

Exhibit No:  
Issue: Income Tax  
Witness: L. Jay Williams  
Type of Exhibit: Rebuttal Testimony  
Sponsoring Party: Empire District Electric  
Docket No: ER-2011-0004  
Date Testimony Prepared: April 2011

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

**Rebuttal Testimony**

**Of**

**L. Jay Williams**

**April 2011**

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OF  
L. JAY WILLIAMS  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2011-0004

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REBUTTAL TESTIMONY  
OF  
L. JAY WILLIAMS  
THE EMPIRE DISTRICT ELECTRIC COMPANY  
BEFORE THE  
MISSOURI PUBLIC SERVICE COMMISSION  
CASE NO. ER-2011-0004

1        **INTRODUCTION**

2        **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3        A. L. Jay Williams. My business address is 602 Joplin Street, Joplin, MO.

4        **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5        A. I am employed by The Empire District Electric Company (“Empire” or  
6        “Company”) as Manager of Tax Planning.

7        **Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND WORK  
8        BACKGROUND.**

9        A. I graduated from Missouri Southern State University with a BS in Business  
10       Administration (emphasis in accounting) in 1975. I hold certificate number 8047  
11       from the Missouri State Board of Accountancy. Prior to joining Empire in 1983, I  
12       spent 6 years in public accounting, primarily in the income tax field. Except for a  
13       short period in Empire’s Internal Auditing Department, I have spent my entire  
14       tenure in the tax area of the Company. My tax experience at the Company  
15       includes the responsibility for tax compliance in the areas of property, sales/use,  
16       corporate franchise and income taxes.

17       **Q. HAVE YOU FILED TESTIMONY PREVIOUSLY BEFORE THE  
18       MISSOURI PUBLIC SERVICE COMMISSION (“COMMISSION”)?**

1 A. Yes.

2 **EXECUTIVE SUMMARY**

3 **Q. PLEASE BRIEFLY SUMMARIZE YOUR REBUTTAL TESTIMONY.**

4 A. My testimony concerns the level of deferred taxes the Missouri Public Service  
5 Commission Staff (“Staff”) proposes to be included in rate base related to the  
6 receipt of a one-time non-refundable cash payment from the Southwest Power  
7 Administration (“SWPA”) and their exclusion of the FAS 123 Deferred Tax  
8 Asset. My testimony responds to the direct testimony of Staff witness Paul  
9 Harrison.

10 **RATE BASE AMOUNTS RELATED TO THE SWPA PAYMENT**

11 **Q. WHAT HAS STAFF INCLUDED AS RATE BASE AMOUNTS FOR THE**  
12 **SWPA PAYMENT?**

13 A. Staff has correctly included the SWPA payment of approximately \$26 million as a  
14 reduction to rate base. However, the Company recorded a deferred tax asset of  
15 approximately \$10 million recognizing the tax the Company expects to pay on its  
16 federal/state tax returns related to the lump sum payment. Staff has incorrectly  
17 included only approximately \$3 million of the deferred tax asset in Staff’s rate  
18 base calculation.

19 **Q. DO YOU KNOW WHY STAFF REDUCED THE DEFERRED TAX**  
20 **ASSET?**

21 A. It appears Staff has reduced the deferred tax asset by approximately one-third to  
22 mirror the effect Staff included for the SWPA payment in its cost of service  
23 calculation for current taxes.

1 **Q. IS THIS APPROPRIATE?**

2 A. No. The deferred tax asset is recorded as a result of the liability recorded, not  
3 based on what is included in the cost of service calculation. Therefore, the entire  
4 \$10 million deferred tax asset should be included to be consistent with  
5 recognizing the entire \$26 million liability when calculating rate base.

6 **EXCLUSION OF FAS 123 DEFERRED TAX ASSET FROM RATE BASE**

7 **Q. WHAT CREATED THE EXCLUDED DEFERRED TAX ASSET?**

8 A. It was created pursuant to FAS 123, an accounting standard related to the book  
9 recording of compensation related stock options.

10 **Q. WHY SHOULD THIS BE INCLUDED IN RATE BASE?**

11 A. The FAS 123 deferred tax asset reflects the book/tax timing difference of deferred  
12 compensation and should therefore be a part of deferred taxes included in rate  
13 base as it has in the past.

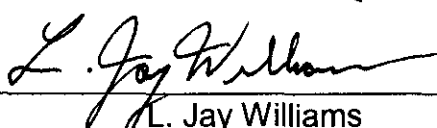
14 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

15 A. Yes, it does.

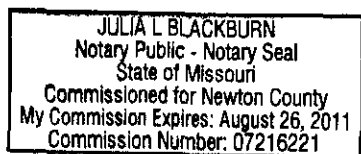
**AFFIDAVIT OF L. JAY WILLIAMS**

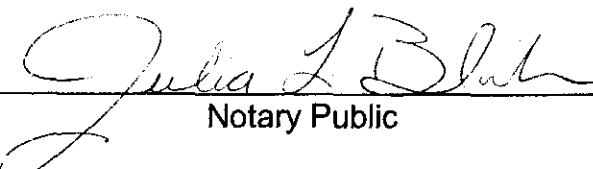
STATE OF MISSOURI    )  
  ) ss  
COUNTY OF JASPER    )

On the   12th   day of April, 2011, before me appeared L. Jay Williams, to me personally known, who, being by me first duly sworn, states that he is Manager of Tax Planning 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.

  
\_\_\_\_\_  
L. Jay Williams

Subscribed and sworn to before me this   12th   day of April, 2011.



  
\_\_\_\_\_  
Notary Public

My commission expires