

Exhibit No.:
Issues: *Customer Demand Program and
Deferred State Income Taxes*
Witness: *Amanda C. McMellen*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *ER-2006-0315*
Date Testimony Prepared: *July 28, 2006*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

AMANDA C. McMELLEN

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2006-0315

Jefferson City, Missouri
July 2006

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of The Empire District Company of)
Joplin, Missouri for authority to file tariffs)
increasing rates for electric service provided to)
customers in Missouri service area of the Company.)

Case No. ER-2006-0315

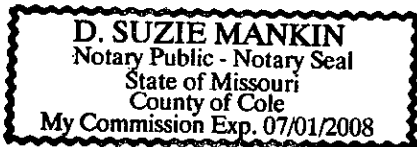
AFFIDAVIT OF AMANDA C. MCMELLEN

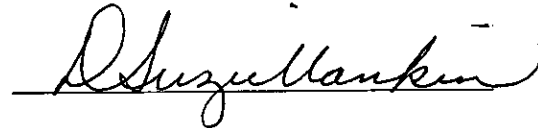
STATE OF MISSOURI)
)
COUNTY OF COLE) ss.

Amanda C. McMellen, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 4 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.


Amanda C. McMellen

Subscribed and sworn to before me this 26th day of July 2006.





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1 AEG's consulting work, and approximately \$1,500 for travel and
2 related expenses. Furthermore, an adjustment to increase expenses of
3 \$5,300 has been included in the income statement. This adjustment
4 reflects the amortization of the regulatory asset over ten years in
5 accordance with the Stipulation and Agreement reached in Case No.
6 EO-2005-0263.

7 Q. What is the Staff's response?

8 A. The Staff's agrees with Empire's approach, but not with the amounts Empire
9 proposes for the regulatory asset in rate base and the income statement adjustment for the
10 expense amortization.

11 Q. Why does the Staff disagree with the amounts Empire proposes?

12 A. The Staff's approach is to use actual costs incurred. As of March 31, 2006, the
13 Company has incurred \$10,000 in costs related to the Missouri Residential Market
14 Assessment and \$903 for travel and related expenses. Other than these costs, Empire has
15 estimated its costs in arriving at the amounts it proposes to include in rate base and its income
16 statement. Empire has not provided any documentation to the Staff that the estimated
17 amounts have actually been incurred.

18 Q. Does the Staff agree with the Company that the costs of the program should be
19 amortized over ten years?

20 A. Yes. In accordance with the Stipulation and Agreement in EO-2005-0263, the
21 Staff's case reflects an amortization amount of \$1,090.

22 Q. Does the Staff intend to update the amounts it has included in its case for
23 Empire's customer programs?

24 A. Yes. The Staff intends to update the rate base and expense components of the
25 customer programs for actual costs incurred through June 30, 2006.

DEFERRED STATE INCOME TAXES

Q. Does Empire explain why it included an amortization of past deferred state income taxes in its case?

A. Yes. Empire witness Laurie Delano explains the Company's rationale for including an amortization of deferred state income taxes in its case on page 6 of her direct testimony in this manner:

Prior to Case No. ER-94-174 which authorized new rates effective August 15, 1994, Empire had been provided revenues which recovered only federal income tax expense related to timing differences created by accelerated tax depreciation. The Company booked deferred income tax at the federal income tax rate as provided in previous rate cases. The effect of providing rates for only the federal income tax rate was to flow through a tax benefit of Missouri state income tax to ratepayers, thus lowering cost of service.

Ms. Delano goes on to explain that, since 1994, no mechanism has been provided to allow Empire benefits in rates associated with the previously flowed through state income tax amounts.

Empire's concern appears to be that while prior to 1994 it booked deferred taxes associated with accelerated depreciation at the then-existing federal tax rate, the flow-back of such deferred taxes to the customer will be calculated at a higher "composite" federal-state tax rate. The proposed amortization is intended to ensure Empire receives a rate benefit associated with these pre-1994 state income taxes.

Q. What is the amortization amount that Empire includes in its deferred tax calculation for state income taxes?

A. Empire includes \$130,431 of additional income tax expense for state income taxes that they believe were previously flowed through to the benefit of rate payers. This is based upon an 18-year amortization period.

1 Q. Does the Staff agree with Empire that there should be an amortization of
2 deferred state income taxes built into rates in this case?

3 A. No, not at this time. To date, Empire has not provided to the Staff convincing
4 information to support its position on this matter. The crucial question is whether past rates
5 set for Empire prior to its 1994 rate case actually reflected deferred taxes for accelerated
6 depreciation at a federal income tax rate only. The Staff asked Empire in Staff Data Request
7 No. 203 for all information in Empires' possession that supports Empire's contention that its
8 rates had been set deferring state income taxes on a federal income tax rate only prior to 1994.
9 Although the Company provided numerous calculations in its response showing that it booked
10 deferred taxes at a federal only tax rate prior to 1994, it did not present any actual
11 documentation from past Empire Missouri rate proceedings to verify that its rates were set to
12 reflect a federal only rate for purposes of calculating deferred taxes.

13 Q. Does the Staff have any basis for believing that Empire may have received the
14 benefits of deferred taxes associated with accelerated depreciation at a composite federal-state
15 income tax rate in cases prior to Case No. ER-94-174?

16 A. Yes. In Case No. ER-90-138, Staff witness Larry G. Cox states on page 8 of
17 his direct testimony the following:

18 The deferred tax depreciation component represents the amount of
19 income taxes, deferred until some future period, that the ratepayer is
20 required to provide currently. This amount is arrived at by multiplying
21 the excess tax depreciation allowed by the IRS that Staff is
22 normalizing by the composite rate of 36.8954%.

23 Q. What is a composite rate?

24 A. A composite rate includes both federal and state income tax rates.

25 Q. Does this conclude your rebuttal testimony?

26 A. Yes, it does.