The Tax Cuts and Jobs Act (TCJA) Benefits Electric Companies—and Electricity Customers

The Edison Electric Institute (EEI) is the association that represents all U.S. investor-owned electric companies. EEI's member companies provide electricity to nearly 250 million Americans and operate in all 50 states and the District of Columbia. The electric power industry is one of the most capital-intensive industries in the country, currently investing more than $170 billion each year to make the energy grid stronger, smarter, cleaner, more dynamic, and more secure.

EEI's member companies are highly regulated at the state level by state public utility commissions. Under this model, regulators determine or approve the *Revenue Requirement* electric companies are authorized to collect from customers based on (1) the electric company's "cost of service," which is intended to provide the electric company with recovery of its expected costs (including federal income taxes) plus (2) a reasonable return on its invested capital or rate base. Electric companies and regulators must constantly balance reliability and affordability when considering cost impacts to customers.

The Tax Cuts and Jobs Act (TCJA) benefits electric companies—and their customers—by:

- Reducing the corporate income tax rate
- Preserving interest expense deductibility
- Preserving parity between the tax rates on capital gains and dividends

Corporate Income Tax Rate Reduction

One of the most significant costs that electric companies include in their cost of service is their federal income tax expenses. Differences in regulatory and tax rules require that electric companies expense items at different times for regulatory accounting purposes and for federal income tax purposes, largely because of how depreciation timing differs for tax versus accounting purposes. This depreciation disparity exists because regulators spread out costs over many years to make them more affordable for customers, while tax policy has provided more rapid cost recovery to provide incentives to invest.

When the TCJA lowered the corporate tax rate from 35 percent to 21 percent, EEI member companies already had collected tax expense from customers at the 35-percent rate, but the payment was deferred to a period with a 21-percent rate. As a result, EEI member companies were able to defer taxes in excess of what they needed to pay to the federal government. These savings—a total of about $62 billion—are distributed back to customers in the form of lower electricity rates over time.

In addition, going forward, the income tax expense passed through to customers significantly decreased when the rate was reduced to 21 percent, resulting in more savings for customers. To date, more than $16 billion has already flowed back to customers over the period of 2018 to 2023, with $46 billion remaining to flow back to customers.

Interest Expense Deduction

Another significant cost-of-service expense that is included in an electric company's *Revenue Requirement* is the interest expense it pays on borrowings. The electric power industry is one of the most creditworthy and capital-intensive industries in the United States—making more than $170 billion in capital expenditures in 2023[1] alone.

EEI member companies are able to carry significant debt at favorable interest rates to the benefit of their customers. The TCJA included a general limitation on a taxpayer's business interest deduction (section 163 (j)) with an important narrow exception for regulated public utilities (section 163(j)(7)(A)(4)).

EEI member companies incur a high amount of interest expense, and it is critical to preserve the ability to deduct interest to help manage customer bills. Any limitation to the deductibility of interest on corporate debt would increase electric companies' cost of capital, which would be borne by customers. As such, maintaining full deductibility of interest for regulated electric companies is absolutely essential for customer affordability.

Parity of Tax Rates on Capital Gains and Dividends

The TCJA recognized the importance of parity of tax rates for capital gains and dividends. Since electricity is universally needed and has a low elasticity of demand, regulated electric companies are able to produce steady income and cash flow, which enables EEI member companies to pay consistent dividends to attract the capital needed for investments in grid resilience and to meet growing demands for electricity.

As a rate-regulated industry, electric companies generally do not produce large capital gains for shareholders, and maintaining tax rate parity between capital gains and dividends is essential. Without parity, federal tax policy would distort investment decisions by favoring growth stocks over dividend-paying investments and would make it more difficult and costly for regulated electric companies to raise needed capital. Many corporations would be discouraged from distributing dividends to their shareholders, hurting investors and distorting the free allocation of capital through market forces. Ultimately, seniors and others who invest in dividend-paying companies and who rely on dividend income from regulated electric companies would be harmed.

Conclusion

The industry worked closely with lawmakers on TCJA, and we continue to see the positive impacts this legislation has had on customer affordability. To build on this progress, it is critical that lawmakers continue to ensure a lower corporate rate, maintain business interest deductibility, and retain parity for the tax rates on capital gains and dividends.

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EEI
Edison Electric Institute
701 Pennsylvania Avenue, NW
Washington, D.C. 20004-2696
202-508-5000 | www.eei.org

[1] EEI Finance Department