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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 10th  
day of June, 1997.

In the matter of the consideration of a       )  
Competitive Market Research Project and       )       Case No. EO-97-491  
Pilot Open Access Program for the Empire       )  
District Electric Company.                       )

**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND**  
**GRANTING PARTICIPATION WITHOUT INTERVENTION**

On May 13, 1997 the Commission issued an order providing, among other matters, that this docket would be opened for the purpose of considering two Empire District Electric Company (EDE) proposed tariffs, those being a tariff authorizing a Competitive Market Research Project and a tariff creating a Pilot Access Program. In that order, the Commission also provided for public notice and intervention, and the filing of a suggested procedural schedule for the hearing of this case.

On May 22, 1997 a joint motion was filed by the Staff of the Commission (Staff), the Office of the Public Counsel (OPC), EDE, and intervenors ICI Explosives USA, Inc. and Praxair, Inc. (ICI/Praxair) requesting the Commission to adopt the following procedural schedule:

June 13, 1997       EDE files draft tariffs for the Pilot Open Access Service with supporting testimony; ICI and Praxair file supplemental direct testimony on Pilot Open Access Service.

July 1, 1997      Staff and OPC file testimony, schedules, workpapers regarding their respective positions or concerns regarding EDE's draft tariffs and testimony, and ICI and Praxair's testimony.

July 11, 1997      EDE and ICI/Praxair file rebuttal testimony, schedules, workpapers in response to issues raised by Staff and OPC; Staff and OPC file cross-surrebuttal testimony if desired.

July 17, 1997      Hearing, if required.

Applications to intervene were timely filed by the City of Springfield, Missouri (the City) and Union Electric Company (UE). In addition, the City filed a response objecting to the proposed hearing schedule. Both ICI/Praxair and EDE objected to granting intervention to the City, and ICI/Praxair objected to granting intervention to UE. ICI/Praxair suggested that, should the Commission wish to do so, participation without intervention could be granted to both applicants under 4 CSR 240-2.075(5) of the Commission's rules.

The Commission finds that neither the City nor UE have an interest substantially different from that of the general public in this particular matter to warrant full intervention. The Commission will grant the applicants participation without intervention, however, for the limited purpose of appearance at the evidentiary hearing, and participation in opening statement and pleadings, including briefs.

The Commission further finds that the suggested procedural schedule is reasonable and will be adopted for use in this case.

(1) The Commission will require the prefiling of testimony as

defined in 4 CSR 240-2.130. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(2) Testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless a protective order has first been established by the Commission. The party that considers information to be proprietary or highly confidential should request a protective order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(3) The Commission will schedule a prehearing conference in this case to allow the parties the opportunity to resolve procedural and substantive issues.

(4) The parties shall file a hearing memorandum setting out the issues to be considered and the order of the witnesses who will appear on each day of the hearing, definitions of terms, each party's position on the issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(5) The Commission emphasizes the importance of the deadline for filing the hearing memorandum. The Commission Staff will be responsible for reporting and filing the hearing memorandum and, unless the Commission orders otherwise, the hearing memorandum shall be filed on the date set. Each party is expected to provide Staff with its position on each unresolved issue in time for Staff to meet the established filing deadline.

(6) Nothing in this order shall preclude a party from addressing, or having a reasonable opportunity to address, matters not previously disclosed and arising at the hearing.

(7) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such a request shall be tendered, in writing, to the administrative law judge at least five days prior to the date of hearing. The administrative law judge will determine whether the request should be granted.

(8) The Commission believes it is appropriate to limit the length of initial briefs to 30 pages and reply briefs to 15 pages. All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080(7).

(9) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled,

the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the administrative law judge, and opposing counsel.

**IT IS THEREFORE ORDERED:**

1. That the City of Springfield, Missouri and Union Electric Company are hereby granted participation without intervention in this case for the limited purposes set out above.

2. That the following procedural schedule is adopted for use in this case:

June 13, 1997	EDE files draft tariffs for the Pilot Open Access Service with supporting testimony; ICI and Praxair file supplemental direct testimony on Pilot Open Access Service.
July 1, 1997	Staff and OPC file testimony, schedules, workpapers regarding their respective positions or concerns regarding EDE's draft tariffs and testimony, and ICI and Praxair's testimony.
July 11, 1997	EDE and ICI/Praxair file rebuttal testimony, schedules, workpapers in response to issues raised by Staff and OPC; Staff and OPC file cross-surrebuttal testimony if desired.
July 17, 1997	Hearing, if required.

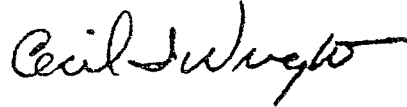
3. That any person with special needs as addressed by the Americans With Disabilities Act should contact the Missouri Public Service Commission at least 10 days prior to the hearing at one of the following numbers: Consumer Services' Hotline -- 1-800-392-4211, or TDD Hotline -- 1-800-829-7541.

4. That the hearing will begin at 10:00 a.m. at the offices

of the Missouri Public Service Commission, Harry S Truman State Office Building, Room 530, Jefferson City, Missouri.

5. That this order shall become effective on the date hereof.

BY THE COMMISSION

A handwritten signature in cursive script, reading "Cecil I. Wright".

Cecil I. Wright  
Executive Secretary

(S E A L)

ALJ: Derque

Zobrist, Chm., Crumpton  
Drainer, and Murray, CC., Concur.