



Michael E. Palmer
Vice President - Commercial Operations

February 23, 2007

FILED²

FEB 27 2007

Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

Missouri Public
Service Commission

Attention: Consumer Services Department

Dear Sir or Madam:

On February 14 and 15, 2007, Empire received letters from Praxair and Explorer Pipeline "disputing" the rates charged as a result of the decision of the Missouri Public Service Commission in Case Number ER-2006-0315. These letters and our responses to them are enclosed.

Empire requests that the Consumer Services Department make a timely determination regarding whether the "disputes" by Praxair and/or Explorer are frivolous. The positions of each party are contained in the letters and our responses.

We would appreciate your prompt attention to this matter.

Sincerely,

pas

Enclosures



SERVICES YOU COUNT ON

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Vice President - Commercial Operations

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Missouri Public
Service Commission

Mr. Emil Mosora Jr.
Energy Manager
Praxair, Inc.
4400 Kennedy Avenue
East Chicago, IN 46312

Dear Emil:

This is in response to your letter of February 14, 2007, and the billing dispute notification contained therein. Although Empire disputes the validity of many of the statements set forth in your letter of February 14 including the claim that a valid or bona fide dispute exists, at this time we would like to work with Praxair in attempting to resolve this matter.

Empire's willingness to work with Praxair should not be construed as a waiver of any rights that may be available to Empire by way of tariff, contract, rule, or otherwise, although Empire is not exercising any right of disconnection at this time, and this letter should not be construed as notice of future disconnection.

Please let me know when you would like to meet to discuss this matter or how you would otherwise like to work toward a resolution. Based on the information contained in your letter of February 14, and as stated above, Empire believes your claim is frivolous and not valid or bona fide, and a copy of this letter is being sent to the Commission's Consumer Services Department with a request that the Department make its own determination in this regard.

Sincerely,

pas



February 14, 2007

Bill Eichman
The Empire District Electric Company
602 Joplin Street
Joplin, Missouri 64801

Re: January, 2007 Billing for Electrical Service

Dear Bill,

Pursuant to Public Service Commission Rule 13.045 and Empire District Electric Company ("Empire") tariff PSC Mo. No. 5, Revised Sheet Nos. 32 and 33, Praxair, Inc hereby notifies Empire that it is **disputing** the current billing for electrical service to the extent the amount of that billing exceeds the amount calculated on rates in effect prior to January 1, 2007. We are withholding that amount from our current payment.

As you know, Praxair was an active participant in Public Service Commission Case No. ER-2006-0315. Upon the urging of Empire in that case, the Commission engaged in numerous irregularities and committed numerous errors of fact and law that served to deny us our statutory and constitutional rights and resulted in a Commission Order that is unlawful and unreasonable. These irregularities include, but are not limited to:

1. The Commission's decision, upon Empire's urging, and in violation of its own rules and procedures, to quash subpoenas for witnesses to testify on the issue of regulatory amortizations and fuel / purchased power prices;
2. The Commission's ruling, upon Empire's urging, to unlawfully limit cross examination of Empire witnesses during the evidentiary hearing;
3. The Commission's abject failure to make adequate findings of fact regarding the appropriate level of additional revenue justified by the evidence;
4. The Commission's unlawful and unsupported application of a "zone of reasonableness" in reaching a decision regarding return on equity;
5. The Commission's unlawful failure to allow time for parties to seek rehearing of the Order Granting Expedited Treatment and Approving Tariffs; and

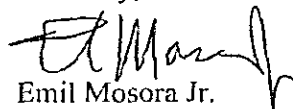
6. The Commission's utilization of outdated and inflated evidence regarding national average return on equity authorizations.

These deficiencies, and possibly others, have been acknowledged by Empire. In a January 22, 2007 pleading filed with the Commission, Empire acknowledged what were termed "procedural deficiencies" that "need to be addressed and resolved." Nevertheless, despite such recognized "procedural deficiencies", Empire continues to collect the increased rates which resulted from the unlawful and unreasonable Commission decisions without any obligation to refund those overcollections when the offending order are overturned on review. These Commission orders and resulting tariffs are currently the subject of a judicial review proceeding in the Cole County Circuit Court.

The cited tariff and Commission rule require us to engage in efforts to resolve this dispute with Empire. Be assured that we stand ready to engage in such dialogue to help resolve this ongoing matter. Our dispute only concerns that portion of your recent billing that exceeds charges calculated on rates that were previously authorized. We are not disputing charges calculated on the previously approved rates and will continue to pay those amounts as customary while withholding the calculated amount in dispute. That amount will vary from month to month but for this billing the disputed amount is \$17,859.24. You will receive payment in the usual method of remittance of \$141,892.28.

If you have any questions regarding this matter, please do not hesitate to contact me. I appreciate your attention to this matter.

Sincerely,


Emil Mosora Jr.
Energy Manager

Cc: John Stevens
Kevin Foti
Catherine Kortlandt
Stu Conrad