

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

In the matter of the Application of)	
The Empire District Electric Compa-)	
ny for authority to file tariffs)	
reflecting increased charges for)	ER-2004-0570
electric service within its Mis-)	
souri service area)	

APPLICATION TO INTERVENE

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 filing for increased rates made herein by Empire District Electric Company ("Empire") on or about April 30, 2004. In support thereof, Praxair respectfully states:

1. 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.

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 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 case, Case No. ER-2002-424.

3. 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

4. On April 30, 2004 Empire filed an application with this Commission requesting Commission approval of proposed tariff changes that would result in an increase in annual revenues of roughly \$38.2 million or approximately 16 percent. The reasons stated for this request include asserted new or increased operating costs and obligations and proposed plant additions. Certain suggestions are also made regarding the selective recovery of fuel costs that Empire asserts are associated with energy generation.

5. Praxair is vitally interested in this proposed increase, in its terms and conditions, and in its impact on ratepayers generally and upon Praxair 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. Because Empire provides electricity to Praxair on an interruptible basis under a separate contract and rate schedule and because of Praxair's size and load factor, Praxair's 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 Praxair be permitted to intervene in this proceeding to protect its interest which no other party is in a position properly to protect and adequately represent.

6. Further, with regard to the proposed increase, Praxair is vitally interested in issues that are or may be raised by this filing with respect to any increase in Empire's rates and revenues, including, without limitation, (1) the revenues which will or may be realized under such rates and the increase over revenues resulting from former rates in effect before the current filing, (2) expenses and revenues to be charged to the appropriate test period, and (3) the design and structure of rates to raise the necessary revenues to meet Empire's proper class cost of service. Praxair is also concerned with respect to certain

proposals that would reduce Empire's risk of operations by allowing the passthrough of certain fuel costs to ratepayers.

7. For purposes of 4 C.S.R. 240-2.075(2), Praxair states that it is opposed to the discriminatory and non-cost-based pricing of electricity and related utility services. Further, Praxair states that at the present time the proposed rates have not been shown to be just or reasonable and they may, in fact, be unjust and unreasonable. Review of Empire's recently-received filing is continuing. On many other issues, a statement of Praxair's position must, of necessity, be deferred pending completion of that review.

8. Further, although in 2003 Empire settled an electric rate case before this Commission, that settlement concerned that case and facts only and did not establish that the resulting rates of Empire were not excessive. Accordingly, a proposal that assumes that existing rates are properly structured and simply applies an equal percentage increase to those rates has not been shown to properly reflect costs nor make a showing that such costs are proposed to be recovered from the customers and classes causing them.

9. For these reasons, as well as others not presently identified, Praxair also respectfully recommends that the Commission suspend the proposed tariffs and make them the subject of an appropriate investigation. That will allow verification of Empire's claims through a thorough audit of its books and records

as well as permit investigation by other interested parties into the assertions of inadequate earnings that have been made.

10. Undersigned counsel has spoken to Dennis Frey of the Office of the General Counsel, to James Swearingen, counsel for Empire, and to representatives of the Office of the Public Counsel regarding this Application to Intervene and none have indicated any objection.

WHEREFORE, Praxair prays: (a) that upon suspension an appropriate procedural schedule be adopted providing for a hearing and the filing of exhibits and testimony; (b) that following such investigation the matter be set for hearing before the Commission in which the applicant utility shall be put to its proof regarding the need for the proposed increase and all aspects of its proposed methodology of recovery; and (c) that Praxair be permitted to intervene herein and be made a party 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 (d)

for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in dark 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.

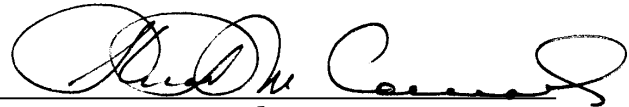
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application for Leave to Intervene either by hand delivery, by electronic means, or by U. S. mail, postage prepaid addressed to all parties by their attorneys of record as provided by the Secretary of the Commission as shown below.

Mr. John Coffman
Public Counsel
Office of the Public Counsel
200 Madison Street
Suite 650
Jefferson City, MO 65101

Mr. James C. Swearengen
Brydon, Swearengen & England, P.C.
312 East Capitol Avenue
Jefferson City, MO 65101

Mr. Dan Joyce
General Counsel
Missouri Public Service Commission
200 Madison Street
Suite 800
Jefferson City, MO 65101



Stuart W. Conrad

Dated: May 5, 2004