

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-2006-0315
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
February 1, 2006. 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.

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 Agreement.

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.

4. This application is **provisional** in that, as stated above, Industrials had bargained for and the Commission 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 while the Commission corrects its error, Industrials **provisionally** file this application within the time specified by the suspension order. Pursuant to the same stipulation, Empire has agreed to this intervention.

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.

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.

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.

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9. On February 1, 2006, 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 \$29,513,713 in gross annual electric revenues excluding gross receipts, sales, franchise, and occupational taxes, or a 9.63% increase over existing revenues. By Order of February 7, 2006, 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.

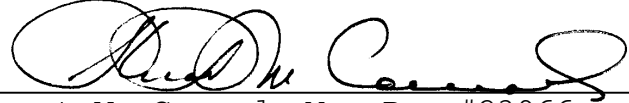
11. For purposes of 4 C.S.R. 240-2.075(2), Industrials state that they oppose the discriminatory and non-cost-based pricing of electricity and related utility services. Analysis of the rate filing has just begun and Industrials will later indicate their position with respect to specific aspects of the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

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.

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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: February 23, 2006