FILED

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

APR 4 - 1997

MISSOURI
PUBLIC SERVICE COMMISSION

In the matter of The Empire District Electric Company for authority to file tariffs increasing rates for electric service provided to customers in its Missouri service area.	))))	Case No. ER-97-81

UNANIMOUS STIPULATION AND AGREEMENT

On August 30, 1996, The Empire District Electric Company (Empire or Company), submitted to the Commission proposed tariffs reflecting increased rates for electric service provided to customers in the Missouri service area of the Company. The proposed tariffs contained a requested effective date of September 30, 1996, and were designed to produce an annual increase of approximately 13.8% ($23,438,000) in the Company's revenues exclusive of applicable taxes. On September 20, 1996, the Commission suspended the proposed tariffs for a period of 120 days plus an additional six months beyond the proposed effective date.

On October 11, 1996, Empire filed the direct testimony and schedules of six witnesses. Pursuant to the Commission's procedural schedule, on February 13, 1997, the parties filed direct testimony on revenue requirement. The Staff of the Missouri Public Service Commission (Staff) filed the direct testimony and schedules of eighteen witnesses; the Office of the Public Counsel (OPC) filed the direct testimony of one witness; ICI Explosives USA, Inc. and Praxair, Inc. (Industrials) filed the direct testimony and schedules of three witnesses.

Thereafter, on February 20, 1997, the Staff, OPC and Industrials filed direct testimony on rate design. The Staff filed direct testimony and schedules of seven witnesses; OPC filed the direct

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testimony and schedules of two witnesses; Industrials filed the additional direct testimony of one witness. On February 25, 1997, the Industrials filed the schedules of one witness.

By its Order dated, March 3, 1997, the Commission granted intervention to the Industrials. A prehearing conference was held during the week of March 10, 1997. Empire, Staff, OPC and the Industrials appeared and participated at the prehearing conference. As a result of the prehearing conference and subsequent negotiations, the undersigned parties (Parties) have reached the following stipulations and agreements:

1. Empire shall be authorized to file revised tariff sheets containing rate schedules for electric service designed to produce an increase in overall Missouri jurisdictional gross annual electric revenues of nine million nine hundred eighty five thousand dollars ($9,985,000) plus an additional amount to be determined by the true-up audit exclusive of any applicable license, occupation, franchise, gross receipts taxes or other similar fees or taxes.

2. The parties agree that there will be an equal percentage increase in firm rates for all customer classes.

3. A true-up audit will be conducted, with the results to be provided to the Commission on or before May 2, 1997. If necessary, a true-up hearing shall be held on May 23, 1997. The true-up shall include the following items calculated through March 31, 1997.

RATE BASE:

A. Plant in service.
B. Depreciation reserve.
C. Deferred taxes.
D. Related cash working capital effects.

Changes in Missouri jurisdictional rate base above \$358,005,194 as a result of the true-up audit will be valued for revenue requirement purposes in accordance with the following procedure. For every one dollar (\$1.00) change in rate base as of March 31, 1997, the revenue requirement will be adjusted by \$.1311. (This amount will be updated to reflect any change in Capital Structure resulting from the true-up audit). An example of this calculation follows:

Change in Rate Base	\$1,000,000
Revenue Requirement Factor	.1311
Change in Revenue Requirement	\$ 131,100

CAPITAL STRUCTURE:

A. Rate of return - embedded cost of capital components.
B. Capital structure.

INCOME STATEMENT:

A. Revenues for customer growth.
B. Payroll - employee levels and current wage rates.
C. Fuel and purchase power expense - adjusted for customer growth thru March 31, 1997.

The adjustment is to be calculated by multiplying \$.01478/kwh by the customer growth adjustment to total company net system input above or below the base of 4,198,046,066 kwh.

D. Rate case expense.
E. Depreciation expense.
F. Related income tax effects.

Changes in income statement items affecting Missouri jurisdictional Net Income Before Taxes above or below \$36,222,988 as a result of the true-up audit will be valued for revenue requirement purposes on a dollar for dollar basis. In other words, every dollar change in revenue or expense will result in a dollar change in revenue requirement.

OTHER

A. Allocation factors except for production and transmission factors.

Isolated Adjustments to the True-up Audit

The Parties agree that if State Line Combustion Turbine No. 2 (SLCT2) is determined by the Parties to be in-service and used and useful on or before May 31, 1997, using the criteria found within the direct testimony of Staff witness C. Bruce Deering, the following isolated adjustments to the true-up audit will be made:

A. Amounts actually paid by Empire to Westinghouse Electric Corporation (Westinghouse) through May 31, 1997.

B. For SLCT2 construction costs not covered under the Westinghouse contract, the Parties agree to reflect those costs in the true-up revenue requirement if documentation verifying that such costs have been booked and paid by Empire is provided to the parties at least five working days prior to the true-up hearing.

C. Fuel inventories for SLCT2, depreciation expense for SLCT2, and operations and maintenance other than fuel for SLCT2.

D. The decrease in Empire's demand capacity charges effective June 1, 1997.

E. Certain transmission line projects as referenced in the direct testimony of Staff witness Deering.

F. Certain State Line combustion turbine unit 1 costs that were not allowed in Empire's previous rate case due to failure to meet required NOx emission standards.

The Parties agree that the costs associated with items D, E and F will be included in the true-up revenue requirement recommendation if: 1) the in-service criteria for these items found within the Direct Testimony of Staff witness Deering is successfully complied with by Empire; 2) appropriate documentation verifying that such costs have been booked and paid by Empire is provided to the Parties at least five working days before the true-up hearing for inclusion in the true-up revenue requirement.

Any changes to rate base resulting from inclusion of the isolated adjustments through May 31, 1997 referenced above in the true-up audit will be valued at the same revenue requirement factor used to calculate rate base changes through March 31, 1997, as described earlier.

The Parties will file the revenue requirement valuation of the isolated adjustments with the Commission prior to the true-up hearing.

4. Empire agrees that the 1/2% discount as provided by Municipal Street Lighting Service Schedule SPL will be eliminated by phasing it out over the next two years. The discount will be reduced to 1/4% in the compliance filing and will be eliminated (reduced to 0%) one year after the effective date of the compliance tariffs at one half of the discount per year.

5. Empire agrees to eliminate the church and school rider in the compliance filing.

6. Empire agrees that it will file a tariff reflecting a thermal energy storage rider within sixty days of the Commission's order approving this Stipulation and Agreement.

7. The interest rate on customer deposits will remain the same as in Empire's current tariff (9%).

8 . As a result of settlement negotiations Empire and Industrials have attached to and incorporated as Appendix A to this Stipulation a proposal for a Competitive Market Research Project and Pilot Open Access Program ("Research and Pilot Program") including provisions for a residential research open access study to be performed by Empire. Empire and Industrials intend

to collaborate with the Staff and OPC in this proceeding and to work out details of these programs for possible agreement between the parties. If permitted by Commission order, Empire shall implement the attached programs within sixty days following the effective date of such order or as soon as practicable thereafter.

The commitment to collaborate by Staff and OPC should not be construed as acquiescence or agreement at this time with the specifics of the proposed Research and Pilot Program. While the Staff and OPC expert witnesses have time commitments to other matters before the Commission, the Staff and OPC agree to make a good faith effort to review the proposed Research and Pilot Program and provide substantive input in a timely manner. It is the express intent of the Parties to provide the Commission with as much time as possible to consider the Research and Pilot Program.

The non objection of Staff and OPC to submitting the Research and Pilot Program for consideration by the Commission should not be construed as a present waiver of their right to contest the proposed Research and Pilot Program, together with any subsequent modifications, before the Commission; nor is OPC precluded at this time from seeking a writ of review, appealing a Commission order or pursuing any other appropriate legal remedy. The Staff and OPC specifically reserve the right to file recommendations and/or testimony, either in support of or in opposition to the Research and Pilot Program and, if necessary, to request a full hearing on the proposed Research and Pilot Program. The Staff and OPC agree not to attempt to enjoin the Commission from considering and issuing an order respecting the proposed Research and Pilot Program in this case.

The Parties' agreement respecting revenue requirement and rate design is not contingent in any manner upon either the Commission's order related to establishing the Research and Pilot

Program or upon the support, non objection, or opposition of any party to the proposed Research and Pilot Program.

9. None of the Parties to this Stipulation and Agreement shall have been deemed to have approved or acquiesced in any ratemaking or procedural principle, any method of cost determination or cost allocation, or any service or payment standard, and none of the Parties shall be prejudiced or bound in any manner by the terms of this Stipulation and Agreement in this or any other proceeding, except as otherwise expressly specified herein.

10. This Stipulation and Agreement has resulted from extensive negotiations among the Parties. The terms of the Stipulation and Agreement are interdependent except for the Research and Pilot Program proposed by Empire and Industrials. In the event the Commission does not approve and adopt the matters addressed in Paragraphs 1-7 of this Stipulation and Agreement, then this Stipulation and Agreement shall be void and no signatory shall be bound by any of the agreements or provisions hereof.

11. It is the express intent of the Parties that any action or inaction by the Commission on the Research and Pilot Program will not affect this Stipulation and Agreement regarding all matters addressed in Paragraphs 1-7.

12. To the extent the Commission approves and adopts the matters addressed in Paragraphs 1-7 of the Stipulation and Agreement, the Parties waive, with respect to the issues resolved: their respective rights pursuant to Section 536.080.1 (RSMo. 1994) to present testimony, to cross-examine witnesses, and to present oral argument and written briefs; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 (RSMo. 1994); and their respective rights to judicial review pursuant to Section 386.510 (RSMo. 1994).

13. The Parties agree that all of the prefiled testimony submitted by Empire, Staff, OPC, and Industrials in this case shall be received into evidence without the necessity of their respective witnesses taking the stand.

14. The Staff will submit to the Commission a memorandum explaining its rationale for entering into Paragraphs 1-7 of the Stipulation and Agreement. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of Staff's memorandum, a responsive memorandum which shall also be served on all Parties. All memoranda submitted by the Parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all Parties, and shall not become a part of the record of this proceeding or bind or prejudice the Party submitting such memorandum in any future proceeding or in this proceeding, whether or not the Commission approves this Stipulation and Agreement. The contents of any memorandum provided by any Party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation and Agreement, whether or not the Commission approves and adopts this Stipulation and Agreement.

The Staff shall also have the right to provide, at any agenda meeting at which this Stipulation and Agreement is noticed to be considered by the Commission, whatever oral explanation of Paragraphs 1-7 the Commission requests, provided that the Staff shall, to the extent reasonably practicable, promptly provide other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from Staff. Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

To assist the Commission in its review of this Stipulation and Agreement, the Parties also request that the Commission advise them of any additional information that the Commission may desire from the parties relating to the matters addressed in this Stipulation and Agreement, including any procedures for furnishing such information to the Commission.

WHEREFORE, for the foregoing reasons, the undersigned Parties respectfully request that the Commission issue its Order approving all of the specific terms and conditions of this Stipulation and Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 4th day of April, 1997.

Roger W. Steiner

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Revised: April 4, 1997

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JOINT RECOMMENDATION

Empire and ICI/Praxair (the joint parties) jointly recommend a residential research project and a pilot open access program. These programs are intended to provide valuable information in regard to the emerging competitive markets and electric industry restructuring issues. Information will be developed in a timely manner for the emerging discussions contemplated in the new Commission Docket No. EW-97-245. The programs, by design, will provide information that is specific and relevant to Empire and its customers who presently enjoy rates that are among the lowest of the investor-owned utilities serving the State of Missouri. While Empire is a relatively low-cost producer, it is not in any way immune from the restructuring issues noted in the Commission order initiating Docket No. EW-97-245. Empire is presently well positioned due to its relatively low cost and its focus to become an even more competitive company in the future. But a single focus on cost will not be adequate. It is also fundamentally important to understand the expectations of customers, to have a working understanding of the emerging competitive retail market, and the FERC mandated open access transmission tariff that will facilitate the evolution of the competitive retail markets.

The joint parties recommend to the Commission both a residential open access research project and a pilot open access program for 16 MW of industrial load.

Residential Research Program

The Company will conduct a research project to evaluate the potential effects of retail competition on residential customers. The preliminary goals are:

- Determine customer expectations of electric deregulation/competition at this time.
- Evaluate the potential impacts of competition on the Company and its customers.
- Assess suppliers availability to the residential customers of the Company and their willingness to serve areas of low population density.
- Provide information to help the Company, Staff and Public Counsel prepare for the transition to retail competition.

The goals would be refined in consultation with representatives of the Staff and Public Counsel.

The study is expected to require an outside consultant, who would be retained after consultation with the representatives of Staff and Public Counsel and would be hired within sixty days after an order in Case No. ER-97-81. The out-of-pocket expenditures are expected to be $100,000 or less. Expenditures beyond this level will be at the sole discretion of the Company.

The methodology to be used will be determined after a consultant is retained and will consider the comments and suggestions of the Staff and Public Counsel. Written reports will be prepared and provided to all parties. It is anticipated at this time that an initial report will be prepared by March 1998. The consultant retained will help determine a study timeline that is feasible and acceptable

Pilot Open Access Program

In this proceeding, a pilot open access program was proposed in the direct testimony of Industrial witness Johnstone. Much of the framework for this proposal reflects discussions with Empire beginning in 1995 and growing out of real time pricing proposals and alternatives. As those discussions continued, there has been a marked change in the electric industry. Most suggest that customer choice of electricity supplier is no longer a question of whether or not, but rather a question of when. Thus, a manageable pilot project is timely.

Purpose

The program will provide an opportunity for Empire and participating customers to gain operational experience with open access transmission service and the generation supply market. It will also provide important information related to industry restructuring for the Commission and all parties. The two proposed participants, ICI and Praxair, have provided testimony explaining that they must sell their products in extremely competitive markets and that their very survival depends upon intense attention to cost control and are highly motivated by these circumstances to accept these risks so that experience can be gained without detriment to Empire or to other customers. For them, it provides the opportunity, but not the guarantee, of lower electric cost.

No Financial Impact on Empire or on Non-Participating Customers

The design goal of the pilot program is to insulate Empire and non-participating customers from any negative impacts. This pilot program is unique in this regard. All other pilot programs of which the parties are aware place the host utility at significant risk for lost margin. This translates directly into a larger economic incentive for customers to participate. In this pilot, the joint parties have intentionally designed a program with the goal of zero impact. The proposed participants are willing to accept the unknown risks of market pricing on their power purchases and Empire finds acceptable the apparent minimal business risk associated with the proposed pilot program. Nevertheless, the parties are satisfied that Empire is substantially protected from the risk of lost margin, and non-participants are fully protected from cost shifts. Moreover, should Empire file another rate increase request during the term of the pilot, data will be available to any party that will allow them to develop and propose adjustments as they may deem appropriate to preserve this principle or to make any desired recommendation.

Size

The program will have a nominal size of 16 megawatts. Under the program, participants must place 100% of their load under the pilot. We recommend availability criteria based on (1) a minimum monthly peak demand of 6 megawatts during each of the previous 12 months, (2) coupled with verified and demonstrated competitive market pressures on the customer's product and the continued viability of the participants, (3) verified and demonstrated economic impact on Empire's service territory and the State, and (4) the proposed participants' expressed willingness to subject their power purchases to market risk through participation in the pilot. ICI and Praxair meet these criteria and also have prior successful experience with Empire in the development and implementation of other innovative pricing and service concepts (such as the Praxair interruptible program and both customers' special contract tariffs which utilize time-of-use pricing). As such, these two customers appear to be ideal candidates for participation in the proposed pilot program.

Participant Options During the Pilot Program

The objective of the program is to provide the participants with the ability to choose among a variety of alternative suppliers of electrical power and energy during the five-year duration of the pilot. The five-year duration is expected to provide a variety of market conditions.

ICI is currently a firm customer, whereas Praxair is approximately 96% interruptible. This difference adds further potential value to the program with respect to information about third party pricing of the various degrees of firmness, especially since both parties have indicated an intention to explore various levels of price and firmness. ICI is even considering subjecting a large portion of their load to curtailable service because of present intense competitive cost pressures. This is an option that does not currently exist from Empire inasmuch as the interruptible service that has been requested by ICI of Empire in the past month has been refused for 1997 and is likely to be postponed for at least another year or two due to the anticipated existence of fully adequate generation capacity.

Third Party Suppliers

In order to operate on the interconnected grid, third party suppliers must meet the already existing requirements of the Federal Energy Regulatory Commission (FERC), the Southwest Power Pool (SPP) and the MOKAN Power Pool (MOKAN). It will be the responsibility of the participants to arrange power supplies from suppliers that satisfy these requirements. Failure to do so would place the participants at risk, but would not impact non-participants or Empire. The potential third parties of which the joint parties are presently aware are already required to meet said FERC/SPP/MOKAN requirements. Nevertheless, participating customers anticipate making compliance with such requirements a provision of any arrangement they would execute with third party suppliers.

Rates and Regulatory Approvals

The POAS program can only exist with the approval of the Commission. The joint parties recognize that there may be concerns regarding the respective jurisdiction of this Commission and FERC. So as to preserve the rights of all parties regarding such issues, the joint parties respectfully recommend that the Commission at least find that Empire's Open Access Transmission Tariff as approved by FERC is just and reasonable for the sole purposes of the POAS program, reserving its position regarding the methodology under which that tariff (or its rates) were developed and as to jurisdictional issues.

In addition to the FERC transmission rates, there will be separate charges for distribution services. In the case of Praxair, those charges include a meter charge, a substation charge and an excess facilities charge. In the case of ICI, delivery is at transmission voltage and the only facility which is arguably distribution is metering, which takes place at lower voltages.

In addition to these charges, Empire and Industrials recommend (1) a pilot administration fee, (2) a pilot margin charge, and (3) a pilot capacity mitigation credit. The administration fee is intended to reimburse Empire for administrative costs associated with the program. The pilot margin charge and the pilot capacity mitigation credit have been designed so as to meet the zero financial impact goal that is the design standard of the program. At such time as the Empire system grows into the need for additional new capacity, these charges will be reduced and ultimately eliminated, provided participants commit to continue to obtain their power and energy needs from third parties and not from Empire, thereby relieving Empire of the obligation to stand ready to serve their power and energy needs. Empire is expected to have a continuing obligation to provide delivery services upon appropriate notice and appropriate compensation. On specified notice, or at the end of the pilot program, participants may resume their traditional bundled supply relationship with Empire as their sole supplier under appropriate Empire tariffs and contracts.

Preliminary Summary of Proposed Rate Charges Under the Program

Description	Monthly Rate
Meter Charge	$ 100
Pilot Administrative Fee, per customer	$ 1,250
Praxair Distribution Substation Charge, per kW	$ 0.815
Praxair Excess Facilities Charge	$ 72
ICI Pilot Margin Charge[1], per kW	$ 5.99
Praxair Pilot Margin Charge[1], per kW	$ 1.90
ICI Pilot Capacity Mitigation Factor[2], per kW, (Credit)	$ 5.99

Outline Summary of the Pilot Program

Attachment 1 to this document is an outline summary of the pilot program. It contains six sections including a summary of the program, a description of the responsibilities in the mechanical operation of the program, a description of the method used to make Empire financially whole under the program, a description of the conditions attached to the customers switching to the pilot open access

[1]These are maximum charges that will be reduced by 50% or to zero from time to time depending on the need of Empire for capacity to serve firm customers.

[2]The Pilot Capacity Mitigation Factor will vary from time to time based on the value of firm capacity associated with ICI, but will not exceed the Pilot Margin Charge. The value will be based on the highest price available for the capacity in the wholesale power market. ICI may waive its right to receive the Pilot Capacity Mitigation Factor Credit, in which case ICI will be entitled to rely on this capacity for the purpose of reserve to its off-system purchases of energy.

service and back to another rate schedule, evaluation and reporting requirements, and a description of how the Pilot Margin Charge will be phased down as Empire's need for additional capacity develops.

EMPIRE PILOT OPEN ACCESS SERVICE (POAS)

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SECTION I

EMPIRE (POAS)
Executive Summary

1. **Purpose**

   a) Opportunity for Empire and participating customers to gain operational experience with open access transmission service and the generation supply market.

   b) Provide relevant and timely information related to industry restructuring for MPSC and parties.

   c) Explore the opportunity for lower electricity costs for customers that sell their products in highly competitive markets.

   d) Provide information regarding a lower density-lower cost utility, etc.

   e) Demonstrate ability to deal with changing capacity conditions on system.

2. **Participant Selection**

   a) Participants must have a minimum monthly load of 6 MW during each of the prior 12 months with existing special contract service and must have:

      i demonstrated verified concerns regarding competitive market for product;
      ii demonstrated verified economic impact of business operations on State and community;
      iii expressed desire and willingness to participate in the development of the pilot; and
      iv acceptance of exposure of power purchases to market forces.

   b) Continuance of special contract tariffs during pilot.

3. **Size of Program**

   a) Total of 16 MW of load.

   b) Participants must place 100% of load in the program.

4. **Pilot Program Duration**

   a) Nominally, five years with all contract years after the first partial year commencing on June 1.

   b) Incorporate a period of adequate existing capacity.

   c) Incorporate a period of capacity need and the transition thereto.

5. **Third Party Suppliers**

a) Third parties must meet Federal Energy Regulatory Commission (FERC), Southwest Power Pool (SPP) and MOKAN Power Pool requirements.

b) Participants or their suppliers arrange for the delivery of capacity and energy to Empire's system.

6. **Rates**

a) Subject to MoPSC approval, Empire will charge participants FERC derived and approved unbundled transmission rates.

b) Empire will charge separately for unbundled distribution services under the POAS rate approved by the MoPSC.

7. **End of Pilot**

a) Participants can return to original or successor tariffs as they may exist at the time after the end of the pilot.

b) Participants can move to permanent open access subject to its availability.

c) Future stranded cost responsibility of participants, if any, is not determined at this time.

8. **Financial Impact on Empire and Non-participating Customers**

a) Design goal is zero financial impact on Empire and on other customers.

b) To obtain realistic design, there is some minimal risk to Empire.

c) Risk to non-participants is *de minimis* given size of program and zero impact design goal.

9. **Other Considerations**

a) This pilot program does not constitute a "change of Supplier" for either of the Industrials under Missouri statutes. Empire will still be serving the structures involved and is reserving and not waiving any rights it may have under Missouri law. This is an experiment only and is not to be considered binding precedent in any future situation.

b) Implementation will likely require suspension of existing contracts between Empire and participants.

c) Empire and the Industrials both have the individual right to withdraw from the pilot program and return to the status quo ante if, in their respective opinion, they are exposed to unreasonable expenses due to litigation concerning the pilot program.

d) It is contemplated that Empire will not make itself eligible to bid on the capacity and energy requirements of the participants during the first four years of the pilot program. This shall not be construed to include the minimal energy that may be supplied by Empire as part of the "Energy

Imbalance" ancillary service pursuant to the Empire FERC Tariff, nor any capacity provided as part of the "capacity mitigation options," pursuant to this POAS program.

e) There are no contemplated filing fees or associated expenses at any regulatory body to implement the program. If there are any such fees or expenses, they shall be the sole responsibility of the participants.

SECTION II

EMPIRE POAS
Responsibilities and Mechanics

1. **EMPIRE**

a) Empire would deliver power and energy from receipt point on Empire's transmission system to POAS participant.

b) Transmission Services would be provided in accordance with the rates, terms and conditions approved by FERC in Empire's OATS Rate Schedule under FERC schedule OATS.

c) Parties contemplate use of firm transmission service.

d) Ancillary Services would be provided pursuant to FERC schedule OATS.

i Definition: "Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's [Empire's] Transmission System in accordance with Good utility Practice."

e) Ancillary Services which Participant must buy from Empire:

i Scheduling, System Control and Dispatch
ii Reactive Supply and Voltage Control from Generation Sources

f) Ancillary Services which Participant may buy from Empire:

i Regulation and Frequency Response
ii Energy Imbalance
iii Operating Reserve - Spinning
iv Operating Reserve - Supplemental

g) Parties contemplate purchase of all ancillary services from Empire during the pilot program.

h) Distribution service would be provided under the Missouri PSC approved POAS tariff.

i) Mitigation.

i Empire has the affirmative responsibility to attempt to mitigate lost margin recovery from participants.

ii Mitigation of the lost margin occurs through the attempted resale by Empire of capacity that becomes available due to the pilot program and that is not then needed for service to native load.

j) Empire has responsibility for general administration of pilot program.

k) Empire has the responsibility to provide program evaluation reports.

2. **Participants**

   a) Responsible for acquisition of power and energy consistent with their needs.

   b) Provide for delivery to Empire at appropriate points of delivery (delivery will probably be arranged by the supplier of power and energy with possible technical assistance from Empire).

   c) Participant has responsibility for communication to third parties and to Empire of schedules for power and energy consistent with participant load requirements.

   d) Participants have responsibility to provide the program evaluation reports and to provide information to Empire necessary to its reports to the Commission..

   e) Cost effective use of electricity in the production of a competitive product.

   f) Any taxes which may be due on the capacity and energy purchased by the participants will be the sole responsibility of the participants and they will hold Empire harmless against any such claims from taxing authorities.

3. **Third Party Suppliers**

   a) Provide power and energy as specified in contract with participant.

   b) Provide delivery service to the Empire receipt point as provided in the participant contract.

   c) Provide participants with data for evaluation reports.

   d) Operate in a manner consistent with all requirements of FERC, SPP, MOKAN including Open Access Transmission Service tariffs.

4. **Missouri Public Service Commission**

   a) Under the POAS rate, Distribution costs will be unbundled into separate charges.

   b) The MPSC will review for approval the proposed POAS rate schedule.

   c) The results will be periodically summarized and submitted to the Commission for review.

   d) Other regulatory responsibilities as appropriate.

5. **Federal Energy Regulatory Commission**

   a) Transmission service conditions and rates.

   b) Ancillary services conditions and rates.

   c) Other regulatory responsibilities as appropriate.

SECTION III

EMPIRE POAS
Calculations Under the Make Whole Provision

1. **The "Make Whole" Provision will protect Empire and non-participants from all anticipated negative financial impacts as a result of the POAS.**

2. **The provision is separate for each participant.**

3. **Projected calculation impact on Empire's margin is captured in a "Pilot Margin Charge" calculated as follows:**

   a) Begin with revenue under settlement rates.

   b) Identify, "unbundle," and subtract the revenue to be derived from the distribution, metering, and transmission charges.

   c) Add the additional administrative costs of the pilot program (estimate = $15,000 per year per customer).

   d) Subtract the avoidable energy costs.

   e) The net result is divided by billed kW to develop a demand based charge applied to participant billing demand.

4. **The release of Empire from responsibility to serve ICI's firm load makes capacity available for sale or other use. The market value of this capacity is captured in a "Pilot Capacity Mitigation Factor" (PCMF).**

   a) During the period of January through May, Empire will determine the market value of this capacity.

   b) During this 5 month period, ICI will have the option to establish the PCMF credit to be used during the appropriate year(s) of the program, based on the market value of the capacity.

      i The PCMF credit may be established for one year or more than one year.
      ii Once ICI authorizes the establishment of the PCMF, the right to return to standard tariff service will be foregone for the length of time that was the basis for the PCMF credit, unless permitted by Empire in accordance with the conditions set forth below.
      iii Once established, PCMF credit will remain fixed for the length of time that was the basis for the value of the capacity, unless otherwise agreed by mutual consent.

   c) Alternatively, ICI may initially allow the PCMF to be established at zero and later have it developed or adjusted based on after the fact opportunities.

      i The value may go up due to extreme weather, unanticipated load growth, or a capacity availability situation on either Empire or other interconnected systems
      ii Conversely, the value may be zero if conditions are more favorable than anticipated

SECTION IV

EMPIRE POAS
Conditions Attached to Participating on the POAS and Bundled Firm Service

1. **Switch from tariff service to POAS**

    a) Company must agree before participant can commence POAS.

    b) The amount of notice will depend on the time required to make the arrangements under the FERC OATS schedule.

    c) After the initial contract period, subsequent contract years will begin each June 1.

    d) Necessary and appropriate changes in existing contracts between Empire and the participants will need to be made; including addressing any issues with respect to temporarily suspending the SC-ICI tariff and SC-P tariff.

2. **Returning to standard rate tariff from POAS**

    a) Notice of 5 months prior to the end of the contract term for participants with annual mitigation contracts.

    b) Notice of 1 year prior to the end of the contract term for participants with multi year term mitigation contracts.

    c) The notice periods are intended to give Empire adequate time to pursue the most economical alternative.

    d) If a customer requests a premature change to another available rate schedule prior to the end of any contract year there may be, at Empire's option, a temporary surcharge designed to provide a net annual margin equivalent to that which would have been collected if the customer were on the otherwise applicable tariff rate the entire year. In addition, customer may be required, at Empire's determination, to accept "Interruptible Service" if adequate capacity on Empire's system is not available.

    e) If a participant changes to another available rate schedule, the participant may not switch from service under the new rate schedule for at least 12 months and may not return to the POAS program.

SECTION V

EMPIRE POAS
Evaluation and Reporting

1. **Initial report based on the experience of the first six months**

   a) Empire Reporting.

      i Description of implementation of the pilot program
      ii Administrative matters
      - Metering
      - Billing
      - Customer support
      - Communication
      - Any unanticipated "start up" or "ongoing" implementation problems and how they were resolved

      iii Hands on experience with FERC transmission tariff
      - Scheduling
      - Imbalance
      - Curtailments or interruptions

      iv Can a retail customer of a low cost utility save money?

   b) Participant Reporting.

      i Description of request for proposal and bid process
      ii Summary of rates, terms, and conditions of service offered
      iii Report whether there were or were not savings
      iv Report on data provided by suppliers and level of supplier cooperation

2. **Annual reports based on the first 12 months and each succeeding 12 month period**

   a) Empire.

      i Items Section V 1.a) above except with a 12 month reporting period
      ii For each participant (participant usage, cost of purchased power and contract information shall remain confidential as appropriate).
      - Firm load and total load on EDE sales service tariffs or contract prior to start of POAS program
      - MW load placed on POAS tariff
      - Number of capacity suppliers used
      - Whether participant stayed on POAS tariff throughout the period, and whether participant reduced or increased its load during the period

      iii Identify any impact on portion of state and local taxes collected by utility
      iv Report use of third party suppliers
      - Types of suppliers (utility, power marketer, municipality, cooperative, NUG)
      - Number of systems used to get from capacity supplier to Empire

v **Participant/third party supplier/Empire abilities to schedule deliveries and operate within tariff requirements**
- Number of hours the imbalance exceeded the 1.5% and 1 MW thresholds
- Number of times participants lost capacity supply or primary transmission path

vi Analysis of operations from perspective of Empire dispatch

vii Additional Empire hardware needed, if any
- Participant
  - ◊ Items in Section V 1.b) above, using 12 month reporting period
  - ◊ Comments regarding items reported under Section V 2.a) above

3. **Final Report**

a) Did the make whole provisions work as intended?

b) Did the participating customers consistently choose third party supplies?

c) What is the reliability of third party capacity and as compared to service from Empire?

d) It is possible to successfully design a project with these make-whole provisions and still produce a benefit for participants?

e) Participant.

f) Did the participant consistently save money.

g) Participant comments regarding make whole provisions and project design.

h) Summary of supplier feedback.

SECTION VI

EMPIRE POAS
Transition to Capacity Need and Phase Down of Pilot Margin Charge

1. **As the Empire capacity situation develops into a need for capacity the need for the Pilot Margin Charge is progressively eliminated.**

   a) This will naturally occur due to load growth and a scheduled reduction in capacity purchases.

   b) The timing of this transition is not precisely predictable, but will vary due to load growth and variations due to weather.

   c) A mechanism has been developed that will link the Pilot Margin Charge to the system need for released capacity.

2. **The Pilot Margin Charge will be billed monthly on billing demand.**

3. **Pilot Margin Charge will be phased-down by 50% for any remaining months in the specified year after the corresponding system peak demand has been established. If the system peak demand has been prior to the first month of the contract year, the Pilot Margin Charge will be reduced to zero for that year.**

12 Months Ended	System Peak Demand (MW)
June 1997	946
June 1998	963
June 1999	985
June 2000	1013
June 2001	905

Schedule I Has Been Deemed

HIGHLY CONFIDENTIAL

In Its Entirety

Schedule II Has Been Deemed

HIGHLY CONFIDENTIAL

In Its Entirety