

FILED<sup>3</sup>

SEP 23 2006

Missouri Public  
Service Commission

Exhibit No.:

Issues: Customer Demand Program and  
Deferred State Income Taxes

Witness: Amanda C. McMellen

Sponsoring Party: MoPSC Staff

Type of Exhibit: Rebuttal Testimony

Case No.: ER-2006-0315

Date Testimony Prepared: July 28, 2006

**MISSOURI PUBLIC SERVICE COMMISSION**

**UTILITY SERVICES DIVISION**

**REBUTTAL TESTIMONY**

**OF**

**AMANDA C. McMELLEN**

**THE EMPIRE DISTRICT ELECTRIC COMPANY**

**CASE NO. ER-2006-0315**

Jefferson City, Missouri  
July 2006

STAFF Exhibit No. 49  
Case No(s) ER-2006-0315  
Date 9-06-05 Rptr RF

**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

In the matter of The Empire District Company of )  
Joplin, Missouri for authority to file tariffs )  
increasing rates for electric service provided to )  
customers in Missouri service area of the Company. )

Case No. ER-2006-0315

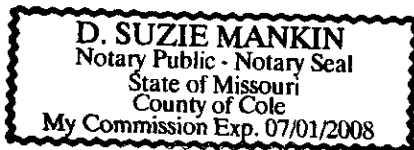
**AFFIDAVIT OF AMANDA C. MCMELLEN**

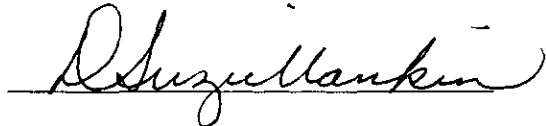
STATE OF MISSOURI       )  
                                  )  
COUNTY OF COLE       )       ss.

Amanda C. McMellen, of lawful age, on her oath states: that she has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 4 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of her knowledge and belief.

  
Amanda C. McMellen

Subscribed and sworn to before me this 26<sup>th</sup> day of July 2006.





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**AMANDA C. McMELLEN**  
**THE EMPIRE DISTRICT ELECTRIC COMPANY**  
**CASE NO. ER-2006-0315**

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1                                   **REBUTTAL TESTIMONY OF**

2                                   **AMANDA C. McMELLEN**

3                                   **THE EMPIRE DISTRICT ELECTRIC COMPANY**

4                                   **CASE NO. ER-2006-0315**

5           Q.     Please state your name and business address.

6           A.     Amanda C. McMellen, 200 Madison Street, Suite 440, Jefferson City, MO  
7 65102.

8           Q.     Are you the same Amanda C. McMellen that has previously filed direct  
9 testimony in this case?

10          A.     Yes, I am.

11          Q.     What is the purpose of this testimony?

12          A.     I am addressing certain aspects of the Empire District Electric Company  
13 (Empire or Company) direct filing, including its testimony regarding customer demand  
14 program costs and deferred state income taxes.

15                   **CUSTOMER PROGRAMS COLLABORATIVE/DEMAND SIDE MANAGEMENT**

16          Q.     How does Empire propose, in this case, to treat the costs associated with  
17 customer demand programs?

18          A.     Empire witness Sherrill L. McCormack explains how the Company treated the  
19 costs associated with the Customer Programs Collaborative (CPC) and the new Demand Side  
20 Management (DSM) and affordability programs on pages 4 through 5 of her direct testimony  
21 in this manner:

22                   Costs of \$53,000 associated with the CPC and new DSM and  
23                   affordability programs to be funded in 2006 have been included as a  
24                   regulatory asset in rate base. This amount included \$10,000 for the  
25                   Missouri Residential Market Assessment, approximately \$41,500 for

Rebuttal Testimony of  
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1 AEG's consulting work, and approximately \$1,500 for travel and  
2 related expenses. Furthermore, an adjustment to increase expenses of  
3 \$5,300 has been included in the income statement. This adjustment  
4 reflects the amortization of the regulatory asset over ten years in  
5 accordance with the Stipulation and Agreement reached in Case No.  
6 EO-2005-0263.

7 Q. What is the Staff's response?

8 A. The Staff's agrees with Empire's approach, but not with the amounts Empire  
9 proposes for the regulatory asset in rate base and the income statement adjustment for the  
10 expense amortization.

11 Q. Why does the Staff disagree with the amounts Empire proposes?

12 A. The Staff's approach is to use actual costs incurred. As of March 31, 2006, the  
13 Company has incurred \$10,000 in costs related to the Missouri Residential Market  
14 Assessment and \$903 for travel and related expenses. Other than these costs, Empire has  
15 estimated its costs in arriving at the amounts it proposes to include in rate base and its income  
16 statement. Empire has not provided any documentation to the Staff that the estimated  
17 amounts have actually been incurred.

18 Q. Does the Staff agree with the Company that the costs of the program should be  
19 amortized over ten years?

20 A. Yes. In accordance with the Stipulation and Agreement in EO-2005-0263, the  
21 Staff's case reflects an amortization amount of \$1,090.

22 Q. Does the Staff intend to update the amounts it has included in its case for  
23 Empire's customer programs?

24 A. Yes. The Staff intends to update the rate base and expense components of the  
25 customer programs for actual costs incurred through June 30, 2006.

**DEFERRED STATE INCOME TAXES**

Q. Does Empire explain why it included an amortization of past deferred state income taxes in its case?

A. Yes. Empire witness Laurie Delano explains the Company's rationale for including an amortization of deferred state income taxes in its case on page 6 of her direct testimony in this manner:

Prior to Case No. ER-94-174 which authorized new rates effective August 15, 1994, Empire had been provided revenues which recovered only federal income tax expense related to timing differences created by accelerated tax depreciation. The Company booked deferred income tax at the federal income tax rate as provided in previous rate cases. The effect of providing rates for only the federal income tax rate was to flow through a tax benefit of Missouri state income tax to ratepayers, thus lowering cost of service.

Ms. Delano goes on to explain that, since 1994, no mechanism has been provided to allow Empire benefits in rates associated with the previously flowed through state income tax amounts.

Empire's concern appears to be that while prior to 1994 it booked deferred taxes associated with accelerated depreciation at the then-existing federal tax rate, the flow-back of such deferred taxes to the customer will be calculated at a higher "composite" federal-state tax rate. The proposed amortization is intended to ensure Empire receives a rate benefit associated with these pre-1994 state income taxes.

Q. What is the amortization amount that Empire includes in its deferred tax calculation for state income taxes?

A. Empire includes \$130,431 of additional income tax expense for state income taxes that they believe were previously flowed through to the benefit of rate payers. This is based upon an 18-year amortization period.

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1 Q. Does the Staff agree with Empire that there should be an amortization of  
2 deferred state income taxes built into rates in this case?

3 A. No, not at this time. To date, Empire has not provided to the Staff convincing  
4 information to support its position on this matter. The crucial question is whether past rates  
5 set for Empire prior to its 1994 rate case actually reflected deferred taxes for accelerated  
6 depreciation at a federal income tax rate only. The Staff asked Empire in Staff Data Request  
7 No. 203 for all information in Empires' possession that supports Empire's contention that its  
8 rates had been set deferring state income taxes on a federal income tax rate only prior to 1994.  
9 Although the Company provided numerous calculations in its response showing that it booked  
10 deferred taxes at a federal only tax rate prior to 1994, it did not present any actual  
11 documentation from past Empire Missouri rate proceedings to verify that its rates were set to  
12 reflect a federal only rate for purposes of calculating deferred taxes.

13 Q. Does the Staff have any basis for believing that Empire may have received the  
14 benefits of deferred taxes associated with accelerated depreciation at a composite federal-state  
15 income tax rate in cases prior to Case No. ER-94-174?

16 A. Yes. In Case No. ER-90-138, Staff witness Larry G. Cox states on page 8 of  
17 his direct testimony the following:

18 The deferred tax depreciation component represents the amount of  
19 income taxes, deferred until some future period, that the ratepayer is  
20 required to provide currently. This amount is arrived at by multiplying  
21 the excess tax depreciation allowed by the IRS that Staff is  
22 normalizing by the composite rate of 36.8954%.

23 Q. What is a composite rate?

24 A. A composite rate includes both federal and state income tax rates.

25 Q. Does this conclude your rebuttal testimony?

26 A. Yes, it does.