

**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 Retail)
Electric Service Provided to Customers in its)
Missouri Service Area.)

Case No. ER-2006-0315

**NON-UNANIMOUS STIPULATION AND AGREEMENT
REGARDING RATE DESIGN ISSUES**

Come now the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("Public Counsel"), Praxair, Inc. and Explorer Pipeline Company ("Praxair / Explorer"), collectively "Signatories," and respectfully state to the Missouri Public Service Commission ("Commission"):

1. The Signatories have reached an agreement ("Agreement") that resolves among them the Rate Design/Cost-of-Service issue and sub-issue listed as item 11 under the heading "**CLASS COST OF SERVICE/RATE DESIGN,**" in the LIST OF ISSUES filed with the Commission in this case on August 28, 2006.

2. The issue and sub-issue are stated in the list of issues as follows:

11. Rate Design/Cost-of-Service: How should any revenue increase for Empire that results from this case be implemented in rates?

(1) A sub-issue: What level of revenue credits should be recognized for purposes of allocating any revenue requirement increase?

3. The Signatories hereby agree customer charges will not change.

4. The Signatories hereby agree that if the interim energy charge is not terminated, any increase in permanent rates the Commission orders in this case, whether or not generated as a result of a regulatory amortization, shall be changed in proportion to each class' percentage of

current permanent revenues, as trued-up.

5. The Signatories agree that if the interim energy charge is terminated, rates shall be changed, whether or not generated as a result of a regulatory amortization, in proportion to each class's current share of total rate revenues, as trued-up, where total rate revenues are equal to current permanent revenues plus the interim energy charge revenues.

6. The Signatories hereby agree that the methodology the Staff employed to determine the rate revenues shown in Schedules DCR-1 and DCR-3 attached to the Direct testimony of Staff witness David C. Roos shall be the methodology used to determine rate revenues for purposes of changing permanent rates; however, the rate revenues shown on those schedules do not necessarily reflect trued-up rate revenues.

7. This Agreement is being entered into for the purpose of disposing of the issues that are specifically addressed in this Agreement. In presenting this Agreement, none of the Signatories to this Agreement shall be deemed to have approved, accepted, agreed, consented or acquiesced to any ratemaking principle or procedural principle, including, without limitation, any method of cost or revenue determination or cost allocation or revenue related methodology, and none of the Signatories shall be prejudiced or bound in any manner by the terms of this Agreement in this or any other proceeding, other than a proceeding limited to enforce the terms of this Agreement, whether this Agreement is approved or not, except as otherwise expressly specified herein.

8. If the Commission does not unconditionally approve this Agreement without modification, and notwithstanding its provision that it shall become void, neither this Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with

Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Agreement had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Agreement shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

9. If the Commission accepts the specific terms of this Agreement, the Signatories waive, with respect to the issues resolved herein: their respective rights pursuant to Section 536.070(2), RSMo 2000 to call, examine and cross-examine witnesses; their respective rights to present oral argument and/or written briefs pursuant to Section 536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 2000; their respective rights to seek rehearing pursuant to Section 386.500 RSMo 2000 and their respective rights to judicial review pursuant to Section 386.510 RSMo 2000. These waivers apply only to a Commission order respecting this Agreement issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this Agreement.

10. This Agreement contains the entire agreement of the Signatories concerning the issues addressed herein.

11. The issues resolved by this Agreement are scheduled to be heard on September 14, 2006, at 8:30 AM. Should the Commission have questions about this Agreement, the Signatories will make available at that time their witnesses and attorneys on the issues resolved by this Agreement. If the Commission has questions for the Signatories' witnesses or

Signatories at a later date, the Signatories will make available, at any on-the-record session, their witnesses and attorneys on the issues resolved by this Agreement, so long as all parties have had adequate notice of that session. The Signatories agree to cooperate in presenting this Agreement to the Commission for approval, and will take no action, direct or indirect, in opposition to the request for approval of this Agreement.

12. In the event the Commission unconditionally accepts the specific terms of this Agreement, the Signatories agree that the identified portions of the prefiled direct, supplemental direct, rebuttal and surrebuttal testimony of the following witnesses shall be received into evidence without the necessity of the identified witnesses taking the stand, and with respect to the issues resolved herein further waive their respective rights: (1) to call, examine and cross-examine the listed witnesses pursuant to Section 536.070(2) RSMo 2000; (2) to present oral argument or written briefs pursuant to Section 536.080.1, RSMo 2000; (3) to the reading of the transcript by the Commission pursuant to Section 536.080.2, RSMo 2000; (4) to seek rehearing pursuant to Section 386.500, RSMo 2000; and (5) to judicial review pursuant to Section 386.510, RSMo 2000:

W. Scott Keith Direct Testimony (Ex. 20) second paragraph of summary and p. 22, l. 10–p. 23, l. 7 (Empire)

Jayna R. Long Rebuttal Testimony (Ex. 25) p. 4, ll. 17-18 and p. 15, l. 17-p. 16, l. 2 (Empire)

James Busch Direct Testimony (Ex. 60) and Rebuttal Testimony (Ex. 62) (Staff)

Janice Pyatte Rebuttal Testimony (Ex. 70) (Staff)

David Roos Direct Testimony (Ex. 65) (Staff)

Maurice Brubaker Rate Design Direct Testimony (Ex. 86), Rebuttal Testimony (Ex. 87) p. 2, ll. 6-11 and p. 3 l. 3-p. 5. l. 13 and Surrebuttal Testimony (Ex. 88) p. 1, ll. 12-14, p. 2, ll. 8-16 and p. 3, l. 13-p.7, l. 2. (Praxair/Explorer)

Barbara Meisenheimer Rate Design Direct Testimony (Ex. 76) and Rebuttal Testimony

(Ex. 77), (Public Counsel)

WHEREFORE, the undersigned Signatories respectfully request the Commission to

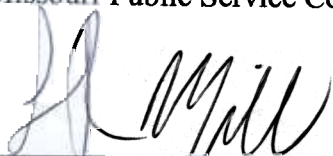
issue an order in this case approving the Agreement subject to the specific terms and conditions contained therein.

Respectfully submitted,



Nathan Williams
Deputy General Counsel
Missouri Bar No. 35512
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8702 (Telephone)
(573) 751-9285 (Fax)
E-mail: nathan.williams@psc.mo.gov

Attorney for the Staff of the
Missouri Public Service Commission



Lewis R. Mills, Jr. #35275
Public Counsel
P.O. 2230
Jefferson City, Missouri 65102
(573) 751-1304
(573) 751-5562 (fax)
E-mail: lewis.mills@ded.mo.gov

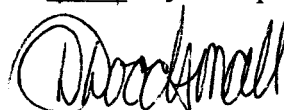


Stuart W. Conrad, #23966
David L. Woodsmall #40747
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122 Ext. 211
(816) 756-0373 (fax)
E-mail: dwoodsmall@fcplaw.com

ATTORNEYS FOR PRAXAIR, INC.
AND EXPLORER PIPELINE
COMPANY

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 13th day of September 2006.



/s/ Nathan Williams