

*Exhibit No.:*  
*Issue(s):* Tax Reform  
*Witness:* Mark. L. Oligschlaeger  
*Sponsoring Party:* MoPSC Staff  
*Type of Exhibit:* Rebuttal Testimony  
*Case No.:* ER-2018-0366  
*Date Testimony Prepared:* July 11, 2018

**MISSOURI PUBLIC SERVICE COMMISSION**

**COMMISSION STAFF DIVISION**

**AUDITING UNIT**

**REBUTTAL TESTIMONY**

**OF**

**MARK L. OLIGSCHLAEGER**

**THE EMPIRE DISTRICT ELECTRIC COMPANY, THE INVESTOR  
(ELECTRIC)**

**CASE NO. ER-2018-0366**

*Jefferson City, Missouri  
July 2018*

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**CASE NO. ER-2018-0366**

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1 Q. Have you previously filed testimony before this Commission?

2 A. Yes, numerous times. A listing of the cases in which I have previously filed  
3 testimony before this Commission, and the issues I have addressed in testimony in cases from  
4 1990 to current, is attached as Schedule MLO-r1 to this rebuttal testimony.

5 Q. What knowledge, skills, experience, training and education do you have in the  
6 areas of which you are testifying as an expert witness?

7 A. I have been employed by this Commission as a Regulatory Auditor for  
8 approximately 36 years and have submitted testimony on ratemaking matters numerous times  
9 before the Commission. I have also been responsible for the supervision of other Commission  
10 employees in rate cases and other regulatory proceedings many times. I have received  
11 continuous training at in-house and outside seminars on technical ratemaking matters since  
12 I began my employment at the Commission.

13 **EXECUTIVE SUMMARY**

14 Q. Please summarize your rebuttal testimony in this proceeding.

15 A. In this testimony, I will provide Staff's recommendation regarding the actions  
16 the Commission should take to reflect the impact of the Tax Cuts and Jobs Act ("TCJA")  
17 enacted in December 2017 on Empire District's ("Empire") income tax expense in customer  
18 rates. In summary, Staff recommends that the terms of the Non-Unanimous Stipulation and  
19 Agreement ("NUSA") specific to TCJA matters that was filed on April 24, 2018 in Case Nos.  
20 EO-2018-0092 and ER-2018-0228 be found to be reasonable for ratemaking purposes even  
21 though the NUSA was not adopted by the Commission as a whole, and that those TCJA terms  
22 should be ordered in this case.

1 Q. Are other witnesses filing rebuttal testimony on behalf of Staff in this case?

2 A. Yes. Staff witness Sarah L.K. Lange is submitting rebuttal testimony on the  
3 subject of appropriate rate design for any rate change ordered by the Commission as a result  
4 of this proceeding.

5 **TAX REFORM**

6 Q. Please describe the TCJA.

7 A. The TCJA was signed into law in late December 2017, and significantly  
8 changed the approach used by the Federal Government to determine the federal tax liabilities  
9 of individual and business taxpayers, including regulated utilities.

10 For investor-owned regulated utilities, such as Empire District, the TCJA will affect  
11 their financial results in two primary ways: (1) a reduction in the federal corporate income tax  
12 rate from 35% to 21%; and (2) a required flow-back to ratepayers of “excess” accumulated  
13 deferred income taxes (ADIT) which were previously deferred by the utilities at the higher  
14 35% corporate income tax rate but, due to the TCJA, will actually be paid by the utilities to  
15 the Federal Government at a 21% tax rate.

16 Q. Has Staff previously agreed to ratemaking terms regarding the impacts of the  
17 TCJA on Empire District?

18 A. Yes, it has. Staff has previously agreed to specific terms and conditions  
19 regarding the amount of and timing of a rate change enabling Empire District to pass on the  
20 net financial benefits of the TCJA to Empire District’s customers in the NUSA filed for  
21 Case Nos. EO-2018-0092 and ER-2018-0228 on April 24, 2018. These terms and  
22 conditions are described at pages 3 – 5 of the direct testimony of Empire District witness  
23 Charlotte T. North in direct testimony filed earlier in this proceeding.

1           The NUSA provided for a \$17,837,022 annual reduction to Empire District's base  
2 rates effective October 1, 2018 in order to pass on the net financial benefits of the TCJA  
3 reduction in the federal corporate income tax rate to Empire District's customers. The NUSA  
4 did not call for any immediate reduction in Empire District's rates to reflect an amortization  
5 of excess ADIT back to customers, but does require Empire District to defer on its books the  
6 financial impact of the excess ADIT amortization back to January 1, 2018. Empire District  
7 will then reflect the amortization of excess ADIT in rates as a reduction to cost of service at  
8 the time of its next general rate case.

9           Q.     Even though the NUSA in Case Nos. EO-2018-0092 and ER-2018-0228 was  
10 not ultimately approved by the Commission, what are Staff's recommendations in this  
11 proceeding?

12           A.     Staff's position is that the terms and conditions regarding the TCJA in the  
13 NUSA continue to be fair and appropriate to both Empire District and its customers and,  
14 accordingly, recommends that the Commission order the same ratemaking and accounting  
15 treatments for TCJA impacts that are reflected in the NUSA in this proceeding.

16           Q.     How was the amount of the permanent rate reduction of \$17,837,022 that is set  
17 out in the NUSA determined?

18           A.     In order to determine the incremental impact of the TCJA on Empire District's  
19 cost of service, it is necessary to estimate the level of income tax expense included in  
20 Empire District's current rate levels. Since Empire District's last general rate proceeding was  
21 resolved through stipulation and agreement, the amount of income tax expense included in its  
22 current customer rates can only be estimated and is not subject to exact quantification.

23           In a filing made by Empire District in January 2018 in Case No. AW-2018-0174, it  
24 first presented its estimate of a \$17,837,022 annual decrease in income tax expense associated

1 with the TCJA reduction of the federal corporate income tax rate from 35% to 21%. This  
2 estimate was derived by Empire District using internal documentation from its last general  
3 rate case, No. ER-2016-0023. In quantifying this amount, Empire District had to utilize  
4 certain assumptions concerning rate base, return on equity and other ratemaking values  
5 resulting from its last general rate proceeding, as Empire District's revenue requirement in  
6 that case was stipulated.

7 Q. What steps did Staff take to verify the accuracy of Empire District's  
8 quantification of a reduction to cost of service of \$17,837,022 resulting from the lower TCJA  
9 corporate income tax rate?

10 A. Staff reviewed its own internal documentation regarding Empire District's rate  
11 change resulting from the 2016 rate case. Utilizing reasonable assumptions as to various  
12 ratemaking values reflected in the settled revenue requirement for Case No. ER-2016-0023,  
13 Staff recalculated the cost of service from that case using a 21% federal corporate income tax  
14 rate instead of the 35% rate that was actually in effect at that time. Staff's analysis produced  
15 an estimate of the value of the TCJA corporate income tax rate reduction that was slightly less  
16 than Empire District's estimate. For that reason, Staff deemed Empire District's  
17 quantification of \$17,837,022 to be reasonable and acceptable for ratemaking purposes.

18 Q. Why is Staff not recommending any immediate flow-back of excess ADIT to  
19 customers through an amortization at this time?

20 A. Based upon discussions with Empire District, it appears that there is still  
21 uncertainty at this time regarding the "average rate assumption method" ("ARAM")  
22 calculations that are necessary to determine the period of time "protected" ADIT balances

1 must be amortized back to customers in order to be compliant with “tax normalization”  
2 provisions within the TCJA.<sup>1</sup>

3 Staff is willing to leave resolution of excess ADIT quantification issues to  
4 Empire District’s next general rate case as long as the financial impact of the excess ADIT  
5 amortization is deferred back to January 1, 2018. Deferral treatment of this nature will ensure  
6 that Empire District customers receive full reimbursement for the excess portion of  
7 Empire District’s ADIT balances that was previously paid in by ratepayers.

8 Q. Have there been agreements reached with other utilities to delay the flow-back  
9 of excess ADIT amortization to customers to subsequent general rate proceedings?

10 A. Yes. Stipulation and agreements calling for such treatment of excess  
11 ADIT have previously been submitted and approved by the Commission in Case Nos.  
12 WR-2017-0285, Missouri-American Water Company, and GR-2018-0013, Liberty Utilities  
13 Midstates.

14 Q. Should the financial impact of the federal corporate income tax rate reduction  
15 to Empire District be deferred back to January 1, 2018 in the same manner in which Staff  
16 recommends for excess ADIT?

17 A. While there are circumstances under which a deferral back to the beginning of  
18 2018 of the TCJA income tax rate reduction might be appropriate, Staff does not believe such  
19 treatment is warranted in the specific context of this case. Staff’s position in this proceeding  
20 is that Empire District’s agreement to reduce its customer rates on October 1, 2018 in the  
21 NUSA is reasonable both in amount and in timing. In other dockets, Staff has not generally  
22 taken the position that the financial impact of the federal income tax rate reduction should be

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<sup>1</sup> Under the TCJA, if there is insufficient information to perform ARAM calculations, the utility must use the “reverse South Georgia method” to determine the amortization period for protected excess ADIT balances. At this time, Empire District believes it will ultimately be able to perform the necessary ARAM calculations for this purpose.



1 deferred back to January 1, 2018, since in those cases the Commission ordered or approved  
2 reflection of such impacts in utility cost of service in a relatively short period following  
3 the effective date of the TCJA. For the same reason, Staff's position in this particular  
4 proceeding is that deferral treatment of income tax rate reduction impacts is not necessary for  
5 Empire District if its customer rates are reduced for this cost of service impact by  
6 October 1, 2018.

7 Q. Have any other Missouri utilities to date been ordered to defer the impact of  
8 the TCJA income tax rate reduction back to January 1, 2018 in addition to implementing a  
9 prospective reduction to its cost of service due to the TCJA in customer rates?

10 A. No. However, in Case No. ER-2018-0362, as part of a stipulation and  
11 agreement, Ameren Missouri agreed to booking of a regulatory liability for the impact of the  
12 TCJA income tax reduction from January 1, 2018 to July 31, 2018. No other Missouri utilities  
13 have agreed to or have been ordered to defer the impact of the TCJA income tax rate  
14 reduction back to January 1, 2018.

15 Q. Please summarize your testimony in this proceeding.

16 A. Staff recommends that the terms and conditions set out in the NUSA regarding  
17 rate treatment of TCJA financial impacts be approved for purposes of this proceeding. This  
18 recommendation applies even though the Commission did not approve the NUSA before it in  
19 Case Nos. EO-2018-0092 and ER-2018-0228. More specifically, consistent with the content  
20 of the NUSA, Staff recommends:

21 (1) That a permanent rate reduction in the amount of  
22 \$17,837,022 be implemented effective October 1, 2018; and

23 (2) That Empire District be ordered to defer the financial  
24 impact of its excess ADIT amortization on its financial

Rebuttal Testimony of  
Mark L. Oligschlaeger

1 statements from January 1, 2018 until its next general rate  
2 proceeding.

3 Q. Does this conclude your rebuttal testimony?

4 A. Yes, it does.



**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

<b>Company Name</b>	<b>Case Number</b>	<b>Issues</b>
Empire District, a Liberty Utilities Company	EO-2018-0092	<b>Rebuttal:</b> Ashbury Regulatory Asset; Affiliate Transaction Variance
Liberty Utilities (Midstates Natural Gas) Corp.; d/b/a Liberty Utilities	GR-2018-0013	<b>Rebuttal:</b> Tracker Proposals <b>Surrebuttal:</b> Tracker Proposals; Pensions/OPEBs
Missouri-American Water Company	WR-2017-0285	<b>Direct:</b> Future Test Year <b>Rebuttal:</b> Future Test Year New Tax Legislation
Spire Missouri, Inc., d/b/a Spire (Laclede Gas Company / Missouri Gas Energy)	GR-2017-0215 and GR-2017-0216	<b>Rebuttal:</b> Tracker Proposals; Other Policy Proposals; Software Costs
Missouri-American Water Company	WU-2017-0351	<b>Rebuttal:</b> Property Tax AAO <b>Surrebuttal:</b> Property Tax AAO
Missouri Gas Energy and Laclede Gas Company	GO-2016-0332 and GO-2016-0333	<b>Rebuttal:</b> ISRS Updates; Capitalized Incentive Compensation; Hydrostatic Testing
Kansas City Power & Light Company	ER-2016-0285	<b>Rebuttal:</b> Tracker Proposals; Use of Projected Expenses; Expense Trackers in Rate Base
Laclede Gas Company and Missouri Gas Energy	GO-2016-0196 and GO-2016-0197	<b>Rebuttal:</b> ISRS True-ups
Union Electric Company d/b/a Ameren Missouri	ER-2016-0179	<b>Rebuttal:</b> Transmission Tracker; Noranda Deferral; Regulatory Reform
KCP&L Greater Missouri Operations Company	ER-2016-0156	<b>Rebuttal:</b> Tracker Proposals; Use of Projected Expenses; Tracker Balances in Rate Base; Deferral Policy
Missouri-American Water Company	WR-2015-0301	<b>Rebuttal:</b> Environmental Coast Adjustment Mechanism; Energy Efficiency and Water Loss Reduction Deferral Mechanism Tracker
Laclede Gas Company	GO-2015-0178	<b>Direct:</b> ISRS True-ups
Kansas City Power & Light Company	EU-2015-0094	<b>Direct:</b> Accounting Order – Department of Energy Nuclear Waste Fund Fees
Union Electric Company d/b/a Ameren Missouri (2018)	EO-2015-0055	<b>Rebuttal:</b> MEEIA Accounting Conditions
Union Electric Company d/b/a Ameren Missouri (2015)	EO-2015-0055	<b>Rebuttal:</b> Demand-Side Investment Mechanism

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

<b>Company Name</b>	<b>Case Number</b>	<b>Issues</b>
Kansas City Power & Light Company	ER-2014-0370	<b>Rebuttal:</b> Trackers <b>Surrebuttal:</b> Trackers; Rate Case Expense
Kansas City Power & Light Company	EO-2014-0255	<b>Rebuttal:</b> Continuation of Construction Accounting
Union Electric Company d/b/a Ameren Missouri	EC-2014-0223	<b>Rebuttal:</b> Complaint Case – Rate Levels
Kansas City Power & Light Company	EO-2014-0095	<b>Rebuttal:</b> DSIM
Union Electric Company d/b/a Ameren Missouri	ET-2014-0085	<b>Surrebuttal:</b> RES Retail Rate Impact
Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co.	EU-2014-0077	<b>Rebuttal:</b> Accounting Authority Order
Kansas City Power & Light Company	ET-2014-0071	<b>Rebuttal:</b> RES Retail Rate Impact <b>Surrebuttal:</b> RES Retail Rate Impact
KCP&L Greater Missouri Operations Company	ET-2014-0059	<b>Rebuttal:</b> RES Retail Rate Impact <b>Surrebuttal:</b> RES Retail Rate Impact
Missouri Gas Energy, A Division of Laclede Gas Company	GR-2014-0007	<b>Surrebuttal:</b> Pension Amortizations
The Empire District Electric Company	ER-2012-0345	<b>Direct (Interim):</b> Interim Rate Request <b>Rebuttal:</b> Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization <b>Surrebuttal:</b> State Income Tax Flow-Through Amortization
KCP&L Greater Missouri Operations Company	ER-2012-0175	<b>Surrebuttal:</b> Transmission Tracker Conditions
Kansas City Power & Light Company	ER-2012-0174	<b>Rebuttal:</b> Flood Deferral of off-system sales <b>Surrebuttal:</b> Flood Deferral of off-system sales, Transmission Tracker conditions
Union Electric Company d/b/a Ameren Missouri	ER-2012-0166	<b>Responsive:</b> Transmission Tracker
Union Electric Company d/b/a Ameren Missouri	EO-2012-0142	<b>Rebuttal:</b> DSIM
Union Electric Company d/b/a Ameren Missouri	EU-2012-0027	<b>Rebuttal:</b> Accounting Authority Order <b>Cross-Surrebuttal:</b> Accounting Authority Order
KCP&L Greater Missouri Operations Company	EO-2012-0009	<b>Rebuttal:</b> DSIM

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

<b>Company Name</b>	<b>Case Number</b>	<b>Issues</b>
Missouri Gas Energy, A Division of Southern Union	GU-2011-0392	<b>Rebuttal:</b> Lost Revenues <b>Cross-Surrebuttal:</b> Lost Revenues
Missouri-American Water Company	WR-2011-0337	<b>Surrebuttal:</b> Pension Tracker
The Empire District Electric Company	ER-2011-0004	<b>Staff Report on Cost of Service: Direct:</b> Report on Cost of Service; Overview of the Staff's Filing <b>Surrebuttal:</b> SWPA Payment, Ice Storm Amortization Rebasing, SO2 Allowances, Fuel/Purchased Power and True-up
The Empire District Electric Company, The-Investor (Electric)	ER-2010-0130	<b>Staff Report Cost of Service: Direct</b> Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; <b>Surrebuttal:</b> Regulatory Plan Amortizations
Missouri Gas Energy, a Division of Southern Union	GR-2009-0355	<b>Staff Report Cost of Service: Direct</b> Report on Cost of Service; Overview of the Staff's Filing; <b>Rebuttal:</b> Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; <b>Surrebuttal:</b> Environmental Expense, FAS 106/OPEBs
KCP&L Greater Missouri Operations Company	EO-2008-0216	<b>Rebuttal:</b> Accounting Authority Order Request
The Empire District Electric Company	ER-2008-0093	Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding
Missouri Gas Utility	GR-2008-0060	Report on Cost of Service; Overview of Staff's Filing
Laclede Gas Company	GR-2007-0208	Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact
Missouri Gas Energy	GR-2006-0422	Unrecovered Cost of Service Adjustment; Policy
Empire District Electric	ER-2006-0315	Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up
Missouri Gas Energy	GR-2004-0209	Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure
Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P-Electric and Steam	ER-2004-0034 and HR-2004-0024 (Consolidated)	Aries Purchased Power Agreement; Merger Savings

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

<b>Company Name</b>	<b>Case Number</b>	<b>Issues</b>
Laclede Gas Company	GA-2002-429	Accounting Authority Order Request
Union Electric Company	EC-2002-1	Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles
Missouri Public Service	ER-2001-672	Purchased Power Agreement; Merger Savings/Acquisition Adjustment
Gateway Pipeline Company	GM-2001-585	Financial Statements
Ozark Telephone Company	TC-2001-402	Interim Rate Refund
The Empire District Electric Company	ER-2001-299	Prudence/State Line Construction/Capital Costs
Missouri Gas Energy	GR-2001-292	SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP
KLM Telephone Company	TT-2001-120	Policy
Holway Telephone Company	TT-2001-119	Policy
Peace Valley Telephone	TT-2001-118	Policy
Ozark Telephone Company	TT-2001-117	Policy
IAMO Telephone Company	TT-2001-116	Policy
Green Hills Telephone	TT-2001-115	Policy
UtiliCorp United & The Empire District Electric Company	EM-2000-369	Overall Recommendations
UtiliCorp United & St. Joseph Light & Power	EM-2000-292	Staff Overall Recommendations
Missouri-American Water	WM-2000-222	Conditions
Laclede Gas Company	GR-99-315 (remand)	Depreciation and Cost of Removal
United Water Missouri	WA-98-187	FAS 106 Deferrals
Western Resources & Kansas City Power & Light	EM-97-515	Regulatory Plan; Ratemaking Recommendations; Stranded Costs

**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

<b>Company Name</b>	<b>Case Number</b>	<b>Issues</b>
Missouri Public Service	ER-97-394	Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation
The Empire District Electric Company	ER-97-82	Policy
Missouri Gas Energy	GR-96-285	Riders; Savings Sharing
St. Louis County Water	WR-96-263	Future Plant
Union Electric Company	EM-96-149	Merger Savings; Transmission Policy
St. Louis County Water	WR-95-145	Policy
Western Resources & Southern Union Company	GM-94-40	Regulatory Asset Transfer
Generic Electric	EO-93-218	Preapproval
Generic Telephone	TO-92-306	Revenue Neutrality; Accounting Classification
Missouri Public Service	EO-91-358 and EO-91-360	Accounting Authority Order
Missouri-American Water Company	WR-91-211	True-up; Known and Measurable
Western Resources	GR-90-40 and GR-91-149	Take-Or-Pay Costs



**CASE PARTICIPATION OF  
MARK L. OLIGSCHLAEGER**

**Cases prior to 1990 include:**

<u>COMPANY NAME</u>	<u>CASE NUMBER</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14