

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the matter of The Empire Dis-)	
trict Electric Company of Joplin,)	
Missouri for authority to file)	
tariffs increasing rates for elec-)	ER-2008-0093
tric service provided to customers)	
in the Missouri service area of the)	
Company)	

PROVISIONAL APPLICATION TO INTERVENE BY PRAXAIR, INC,
AND EXPLORER PIPELINE COMPANY

COME NOW PRAXAIR, INC. ("Praxair") and EXPLORER PIPE-
LINE COMPANY ("Explorer") (collectively "Industrials") pursuant
to 4 C.S.R. 240-2.075 and **provisionally** apply to intervene herein
and become parties hereto for all purposes in respect to the rate
increase filing by Empire District Electric Company ("Empire") on
October 1, 2007. In support, Industrials state:

1. Paragraph D.1.c. of the Stipulation and Agreement
filed in Case No. EO-2005-0263, the same being Empire's "Regula-
tory Plan," as approved by the Commission on August 2, 2005,
provides:

Each of the Signatory Parties **shall be con-
sidered as having sought intervenor status in
any rate case or rate filings without the
necessity of filing an application to inter-
vene** and Empire consents in advance to such
interventions. (Emphasis added).

2. Industrials were signatory parties to that Stipu-
lation and Agreement and this filing by Empire is "any rate case
or rate filing" within the scope of that Stipulation and Agree-

ment. The Stipulation was approved by the Commission in its Report and Order dated August 2, 2005, and the parties ordered to comply with the Stipulation, hence these parties did not submit an Application previously as their status was confirmed by the Commission in its August 2, 2005 Order in Case No. EO-2005-0263.^{1/}

3. Similar language was recognized by the Commission and corresponding signatory parties were established as intervenors in ER-2006-0314 without the necessity of formal applications for intervention.^{2/}

4. This application is **provisional** in that, as stated above, Industrials have bargained for and the Commission by order confirmed their ability to be parties in this Empire rate filing (and other similar filings) without the necessity of filing an application to intervene. Despite its order, however, the Commission has failed to recognize those bargained-for and Commission-recognized and approved rights. To avoid any question and to avoid substantial prejudice, Industrials **provisionally** file this application. Pursuant to the aforesaid Stipulation, Empire has agreed to this intervention.

^{1/} See, ORDERED page from that order, attached as Exhibit B. Pursuant thereto, these parties, through counsel, submitted an Entry of Appearance of even date.

^{2/} See, Notice in Case No. ER-2006-0314, dated February 3, 2006, attached as Exhibit A.

5. Praxair is a large industrial electric customer of Empire. Praxair operates a major air liquefaction and constituent gas separation facility near Neosho, Missouri. Praxair is the successor in interest to the Linde Division of Union Carbide Corporation.

6. 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 Empire have been previously recognized by the Missouri Public Service Commission in permitting Praxair's intervention in numerous rate design and electric rate proceedings concerning Empire, including without limitation the last series of Empire rate increase cases, Case Nos. ER-94-174, ER-95-279, ER-97-81/82, and ER-2001-299, in the ultimately abandoned merger application of Empire and UtiliCorp United Inc. in Case No. EM-2000-369, and in Empire's last general rate cases, Case No. ER-2002-424 and Case No. ER-2004-0570 and in Empire's Regulatory Plan, EO-2005-0263 and in Empire's most recent rate case, ER-2006-0315.

7. Explorer is a large industrial electric customer of Empire. Explorer operates a 1,400-mile pipeline system that transports liquid petroleum products including gasoline, diesel fuel and jet fuel from the Gulf Coast to the Midwest. Explorer is based in Tulsa, Okla., and also serves Houston, Dallas, Fort Worth, St. Louis and Chicago. Portions of Explorer's products pipeline extend through the service territory of Empire where

Explorer has three electric-driven pumping stations. Explorer was an intervenor with Praxair in Empire's last general rate case, Case No. ER-2004-0570 and in Empire's Regulatory Plan, Case No. EO-2005-0263 and in Empire's most recent rate case, ER-2006-0315.

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

Stuart W. Conrad, Esq.
FINNEGAN, CONRAD & PETERSON, L.C.
1209 Penntower Office Center
3100 Broadway
Kansas City, Missouri 64111
Voice: (816) 753-1122
Fax: (816) 756-0373
E-mail: stucon@fcplaw.com

9. On October 1, 2007, Empire filed new tariffs with the Commission to implement a general rate increase for retail electric service. Empire stated that the new retail electric service rates are designed to produce an additional \$34,725,203 in gross annual electric revenues excluding gross receipts, sales, franchise, and occupational taxes, over existing revenues. By Order of October 3, 2007, these tariffs were suspended, a hearing scheduled and certain mesne' procedural dates established.

10. Industrials are interested in and will be directly affected by this proposed increase and in its impact on ratepayers generally and upon Praxair and Explorer specifically.

Praxair operates in a highly competitive commercial environment and increases to electric power costs have a decided effect upon Praxair's competitive position in its market. As a major interruptible electric customer of Empire, Praxair will be directly affected by the proposed increase and will be bound or adversely affected by any Commission order issued in this proceeding. Explorer is a FERC-regulated petroleum products pipeline and cannot pass cost increases to its own rates without further approvals. Because Empire provides electricity to Praxair on an interruptible basis under a separate contract and rate schedule and because of both companies' size and load factor, Industrials' interest is direct, immediate, unique, different from that of the general public, and will not or cannot adequately be represented by any other party. Therefore, it will aid the Commission and protect and advance the public interest that Industrials be permitted to intervene in this proceeding to protect their interest which no other party is in a position properly to protect and adequately represent.

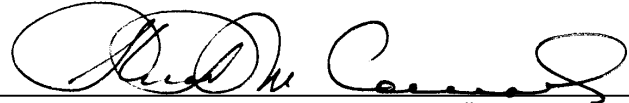
11. For purposes of 4 C.S.R. 240-2.075(2), Industrials state that they oppose the discriminatory and non-cost-based pricing of electricity and related utility services. Analysis of the rate filing has just begun and Industrials will later indicate their position with respect to specific aspects of the proposed increase pursuant to customary procedures.

12. This **provisional** filing is submitted this date because of a communication from the assigned Regulatory Law Judge indicating confusion as to the status of the industrials as intervenors and to forestall such confusion at the time of the prehearing conference.

WHEREFORE, Industrials **provisionally** request: (a) that they be permitted to intervene herein and be made parties hereto with all rights to have notice of and participate in hearings to present evidence, cross-examine witnesses, file briefs and participate in argument, should any be had; and (b) 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.

Stuart W. Conrad Mo. Bar #23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR PRAXAIR, INC. and
EXPLORER PIPELINE, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means, by United States Mail, First Class postage prepaid, or by hand delivery to all known parties in interest upon their respective representatives or attorneys of record as reflected in the records maintained by the Secretary of the Commission.


Stuart W. Conrad

Dated: October 29, 2007

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	<u>Case No. ER-2006-0314</u>
Certain Changes in its Charges for Electric)	Tariff No. YE-2006-0594
Service to Begin the Implementation of Its)	
Regulatory Plan)	

ORDER AND NOTICE

Issue Date: February 3, 2006

Effective Date: February 3, 2006

On February 1, 2006, Kansas City Power & Light Company submitted to the Commission proposed tariff sheets intended to implement a general rate increase for electrical service provided in its Missouri service area. The proposed tariff sheets bear a requested effective date of January 1, 2007.

According to KCPL's press release attached to the application, the tariff sheets are designed to produce an annual increase of \$55 million in KCPL's Missouri jurisdictional revenues, which would be an 11.5 percent increase. Together with its proposed tariff sheets and other minimum filing requirements, KCPL also filed prepared direct testimony in support of its requested rate increase.

The Commission has reserved dates for a true-up hearing. The Commission notes that in Case No. EO-2005-0329, it approved of KCPL's agreement with signatories to a stipulation that the test year in this case would be based upon a historic test year ending December 31, 2005, (initially filed with nine months actual and three months budget data), updated for known and measurable changes as of June 30, 2005, with a true-up through

EXHIBIT A

September 30, 2006, and with KCPL filing a reconciliation in the true-up proceeding on or about October 21, 2006.

The Commission will schedule the hearing dates in this order. By establishing the hearing dates now, the Commission will ensure that this matter is heard as expeditiously as possible. Additionally, the early establishment of the hearing dates will allow ample time for notice to be sent to customers. The Commission will also set an early prehearing conference and require the parties to file a proposed procedural schedule with additional filing dates for testimony, a second prehearing conference, local public hearings, the statement of issues and position papers of the parties, and the reconciliation. The Staff of the Missouri Public Service Commission shall have primary responsibility for the proposed procedural schedule. Staff should coordinate the proposed schedule with KCPL, the Office of the Public Counsel, and any intervenors, where possible.

The Commission finds that proper persons should be allowed 20 days from the issuance of this order to file a motion for leave to intervene. The Commission notes that in Case No. EO-2005-0329, KCPL agreed that the other signatories to the stipulation could intervene. The Commission therefore names each of the non-KCPL signatory parties from Case No. EO-2005-0329 intervenors. The Commission further notes that Sierra Club and Concerned Citizens of Platte County were parties to Case No. EO-2005-0329, but not signatories to the stipulation. The Commission's Data Center shall serve a copy of this order upon Sierra Club and Concerned Citizens of Platte County to give them notice and an opportunity to request intervention.

Furthermore, the Commission's Data Center shall serve a copy of this order upon the county commission of each county in KCPL's Missouri service area. In addition, the

Commission's Public Information Office shall make notice of this order available to the media serving KCPL's Missouri service area and to the members of the Missouri General Assembly representing the residents of the KCPL's service area.

The Commission will authorize Staff to file a complaint seeking a reduction in the Company's revenues if its audit reflects that the Company's earnings are excessive.

IT IS THEREFORE ORDERED:

1. That any proper person or entity desiring to intervene in this matter shall file an application no later than February 23, 2006, with:

Colleen M. Dale, Secretary
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

and send copies to:

James M. Fischer, Esq.
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, Missouri 65101

Karl Zobrist, Esq.
Sonnenschien Nath & Rosenthal, LLP
4520 Main Street, Suite 1100
Kansas City, Missouri 64111

and:

Office of the Public Counsel
Post Office Box 2230
Jefferson City, Missouri 65102

2. That the Staff of the Missouri Public Service Commission, the Office of the Public Counsel, and any persons or entities requesting intervention shall file, on or before

March 6, 2006, a pleading either indicating concurrence in the recommended test year and true-up filings, or recommending alternatives to it.

3. That an early prehearing conference is hereby scheduled for this case on March 14, 2006, at 10:00 a.m. The early prehearing conference shall be held in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If any person needs additional accommodations to participate in the prehearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the conference. Any party wishing to participate in the early prehearing conference by phone must notify the Presiding Judge no later than March 10, 2006.

4. That the parties shall file a proposed procedural schedule as described in this order on or before March 21, 2006. The Commission Staff shall have primary responsibility for preparing and filing the proposed procedural schedule.

5. That the Commission shall conduct local public hearings on the proposed rate increase and shall set the times, dates and locations of these local public hearings in a subsequent order. The parties shall file recommendations as to the dates and locations for local public hearings in this case on or before March 28, 2006.

6. The Office of the Public Counsel shall file a proposed customer notice no later than March 28, 2006. Any party may object to that proposed notice no later than April 4, 2006.

7. That an evidentiary hearing is hereby scheduled for this case as follows: September 5 through 8 and September 11 through 15, 2006. The hearing shall commence

at 8:30 a.m. on September 5, 2006. The evidentiary hearing shall be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If any person needs additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

8. That November 6-7, 2006, are reserved for a true-up hearing in this case, in the event that such a hearing is requested and the Commission grants the request. The true-up hearing shall be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Governor Office Building meets accessibility standards required by the Americans with Disabilities Act. If any person needs additional accommodations to participate in the hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 prior to the hearing.

9. That the Data Center of the Missouri Public Service Commission shall serve a copy of this order upon the county commission of each county affected by the tariff filing as pled by Kansas City Power & Light Company, and upon the parties in Commission Case No. EO-2005-0329.

10. That the Commission's Public Information Office shall make notice of this order available to the members of the Missouri General Assembly representing the residents of the Missouri service area affected by the tariff filing, as pled by Kansas City Power & Light Company, and to the news media serving the residents of the Missouri counties affected by the tariff filing, as pled by Kansas City Power & Light Company.

11. That the Staff of the Missouri Public Service Commission is hereby authorized to file a complaint seeking a reduction in Kansas City Power & Light Company's revenues if its audit reflects that the earnings are excessive. Any such complaint shall be filed in this case.

12. That this order shall become effective on February 3, 2006.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Ronald D. Pridgin, Regulatory Law Judge
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 3rd day of February, 2006.

that Empire failed to acquire more coal-fired resources at an earlier date,"⁸ in rate cases Empire may file.

The Commission has reviewed the First Amended Application, the Agreement, and the evidence received at the hearing. Based upon its review, the Commission concludes that the Stipulation and Agreement filed on July 18, 2005 is in the public interest. The Commission will therefore approve the Agreement and direct that the parties to the Agreement comply with its terms.

IT IS THEREFORE ORDERED:

1. That the Stipulation and Agreement entered into among The Empire District Electric Company, the Staff of the Commission, the Office of the Public Counsel, Explorer Pipeline Company, Praxair, Inc., and the Missouri Department of Natural Resources, on July 18, 2005, is approved.
2. That the parties to the Stipulation and Agreement shall comply with its terms.
3. That this order shall become effective on August 12, 2005.
4. That this case may be closed on August 13, 2005.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton and Appling, CC., concur
Gaw, C., concurs in part; dissents in part; dissent to follow

Pridgin, Regulatory Law Judge

⁸ Stipulation and Agreement, Section III.C.7, page 5.