

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

<b>In the matter of The Empire Dis-</b>	)	
<b>trict Electric Company's Applica-</b>	)	
<b>tion for Certificate of Public</b>	)	
<b>Convenience and Necessity and Ap-</b>	)	<b>EO-2005-0263</b>
<b>proval of an Experimental Regulator-</b>	)	
<b>ry Plan Related to Generation Plant</b>	)	

**APPLICATION TO INTERVENE BY PRAXAIR, INC,  
AND EXPLORER PIPELINE COMPANY**

COME NOW PRAXAIR, INC. ("Praxair") and EXPLORER PIPELINE COMPANY ("Explorer") (collectively "Industrials") pursuant to 4 C.S.R. 240-2.075 and apply to intervene herein and become parties hereto for all purposes in respect to the filing for a proposed regulatory plan and a certificate of convenience and necessity or construction authority by Empire District Electric Company ("Empire") on February 4, 2005. In support, Industrials respectfully state:

1. Praxair is a large industrial electric customer of Empire. Praxair operates a major air liquefaction and constituent gas separation 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 rate increase cases, Case Nos. ER-94-174, ER-95-279, ER-97-81/82, and ER-2001-299, in the ultimately abandoned merger application of Empire and UtiliCorp United Inc. in Case No. EM-2000-369, and in Empire's last general rate cases, Case No. ER-2002-424 and Case No. ER-2004-0570.<sup>1/</sup>

3. Explorer is a large industrial electric customer of Empire. Explorer operates a 1,400-mile pipeline system that transports liquid petroleum products including gasoline, diesel fuel and jet fuel from the Gulf Coast to the Midwest. Explorer is based in Tulsa, Okla., and also serves Houston, Dallas, Fort Worth, St. Louis and Chicago. Portions of Explorer's products pipeline extend through the service territory of Empire where Explorer has three electric-driven pumping stations. Explorer was an intervenor with Praxair in Empire's last general rate case, Case No. ER-2004-0570.

4. 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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<sup>1/</sup> Case No. ER-2005-0570 is still pending decision by the Commission.

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5. On February 4, 2005, Empire filed an application with this Commission requesting a certificate of convenience and necessity authorizing the construction or participation in the construction of an electric generating station in Platte County, Missouri, and for approval of an "experimental regulatory plan" that is vaguely defined as intended to provide "adequate assurance to potential investors" to make "financial options available" to the utility. The parameters of this "experimental regulatory plan" are only vaguely identified and Empire's Application acknowledges that it is in the process of "modeling the rate and financial impacts" associated with this plan.

6. The proposed "plan" references the continuing process surrounding a recently-terminated workshop proceeding initiated by Kansas City Power & Light also concerning the construction of a new electric generating station. Empire's Application indicates that it seeks authority to participate in the construction of that station with Kansas City Power & Light and, to some extent, is seeking to follow the workshop pattern with this "me too" Application.

7. Industrials are vitally interested in this proposed "plan," in its terms and conditions, and in its impact on ratepayers generally and upon Praxair and Explorer specifically.

Praxair operates in a highly competitive commercial environment and increases to electric power costs have a decided effect upon Praxair's competitive position in its market. As a major interruptible electric customer of Empire, Praxair will be directly affected by the proposed increase and will be bound or adversely affected by any Commission order issued in this proceeding. Explorer is a FERC-regulated petroleum products pipeline and cannot pass cost increases to its own rates without further approvals. Because Empire provides electricity to Praxair on an interruptible basis under a separate contract and rate schedule and because of both companies' size and load factor, Industrials' interest is direct, immediate, unique, different from that of the general public, and will not or cannot adequately be represented by any other party. Therefore, it will aid the Commission and protect and advance the public interest that Industrials be permitted to intervene in this proceeding to protect their interest which no other party is in a position properly to protect and adequately represent.

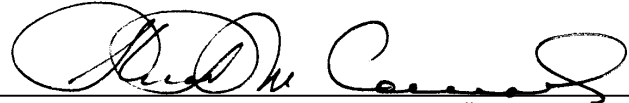
8. For purposes of 4 C.S.R. 240-2.075(2), Industrials state that they oppose the discriminatory and non-cost-based pricing of electricity and related utility services. However, at this point Empire acknowledges that it is still "modeling" financial and rate impacts of its "plan" and the details have yet to be articulated so that an intelligent response to those proposals may be provided. Industrials are concerned that full

regulatory processes developed to protect the interest of all ratepayers not be frustrated or limited by an experimental "plan." Additionally, Industrials state that they have serious and continuing concerns with the fuel mix of Empire's current generating fleet.

WHEREFORE, Industrials pray: (a) that they be permitted to intervene herein and be made parties 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 (b) for all other needful and proper relief appropriate in the premises.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

A handwritten signature in dark ink, appearing to read "Stuart W. Conrad", is written over a horizontal line.

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ATTORNEYS FOR PRAXAIR, INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means, by United States Mail, First Class postage prepaid, or by hand delivery to all known parties in interest upon their respective representatives or attorneys of record as reflected in the records maintained by the Secretary of the Commission as shown below.

  
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Stuart W. Conrad

Dated: February 18, 2005