Exhibit No.:	
Issue:	*Stub Period Amortization*
Witness:	*Mark L. Oligschlaeger*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal Testimony*
Case No.:	*ER-2019-0374*
Date Testimony Prepared:	*March 27, 2020*

MISSOURI PUBLIC SERVICE COMMISSION

FINANCIAL AND BUSINESS ANALYSIS DIVISION

SURREBUTTAL TESTIMONY

OF

MARK L. OLIGSCHLAEGER

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

Jefferson City, Missouri
March 2020

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Q. Please state your name and business address.

A. Mark L. Oligschlaeger, P.O. Box 360, Suite 440, Jefferson City, MO 65102.

Q. Have you previously contributed to Staff's Cost of Service Report filing dated January 15, 2020, as well as filed rebuttal testimony on March 4, 2020 in this case?

A. Yes, I have.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of this testimony is to respond to the rebuttal testimony filed in this case by The Empire District Electric Company ("Empire") witness Sheri Richard and the Office of the Public Counsel ("OPC") witness John S. Riley, both regarding the issue of the Tax Cuts and Jobs Act ("TCJA") Stub Period Amortization.

Q. Please briefly restate Staff's position on this issue.

A. Staff is taking the position that the deferral of tax benefits ordered by the Commission that accrued to Empire as a result of the TCJA from the effective date of the law to the date Empire's rates were reduced to reflect the TCJA (i.e., January 1, 2018 to August 28, 2018, or the "stub period") should be passed on in rates to Empire's customers through a five-year expense amortization, with no rate base offset for the unamortized amount.

<u>RESPONSE TO EMPIRE</u>

Q. Why does Empire witness Richard oppose Staff's proposed treatment of the stub period deferred amount?

A. Ms. Richard states that: (1) Staff does not provide a rationale for its position to provide these tax benefits to customers beyond its claim that passage of the TCJA was an extraordinary event; and (2) Staff's position on this matter is inconsistent with its recommendations concerning the stub period deferral in Case No. ER-2018-0366. Ms. Richard goes on to state Empire's opposition to any reflection in rates in this case of the stub period deferral.

Q. What is Staff's rationale for seeking inclusion of the stub period deferral in rates in this proceeding?

A. Staff supports rate recovery in this case of the stub period deferral as that is generally consistent with past ratemaking granted to extraordinary events by the Commission. As already discussed in Staff's direct filing, the Commission found enactment of the TCJA to be an extraordinary event in both Case No. ER-2018-0366 and similar cases involving other major utilities. There is a long history and practice in this jurisdiction of granting deferral requests to capture as regulatory assets some or all of the financial impact of extraordinary events on the utility's balance sheet, and subsequently providing the utility with the opportunity to recover such costs in subsequent general rate proceedings. In most cases, this rate recovery has been approved by the Commission through a multi-year amortization of the regulatory asset, with no rate base treatment. This is what Staff is recommending in this case for the stub period deferral, with one difference. While amortization of regulatory assets increase expense and, therefore, increase customer rates, amortization of a regulatory liability amount, such as Empire's TCJA deferral, results in negative amortization expense that benefits customers by reducing overall expense recovery.

Q. Are there any fundamental differences between passage of the TCJA and the types of extraordinary events that have been allowed rate recovery by the Commission in the past?

A. Not in Staff's view.

Most of the extraordinary events recognized by the Commission in the past as deserving rate recovery were in the nature of natural disasters ("acts of God"), such as floods or storms. These types of events are unanticipated and unexpected, and outside of the direct control of the utility, and for that reason costs associated with such events are not included in rates on an ongoing basis. When incurred, these costs must be deferred as regulatory assets in order to provide utilities with a reasonable opportunity to recover all or a portion of the repair and remediation costs in rates.

Enactment of the TCJA was likewise an event outside of Empire's control, could not be accurately forecasted in advance, and the impact of this law on Empire's income tax expense could not be and was not reflected in Empire's customer rates as of January 1, 2018. However, instead of imposing an unexpected financial cost on the utilities, as natural disasters do, the TCJA provided Empire and other utilities with a financial windfall until such time that the benefits could be reflected in customer rates.

Overall, Staff sees many parallels between the TCJA and other extraordinary expenses granted special ratemaking treatment in the past, and recommends that the stub period benefits of the TCJA be treated in the same manner as the costs associated with earlier extraordinary events were.

Q. Did Empire agree in Case No. ER-2018-0366 that the TCJA was an extraordinary event?

A. It did.

Q. What position did Staff take regarding the stub period deferral in Case No. ER-2018-0366?

A. In that case, due to the relatively short period of time (approximately eight months) Empire would enjoy the benefits of the TCJA before it was ordered to reduce its rates to pass on the benefits to its customers, Staff's position was that it was not necessary for the Commission to order a deferral of TCJA stub period tax benefits for Empire. However, the Commission ultimately rejected Staff's recommendation and ordered a deferral of the stub period TCJA impact, with ultimate ratemaking treatment for the deferral to be determined in Empire's next general rate case.

Q. Is Staff's ratemaking recommendation regarding the stub period deferral in any manner inconsistent with its deferral recommendations in Case No. ER-2018-0366?

A. No. Staff did not take any position on future rate recovery of the stub period deferral in Case No. ER-2018-0366, in the event that the Commission authorized such a deferral.

<u>RESPONSE TO OPC</u>

Q. Why does OPC witness Riley oppose Staff's recommended rate treatment of the stub period deferral?

A. Mr. Riley states that: (1) Staff's proposed amortization period of five years is "completely arbitrary," and (2) if an amortization is ordered by the Commission, the unamortized balance of the regulatory liability should be included in rate base. Mr. Riley goes on to recommend that the stub period deferral not be amortized at all for rate purposes, but rather offset against other regulatory assets currently included in Empire's rate base.

Q. Is Staff's proposed five-year amortization period for the stub period deferral in this case arbitrary in nature, as Mr. Riley claims?

A. Yes, but only in the same manner that any and all amortization periods can be considered to be inherently arbitrary.

Q. Please explain.

A. An amortization is the recognition in expense over time of the value of intangible items; i.e., one not having a physical nature. Regulatory assets and regulatory liabilities are examples of intangible items, in that they represent an expectation of future inflows and outflows of cash to and from a utility, and do not represent the existence of physical assets such as plant infrastructure, materials and supplies, fuel inventories, and so on. It is not possible to calculate an estimated "service life" for intangible assets, unlike the case for tangible asset categories for purposes of setting depreciation rates. For this reason, amortization periods for regulatory assets and liabilities and other intangible assets tend to be ordered for ratemaking purposes over an "arbitrary" three, five or ten-year period, depending upon the nature of the intangible asset and the circumstances of the case.

Q. Why did Staff recommend a five-year amortization period for the stub period deferral in this case?

A. Based upon my past experience in utility rate proceedings, five years is a common recommendation for reflecting items subject to amortization in rates, and it seemed a fair approach in this case for providing customers TCJA benefits over a reasonable period of time.

Q. Why did Staff recommend that rate base not be offset by the unamortized balance of the stub period deferral in this case?

A. That position is consistent with prior rate treatment of many extraordinary deferrals granted by the Commission in that it effectively "shares" the financial impact of the extraordinary event in question between the utility and its customers. In the case of an "act of God," including an amortization of the costs to repair and restore a utility system in rates, but excluding the unamortized amount from rate base, serves to share the financial burden and risk of unanticipated natural disasters between utility shareholders and customers. In the same manner, passing on to customers the dollar value of the TCJA tax benefits in rates over time through an amortization, but excluding the unamortized amount from rate base, effectively shares the benefit of unanticipated windfalls such as the TCJA between a utility and its customers. Staff's position on this point is the most fair and equitable treatment of the impact of the TCJA for ratemaking purposes.

Q. Please explain why Staff does not support OPC's proposed netting of the TCJA regulatory liability balance against other regulatory asset balances included in rate base.

A. While Staff is proposing inclusion of the TCJA deferral in rates as a negative expense for customers, but not recognizing the deferral in rate base, OPC is instead proposing to include the entire amount in rate base as a long-term reduction. Given that the stub period represents a tax benefit received by Empire over a relatively short period of time (January – August, 2018); Staff's position of recognizing that benefit over a finite five-year period is more appropriate than including this amount in rates as a long-term reduction to rate base.

Q. Does this conclude your surrebuttal testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Request for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in its Missouri Service Area	)))))	Case No. ER-2019-0374

AFFIDAVIT OF MARK L. OLIGSCHLAEGER

STATE OF MISSOURI	)	
	)	ss.
COUNTY OF COLE	)	

COMES NOW MARK L. OLIGSCHLAEGER and on their oath declares that they are of sound mind and lawful age; that they contributed to the foregoing Surrebuttal Testimony; and that the same is true and correct according to their best knowledge and belief, under penalty of perjury.

Further the Affiant sayeth not.

/s/ Mark L. Oligschlaeger
MARK L. OLIGSCHLAEGER