

Exhibit No.
Issue: Debt Disallowance
Witness: W. L. Gipson
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Empire District Electric
Case No. ER-2010-0130
Date Testimony Prepared: April 2010

**Before the Public Service Commission
of the State of Missouri**

Rebuttal Testimony

of

W. L. Gipson

April 2010

REBUTTAL TESTIMONY
OF
WILLIAM L. GIPSON
THE EMPIRE DISTRICT GAS COMPANY
BEFORE THE
MISSOURI PUBLIC SERVICE COMMISSION
CASE NO. ER-2010-0130

1 **Q. ARE YOU THE SAME WILLIAM L. GIPSON THAT PRESENTED DIRECT**
2 **TESTIMONY PREVIOUSLY FILED IN THIS CASE?**

3 A. Yes I am.

4 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

5 A. The purpose of my testimony is to address the disallowance of certain debt costs
6 presented by Missouri Public Service Commission Staff ("Staff") in their direct
7 testimony and Staff Report Cost of Service ("SRCOS").

8 **Q. PLEASE EXPLAIN THE NATURE OF THE COSTS THAT STAFF**
9 **EXCLUDED FROM EMPIRE'S COST OF DEBT CALCULATION.**

10 A. In the first quarter of 2008, Empire solicited consents from its electric mortgage
11 bondholders to amend its Indenture so that the basket to pay dividends would
12 increase by approximately \$10.7 million. Fees of approximately \$1.6 million were
13 paid to bondholders in order to obtain the consents needed to amend the Indenture.
14 Staff has indicated in its SRCOS (pg. 5-6) that these expenses were disallowed
15 because the fees were "...associated with Empire's choice to amend its mortgage
16 bond indenture in order to allow it to maintain its current dividend..."

17 **Q. WHY DO YOU DISAGREE WITH THE STAFF'S DISALLOWANCE OF**
18 **THE DEBT COSTS?**

1 A. The costs were incurred in order to provide support to Empire's overall financing
2 plan related to this current (Asbury SCR, Riverton Unit 12, Iatan Unit 1 AQCS,
3 Plumb Point, and Iatan Unit 2) construction build. The Staff incorrectly suggests that
4 the costs related to the amendment were solely to benefit shareholders.

5 **Q. PLEASE EXPLAIN.**

6 A. Empire has nearly completed the largest construction program in its history which
7 has required significant financing from both the equity and debt markets. The equity
8 markets are attracted to Empire as an income stock, not as a growth stock. If Empire
9 were unable to pay its dividend, the underlying value would likely erode and make it
10 even more difficult, or impossible, for the Company to raise the equity funds
11 necessary to complete this construction cycle. If Empire had been unable to raise
12 equity funds, the Company would have been required to increase its debt issuances
13 to support the construction program. Empire's debt to equity ratio would likely have
14 exceeded acceptable rating agency guidelines for an investment grade company if
15 the Company had financed the projects in an unbalanced approach. This could have
16 lead to a downgrade from the rating agencies which would, in turn, raise Empire's
17 costs associated with any future debt issuances. Therefore, the amendment was
18 executed in support of the Company's overall financing plan, not just to benefit
19 shareholders.

20 **Q. WHAT IS THE RELATIONSHIP BETWEEN THE \$1.6 MILLION OF**
21 **AMENDMENT COSTS AND THE FINANCING NOTED PREVIOUSLY?**

22 A. The amendment was done in the first quarter of 2008, roughly half way through this
23 current construction and financing program, in order to provide investors some

1 comfort that Empire understood the importance of the dividend to shareholders. The
2 Company's Indenture, as it previously read, did not allow Empire to pay dividends
3 with essentially a negative retained earnings balance. The Company's retained
4 earnings balance had dropped to approximately \$17.2 million (12/31/07), in part
5 because we had absorbed \$85.5 million of fuel and purchased power costs in the
6 2003-2006 period due to the lack of a fuel adjustment clause in Missouri (Staff's
7 Cost of Service Report, Case No. ER-2008-0093). Empire believed an amendment to
8 the Indenture's retained earnings clause was necessary so that investors would
9 continue to be attracted to the Company's stock.

10 As previously explained, we believe a balanced approach to the financing
11 program was essential to maintaining an investment grade rating. In fact, this has
12 been known and acknowledged since the beginning of the construction program, as
13 the Regulatory Plan (Case No. EO-2005-0263) itself includes the following
14 statement: "Empire understands that it is responsible to take prudent and reasonable
15 actions to maintain Empire's debt at investment grade levels and avoid actions that
16 result in a downgrade." This language was included in the Regulatory Plan as an
17 acknowledgement of how important it is to keep financing costs low for customers
18 by maintaining an investment grade rating. The actions taken in 2008 to amend
19 Empire's Indenture were prudent in order to continue financing the current
20 construction cycle, and the costs associated with those actions should be included in
21 the debt costs related to the capital structure.

22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 A. Yes, it does.

AFFIDAVIT OF W.L. GIPSON

STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 30th day of March, 2010, before me appeared W.L. Gipson, to me personally known, who, being by me first duly sworn, states that he is the President and Chief Executive Officer of The Empire District Electric Company and acknowledges that he has read the above and foregoing document and believes that the statements therein are true and correct to the best of his information, knowledge and belief.

W.L. Gipson
W.L. Gipson

Subscribed and sworn to before me this 30th day of March, 2010.

Patricia A. Settle
Notary Public

My commission expires

PATRICIA A SETTLE
Notary Public - Notary Seal
State of Missouri
Commissioned for Jasper County
My Commission Expires: March 24, 2012
Commission Number: 08429710