

**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

Supplement to the Office of the Public Counsel’s Application for Rehearing

COMES NOW the Office of the Public Counsel and supplements its Application for Rehearing as follows:

1. In addition to the grounds for rehearing Public Counsel raised in its Application for Rehearing, the Commission has not determined the periods over which to amortize Empire’s regulatory liabilities for excess accumulated deferred income taxes due to the federal 2017 Tax Cut and Jobs Act.

2. In its August 15, 2018, *Report and Order*¹ in Case No. ER-2018-0366, the Commission, ordered:

3. The Empire District Electric Company shall record a regulatory liability for the difference between the excess ADIT balances included in current rates, which is calculated using the 35 percent federal corporate income tax rate, versus the now lower federal corporate income tax rate of 21 percent. The calculation of the regulatory liability of excess ADIT shall begin as of January 1, 2018. Recovery of the amounts deferred through the regulatory liability shall be determined in Empire’s next general rate proceeding.
4. The Empire District Electric Company shall record a regulatory liability for the financial impact of the Tax Cut and Jobs Act of 2017 on the electrical corporation for the period of January 1, 2018, through August 30, 2018. Recovery of the amounts deferred through the regulatory liability shall be determined in Empire’s next general rate proceeding.

¹ Included in its *Report and Order* in Case No. ER-2018-0366 is finding of fact 33, which follows: “ADIT is booked as a reduction to Empire’s rate base, meaning the company earns a return on a lower amount of rate base as ADIT increases. In effect, ratepayers are earning a return on the amount booked as ADIT. Thus, the delay in returning excess ADIT to ratepayers does not require inclusion of carrying costs to make ratepayers whole.” (Footnote omitted).

This is that general rate proceeding.

3. The Commission's obligation to determine the amortization period for those regulatory liabilities is found in § 393.137, RSMo, which provides:

393.137. Electrical corporation rate adjustment, one time — definitions — when, how calculated — alternative deferral, when, how calculated. — 1. This section applies to electrical corporations that do not have a general rate proceeding pending before the commission as of the later of February 1, 2018, or June 1, 2018.

2. For purposes of this section, the following terms shall mean:

(1) "Commission", the public service commission;

(2) "Electrical corporation", the same as defined in section 386.020, but shall not include an electrical corporation as described in subsection 2 of section 393.110.

3. If the rates of any electrical corporation to which this section applies have not already been adjusted to reflect the effects of the federal 2017 Tax Cut and Jobs Act, Pub. L. No. 115-97, 94 Stat. 2390, the commission shall have one time authority that shall be exercised within ninety days of June 1, 2018, to adjust such electrical corporation's rates prospectively so that the income tax component of the revenue requirement used to set such an electrical corporation's rates is based upon the provisions of such federal act without considering any other factor as otherwise required by section 393.270. The commission shall also require electrical corporations to which this section applies, as provided for under subsection 1 of this section, to defer to a regulatory asset the financial impact of such federal act on the electrical corporation for the period of January 1, 2018, through the date the electrical corporation's rates are adjusted on a one-time basis as provided for in the immediately preceding sentence. The amounts deferred under this subsection shall be included in the revenue requirement used to set the electrical corporation's rates in its subsequent general rate proceeding through an amortization over a period determined by the commission.

4. Upon good cause shown by the electrical corporation, the commission may, as an alternative to requiring a one-time rate change and deferral under subsection 3* of this section, allow a deferral, in whole or in part, of such federal act's financial impacts to a regulatory asset starting January 1, 2018, through the effective date of new rates in such electrical corporation's next general rate proceeding. The deferred amounts shall be included in the revenue requirement used to set the electrical corporation's rates in its subsequent general rate proceeding through an amortization over a period determined by the commission.

4. The list of issues in this case does not include amortization periods for Empire's 2017 TCJA regulatory liabilities, and the Commission has not determined them.

Wherefore, the Office of the Public Counsel supplements its Application for Rehearing to the Commission to add as an additional ground for rehearing that, as required by law, the Commission determine the amortization periods for Empire’s 2017 TCJA regulatory liabilities.

Respectfully,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10th day of July 2020.

/s/ Nathan Williams