



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,

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Enclosures



Michael E. Palmer
Vice President - Commercial Operations

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Missouri Public
Service Commission

Mr. Steve R. Tollette
Chief Electrical Engineer
Explorer Pipeline
PO Box 2650
Tulsa, OK 74101

Dear Steve:

This is in response to your letters of February 15, 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 15 including the claim that a valid or bona fide dispute exists, at this time we would like to work with Explorer in attempting to resolve this matter.

Empire's willingness to work with Explorer 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 15, 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



Steven R. Tollette
Chief Electrical Engineer

P. O. Box 2650
Tulsa, Oklahoma 74101
918-493-5141
Fax 918-493-5148
stollette@expl.com

February 15, 2007

Mr. Bill Eichman
Manager of Industrial and Commercial Energy Services
The Empire District Electric Company
602 Joplin Street
Joplin MO 64801

Re: Explorer Joplin Station – Account No. 520589-84-7
Service Address: Joplin Station # 441, Spring city MO 64801-0000
January, 2007 Billing for Electrical Service – Dispute of Billing

Dear Mr. Eichman:

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, Explorer Pipeline Company ("Explorer") 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, Explorer 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;

Mr. Eichman
The Empire District Electric Company
February 15, 2007

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 orders 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 requires 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 \$5,741.00. Therefore, enclosed is the remittance of \$59,135.34 for the non-disputed amount for the subject service location.

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

Sincerely,



Steven R. Tollette
Chief Electrical Engineer

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enclosure



Steven R. Tollette
Chief Electrical Engineer

P. O. Box 2650
Tulsa, Oklahoma 74101
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Fax 918-493-5148
stollette@expl.com

February 15, 2007

Mr. Bill Eichman
Manager of Industrial and Commercial Energy Services
The Empire District Electric Company
602 Joplin Street
Joplin MO 64801

Re: Explorer Unknown Address – Account 520589-17-7
Service Address: 003200126300299, Stotts City MO 65756-0000
January, 2007 Billing for Electrical Service – Dispute of Billing

Dear Mr. Eichman:

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, Explorer Pipeline Company ("Explorer") 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, Explorer 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;
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3. The Commission's abject failure to make adequate findings of fact regarding the appropriate level of additional revenue justified by the evidence;

Mr. Eichman
The Empire District Electric Company
February 15, 2007

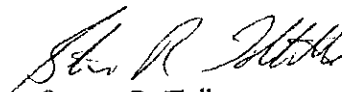
4. The Commission's unlawful and unsupported application of a "zone of reasonableness" in reaching a decision regarding return on equity;
5. The Commission's unlawful failure to allow time for parties to seek rehearing of the Order Granting Expedited Treatment and Approving Tariffs; and
6. The Commission's 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 orders 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 requires 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 \$4,158.00. Therefore, enclosed is the remittance of \$43,513.42 for the non-disputed amount.

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

Sincerely,



Steven R. Tollette
Chief Electrical Engineer

mlt
enclosure



Steven R. Tolleter
Chief Electrical Engineer

P. O. Box 2650
Tulsa, Oklahoma 74101
918-493-5141
Fax 918-493-5148
stollette@expl.com

February 15, 2007

Mr. Bill Eichman
Manager of Industrial and Commercial Energy Services
The Empire District Electric Company
602 Joplin Street
Joplin MO 64801

Re: Explorer Springfield Station – Account No. 520589-58-1
Service Address: Springfield Station # 443, Pleasant Hope MO 65725-0000
January, 2007 Billing for Electrical Service – Dispute of Billing

Dear Mr. Eichman:

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, Explorer Pipeline Company ("Explorer") 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, Explorer 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:

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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;

Mr. Eichman
The Empire District Electric Company
February 15, 2007

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 orders 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 requires 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 \$4,460.00. Therefore, enclosed is the remittance of \$45,645.35 for the non-disputed amount for the subject service location.

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

Sincerely,



Steven R. Tollette
Chief Electrical Engineer

mlt
enclosure