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February 19, 2001

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 Company**  
**MoPSC Case No. ER-2001-452**

Dear Mr. Roberts:

Enclosed are the original and eight (8) conformed copies of the **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 **INITIAL PAGE** 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

**FILED<sup>2</sup>**  
FEB 20 2001  
Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

FEB 20 2001

Missouri Public  
Service Commission

ER-2001-452

In the matter of the Application of )  
The Empire District Electric Compa- )  
ny for authority to file interim )  
tariffs reflecting increased charg- )  
es for electric service within its )  
Missouri 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 February 16, 2001. 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

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rate increase cases, Case Nos. ER-94-174, ER-95-279 and ER-97-81/82, in the recent merger application of Empire and UtiliCorp United Inc. in Case No. EM-2000-369, and in Empire's currently-pending general rate increase case, Case No. 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.  
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4. On February 16, 2001, Empire filed an application with this Commission requesting expedited Commission approval of interim tariff changes to increase its rates for electric service. We are advised that the reasons asserted for this request include: the imminent operability of a new power generation facility and increased costs of fuel, specifically natural gas. Other cost increases may be involved.

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.

7. For purposes of 4 C.S.R. 240-2.075(2), Praxair states that it is opposed to the discriminatory 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. While it is not subject to dispute that natural gas rates have increased in the past few weeks, the relation between such increase and any claimed need for relief would appear to involve consideration of only one factor out of many potential factors. Further, the duration and extent of such increases has not been established. Additionally, it has not been shown that such increases could not have been avoided or mitigated by proper use of available financial tools.

8. As regards rate design, it has not been shown that the capital costs associated with an addition of a generating plant necessarily are related to energy purchases so much as demand and the responsibility therefor.

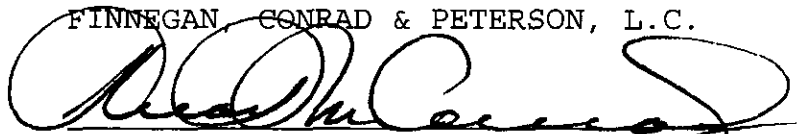
9. Further, although in 1998 Empire settled an electric rate case before this Commission, such settlement concerned those cases only and did not establish that the resulting rates of Empire were not excessive. Accordingly, a proposal that assumes that existing rates are properly structured and simply 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.

WHEREFORE, Praxair prays: (a) that the proposed rate increase filing of February 16, 2001 be **suspended** for an appropriate period to permit investigation thereof and subjected to

full and thorough scrutiny and analysis; (b) that a 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.



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ATTORNEYS FOR PRAXAIR, INC.

**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.



Stuart W. Conrad

Dated: February 19, 2001