

Exhibit No.: _____
Issue(s): Stub Period Tax
Regulatory Liability/Hedging Policy
Witness/Type of Exhibit: Riley/Rebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2019-0374

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

Submitted on Behalf of the Office of the Public Counsel

EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

**Denotes Highly Confidential Information
that has been Redacted**

March 3, 2020

PUBLIC

TABLE OF CONTENTS

Testimony	Page
Hedging Policy	3

REBUTTAL TESTIMONY

OF

JOHN S. RILEY

THE EMPIRE DISTRICT ELECTRIC COMPANY

CASE NO. ER-2019-0374

1 **Q. Are you the same John S. Riley who prepared and prefiled direct testimony in this case**
2 **on behalf of the Office of the Public Counsel?**

3 A. Yes.

4 **Q. Why are you testifying in rebuttal?**

5 A. This testimony responds to Staff witness Mr. Mark Oligschlaeger's direct testimony on the
6 disposition of the stub period over-collection of income tax that Empire recorded in a
7 regulatory liability account as a result of the Commission's decision in Case No. ER-2019-
8 0366. I will also be commenting on the changes in Empire's hedging strategy since the
9 decision in Case No. 2017-0065

10 **Q. What disposition does Mr. Oligschlaeger propose?**

11 A. On behalf of Staff, Mr. Oligschlaeger proposes that the amount recorded be amortized over
12 five years, and the resulting annual amount be applied as a reduction to Empire's cost of
13 service in this case, with no rate base reduction for the unamortized balance.

14 **Q. Does Mr. Oligschlaeger justify his proposal?**

15 A. No, not really. He noted, "At this time, Staff finds an amortization period of five years appears
16 to be appropriate for this item. Consistent with the common practice afforded in the past to

1 regulatory assets and liabilities, Staff is not proposing to include the unamortized balance of
2 the TCJA stub period regulatory liability in rate base.”¹

3 **Q. Do you agree that Mr. Oligschlaeger’s testimony is accurate?**

4 A. It appears to me that his choice for the length of the amortization period is completely
5 arbitrary. There is the same stub period amortization issue in the current pending Ameren
6 Missouri rate case, Case No. ER-2019-0335. Staff is recommending a three-year amortization
7 period in that case, not a five-year amortization period.

8 **Q. Do you agree with Mr. Oligschlaeger that the unamortized balance of the regulatory
9 liability should not be applied as an offset to Empire’s rate base?**

10 A. No. The \$11.7 million represents interest free money to Empire. The Commission usually
11 adjusts a company’s rate base for its use of interest free money from its retail customers.
12 Empire will have benefitted from the use of this interest free money for more than a year and
13 a half by the time this case is concluded. Any unamortized balance should be a rate base
14 offset until exhausted.

15 **Q. What has OPC proposed as a solution to the length of the amortization period?**

16 A. I proposed in my direct testimony that the overearnings be an offset to a rate base regulatory
17 asset. Applying this regulatory liability against a regulatory asset that is included in the
18 Company’s rate base would settle the matter for good. Justifying any particular amortization
19 period will be difficult. Even if the Commission chooses an amortization period to refund the

¹ Staff’s Direct Report, Case No. ER-2019-0374, page 56, lines 12-13.

1 overearnings, it must offset rate base to reflect the interest free money that Empire has been
2 allowed to use for more than a year and a half.

3 **Q. What is the advantage to applying an offset as opposed to an extended amortization**
4 **period as Staff proposes?**

5 A. It provides a cleaner cutoff. Interest free use of a regulatory liability now offsets a portion of
6 rate base.

7 **HEDGING POLICY**

8 **Q. Natural gas hedging was a protracted issue in Case No. EO-2017-0065. Has Empire**
9 **made any adjustments to its hedging policy since the Commission issued its Report and**
10 **Order in that case?**

11 A. Yes. The Company has submitted an updated Energy Risk Management Policy dated
12 December 20, 2019. Section 4 - Hedging Strategy has been streamlined and some of the
13 advanced procurement methods have been eliminated.

14 **Q. What are the major differences between Empire’s current hedging policy and the**
15 **practices it followed prior to when the Commission issued its Report & Order on**
16 **February 28, 2018, in Case to EO-2017-0065?**

17 A. ***
18 _____
19 _____
20 _____
21 _____
22 _____
23 _____

1 **Q. What hedging practices has Empire retained from its pre-Case No. EO-2017-0065**
2 **Report and Order hedging practices?**

3 A. *** _____ ***

4 **Q. Have you reviewed any of Empire's hedging results for this current case?**

5 A. Yes, I reviewed Empire's monthly FAC reports and Gas Position Summary reports for 2019.
6 The FAC reports provided Empire's monthly gas consumption and cost totals, as well as a
7 running 12-month accumulation of consumption costs, gas and transportation costs, and
8 financial hedging gains or loss totals. The Gas Position Summary provides monthly physical
9 and financial hedging amounts, as well the gas purchase prices for the contracts. The
10 Summary also provides information on Empire's hedging activity that has been established
11 for the near term, and totals for the next several years.

12 **Q. What hedging gains or losses did Empire incur for the calendar year 2019?**

13 A. Empire's 2019 year-end FAC fuel report indicates that Empire suffered approximately
14 *** _____
15 _____
16 _____
17 _____ ***

18 **Q. How does this result compare to Empire's reported previous annual hedging totals?**

19 A. Between 2008 and 2017, Empire averaged over *** _____ ***
20 so I view this to be a considerable improvement.

21 **Q. Do you have any observations about Empire's current hedging strategy?**

1 A. The changes in Empire's Risk Management Policy and its demonstrated restraint in hedging
2 out to the full 48-month time-frame, has reduced Empire's hedging losses in this low price
3 natural gas environment.

4 **Q. Does this conclude your rebuttal testimony?**

5 A. Yes it does.