

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

In the matter of the Future Supply,)	
Delivery and Pricing of the Elec-)	
tric Service Provided by Kansas)	EW-2004-0596
City Power & Light Company.)	

**LATE-FILED APPLICATION TO INTERVENE
OF PRAXAIR, INC.**

COMES NOW PRAXAIR, INC. ("Praxair") pursuant to 4 C.S.R. 240-2.075 and applies to intervene herein and become a party hereto for all purposes in respect to the Application to Establish Investigatory Docket and Workshop Process ("Application") made herein by Kansas City Power & Light Company ("KCPL") on or about May 6, 2004. In support thereof, Praxair respectfully states:

I. APPLICATION TO INTERVENE

1. Praxair is a large industrial electric customer of KCPL. Praxair operates a major air liquefaction and constituent gas production facility in Kansas City, Missouri. Praxair is the successor in interest to the Linde Division of Union Carbide Corporation.

2. Through Praxair's own prior interventions and those of its predecessor, Praxair's interests in proceedings affecting the rates, terms and conditions of electric service from KCPL have been previously recognized by the Missouri Public Service Commission in permitting its intervention in numerous rate design and electric rate proceedings concerning KCPL and

other Missouri utilities, most recently KCPL's Application Concerning Restructuring, Commission Case No. EM-2000-573.

3. Correspondence or communications regarding this application, including service of all notices and orders of this Commission, should be addressed to:

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4. On May 6, 2004, KCPL submitted to the Commission the Application requesting that the Commission initiate an investigatory docket and a "workshop process" to "discuss, and hopefully gain consensus on, constructive regulatory responses to emerging issues that will affect the supply, delivery and pricing of the electric service provided by KCPL."^{1/} No direct rate effect appears to have been proposed or requested by KCPL in the Application. KCPL generally states that its proposal is in furtherance of a process of strategic planning seminars that featured "divergent viewpoints." KCPL now seeks to continue that process in a Commission case. KCPL also states that its strategic alternatives "must be acted upon soon."^{2/} Notice was sent

^{1/} Application, p. 1.

^{2/} Application, p. 5.

only to the intervenors in the most recent KCPL rate reduction case, Case No. ER-99-313.

5. Praxair is a current retail ratepayer of KCPL and receives electrical energy pursuant to a contract with KCPL^{3/} that has been approved by this Commission and under other terms and conditions of service as contained in KCPL's tariffs on file with and approved by this Commission. Praxair is directly interested in KCPL's proposed plans, in this proposed process and in its outcome. Additionally, although no direct rate impact appears proposed from this Application, it is presently possible that decisions that are made, or a "consensus" that may be developed may have impact upon retail rates and upon Praxair and others.

6. The nature of Praxair's manufacturing processes make the costs of electricity a highly significant portion of Praxair's manufacturing costs and, as a major electric customer of KCPL, Praxair is in a position to be directly interested in KCPL's planning process and proposed and may be affected by any Commission order issued in this proceeding. Because KCPL provides non-firm electricity to Praxair under a separate contract and related rate schedules and because of Praxair's demand and high load factor, Praxair is in the special and unique position of representing an interest that is not and cannot be represented

^{3/} The terms of that contract are competitively sensitive and are considered by Praxair to be confidential.

adequately by any other existing party and which interest is direct and immediate and clearly differs from that of the general public. Therefore, it will aid the Commission and protect and advance the public interest that Praxair be permitted to intervene and participate in this proceeding so as to protect its interest that no other party is in a position properly to protect and adequately represent. Indeed, KCPL's process and its Application appears to have contemplated interventions.^{4/}

7. For purposes of 4 C.S.R. 240-2.075(2), Praxair states that it opposes the discriminatory pricing of electricity and related utility services. Praxair supports industry structures that foster and encourage competition within the electric industry and that will result in lower prices for the supplies of energy that Praxair needs to operate its business profitably. As detailed below, however, Praxair has only recently become aware of KCPL's Application and cannot therefore state any position more comprehensively save to state that it does not generally oppose the collaborative process that appears to be proposed by KCPL.

8. On June 9, 2004 Praxair filed an Application to Intervene in Case No. EO-2004-0577. However, counsel was advised this morning that the process has been transferred to this Case

^{4/} Application, pp. 5-6.

No. Accordingly, Praxair refiles its Application to Intervene in this Case.

II. SHOWING OF GOOD CAUSE FOR LATE-FILED INTERVENTION

1. Pursuant to 4 C.S.R. 240-2.075(5), Praxair states as follows:

2. Praxair is an international corporation and has several hundred of business locations both inside and outside the State of Missouri. Praxair's corporate headquarters is located in Connecticut. Praxair's operations in Kansas City are manufacturing and production-related only. In particular, energy-related managerial functions within Praxair are centralized at Praxair's New York and Chicago national operations centers.

3. Relevant management personnel within Praxair only became aware of KCPL's Application during the week of June 7, 2004. These personnel were not involved in the prior aspects of the process initiated by KCPL nor were they informed thereof. Because relevant management personnel for Praxair are not based in Kansas City, or even in the State of Missouri, local news items concerning the filing, if any were published, were not routed to Praxair's national operations centers and did not come to the attention of energy management personnel there until this week. Further, customary notifications to local county or city officials, to local newspapers, to members of the General Assem-

bly were not routed to the attention of Praxair's local plant management or to energy managers at Praxair's national operations center.

4. In its May 25, 2004 Order and Notice, the Commission directed that notice of the Application be sent to the same parties to whom KCPL already indicated that it had sent copies of the Application. No general public notice, nor billing notice was directed, nor to our understanding, was issued by KCPL or by the Commission.

5. Praxair's lack of timely awareness of this filing is not the result of any lack of concern or diligence on the part of Praxair, but rather is the result of the notification procedure employed, the non-local situs of Praxair's energy management team and national operations center, and the respective responsibilities of the local plant operations team.

6. Upon becoming aware of KCPL's filing, Praxair has moved to promptly obtain necessary internal approvals, arrange for representation by counsel and submit this Application to the Commission.

7. The Commission's May 25, 2004 Order and Notice directed interventions be filed by June 1, 2004, only seven calendar days (and five working days) after its issuance. Were the usual time period for Commission interventions to be utilized (20 days as customary; 30 days as provided by rule), this application to intervene would be timely.

8. As of this date, interventions have been requested only by two regulated utilities (Aquila and Empire District), by one government agency (Missouri Department of Natural Resources) and by one municipality (City of Kansas City). No separate interventions appear to have been filed by any industrial customers of KCPL.

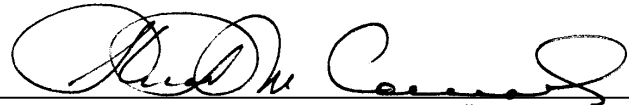
9. Because of the short time involved, counsel for Praxair has been unable to contact attorneys for any of these parties after obtaining authorization and in advance of filing this Application to Intervene. It is believed that the Missouri Office of the Public Counsel will not object, but such cannot be represented at this time. Praxair wishes to submit this Application at the earliest reasonable date to avoid further time running. Counsel intends to contact these parties as soon as possible and thereupon indicate to the Commission their respective positions regarding this proposed intervention.

10. It is not believed that permitting Praxair's intervention at this early point will result in any delay or prejudice to any party or to the applicant utility. Accordingly, permitting Praxair's intervention will neither delay nor impede the progress of the proceeding, nor delay nor affect events that may have already been scheduled. Moreover, given that the Application requests an inclusive process, it would appear that interventions by retail customers, particularly large scale retail customers, would be encouraged.

WHEREFORE, Praxair, Inc., having demonstrated basis for its intervention pursuant 4 C.S.R. 240-2.075 generally, and further shown good cause for this Application being filed out-of-time pursuant to 4 C.S.R. 240-2.075(5), prays that it be permitted to intervene herein and be made a party hereto with all rights to have notice of and participate in future meetings and hearings (if any be had) and to present evidence, cross-examine witnesses, file briefs and participate in argument, should any be had; and for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

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ATTORNEYS FOR PRAXAIR, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Late-Filed Application for Leave to Intervene by electronic means and by U.S. mail, postage prepaid, addressed to the legal representatives of all parties that have been identified as parties and petitioning intervenors through the Commission's EFIS System as of this date.



Stuart W. Conrad

Dated: June 10, 2004