ORDER ON COMPLIANCE

(Issued February 23, 2022)

1. On May 22, 2020, as amended on April 23, 2021, PJM Interconnection, L.L.C. (PJM), on behalf of American Electric Power Service Corporation and its affiliates, AEP East Operating Companies¹ and AEP East Transmission Companies² (collectively,


AEP Companies) submitted proposed revisions to their transmission formula rate templates (Formula Rates) as contained in Attachment H-14B and Attachment H-20B,\(^3\) of the PJM Open Access Transmission Tariff (Tariff), to comply with the requirements of Order No. 864 – a final rule addressing excess and deficient accumulated deferred income taxes (ADIT) resulting from tax rate changes.\(^4\) As discussed below, we find that the AEP Companies’ proposed revisions partially comply with the requirements of Order No. 864. Accordingly, we accept AEP Companies’ proposed Tariff revisions, effective January 27, 2020, and direct AEP Companies to submit a further compliance filing within 60 days of the date of this order.

I. Background

A. ADIT

2. ADIT arises from timing differences between the method of computing taxable income for reporting to the Internal Revenue Service (IRS) and the method of computing income for regulatory accounting and ratemaking purposes. As a result of the Tax Cuts and Jobs Act of 2017 (Tax Cuts and Jobs Act) reducing the federal corporate income tax rate from 35% to 21%, a portion of an ADIT liability that public utilities collected from customers will no longer be due to the IRS and is considered excess ADIT.

B. Order No. 864

3. In Order No. 864, the Commission focused on ensuring that transmission formula rates properly address excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and any future tax rate changes consistent with the Commission’s regulations regarding tax normalization\(^5\) and in a transparent manner.\(^6\) The Commission required public utility transmission providers with transmission formula rates under an Open Access Transmission Tariff, a transmission owner tariff, or a rate schedule to revise their

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\(^3\) The AEP Operating Companies and AEP Transmission Companies have two separate transmission formula rates. However, they are materially identical with respect to the compliance obligations of Order No. 864. Further, they all propose to use the same ADIT Worksheet templates. In this order, we will reference the lines and pages of the AEP Operating Companies’ formula rate to apply to all AEP Companies.


\(^6\) Order No. 864, 169 FERC ¶ 61,139 at P 113.
transmission formula rates to address excess and deficient ADIT by incorporating the following three major revisions: (1) a mechanism to deduct any excess ADIT from or add any deficient ADIT to their rate bases (Rate Base Adjustment Mechanism); (2) a mechanism to decrease or increase their income tax allowances by any amortized excess or deficient ADIT, respectively (Income Tax Allowance Adjustment Mechanism); and (3) a new permanent ADIT worksheet that will annually track information related to excess or deficient ADIT (ADIT Worksheet).  

4. The Commission stated that it will evaluate a public utility’s proposed revisions on a case-by-case basis. Of note, the Commission stated that it expects public utilities with transmission formula rates to make their proposed revisions effective January 27, 2020. In addition, the Commission required that such public utilities capture the full regulatory liability for excess ADIT resulting from the Tax Cuts and Jobs Act in rates, beginning on the effective date of any proposed tariff provision. In other words, the Commission required that the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act must be returned to transmission formula rate customers.

5. Further, the Commission found that the accounting guidance regarding excess and deficient ADIT that the Commission previously adopted in Docket No. AI93-5-000 remains applicable and the Commission did not propose any changes to that guidance.

II. AEP Companies’ Compliance Filings

6. AEP Companies state that their existing Formula Rates already comply with Order No. 864’s requirement to have Rate Base and Income Tax Allowance adjustment mechanisms, and thus no further changes are necessary. AEP Companies contend that their proposed permanent ADIT Worksheets and populated templates satisfy

7 Id. PP 3-5.

8 Id. PP 30, 43, & 66. The Commission also allowed public utilities to demonstrate that their existing formula rates and ADIT-related mechanisms, including those established by a Commission-approved settlement, meet the requirements of Order No. 864. Id. P 74; see also id. P 101.

9 Id. P 100.

10 Id. P 45.

11 Id.

Order No. 864’s remaining requirements and are flexible enough to capture additional excess or deficient ADIT as well as future tax rate changes. AEP Companies request an effective date of January 27, 2020 for their proposed tariff revisions.

III. Notice and Responsive Pleadings


8. On March 24, 2021, Commission staff issued a letter informing AEP Companies that their compliance filings were deficient and requested additional information (Deficiency Letter). On April 23, 2021, AEP Companies submitted a response to the Deficiency Letter in Docket Nos. ER20-1886-001 and ER20-1888-001 (Deficiency Response).


IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2021), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept AEP Companies’ Answer because it has provided information that assisted us in our decision-making process.

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13 AEP Companies’ Compliance Filings at 2, 8.

14 Id. at 1.
B. Substantive Matters

12. As discussed below, we find that AEP Companies’ proposed revisions partially comply with the requirements of Order No. 864. Accordingly, we accept AEP Companies’ proposed revisions, effective January 27, 2020, as requested, and direct AEP to submit a further compliance filing within 60 days of the date of this order.

1. Rate Base Adjustment Mechanism

13. The Rate Base Adjustment Mechanism is a mechanism used by public utilities to deduct any excess ADIT from or add any deficient ADIT to their rate bases. The Commission stated that this mechanism ensures that all public utilities with transmission formula rates offset their rate bases by any amortized excess and deficient ADIT, thus maintaining rate base neutrality.

14. The Commission required that the Rate Base Adjustment Mechanism apply to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates. The Commission stated that it will evaluate proposed Rate Base Adjustment Mechanisms on a case-by-case basis. The Commission also clarified that public utilities must clearly demonstrate in their compliance filings how their proposed mechanisms adjust rate base for excess and deficient ADIT through their transmission formula rates.

a. AEP Companies’ Compliance Filings

15. AEP Companies state that the Rate Base Adjustment Mechanism is implicitly addressed in the Formula Rates. AEP Companies explain that their Formula Rates

15 Order No. 864, 169 FERC ¶ 61,139 at P 28.

16 Id.

17 Id. P 29.

18 Id. P 30.

19 AEP Companies propose to use Accounts 190, 281, 282, and 283 to include the unamortized balance of excess and deficient ADIT in rate base through contra accounting. Contra accounting is a service valuation adjustment based on the probability that ADIT amounts may not be used or owed in the future. For tax gross-ups, contra accounting is the service valuation adjustment of the expected tax gross-up in future rates.
incorporate the excess and deficient ADIT in their respective ADIT Worksheets, which then adjust rate base. Specifically, AEP Companies state that they adjust the ADIT balances recorded in Accounts 190, 281, 282, and 283 for the excess and deficient ADIT in the end-of-year ADIT worksheet and beginning-of-year ADIT worksheet. AEP Companies explain that, because the Formula Rates adjust for the amounts associated with ADIT recorded in Accounts 190, 281, 282 and 283, they will adjust their rate base to reflect any future federal and state tax rate changes, as required by Order No. 864. AEP Companies also state that they have recorded, in Account 190, the tax gross-up associated with the excess and deficient ADIT, but gross-up is not included in the rate base calculation used to determine their revenue requirements. AEP Companies conclude that their Rate Base Adjustment Mechanisms meet Order No. 864’s requirements for rate base neutrality and transparency.

b. **Deficiency Response**

16. In the Deficiency Letter, Commission staff asked AEP Companies to explain how their Rate Base Adjustment Mechanisms work in conjunction with the ADIT Worksheets, and how information in the ADIT Worksheets flows through to the Rate Base Adjustment Mechanism. Commission staff asked AEP Companies to explain whether, and to what extent, the gross-up recorded in Account 190 occurs in relation to the Rate Base Adjustment Mechanism.

17. AEP Companies contend that their proposed ADIT Worksheets present a comprehensive summary of the accounting balances and activity specifically recorded to recognize and track excess or deficient ADIT as a result of the Tax Cuts and Jobs Act. AEP Companies explain that to address the question raised in the Deficiency Letter, they are including Attachment A, populated for Ohio Power Company, the pertinent worksheets from the formula that form the basis of the Rate Base Adjustment Mechanism. AEP Companies also state that it provided a flow chart as an exhibit to

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20 AEP Companies’ Worksheets B-3 – Excess/Deficient ADIT Worksheets (herein, ADIT Worksheets).

21 These amounts are on page 2, line 53 and line 43, respectively, which flows to the total rate base as shown on page 2, line 68 and line 58, respectively. AEP Companies further state that the amounts in lines 48-52 and 38-42 will be included in the balances identified as excess and deficient ADIT.

22 AEP Companies’ Compliance Filing at 4.

23 *Id.* at 5.

24 *Id.* at 2.
their Deficiency Response, which provides a map of explanatory language to visually demonstrate the relationship between the ADIT Worksheets and other worksheets in their Formula Rates to meet the Rate Base Adjustment Mechanism requirements.

18. AEP Companies also state that the gross-up reported in Account 190 on their ADIT Worksheets is not included in the Rate Base Adjustment Mechanisms, ensuring that a double gross-up does not occur. AEP Companies explain that the ADIT Worksheets present how the accounting for excess and deficient ADIT balances tracks to Accounts 182.3 and 254.

c. **Commission Determination**

19. We find that AEP Companies’ Rate Base Adjustment Mechanisms comply with the requirements of Order No. 864. We find that the Rate Base Adjustment Mechanisms allow the AEP Companies to deduct all excess ADIT from or add all deficient ADIT to the AEP Companies’ rate base, thus preserving rate base neutrality for transmission formula rate customers. Further, we find that the proposed Rate Base Adjustment Mechanisms may be applied to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates. We also find that the AEP Companies have demonstrated that there is no double gross-up because the gross-up reported in Account 190 is not included in their Rate Base Adjustment Mechanisms.\(^{25}\)

2. **Income Tax Allowance Adjustment Mechanism**

20. The Income Tax Allowance Adjustment Mechanism is a mechanism used by public utilities to decrease or increase their income tax components of their formula rates by any amortized excess or deficient ADIT, respectively. This mechanism ensures that public utilities compute the income tax components in their costs of service by making provisions for any excess or deficient ADIT following changes in tax rates.\(^{26}\)

21. In Order No. 864, the Commission required that the Income Tax Allowance Adjustment Mechanism apply to any future tax rate changes that give rise to excess or deficient ADIT, including changes to state and local tax rates. The Commission stated

\(^{25}\) Double gross-up could arise if gross-up on deficient or excess ADIT included in Account 182.3 or Account 254 is included in a given year’s amortization and then subsequently grossed up as part of the Income Tax Allowance Adjustment Mechanism embedded in a formula rate’s income tax allowance calculation.

\(^{26}\) Order No. 864, 169 FERC ¶ 61,139 at P 42.
that it will evaluate proposed Income Tax Allowance Adjustment Mechanisms on a case-by-case basis.²⁷

a. **AEP Companies’ Compliance Filings**

22. AEP Companies state that the Income Tax Allowance Adjustment Mechanism has already been incorporated in the Formula Rate to allow the amortization of excess or deficient ADIT balances to be included in their revenue requirements.²⁸ Specifically, AEP Companies explain that the amortized excess and deficient ADIT is shown on page 3, line 119 of the Formula Rate, and the grossed-up amount that is included in the total cost of service is presented on the Formula Rate Worksheet page 4, line 123. AEP Companies further state that this input will capture amortization of excess or deficient ADIT arising from future tax rate changes as well. AEP Companies explain that, to properly input the amortization of excess or deficient amounts of ADIT specific to transmission, AEP Companies are requesting to change line 119, column 5 of the Formula Rates from a direct assignment to an input, which will facilitate the operation of the ADIT Worksheets.

b. **Protest**

23. Joint Protestors argue that AEP Companies’ proposed ADIT Worksheets fail to provide the requisite level of detail to “ensure that excess or deficient ADIT can be tracked as it is included in the annual revenue requirement,”²⁹ and thus fails to satisfy the requirements of Order No. 864.

c. **Answer**

24. AEP Companies contend that the proposed Formula Rate complies with Order No. 864’s requirements and will track the excess or deficient ADIT amounts associated with tax rate changes.³⁰

²⁷ *Id.* P 32.

²⁸ AEP Companies’ Compliance Filing at 5.

²⁹ Joint Protest at 8 (citing Order No. 864, 169 FERC ¶ 61,139 at P 62).

³⁰ AEP Companies’ Answer at 9.
d. **Deficiency Response**

25. In the Deficiency Letter, Commission staff asked AEP Companies how their Income Tax Allowance Adjustment Mechanism works in conjunction with the ADIT Worksheets, and how the information flows through to the Income Tax Allowance Adjustment Mechanism. Commission staff also asked AEP to explain whether, and to what extent, the gross-up recorded in Account 190 occurs in relation to the Income Tax Allowance Adjustment Mechanism and to clarify whether the inputs to the Income Tax Allowance Adjustment Mechanism include grossed-up amounts.

26. AEP Companies provided a flow chart as an exhibit to their Deficiency Response, along with their updated populated ADIT Worksheets and other worksheets, which provides a map of explanatory language to visually demonstrate the relationship between the ADIT Worksheets and other worksheets that form the basis of the Income Tax Allowance Adjustment Mechanisms. AEP Companies explain that the Income Tax Allowance Adjustment Mechanisms are reflected in their proposed ADIT Worksheets, which provide the amount of excess ADIT amortization for each excess ADIT balance. AEP Companies further explain that the total of these amounts is reported in cells N29 and N51 on a total company and transmission functional basis, respectively. AEP Companies explain that these totals will tie to the total company and transmission function amortization amounts that are reported at line 119 in the Formula Rate, as stated in note F in the proposed ADIT Worksheets.\(^{31}\)

27. AEP Companies state that the gross-up reported in Account 190 on the ADIT Worksheets is not included in the Income Tax Allowance Adjustment Mechanisms. AEP adds, however, that there is a tax gross-up adjustment for the Income Tax Allowance Adjustment Mechanisms and the amount of amortization reported on the Formula Rate, line 119, is grossed-up on the Revenue Requirement Worksheets, line 123, by multiplying line 119 by the gross revenue conversion factor.

e. **Commission Determination**

28. We find that AEP Companies’ Income Tax Allowance Mechanisms partially comply with the requirements of Order No. 864. The AEP Companies’ proposed Income Tax Allowance Adjustment Mechanisms allow the AEP Companies to decrease the income tax components of their Formula Rates by any amortized excess ADIT and may be applied to any future tax rate changes that give rise to excess ADIT, including changes to state and local tax rates.

29. However, we find that the AEP Companies’ Income Tax Adjustment Mechanism does not provide for the increase in their income tax components by any amortized

\(^{31}\) AEP Companies’ Deficiency Response at 3.
deficient ADIT because it references only “Excess Deferred Income Tax.”\(^{32}\) Accordingly, in the compliance filing ordered below, we direct the AEP Companies to revise their Income Tax Adjustment Mechanism to reference deficient as well as excess deferred income tax.

30. We also find that AEP sufficiently demonstrates that the gross-up related to Accounts 182.3 and 254 is not included in the Rate Base Adjustment Mechanism or as direct inputs to their cost of service. Instead, AEP appropriately includes the gross-up in the income tax allowance component of their cost of service.

3. **ADIT Worksheets**

31. The ADIT Worksheet is a new permanent worksheet that annually tracks information related to excess and deficient ADIT.\(^{33}\) The Commission found that the ADIT Worksheet will provide transparency for excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and future local, state, and federal tax rate changes that are included in transmission formula rates.\(^{34}\) The Commission stated that it will evaluate the proposed ADIT Worksheets on a case-by-case basis.\(^{35}\)

32. The Commission required that, at a minimum, the ADIT Worksheet must contain five specific categories of information, which are discussed below.\(^{36}\) In addition, the Commission stated that it expects public utilities to identify each specific source of the excess and deficient ADIT, classify the excess or deficient ADIT as protected or unprotected, and list the proposed amortization period associated with each classification or source. The Commission found that such information will provide enough detail to verify excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and future tax rate changes.\(^{37}\) Further, the Commission acknowledged that a public utility or its transmission formula rate might have some unique attribute that requires additional

\(^{32}\) See Order No. 864, 169 FERC ¶ 61,139 at P 30.

\(^{33}\) *Id.* P 62.

\(^{34}\) *Id.* PP 62, 63, 69, and 71.

\(^{35}\) *Id.* P 66.

\(^{36}\) *Id.* PP 62, 66.

\(^{37}\) *Id.* P 65.
categories of information to provide interested parties and the Commission with a complete understanding of that public utility’s treatment of excess and deficient ADIT.\textsuperscript{38}

\begin{enumerate}
    \item \textbf{Category 1}
    \end{enumerate}

33. The first category of information is how any ADIT accounts were remeasured and the excess or deficient ADIT contained therein.\textsuperscript{39}

34. As the Commission explained in \textit{Accounting for Income Taxes}, a public utility shall adjust its ADIT liabilities and assets for the effect of the change in tax laws or rates in the period that the change is enacted. The adjustments shall be recorded in Accounts 190 (ADIT), 281 (ADIT-Accelerated Amortization Property), 282 (ADIT-Other Property), and 283 (ADIT-Other).\textsuperscript{40}

\begin{enumerate}
    \item \textbf{AEP Companies’ Compliance Filings}
    \end{enumerate}

35. AEP Companies state that Attachment C of their compliance filings presents the working version of the proposed permanent ADIT worksheets, based on 2018 inputs for each Operating and Transmission Company. AEP Companies state that column F of the ADIT Worksheets will present the excess balance at remeasurement. AEP Companies state they intend for the value of the remeasurement in column F to remain static, allowing for the comparison of the beginning or ending balances in any given year to the value originally determined at the time of remeasurement.\textsuperscript{41}

36. AEP Companies state that the remeasurement of ADIT from a 35\% to 21\% statutory tax rate was calculated as of December 31, 2017 by applying the percentage change in the tax rate (40\%) to the balance of each timing difference that makes up the total ADIT balances. AEP Companies explain that the sum of each of these changes for each ADIT account was then used to establish a new timing difference that represents the excess or deficient ADIT associated with each ADIT account.\textsuperscript{42} According to AEP, the remeasurement of an individual account may not equal 40\% of the December 31, 2017 deferral balance because of specific ADIT items that are not subject to remeasurement.

\textsuperscript{38} \textit{Id.} P 66.

\textsuperscript{39} \textit{Id.} PP 52, 62.

\textsuperscript{40} \textit{Accounting for Income Taxes} at 8.

\textsuperscript{41} AEP Companies’ Compliance Filing at 6.

\textsuperscript{42} AEP Companies show this in the deferral information provided in Attachment C-1 (Supporting Detail of ADIT balances for each of the AEP Companies).
AEP Companies also explain that the amount of the remeasurement for each ADIT account is shown in Attachment D (collectively, the Remeasurement Worksheets) and that the total remeasurement value supports that same value as reported in column F of the populated ADIT Worksheets in Attachment C.\(^43\)

37. AEP Companies state that the Remeasurement Worksheets will be provided as a supporting workpaper to be included in the informational filing for any year in which a tax rate change is made, rather than as a permanent worksheet in the Formula Rate.\(^44\)

### ii. Protest

38. Joint Protestors argue that AEP’s ADIT Worksheets fail to provide itemized detail for excess and deficient ADIT because AEP does not intend on including the Remeasurement Worksheets, and the detail provided therein, as permanent worksheets in the Formula Rate. Joint Protestors assert that AEP’s proposed Remeasurement Worksheets only provide a summary-level total of the excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and do not document how the ADIT accounts were remeasured and balances determined.\(^45\)

39. Joint Protestors also argue that AEP Companies do not adequately explain why some excess or deficient ADIT balances were remeasured at a rate other than 40% of the underlying ADIT balance and that AEP Companies fail to provide the detail of what items were affected by this treatment and justify as to why certain items are not subject to remeasurement. Joint Protestors assert that AEP’s approach to demonstrate the remeasurement calculation prevents Joint Protestors from being able to verify these remeasurement percentages. Joint Protestors therefore contend that AEP Companies should be required to provide in a permanent worksheet, detail demonstrating how each excess and deficient ADIT item was quantified, detail to show which items were not remeasured, and an explanation for why such treatment is appropriate.\(^46\)

### iii. Answer

40. AEP Companies state that their compliance filings explain the remeasurement of ADIT from a 35% to 21% statutory tax rate that was calculated as of December 31, 2017 by applying the percentage change in the tax rate (40%) to the balance of each timing

\(^43\) AEP Companies’ Compliance Filing at 8.

\(^44\) Id.

\(^45\) Joint Protest at 9 (citing AEP Companies’ Compliance Filing at 6-7).

\(^46\) Id. at 11 (citing Order No. 864, 169 FERC ¶ 61,139 at P 43).
difference that makes up the total ADIT balances. AEP Companies explain that the sum of these changes for each ADIT account was then used to establish a new timing difference that represents the excess or deficient ADIT associated with each ADIT account. AEP Companies also explain that these new timing differences are shown in their deferral information provided in Attachment C-1. AEP Companies further explain that in the interest of transparency, they have supplemented Attachment D to provide additional detail of the remeasurement. AEP Companies also state that Attachment 12 provides the remeasurement detail on a total company basis for the six AEP East Operating Companies and Attachment 13 provides the remeasurement detail for the same group of companies based on those companies’ transmission functional book level, while Attachment 14 provides the equivalent calculation on a total company basis for the AEP East Transmission Companies. AEP Companies also state that the detail provided in these attachments support the remeasurement balances provided in Attachment D.47

iv. Deficiency Response

41. In the Deficiency Letter, Commission staff asked AEP Companies to explain how their proposal to include the Remeasurement Worksheets as supporting workpapers to be included in the annual update complies with the requirement to include ADIT account remeasurement as part of the ADIT Worksheets. Commission staff also asked that AEP Companies explain the purpose of column K, “Balance Sheet Account Reclassifications,” in their ADIT Worksheets, in what circumstances this column would be used, and whether, and if so how, column K is related to Column I, “Excess ADIT Regulatory Offset,” in the Remeasurement Worksheets.

42. AEP Companies state that they intended to make the information readily available for any interested party, while simultaneously avoiding additional worksheets. However, AEP Companies also state that they will incorporate the summary remeasurement workpaper as a supporting worksheet to their proposed ADIT Worksheets and provide the underlying workpapers showing the remeasurement of each ADIT item as supporting information included in each annual update.48

43. AEP Companies explain that because the ADIT Worksheets will be tracking the amortization of activity that could extend decades, column K was intended to incorporate any reclassification entries that may be required in the future but are presently unknown. According to AEP Companies, they had a correction recorded in 2020 that has balance sheet only impacts and thus recorded that entry in column K. AEP Companies states that if column K was eliminated, they would have to input this and similar future entries in one of the other columns to ensure the end-of-year balances in the ADIT Worksheets tie

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47 AEP Companies’ Answer at 9.

48 AEP Companies’ Deficiency Response at 6.
to the correct balance at the end of the year, which AEP Companies states would undermine the transparency intended in this design. AEP Companies state that there is no relationship between column K and column I.\textsuperscript{49}

v. Commission Determination

We find that AEP Companies’ ADIT Worksheets partially comply with the Order No. 864 ADIT Worksheet category 1 requirements. Order No. 864 required public utilities to include in their permanent ADIT Worksheets “how any ADIT accounts were remeasured and the excess or deficient ADIT contained therein.”\textsuperscript{50} We find that, although the AEP Companies’ proposed ADIT Worksheets provide the source of the excess or deficient ADIT, the AEP Companies’ proposed ADIT Worksheets do not demonstrate how any ADIT accounts were remeasured, only the excess or deficient ADIT contained therein. To satisfy the category 1 requirements of Order No. 864, the AEP Companies must provide the pre-tax rate change and post-tax rate change ADIT account balances, in addition to the resulting excess or deficient ADIT already provided. Further, such information must be provided at a level of detail such that interested parties can identify the source (i.e., the originating accounts) of excess or deficient ADIT in the proposed ADIT Worksheets and verify excess or deficient ADIT resulting from the Tax Cuts and Jobs Act and future tax rate changes.\textsuperscript{51} In other words, the information provided in the remeasurement portion should be sufficiently detailed such that interested parties can reconcile the amounts provided in the remeasurement of excess or deficient ADIT to the ADIT Worksheets as currently proposed. Accordingly, in the compliance filing ordered below, we direct the AEP Companies to include pre-tax rate change and post-tax rate change ADIT account balances in their ADIT Worksheets at the level of detail described here.

While the Remeasurement Worksheets in Attachment D contain certain information contemplated by Order No. 864, we find that they do not satisfy Order No. 864’s category 1 requirements because they are not part of the AEP Companies’ Formula Rate. We further note that the Remeasurement Worksheets do not provide the post-tax rate change ADIT account balance. One way that the AEP Companies could meet these category 1 requirements is by including a version of the Remeasurement Worksheets as part of the permanent ADIT Worksheets in the Formula Rates, with the required information described in the previous paragraph.\textsuperscript{52} Alternatively, the AEP Companies

\textsuperscript{49} Deficiency Response at 5-6.

\textsuperscript{50} Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

\textsuperscript{51} Id. P 65.

\textsuperscript{52} The Commission made a similar recommendation in two recent orders. See Sw. Power Pool, Inc., 177 FERC ¶ 61,090, at P 41 (2021) and Am. Transmission Sys. Inc.,
could revise their ADIT Worksheets to include additional columns that demonstrate the pre- and post-tax rate change ADIT account balances. In addition, we find that the remeasurement information we are directing the AEP Companies to include need not be provided on a permanent basis. Instead, the AEP Companies may submit revisions in the compliance filing directed below that requires that the inputs to the remeasurement portion be populated only during an annual update following a tax rate change.\(^\text{53}\) Additionally, we agree with Joint Protestors that AEP Companies have not explained why certain excess and deficient ADIT balances were measured at a rate other than 40%. Accordingly, in the compliance filing ordered below, we direct AEP Companies to explain why the remeasurement percentage shown in the Remeasurement Worksheets is at a rate other than 40% for certain excess and deficient ADIT balances.

b. **Category 2**

46. The second category of information is the accounting for any excess or deficient amounts in Accounts 254 (Other Regulatory Liabilities) and 182.3 (Other Regulatory Assets), respectively.\(^\text{54}\)

47. As the Commission explained in *Accounting for Income Taxes*, if as a result of action by a regulator, it is probable that the increase or decrease in taxes payable due to the change in tax law or rates will be recovered from or returned to customers through future rates, then an asset or liability shall be recognized in Accounts 182.3 or 254, as appropriate. That asset or liability is also a temporary difference for which a deferred tax asset or liability shall be recorded in Accounts 190 or 283, as appropriate.\(^\text{55}\)

   i. **Compliance Filing**

48. AEP Companies state that for accounting purposes, it established an ADIT deferral entry that offsets the amount by which the change in the tax rate decreased other specific deferrals in total.\(^\text{56}\) AEP further states that this entry is reflected in the sub-ledger used to track tax deferrals and serves as the basis for an entry in the general ledger.

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\(^{53}\) Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62. We also clarify that in submitting further revisions to the ADIT Worksheets, the AEP Companies must submit populated versions of those worksheets. Order No. 864, 169 FERC ¶ 61,139 at P 63.

\(^{54}\) Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

\(^{55}\) *Accounting for Income Taxes* at 8.

\(^{56}\) *See supra*, note 19.
that establishes an ADIT contra entry in separate subaccounts that is offset by entries to
the regulatory asset or liability accounts. Specifically, AEP explains that they have used
separate ADIT subaccounts, designated with a “4” in the fourth position of the
subaccount number, and described as FAS 109 in column C of the workpaper to
recognize the necessary regulatory entries, and ensure that total ADIT balances reflect the
new tax rate. AEP Companies explain that these record to the ledger, and subaccounts
designated with a “4” in the fourth position of the subaccount number do not flow into
the rate. However, AEP Companies explain that the amount of the remeasurement
subaccounts designated with a “4”, is a contra entry to the ADIT remeasurement deferral
balance in the “1” subaccount with an offset to the regulatory asset recognized in a
subaccount of 182.3 or the regulatory liability recognized in a subaccount of 254.
AEP Companies acknowledge that Order No. 864 specifically requires utilities to
record deficient or excess ADIT in Account 182.3 or Account 254, respectively.
AEP Companies state that they have recorded, in account 1904001, the tax gross up
associated with these FAS 109 balances as required by Order No. 864, and none of these
“4” accounts are included in the rate base calculation used to determine revenue
requirement.\footnote{AEP Companies’ Compliance Filing at 6.}

\textbf{ii. Protest}

49. Joint Protestors argue that AEP Companies are attempting to utilize subaccounts
of Accounts 190, 281, and 283 to account for excess or deficient ADIT, which is contrary
to Order No. 864 requirements. Joint Protestors state that Commission policy has for
many years required that any future refunds or recoveries through rates as a result of an
increase or decrease in taxes payable, resulting from a change in tax law or rates, should
be recognized in Account 254 or Account 182.3, as appropriate. Joint Protestors argue
that AEP Companies have only provided summary balances for the unamortized excess
ADIT included in Account 254 in their proposed ADIT Worksheets, not an item-by-item
accounting.\footnote{Joint Protest at 8.}

50. Joint Protestors argue that AEP Companies do not explain why their proposed
accounting framework, which involves new subledgers and contra accounts, should be
allowed instead of utilizing the Commission’s prescribed accounting framework.\footnote{Id.
at 11 (citing Accounting for Income Taxes at 8).} Joint Protestors argue that AEP Companies’ proposed Rate Base Adjustment Mechanisms
include rate base adjustments for only those excess and deficient ADIT amounts recorded
to subledger accounts 281.1, 282.1, 283.1, and 190.1. Joint Protestors argue that that
AEP Companies’ Rate Base Adjustment Mechanisms rely on inappropriate accounting
for excess and deficient ADIT and should be revised to include excess and deficient ADIT recorded to Accounts 254 and 182.3. Joint Protestors also argue that AEP Companies do not provide detailed support for balances in Accounts 182.3 and 254 and for amortization of these balances. Joint Protestors assert that AEP Companies have failed to properly demonstrate the accounting for excess or deficient ADIT amounts in Accounts 182.3 and 254, and should be required to provide item-by-item detail demonstrating which account each item was included in as required by Order No. 864.60

iii. Answer

51. AEP Companies state that their accounting complies with Order No. 864. AEP Companies state their Rate Base Adjustment Mechanisms are clearly illustrated in the proposed Attachment C, and AEP Companies properly recorded net excess ADIT arising from the Tax Cuts and Jobs Act to Account 254.61

52. AEP Companies argues that the recognition of remeasurement amounts in Accounts 182.3 and 254 is achieved by use of ADIT Accounts 190.4, 281.4, 282.4, and 283.4 (collectively, “.4” Accounts). Specifically, AEP Companies explains that Account 190.4 is the tax gross-up, and the other contra accounts offset the balances in Accounts 281.1, 282.1, and 283.1 (collectively, “.1” Accounts), ensuring that the remeasurement in the ADIT accounts nets to zero in the account total. AEP Companies states that when the entry was made to the “.4” Accounts, the offset was recorded to Account 254, resulting in the full amount of excess ADIT arising from the Tax Cuts and Jobs Act being recorded in Account 254.62 AEP Companies argue that Order No. 864 did not preclude such accounting treatment from being used in a Rate Base Adjustment Mechanism, and in fact, allowed utilities to propose changes to their formula rates on a case-by-case basis, rather than adopting a specific mechanism.63

53. AEP Companies also argue that its use of “.1” Accounts mirror a concept that is already reflected in ADIT pages in the FERC Form No. 1, specifically the Commission’s recognition of ADIT balances that arise from utility operations vs. accounting requirements. AEP Companies state that AEP’s use of the “.1” subaccounts in its

60 Id. (citing Order No. 864, 169 FERC ¶ 61,139 at P 65).

61 AEP Companies’ Answer at 6.

62 Id. at 7-8. According to AEP Companies, the individual remeasurement amounts for each ADIT account were combined into a single ADIT item, with the exception of the ADIT identified for Account 190.1, which was reclassified to Account 283.1.

63 Id. at 8 (citing Order No. 864, 169 FERC ¶ 61,139 at P 30).
ratemaking appropriately adjusted rate base to reflect excess/deficient ADIT prior to the Tax Cuts and Jobs Act and will continue to do so for future tax rate changes.\textsuperscript{64}

54. AEP Companies state that their ADIT Worksheets include a breakdown of any excess or deficient amounts in Accounts 182.3 and 254 in compliance with Order No. 864 in lines 2a and 2b (for total company) and 5a and 5b (for transmission functional books used in the operating company formula rates).\textsuperscript{65}

\textbf{iv. Deficiency Response}

55. In the Deficiency Letter, Commission staff requested AEP Companies to explain why deficient ADIT is not included in columns I and J of the ADIT Worksheets that are labeled Excess ADIT Regulatory Offset and Excess ADIT in Utility Deferrals. AEP Companies state that the amounts in these two columns are the net of deficient and excess ADIT and because the net amount is a liability, it is referred to generally as excess.\textsuperscript{66} AEP Companies submitted, as an exhibit to its Deficiency Response, revised tariff sheets to change the headers of columns F, I, J, P, and Q in the ADIT Worksheets to include the word “Deficient.”\textsuperscript{67}

56. In the Deficiency Letter, Commission staff asked the AEP Companies to explain how their proposed accounting treatment is consistent with the guidance in \textit{Accounting for Income Taxes}. AEP states it complies with \textit{Accounting for Income Taxes} because excess and deficient taxes were calculated on all ADIT Balances. AEP Companies also state that instead of tracking both a deficient and excess balance on the books, the deficient ADIT positions recorded in Account 1901001 and the excess ADIT positions recorded in Account 2831001 balances were netted in Account 2831001 to group non-property utility deferrals together as a single position.\textsuperscript{68}

57. In the Deficiency Letter, Commission staff asked AEP Companies to explain why subaccount 2831001, “ADFIT-Other Utility Deferrals,” and subaccount 2834001, “ADFIT-Other [Financial Accounting Standards] 109 Excess,” do not have offsetting contra-entries in “.4” Accounts and “.1” Accounts, respectively. Commission staff also requested that AEP explain the meaning of “Other Utility Deferrals” and “Other

\textsuperscript{64} Id. at 8.

\textsuperscript{65} Id. at 10-11.

\textsuperscript{66} AEP Companies’ Deficiency Response at 6.

\textsuperscript{67} Id. at 7.

\textsuperscript{68} Id. at 6-7.
[Financial Accounting Standards] 109 Excess.” AEP Companies state that a misclassification of a journal entry between Accounts 2834001 and 2833001 resulted in a mismatch between subaccount 2831001 and contra subaccount 2834001. AEP Companies explain that part of the balance of subaccount 2834001 was not related to excess ADIT, but the balance was reported as it ties to the general ledger. AEP states that the misclassification has been remedied in 2020 and that subaccount 2831001 is offset by contra subaccount 2834001. AEP Companies explain that “ADFIT Other Utility Deferrals” refers to deferrals that arise out of utility business transactions that give rise to an ADIT deferral but that are not based on utility plant transactions. AEP Companies further explain that “Other [Financial Accounting Standards] 109 Excess” is a generic term used in AEP’s ledgers that refers to accounts that do not have deferred expense as their offset and are not rate base impacting accounts.69

v. Commission Determination

58. We find that AEP Companies’ ADIT Worksheets partially comply with the Order No. 864 ADIT Worksheet category 2 requirements. Within their ADIT Worksheets, AEP Companies identify both beginning and ending balances of excess and deficient ADIT in Accounts 254 and 182.3, respectively, inclusive of gross-up. We further find that AEP Companies sufficiently explain why subaccounts 2831001 and 2834001 do not have offsetting contra-entries, and explain the meaning of “Other Utility Deferrals” and “Other [Financial Accounting Standards] 109 Excess.” While we find that AEP Companies’ proposal to include “deficient” in the headers of columns F, I, J, P and Q in the ADIT Worksheet clarifies that the amounts include both excess and deficient ADIT, these revisions were included as an exhibit to AEP’s Deficiency Response and not filed as a revision to AEP’s Formula Rate. Accordingly, in the compliance filing ordered below, we direct AEP Companies to submit these revisions as a permanent part of its Formula Rate.

59. We disagree with Joint Protestors that AEP Companies’ accounting framework is inconsistent with Order No. 864’s requirements. AEP Companies’ ADIT Worksheets show the accounting for excess and deficient ADIT balances to Accounts 254 and 182.3, consistent with Order No. 864 and Accounting for Income Taxes.70 Additionally, as AEP Companies explain, Order No. 864 did not preclude utilities from including the

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69 Id. at 7.

70 For accounting purposes, Order No. 864 found, “public utilities are required to record a regulatory asset (Account 182.3) associated with deficient ADIT or regulatory liability (Account 254) associated with excess ADIT. As a result, we do not propose any changes to that accounting guidance.” Order No. 864, 169 FERC ¶ 61,139 at PP 31, 65 (citing Accounting for Income Taxes).
remeasured amounts in subaccounts of Accounts 190, 282, and 283 for ratemaking purposes. Instead, Order No. 864 allowed utilities to propose changes to their formula rates on a case-by-case basis, rather than adopting a specific Rate Base Adjustment Mechanism.\textsuperscript{71} Therefore, we also disagree with Joint Protestors that AEP Companies’ Rate Base Adjustment Mechanisms rely on inappropriate accounting.\textsuperscript{72}

60. We find that in the flow chart submitted in Attachment A of their Deficiency Response and the supporting workpapers, AEP Companies have clearly shown how this accounting framework for the Rate Base Adjustment Mechanism ensures the requirements of rate base neutrality described in Order No. 864. Further, the flow chart and these workpapers show the excess and deficient ADIT amounts amortized from Accounts 254 and 182.3 and the source of this information on the ADIT Worksheets. Our compliance directives herein regarding remeasurement will provide further transparency and ensure compliance with Order No. 864.

61. To the extent Joint Protestors are challenging AEP Companies’ FERC Form No. 1 reporting, Order No. 864 stated that public utilities are required to record deficient ADIT to Account 182.3 and excess ADIT to Account 254 on their books.\textsuperscript{73} Accordingly, we find that AEP Companies’ ADIT Worksheets demonstrate compliance with that requirement. Regarding Joint Protestors’ claim that AEP Companies should provide item-by-item detail, in Order No. 864, the Commission found that requiring the five categories of information in the ADIT Worksheets strikes an appropriate balance between transparency for interested parties and burden to the industry.\textsuperscript{74} The Commission did not require public utilities to provide additional detail within each source (e.g., identifying each individual underlying temporary difference) in Order No. 864. For this reason, we disagree with Joint Protestors that “item-by-item” detail is required. Further, Order No. 864 also noted that, as with any other transmission formula rate input, customers can request information about, and challenge those inputs as part of, the annual update process.\textsuperscript{75}

\textsuperscript{71} Order No. 864, 169 FERC ¶ 61,139 at P 30.

\textsuperscript{72} The Commission made a similar finding in a prior order. See PJM Interconnection, L.L.C., 177 FERC ¶ 61,085, at P 66 (2021) (PPL).

\textsuperscript{73} Order No. 864, 169 FERC ¶ 61,139 at P 31.

\textsuperscript{74} Id. P 62.

\textsuperscript{75} Id. PP 49, 67
c. **Category 3**

62. The third category of information is whether the excess or deficient ADIT is protected or unprotected. As further discussed below, protected ADIT is subject to the Tax Cuts and Jobs Act’s normalization requirements, whereas unprotected ADIT is not.

i. **Compliance Filing**

63. AEP Companies state that their ADIT Worksheets present the status of each Account as either a protected or unprotected deferral. AEP Companies also explains that their Remeasurement Worksheet provides support for the determination of protected and unprotected excess and deficient ADIT amounts.

ii. **Protest**

64. Joint Protestors argue that AEP Companies proposed ADIT Worksheets do not adequately specify whether particular items are classified as protected or unprotected, due to AEP Companies’ failure to provide item-by-item detail. Joint Protestors contend that AEP Companies should be required to provide a detailed item-by-item breakout of each specific source of excess and deficient ADIT within these accounts, indicating whether each item is protected or unprotected.

iii. **Answer**

65. AEP Companies state that their proposed ADIT Worksheets include column D which shows whether the excess or deficient ADIT is protected or unprotected, in compliance with Order No. 864. AEP Companies assert that the Commission explicitly recognized the diverse sources of unprotected excess and deficient ADIT in Order No. 864 and rejected a standard template or pro forma approach. AEP Companies state that the Commission rejected the request by certain parties, including Joint Protestors, for an “item-by-item accounting or itemization of excess or deficient ADIT,” finding that it is

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76 *Id.* PP 52, 62.

77 AEP Companies’ Compliance Filing at 6. AEP Companies state that columns A, B, C, D, and E presents line reference numbers, the specific accounts used to track the excess ADIT balances, a description of each account, their status as a protected or unprotected deferral, and the account that led to the balances for each account.

78 Joint Protest at 12 (citing Order No. 864, 169 FERC ¶ 61,139 at P 65).
addressed by the accounting for any excess or deficient amounts in Accounts 182.3 and 254.79

iv. Commission Determination

66. We find that AEP Companies’ ADIT Worksheets comply with the Order No. 864 ADIT Worksheet category 3 requirements because the ADIT Worksheets identify whether their excess or deficient ADIT is protected or unprotected. As noted above, the Commission did not require public utilities to provide additional detail within each source (e.g., identifying each individual underlying temporary difference) in Order No. 864. For this reason, we disagree with Joint Protestors that further detail is required such that each item’s protected or unprotected status is displayed.80 AEP Companies also commit to providing the protected and unprotected status of the excess or deficient ADIT associated with each temporary difference with their Formula Rate’s annual update filing.81 Further, Order No. 864 also noted that, as with any other transmission formula rate input, customers can request information about, and challenge those inputs as part of, the annual update process.82

d. Category 4

67. The fourth category of information is the accounts to which the excess or deficient ADIT are amortized.83

68. Under the Commission’s Uniform System of Accounts, public utilities should record the amortization of excess and deficient ADIT recorded in Accounts 254 and 182.3, respectively, by recording offsetting entries to Account 411.1 (Provision for Deferred Income Taxes – Credit, Utility Operating Income) or Account 410.1 (Provision for Deferred Income Taxes, Utility Operating Income), as appropriate.84

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79 AEP Companies Answer at 11 (citing Joint Protest at 12).
80 See PJM Interconnection, L.L.C., 177 FERC ¶ 61,166, at P 58 (2021); PPL, 177 FERC ¶ 61,085 at P 71; Am. Transmission Sys. Inc., 177 FERC ¶ 61,120 at P 55.
81 AEP Companies’ Compliance Filing at 7-8.
82 Order No. 864, 169 FERC ¶ 61,139 at PP 49, 67.
83 Id. PP 52, 62.
i. AEP Companies’ Compliance Filing

69. AEP Companies state that columns K, L, and M present the entries to the balance sheet as these amounts are amortized, and the reclassification column is there in case it is needed to reflect balance sheet adjustments. AEP Companies also state that the columns identified as 182.3 and 254 represent the amortization of the balances in the FAS 109 ADIT accounts to the regulatory deferral accounts and the amortization of the related tax gross up. AEP Companies further state that this presentation allows a reviewer to determine how the change in those regulatory accounts relate to entries made to the FAS 109 ADIT accounts.  

70. AEP Companies state that columns N and O represent the tax expense entries that arise out of accounting for the Tax Cuts and Jobs Act. AEP Companies explain that column N presents the amortization of the timing difference created by the remeasurement, and the amortization included in column N will be tied to Accounts 410 and 411, and the total of these entries will be included in the amount reported in the Income Tax Allowance Adjustment Mechanism that is incorporated in the Formula Rates on page 3, line 119, column (3) (for total company) and line 5 (for the transmission function). AEP Companies also state that Column O of the worksheet will be used to record non-amortization entries to deferred tax expense that will not flow into the Formula Rate.

ii. Protest

71. Joint Protestors assert that AEP Companies do not demonstrate whether the amortization amounts are recorded in Account 410.1 or Account 411.1 for the current year. Joint Protestors argue that AEP Companies do not provide the detail on which accounts (i.e. Accounts 410.1 and 411.1) the amortization amounts are being recorded on an item-by-item basis because the ADIT Worksheets only show summary level detail. Joint Protestors further argue that item-by-item detail is needed to understand the accounts to which each excess and deficient ADIT item is being amortized and this detail was not included in the Remeasurement Worksheet. Joint Protestors state that such a lack of transparency does not ensure the transmission customers are receiving the full benefits of the excess ADIT related to the Tax Cuts and Jobs Act, and therefore, AEP Companies should provide an item-by-item breakout of the excess and deficient ADIT amortization amounts recorded to each account.  

85 AEP Companies’ Compliance Filing at 7.

86 Joint Protest at 12.
iii. **Answer**

72. AEP Companies asserts that their proposed ADIT Worksheets specifically note that amortization is recorded in Accounts 410 and 411, both in the header of column N and in note F. However, AEP Companies state that the Formula Rates rely on a statutory rate calculation to determine tax expense, thus negating the use of Accounts 410 and 411 as inputs in these Formula Rates. AEP Companies state that the real issue is not whether amortization is recorded to FERC Accounts 410 or 411, but that the Formula Rates include an Income Tax Allowance Mechanism that ensures those excess or deficient amortization amounts are properly captured in the revenue requirements. AEP Companies state that their Formula Rates include this mechanism, and input is derived from the excess amortization total shown in the ADIT Worksheets, column N, line 3, and, if applicable, line 6.  

iv. **Deficiency Response**

73. In the Deficiency Letter, Commission staff requested that AEP Companies identify the source of the excess and deficient ADIT amortization amounts in columns N and O of the ADIT Worksheets and whether, and if so how, these columns are sourced from Accounts 254 and 182.3. Commission staff also requested that AEP Companies specify the accounts to which the amounts in columns N and O are amortized (e.g., Account 410.1). Additionally, Commission staff asked that AEP explain whether columns N and O are netting Accounts 410.1 and 411.1.

74. In response, AEP Companies explain that Accounts 182.3 and 254 are netted together in Account 254, and amortization amounts in columns N and O of the ADIT Worksheets are sourced from Account 254. AEP Companies further explain that columns N and O are amortized to Accounts 410.1 and 411.1 on the basis of whether an ADIT account is a net deficiency or excess: net deficient balances are amortized to Account 410.1 and net excess balances are amortized to Account 411.1. AEP Companies explain that this is presented as one net amount in both columns N and column O. AEP Companies propose two revisions to the ADIT Worksheets to clarify this by: (1) adding “(Deficient)” in the header for column ‘N’ that currently states “410/411 Excess Amortization;” and, (2) adding note G which states “[b]ecause the Company records remeasurement amounts at the ADIT account level, the amortization of those remeasurement amounts will be recorded to 410.1 or 411.1 based on whether the net amount is an excess or a deficiency. Deficient remeasurement amounts will be recorded

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87 AEP Companies’ Answer at 12.
in 410.1 as a debit (expense) to cost of service; excess remeasurement amounts will be recorded in 411.1 as a credit to cost of service.”

v. Commission Determination

75. We find that AEP Companies’ ADIT Worksheets, as provided in their Deficiency Response, partially comply with the Order No. 864 category 4 requirements, because their proposed note G in the ADIT Worksheets shows the accounts to which excess or deficient ADIT are amortized. However, we reject AEP Companies’ proposal to add the following sentence to note G: “[b]ecause the Company records remeasurement amounts at the ADIT account level, the amortization of those remeasurement amounts will be recorded to 410.1 or 411.1 based on whether the net amount is an excess or a deficiency.”

89 AEP Companies’ proposal to net deficient ADIT against excess ADIT, then record the netted amount to Account 410.1 or 411.1 based on whether the net amount is an excess or a deficiency is beyond the scope of this proceeding. Order No. 864 stated that public utilities are required to record deficient ADIT to Account 182.3 and excess ADIT to Account 254 on their books; however, Order No. 864 did not specify whether such deficient and excess ADIT should be included on a net or gross basis in the ADIT Worksheets. Accordingly, we reject AEP Companies’ proposal to add language on how the amounts are accounted for on the AEP Companies’ books as outside of the scope of Order No. 864. Accordingly, we direct the AEP Companies, in the compliance filing ordered below, to revise and file note G in their proposed ADIT Worksheets to state only that deficient remeasurement amounts will be recorded in 410.1 as a debit (expense) to cost of service and excess remeasurement amounts will be recorded in 411.1 as a credit to cost of service.


89 Id.

90 Order No. 864, 169 FERC ¶ 61,139 at P 31.

91 Sw. Power Pool, Inc., 177 FERC ¶ 61,090 at P 75 (requiring Evergy Kansas Central to record amortized excess ADIT in Account 411.1 and amortized deficient ADIT in Account 410.1 where the specific identification of the source of the regulatory asset and liability could be made).
e. **Category 5**

76. The fifth category of information is the amortization period of the excess or deficient ADIT being returned or recovered through the rates.\(^\text{92}\)

77. The Commission stated that it will determine whether the proposed amortization periods for any excess and deficient ADIT resulting from the Tax Cuts and Jobs Act are just and reasonable.\(^\text{93}\) As such, the Commission required public utilities to provide supporting documentation necessary to justify their proposed amortization periods.\(^\text{94}\)

78. The Commission stated that public utilities should follow the guidance provided in the Tax Cuts and Jobs Act for protected excess ADIT.\(^\text{95}\) The Tax Cuts and Jobs Act requires public utilities to return protected excess ADIT no more rapidly than over the life of the underlying asset using the Average Rate Assumption Method.\(^\text{96}\) The Commission also stated that, while the Tax Cuts and Jobs Act does not mention protected deficient ADIT specifically, the Commission expects that public utilities will recover such protected deficient ADIT in the same manner prescribed for protected excess ADIT.\(^\text{97}\)

79. The Tax Cuts and Jobs Act does not specify a method to calculate amortization schedules for unprotected excess and deficient ADIT. Accordingly, the Commission stated that it will evaluate proposed amortization periods for unprotected ADIT on a case-by-case basis\(^\text{98}\) and that public utilities can propose amortization schedules that appropriately balance the respective circumstances of those public utilities and their

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\(^{92}\) Order No. 864, 169 FERC ¶ 61,139 at PP 52, 62.

\(^{93}\) *Id.* PP 65, 104.

\(^{94}\) *Id.* P 65.

\(^{95}\) *Id.* P 44.

\(^{96}\) Where a public utility’s books and underlying records do not contain the vintage account data necessary, it must use an alternative method. *Id.*

\(^{97}\) *Id.* P 44 n.71. We note that we similarly expect public utilities to recover unprotected deficient ADIT in the same manner as unprotected excess ADIT.

\(^{98}\) *Id.* The Commission also stated that it will evaluate requests to amortize excess and deficient ADIT using an amortization period approved in a state proceeding on a case-by-case basis. *Id.* P 47.
customers, provided the full amount of excess ADIT resulting from the Tax Cuts and Jobs Act is returned to customers.\footnote{Id. P 46.}

\section*{i. AEP Companies’ Compliance Filing}

80. AEP Companies propose to use the Average Rate Assumption Method to amortize protected excess ADIT, and that they are amortizing unprotected excess ADIT over 10 years, beginning January 1, 2018, consistent with a prior Commission order.\footnote{AEP Companies’ Compliance Filing at 7. The 10-year amortization period was accepted as part of a settlement agreement in \textit{Appalachian Power Co.}, 167 FERC ¶ 61,156 (2019). \textit{See} AEP, Settlement Agreement, Docket No. EL17-13-000, at 5-6 (filed Mar. 28, 2018).}

\section*{ii. Protest}

81. Joint Protestors argue that AEP Companies’ proposed ADIT Worksheet fails to identify the specific amortization period for each item, due to the lack of item-by-item detail. Joint Protestors state that AEP Companies should be required to identify how each item was classified in order to understand the individual amortization period used for each excess/deficient ADIT item. Joint Protestors argue that AEP Companies provide no explanation for the amortization period that will be applied to each affiliated company’s various excess/deficient ADIT items.\footnote{Joint Protest at 14.}

\section*{iii. Answer}

82. AEP Companies state that they provide the required amortization periods of their protected and unprotected excess and deficient ADIT in their ADIT Worksheets. AEP Companies explain that column G of the proposed ADIT Worksheets lists the length of the amortization period or, in the case of protected assets, the method; and column H the amortization period dates for unprotected amounts. AEP Companies reiterate that unprotected excess ADIT is amortized over 10 years beginning January 1, 2018, and that they propose to use the Average Rate Assumption Method to amortize protected excess ADIT.\footnote{AEP Companies’ Answer at 12-13.}
iv. Commission Determination

83. We find that AEP Companies’ ADIT Worksheets comply with the Order No. 864 category 5 requirements. First, we address the AEP Companies’ proposed amortization periods. We accept AEP Companies’ proposal to amortize protected excess and deficient ADIT over amortization periods established by the Average Rate Assumption Method and to amortize unprotected excess and deficient ADIT over 10 years. We agree with AEP Companies that the Commission has already found that AEP Companies’ proposed amortization methodology is just and reasonable.

Second, we address the AEP Companies’ ADIT Worksheets. We find that AEP Companies display amortization periods, along with the number of years remaining in each amortization period, with sufficient transparency. As noted above, the Commission did not require public utilities to provide additional detail within each source (e.g., identifying each individual underlying temporary difference) in Order No. 864. Further, plant-based ADIT is derived from an asset that has a certain remaining life for tax purposes, whereas non-plant-based ADIT is not. Public utilities generally calculate plant-based ADIT amortization periods using industry standard schedules but have discretion to determine the remaining life of non-plant-based assets for tax purposes. Because plant-based ADIT has a certain remaining life that is generally calculated using industry standards, we disagree with Joint Protestors that individual amortization periods for plant-based excess and deficient ADIT must be displayed.  

f. Additional ADIT Worksheet-Related Requirements

i. Populated ADIT Worksheets

85. The Commission required that public utilities with transmission formula rates submit populated ADIT Worksheets with excess and deficient ADIT resulting from the Tax Cuts and Jobs Act. The Commission stated that any interested party will have an opportunity to comment on that populated information.

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103 This finding is consistent with our prior orders. See, e.g., Am. Transmission Sys. Inc., 177 FERC ¶ 61,120 at P 82; Sw. Power Pool, Inc., 177 FERC ¶ 61,090 at P 88; S. Cal. Edison Co. 177 FERC ¶ 61,119, at P 65 (2021).

104 Order No. 864, 169 FERC ¶ 61,139 at P 63.

105 Id. P 104.
(a) AEP Companies’ Compliance Filings

86. AEP Companies state that they provided populated ADIT Worksheets showing the excess and deficient ADIT resulting from the Tax Cuts and Jobs Act. AEP Companies state that Attachment C presents the working compliance version of the proposed permanent worksheet, based on 2018 inputs for each company, to account for the excess and deficient ADIT that arose due to the Tax Cuts and Jobs Act.

(b) Protest

87. Joint Protestors argue that AEP Companies failed to provide Excel versions of their revised Formula Rate templates. Joint Protestors also argue that the proposed ADIT Worksheets do not provide sufficient information regarding the accuracy of beginning ADIT balances. Joint Protestors assert that AEP Companies failed to provide fully functioning Excel workbooks of their revised Formula Rate templates in their compliance filings. Joint Protestors argue that AEP Companies’ failure prevented them from fully reviewing the proposed revisions, and ascertaining whether all proposed Excel formulae were accurate.

(c) Commission Determination

88. We find that AEP Companies have proposed in their answer to correct the issues raised by Joint Protestors in their Answer and Deficiency Response, as noted above. Accordingly, we find that AEP Companies comply with the Order No. 864 requirement to submit populated ADIT Worksheets with excess and deficient ADIT resulting from the Tax Cuts and Jobs Act and direct AEP to submit, in the compliance filing ordered below, the revised ADIT Worksheets containing the corrections that it provided in response to Joint Customers’ protest.

ii. Future Tax Rate Changes

89. The Commission required the ADIT Worksheet to apply to future tax rate changes. The Commission found that, because the ADIT Worksheet will provide

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106 AEP Companies’ Compliance Filing at 1-2.
107 Joint Protest at 2, 3, and 5.
108 AEP Companies’ Answer at 3.
109 Order No. 864, 169 FERC ¶ 61,139 at P 63.
110 Id. P 62.
transparency for excess and deficient ADIT included in transmission rates following future tax rate changes, public utilities are no longer required to seek Commission approval prior to including excess and deficient ADIT in their transmission rates. The Commission stated that, for future tax rate changes, it expects public utilities to provide supporting documentation for the excess and deficient ADIT inputs to the ADIT Worksheet to customers as part of the annual update process. The Commission also stated that, as with any other transmission formula rate input, customers can request information about, and challenge inputs to the ADIT Worksheet as part of the annual update process.

(a) **AEP Companies’ Compliance Filing**

90. AEP Companies state that they will use a new version of the ADIT Worksheet in the relevant annual informational filing for any future tax rate change. AEP Companies state that the ADIT Worksheets are scalable to reflect the additional excess or deficient ADIT and regulatory balances by adding lines to capture the new ADIT and regulatory subaccounts that would be necessary. AEP Companies also state that in the event of a new change in tax rates, the legislative act that supports the new rate would be referenced in column E for new subaccounts.

(b) **Protest**

91. Joint Protestors argue that AEP Companies proposed ADIT Worksheets fail to provide the requisite level of detail to “ensure that excess or deficient ADIT can be tracked as it is included in the annual revenue requirement.”

111 *Id.* PP 48, 69.

112 *Id.* P 65.

113 *Id.* P 49.

114 AEP Companies’ Compliance Filing, at 8.

115 *Id.*

116 Joint Protestors’ Protest at 8 (citing Order No. 864, 169 FERC ¶ 61,139 at P 62).
(c) **Answer**

92. AEP Companies state that the ADIT Worksheets will track the excess or deficient ADIT amounts associated with tax rate changes.\(^\text{117}\)

(d) **Deficiency Response**

93. In the Deficiency Letter, Commission staff asked AEP Companies to explain how their proposal to include the Remeasurement Worksheets for future tax rate changes as supporting workpapers in informational filings complies with the requirement to include ADIT account remeasurement as part of the ADIT Worksheets. AEP Companies explain that Attachments B-1 and B-2 would serve as a template for an additional worksheet that AEP Companies would insert into their formula to be used to summarize remeasurements necessitated by future changes in a tax rate. AEP Companies also explain that the final remeasurement amount shown in column H of the ADIT Worksheets is intended to support column F (Excess Balance at Remeasurement). AEP Companies state that column F will display any excess ADIT at the time of remeasurement, and enable comparison between the original remeasurement amount and the balance as a future date as it is amortized over time. AEP Companies explain that column K (Balance Sheet Account Reclassification) was intended to incorporate any reclassification entries that may be required in the future that are currently unforeseen.

94. AEP Companies further explain that proposed ADIT Worksheets are designed with the expectation that all activity will be limited to accounts listed therein.\(^\text{118}\)

(e) **Commission Determination**

95. We find that AEP Companies’ proposed ADIT Worksheets comply with Order No. 864’s requirements to apply to future tax rate changes because the ADIT Worksheets are applicable to future federal, state, and local tax rate changes. Further, subject to AEP Companies’ compliance with the directives in this order, we find that AEP Companies’ ADIT Worksheets will provide transparency for excess and deficient ADIT included in transmission rates following future tax rate changes and will no longer require AEP Companies to seek Commission approval prior to including excess or deficient ADIT in their transmission rates. We note that the Commission’s finding here that AEP Companies’ proposed ADIT Worksheets will provide transparency for excess or deficient ADIT included in transmission rates following future tax rate changes is separate and distinct from our findings discussed above as to whether the ADIT Worksheets meet the requirements information categories required by Order No. 864.

\(^{117}\) AEP Companies’ Answer at 9-10.

\(^{118}\) AEP Companies’ Deficiency Response at 5-6.
Additionally, as discussed in Order No. 864, as with any other transmission formula rate input, customers can request information about, and challenge those inputs as part of, the annual update process.\textsuperscript{119}

96. We believe the directives in this order regarding the information in the ADIT Worksheets resolve Joint Protestors’ concerns regarding future tax rate changes.

The Commission orders:

(A) AEP Companies’ proposed Tariff revisions are hereby accepted, effective January 27, 2020, subject to a further compliance filing, as discussed in the body of this order.

(B) AEP Companies are hereby directed to submit a further compliance filing within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Debbie-Anne A. Reese,
Deputy Secretary.
