

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

In the Matter of the tariff filing of The)	
Empire District Electric Company)	
to implement a general rate increase for)	<u>Case No. ER-2006-0315</u>
retail electric service provided to customers)	
in its Missouri service area.)	

REQUEST FOR ORAL ARGUMENT

COMES NOW, the Office of the Public Counsel (OPC), Praxair, Inc. ("Praxair") and Explorer Pipeline, Inc. ("Explorer"), and in support of their Request for Oral Argument respectfully states as follows:

1 On June 23, 2006, Praxair / Explorer filed its Motion For Rehearing regarding the Commission's June 15, 2006 Order Rejecting Tariffs and Striking Testimony. As detailed in that Motion for Rehearing, Praxair / Explorer assert that the Commission's Order is unlawful, not based on competent and substantial evidence and is arbitrary and capricious in that, by failing to strike Empire's testimony and reject tariffs seeking to recover fuel and purchased power expense in base rates, the Commission has apparently found that Empire **has** sought to terminate the IEC agreed to by the parties in Case No. ER-2004-0570. This is in direct conflict with a previous Commission Order that found that "Empire **may** have the option of requesting that the IEC be terminated."¹

2. On the same day, OPC filed its Application for Rehearing of the same Commission order. In its Application, OPC alleges that the Commission's Order is unlawful and not based upon competent and substantial evidence in that it improperly

¹ Order Clarifying Continued Applicability of the Interim Energy Charge, Case No. ER-2006-0315, at page 3.

rejected three specific tariff sheets out of a 31 page tariff filing that had previously been suspended.

3. Following the filing of Empire's response to the Praxair / Explorer Motion and OPC Application, the Commission discussed this matter in its July 6 agenda session. In the context of this agenda discussion, concerns arose among the Commissioners as to whether the Praxair / Explorer and OPC pleadings actually only sought clarification of the Commission's previous Order; whether rehearing was the appropriate remedy to be sought by Praxair / Explorer and OPC; whether Praxair / Explorer and OPC had alternative avenues for redress of any alleged breach of contract by Empire; and whether there was a time urgency for the Commission to address the pending Motion and Application.

4. Praxair / Explorer and OPC do not intend to address these issues in the context of this pleading. Praxair / Explorer and OPC, however, recognize that some confusion may exist as to the nature of their contentions and the importance of a timely resolution of these pleadings in order that this case is expeditiously processed.² As such, Praxair / Explorer and OPC suggest that the Commission **schedule an oral argument** so that the parties may detail for the Commission the unlawful nature of the Commission's previous decision. The Commission has repeatedly recognized the beneficial nature of such oral arguments when addressing such matters of law. Praxair / Explorer and OPC believe that similar beneficial effects will result from an oral argument in this matter.

² Given the lack of resolution of the IEC question, as well as the magnitude of that issue on the current proceeding, Staff found itself compelled to file alternative positions in the Preliminary Reconciliation filed July 7, 2006, one position assuming that the IEC is continued for the three-year term and another position assuming that the IEC is terminated. Based upon updated reconciliations provided to the parties on July 9, 2006, the difference in these positions based upon the unresolved IEC issue is approximately \$27 million. More importantly, if the IEC is continued in effect for its entire three-year term, Staff's case evidences Empire overearnings of approximately \$16 million (absent any increased revenues resulting from amortizations as provided for in the regulatory plan approved by the Commission in Case No. EO-2005-0263).

Furthermore, Praxair / Explorer and OPC suggest that this oral argument would take no longer than a few hours.

WHEREFORE, OPC, Praxair and Explorer respectfully request that the Commission issue its Order scheduling an oral argument regarding the pending Applications for Rehearing of OPC and Praxair / Explorer.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

A handwritten signature in black ink, appearing to read "David L. Woodsmall", written in a cursive style.

David L. Woodsmall

Dated: July 9, 2006