

Exhibit No:
Issue: Income Tax
Witness: L. Jay Williams
Type of Exhibit: Surrebuttal 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**

Surrebuttal Testimony

Of

L. Jay Williams

April 2011

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

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

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

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

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

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

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

16 **Q. ARE YOU THE SAME L. JAY WILLIAMS THAT FILED REBUTTAL
17 TESTIMONY IN THIS PROCEEDING?**

18 A. Yes.

1 **Q. PLEASE BRIEFLY SUMMARIZE YOUR TESTIMONY.**

2 A. My testimony will respond to Office of the Public Counsel (“OPC”) witness Mr.
3 Ted Robertson’s rebuttal testimony concerning the rate making treatment of the
4 income tax impacts related to the Southwest Power Administration (“SWPA”) payment.
5

6 **Q. WHAT ARE THE ISSUES?**

7 A. Mr. Robertson proposes the deferred taxes recorded by the Company related to
8 the SWPA payment be ignored as a rate base addition in the current case. He also
9 contends that Staff’s proposal to provide current taxes in the cost of service
10 calculation be ignored for ratemaking purposes.

11 **Q. DO YOU AGREE?**

12 A. No, I do not. Mr. Robertson contends the tax owed will not be known and
13 measurable until the IRS rules on a Pre-filing Agreement applied for by the
14 Company. The reality is that the payment is taxable until proven otherwise. As a
15 large corporation, the Company is required to pay 100% of its tax liability by the
16 15th day of the 12th month of its tax year. The Company did pay the tax liability
17 in 2010, and it is being presented in the case consistent with these actions. As a
18 result, the tax is known and measurable based on existing facts and circumstances.

19 **Q. WHAT IS MR. ROBERTSON’S PROPOSAL CONCERNING THE**
20 **RECOVERY OF THE INCOME TAX EXPENSE, IF THE IRS**
21 **ULTIMATELY DENIES THE INVOLUNTARY CONVERSION**
22 **TREATMENT REQUEST?**

L. JAY WILLIAMS
SURREBUTTAL TESTIMONY

1 A. Mr. Robertson proposes recovery of the current tax expense in a later rate case.
2 This proposal is the one based on speculation. It is not known how the IRS will
3 rule on the Pre-filing Agreement. What is known is that Empire has been
4 required to pay the subject tax. Any future changes to this situation should be
5 addressed only at such time as those changes are known.

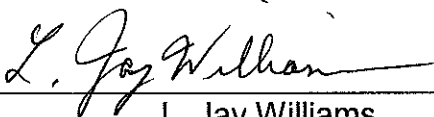
6 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

7 A. Yes it does.

AFFIDAVIT OF L. JAY WILLIAMS


STATE OF MISSOURI)
) ss
COUNTY OF JASPER)

On the 27th 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 27th day of April, 2011.



Notary Public

My commission expires Aug 26, 2011

JULIA L. BLACKBURN
Notary Public - Notary Seal
State of Missouri
Commissioned for Newton County
My Commission Expires: August 26, 2011
Commission Number: 07216221