

FINNEGAN, CONRAD & PETERSON, L.C.

ATTORNEYS AND COUNSELORS AT LAW

1209 PENNTOWER OFFICE CENTER
3100 BROADWAY
KANSAS CITY, MISSOURI 64111

(816) 753-1122
TELECOPIER (816) 756-0373

Internet: stucon@fcplaw.com

JEREMIAH FINNEGAN, P.C.
STUART W. CONRAD
C. EDWARD PETERSON*

*ALSO ADMITTED IN
KANSAS AND MASSACHUSETTS

Writer's 24-Hour Number:
(888)266-7934

March 11, 2002

FEDERAL EXPRESS

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

Re: **Empire District Electric Co.**
Case No. ER-2002-424

Dear Mr. Roberts:

Enclosed are the original and eight (8) conformed copies of **Application to Intervene of Praxair Inc.**, which please file in the above matter and call to the attention of the Commission.

An additional copy of the material to be filed is enclosed, which kindly mark as received and return to me in the enclosed envelope as proof of filing.

Thank you for your attention to this important matter. If you have any questions, please call.

Sincerely yours,

FINNEGAN, CONRAD & PETERSON, L.C.

By: 

Stuart W. Conrad

SWC:s
Enclosures
cc: All Parties

FILED²
MAR 12 2002
Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
MAR 12 2002

Missouri Public
Service Commission

ER-2002-424

In the matter of the Application of)
The Empire District Electric Compa-)
ny for authority to file tariffs)
reflecting increased charges for)
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 March 8, 2002. In support thereof,
Praxair respectfully states:

1. Praxair is a large industrial electric customer of
Empire. Praxair operates a major air liquefaction and constitu-
ent gas production 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 and ER-97-81/82, in the ultimately abandoned merger application of Empire and UtiliCorp United Inc. in Case No. EM-2000-369, and in Empire District's last general rate case, ER-2001-299.

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 March 8, 2002 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 \$19.779 million or approximately 9 percent. The reasons stated for this request include assertions of additional new operating costs and obligations and proposed changes in capital structure. The filing apparently includes a request for a "rider for security enhancements," but indicates that such rider is sought only "if" such enhancements are sought. A further change in the summer-winter rate differential for residential customers is also requested.

5. Praxair is vitally interested in this proposed increase, in its terms and conditions, and its impact on

ratepayers generally and upon Praxair specifically. As a major interruptible electric customer of Empire, Praxair is in a position to be directly affected by the proposed increase and may be bound or adversely affected by any Commission order issued in this proceeding. Because Empire provides electricity to Praxair on an interruptible basis under separate contracts and rate schedules and because of Praxair's size and load factor, Praxair is in the special and unique position of representing an interest which will not and cannot be represented adequately by any other party and which interest is direct and immediate and differs from that of the general public. Therefore, it will aid the Commission and protect and advance the public interest that Praxair be permitted to intervene in this proceeding so as 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

proposed adjustments to the Interim Energy Charge that resulted from the prior case and how those changes would factor into this request and with what impact.

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 either just or reasonable and they may, in fact, be unjust and unreasonable.

8. Further, although in 1998 Empire settled an electric rate case before this Commission, such settlement concerned those cases 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. Undersigned counsel has spoken to Dennis Frey of the Office of the General Counsel, to James Swearengen counsel for Empire, and to John Coffman, Acting Public Counsel. All have authorized Praxair counsel to state that none have any objection to the granting of this Application to Intervene.

WHEREFORE, Praxair prays: (a) that the proposed rate increase filing of March 8, 2002 be **suspended** for the full

statutory period allowed and thereupon subjected to a full and thorough investigation and analysis; (b) that an appropriate procedural schedule be adopted providing for a hearing and the filing of exhibits and testimony; (c) 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 (d) 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 (e) for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A large, stylized handwritten signature in black ink, appearing to read 'Stuart W. Conrad', is written over the printed name and address.

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.

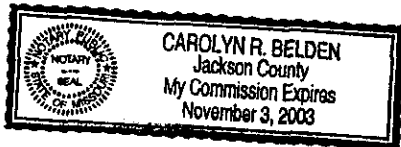
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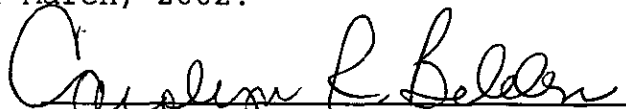
STATE OF MISSOURI)
)
 COUNTY OF JACKSON) ss.

Comes now Stuart W. Conrad, and having been first duly sworn, states that he is counsel for the within applicant for intervention and has been duly authorized by appropriate authorities thereof to file this application; that he has read and is familiar with the contents thereof and that the statements therein made are true and correct to the extent of his knowledge, information and belief.


 Stuart W. Conrad

IN WITNESS WHEREOF, I have hereunto set my hand and my official seal at my office in Kansas City, Jackson County, Missouri on this 11th day of March, 2002.




 Notary Public Within and for
 said County and State

(SEAL)

My Commission Expires:

Nov. 3, 2003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Application for Leave to Intervene 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
Assistant Public Counsel
Office of the Public Counsel
200 Madison Street
Suite 650
P. O. Box 7800
Jefferson City, MO 65101

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

Mr. Dennis Frey
Assistant General Counsel
Missouri Public Service Commission
200 Madison Street
Suite 100
Jefferson City, MO 65101

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



Stuart W. Conrad

Dated: March 11, 2002