
The Honorable Ann C. Pongracz, Commissioner
The Honorable Bruce H. Breslow, Commissioner
Public Utilities Commission of Nevada
1150 East William Street
Carson City, NV 89701

Re: Request for Investigation regarding Large Investor Owned Utilities to Capture Tax Savings for Nevada Ratepayers

Dear Mr. Chairman and Commissioners:

On December 22, 2017, President Trump signed the *Tax Cuts and Jobs Act*, which reduces the federal income tax rate for investor-owned utilities from 35 to 21 percent. Unless the Commission reduces the Nevada Investor Owned Utilities (IOU) revenue requirement tax rate from 35 percent to the effective rate of 21 percent, Nevada utility ratepayers of the large IOU¹ will overpay for their electric, water and gas service by tens of millions of dollars.

The *Tax Cuts and Jobs Act* raises two primary concerns with respect to overpayment by ratepayers: (1) the level of corporate income tax expense in existing rates for IOUs is now over-inflated, and (2) the balance of excess deferred income taxes recovered from customers will result in an unexpected windfall to the utilities at the benefit of ratepayers.

The enactment of the *Tax Cuts and Jobs Act* has spurred utility commissions and regulators across the United States to take action to address the reality that the federal corporate income tax rate has been reduced and consumers will potentially overpay for utilities. For instance, PacifiCorp², has been subject to regulatory action in California, Oregon, Utah and Washington State. Specifically, in California and Washington State, PacifiCorp itself requested a tracker of the full impact of the tax act.³ In Oregon, the Commission Staff has requested that

¹ Large investor owned utilities having the greatest impact to Nevada ratepayers are those with \$2 million or more in revenues.

² PacificCorp operates as Pacific Power in Oregon, Washington and California, and as Rocky Mountain Power in Utah. PacificCorp is also a subsidiary of Berkshire Hathaway Energy, as is NV Energy.

³ *In the Matter of the Application of PacifiCorp (U 901 E) for Approval of a Tax Reform Memorandum Account Effective January 1, 2018.* (Application No. A1712019).

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deferred amounts be recorded in FERC Account 254, Other Regulatory Liabilities. In Utah, the Utah Association of Energy Users commenced an action before the Utah Commission for accounting orders to defer accounting treatment of the benefits associated with the tax act.

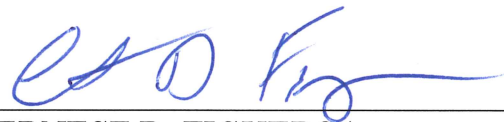
Many state and territorial commissions have opened and continue to open dockets to address the effects of the *Tax Cuts and Jobs Act*; these include: Arizona, the District of Columbia, Indiana, Kentucky, Maine, Michigan, Minnesota, Montana, New Hampshire, North Carolina, Ohio, West Virginia, and Wyoming to name a few.

The last major federal tax reform occurred in 1986, and at that time most utility regulators eventually moved for recalculation of revenue requirement to reflect the decrease in the federal corporate tax rate. *See, e.g. Reduction in Federal Income Tax Rates*, D.P.U. 87-21-A, p.5 (1987), cited in D.P.U. 17-05 (Mass).

Accordingly, the Bureau of Consumer Protection is seeking that the Commission use its plenary powers over rates to open an investigatory docket into the just and reasonableness of all applicable rates recovered by the large IOUs with respect to the revenue requirement for federal corporate income taxes similar to what is being done in numerous other state jurisdictions, and take any other necessary steps to ensure Nevada ratepayers timely receive the benefits as a result of this process. Thank you for your consideration of this very important matter.

Sincerely,

NEVADA BUREAU OF
CONSUMER PROTECTION



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EDF/pes

cc: NV Energy
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