

**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-2011-0004**
tric service provided to customers)
in the Missouri service area of the)
Company)

**APPLICATION TO INTERVENE
BY MIDWEST ENERGY USERS' ASSOCIATION**

COMES NOW the MIDWEST ENERGY USERS' ASSOCIATION ("MEUA") pursuant to 4 C.S.R. 240-2.075 and applies to intervene herein and become a party for all purposes in respect to the rate increase filing by Empire District Electric Company ("Empire") on October 29, 2009. In support, MEUA states:

1. MEUA is an unincorporated ad-hoc association of large commercial and industrial users of electricity who group together using the MEUA vehicle to combine resources and gain economies in representation and activity in these rate cases. At present, and for purposes of this case, MEUA participants are Praxair, Inc. ("Praxair"), Explorer Pipeline Company ("Explorer"), and Enbridge Energy, LLP ("Enbridge"), each of which is an Empire District customer and has previously intervened (individually or through MEUA) and been active in earlier Empire proceedings. Other similarly situated customers are also consid-

ering participation in this case through MEUA, but have not yet reached decisions on participation.^{1/}

2. Praxair may be considered as an automatic intervenor in this proceeding as noted below and this Application is without prejudice to those earlier determinations. 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.

a. 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, in Empire's prior general rate cases, Case No. ER-2002-424 and Case No. ER-2004-0570 in Empire's Regulatory Plan, EO-2005-0263 and in Empire's most recent rate case, ER-2010-0130.

^{1/} MEUA counsel commit promptly to advise the Commission of other participants in this group.

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

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

Praxair was a signatory party to the Regulatory Plan and therefore should be an intervenor without the necessity of filing and application to intervene. Through this settlement, Empire has consented in advance to Praxair's intervention.

3. Similarly, Explorer may also be an automatic intervenor in this proceeding. 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.

a. 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.

b. Explorer was an intervenor with Praxair in Empire's prior general rate case, Case No. ER-2004-0570, in

Empire's Regulatory Plan, Case No. EO-2005-0263 and in Empire's most recent rate case, ER-2010-0130.

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

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

Explorer was a signatory party to the Regulatory Plan and therefore should be an intervenor without the necessity of filing and application to intervene. Through this settlement, Empire has consented in advance to Explorer's intervention.

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

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5. On September 28, 2010, 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 roughly an additional \$36.5 million in gross annual electric revenues excluding gross receipts, sales, franchise, and occupational taxes, over existing revenues. By Order of October 4, 2010, these tariffs were suspended, and a hearing scheduled and certain other procedural dates specified.

6. MEUA participants are interested in and will be directly affected by this proposed increase and in its impact on ratepayers generally and upon them specifically. They will be directly affected by the proposed increase and will be bound or adversely affected by any Commission order issued in this proceeding. Their 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 MEUA be permitted to intervene in this proceeding to protect its participants' interest which no other party is in a position properly to protect.

7. For purposes of 4 C.S.R. 240-2.075(2), MEUA states that it opposes the discriminatory and non-cost-based pricing of electricity and related utility services. Analysis of the rate filing has just begun and MEUA will later indicate a position with respect to specific aspects of the proposed increase pursuant to customary procedures.

8. MEUA for its participants states that this application is submitted without prejudice to other remedies that the current participants may have in connection with the Regulatory Plan case, No. EO-2005-0263 and through settlements in other subsequent cases.

WHEREFORE, MEUA requests: (a) that it 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.

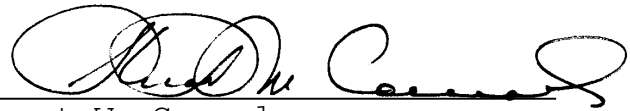


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ATTORNEYS FOR MIDWEST ENERGY USERS'
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CERTIFICATE OF SERVICE

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.

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

Stuart W. Conrad

Dated: October 20, 2010