

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

In the Matter of The Empire District Electric	)	
Company's Submission of its 2013 RES	)	Case No. EO-2013-0458
Compliance Plan	)	

**MOTION FOR PERMISSION TO FILE  
SUBSTITUTE RENEWABLE ENERGY STANDARD COMPLIANCE PLAN  
AND MOTION FOR EXPEDITED TREATMENT**

Under authority of 4 CSR 240-20.080 and for good cause shown, The Empire District Electric Company ("Empire" or "the Company"), through its undersigned counsel, hereby moves the Missouri Public Service Commission ("Commission") for an order granting the Company authority to substitute a revised version of the *2013 Annual Renewable Energy Standard Compliance Plan*, a copy of which is attached to this motion as Exhibit A, for the plan that Empire filed on April 15, 2013. Empire further moves the Commission for expedited consideration of that request. The Company states the following in support of its motions:

1. As required by the Commission's rules,<sup>1</sup> on April 15, 2013, Empire filed its *2013 Annual Renewable Energy Standard Compliance Plan* ("Compliance Plan"), which sets out the Company's plans for compliance with Missouri's Renewable Energy Standard ("RES")<sup>2</sup> for calendar years 2013 through 2015. Simultaneously with that filing, Empire also filed a request for waiver or variance from the requirements of 4 CSR 24-020.100(7)(B)1.F and motion for expedited consideration of that request.

2. Subsequent to its filings, Empire determined that certain information at pages 6 and 7 of the Compliance Plan, which pertains to the retail rate impact of the Company's compliance activities, is in error. More specifically, the Compliance Plan states that Empire does not expect any retail rate impact through the 2013-2015 compliance plan period because the minimal expenses the Company incurs to comply with the RES "already flow through EDE's fuel adjustment clause (FAC)." That statement is

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<sup>1</sup> 4 CSR 240-20.100(7).

<sup>2</sup> §§393.1020-393.1030, RSMo.

incorrect. Empire does not recover its RES compliance costs through the FAC but, instead, recovers a representative amount of those costs through base rates approved in the Company's last general rate case, Case No. ER-2012-0345. Modified verbiage in Exhibit A corrects that error.

3. In addition, Exhibit A also specifically states the rationale underlying the limited explanation of the retail rate impact that Empire included in its Compliance Plan. The proposed substitute plan specifically states that Empire did not perform the detailed calculations described in 4 CSR 240-20.100(5)(B) or provide an explanation of those calculations because the Company is not required to do so. Under the rule, those calculations, and the related explanation, are only required if a utility proposes to procure or develop additional incremental renewable energy resources directly attributable to RES compliance. Because Empire does not need to develop or procure any additional renewable resources through the 2013-2015 compliance plan period, the Company is exempt from the requirements of that rule.

4. Empire does not believe granting this motion will disadvantage the Commission Staff ("Staff"), the Office of the Public Counsel ("OPC"), or any other potentially interested party in this case. The Commission's rules require Staff to file within forty-five days a report identifying any deficiencies in Empire's plan, but the Company does not believe the minimal changes and corrections contained in Exhibit A will adversely affect Staff's ability to timely file that report. Similarly, the Company does not believe the filing of the proposed substitute compliance plan will impede the OPC or any other interested party from filing comments on that plan. If, however, Staff, OPC, or any other potentially interested party believes the substitute plan will necessitate additional time to prepare comments, Empire will not object to a reasonable extension of the forty-five day period prescribed by the rules.

5. If the Commission decides to grant the Company's motion and accept the substitute plan, Empire does not believe that decision will directly affect the Company's pending request for a waiver or variance from the requirements of 4 CSR 240-20.100(7)(B)1.F, which was referenced in paragraph 1 of this motion. Empire notes, however, that the change to the Compliance Plan described in paragraph 3 of

this motion mirrors one of the arguments made in the *Response of The Empire District Electric Company to Earth Island Institute d/b/a Renew Missouri's Filing in Opposition to Empire's Request for Waiver or Variance from 4 CSR 240-20.100(7)(B)1.F and Motion for Expedited Treatment*, filed on April 30, 2013. That change may or may not affect the Commission's decision on the pending request for a waiver or variance, but it does not affect Empire's belief that a ruling on the request is needed to avoid future questions regarding whether or not the Company's plan complies with applicable rules.

6. Empire seeks expedited consideration of its motion to file a substitute compliance plan because the filing deadlines for the Staff's report and the comments of the OPC and any interested parties make it imperative that the Commission quickly consider and rule on the Company's request. Consequently, Empire believes Staff, the OPC, and other potentially interested parties would be best served if the Commission makes a ruling on the Company's motion on or before May 15, 2013. Delaying a ruling beyond that date may cause hardship to those desiring to comment on the Compliance Plan, in either its original or substitute versions, within the time period prescribed by the Commission's rules, although the Company's willingness to allow for a reasonable extension of that deadline and the minimal nature of the correction/clarification in the proposed substitute plan ameliorate that concern to some degree.

7. This request for authority to file a substitute compliance plan is being filed as close as practicable to the date on which Empire first determined that its Compliance Plan contained an error.

8. Good cause therefore exists to grant Empire's motion to file a substitute compliance plan and for the Commission to consider that motion an expedited basis.

WHEREFORE, for all of the reasons stated above, Empire asks the Commission (i) to grant the Company's motion to file a substitute for the version of the *2013 Annual Renewable Energy Standard Compliance Plan* filed on April 15, 2013, and (ii) to grant expedited treatment of that motion.

Respectfully submitted,

/s/ L. Russell Mitten

L. Russell Mitten MO Bar # 27881  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P. O. Box 456  
Jefferson City, Missouri 65102-0456  
Telephone: (573) 635-7166  
Facsimile: (573) 634-7431  
Email: [rmitten@brydonlaw.com](mailto:rmitten@brydonlaw.com)

ATTORNEYS FOR  
THE EMPIRE DISTRICT ELECTRIC COMPANY

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served, via e-mail, the 6<sup>th</sup> day of May, 2013, on counsel for the Commission Staff, the Office of the Public Counsel, and each of interested parties who filed written comments in Case No. EO-2012-0336.

/s/ L. Russell Mitten

# **EMPIRE DISTRICT ELECTRIC COMPANY**

## **2013 ANNUAL RENEWABLE ENERGY STANDARD COMPLIANCE PLAN (REVISED)**

**Prepared in Compliance with 4 CSR 240-20.100**

**May\_\_\_\_\_, 2013**



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# **2013 ANNUAL RENEWABLE ENERGY STANDARD COMPLIANCE PLAN**

## **INTRODUCTION**

Pursuant to the Missouri Public Service Commission's (Commission) renewable energy standards rule, 4 CSR 240-20.100(7), The Empire District Electric Company (EDE), a Kansas corporation, is filing its third Annual Renewable Energy Standard (RES) Compliance Plan. The rule became effective in September 2010, and pursuant to the rule EDE must file the RES Compliance Plan on or before April 15, 2013 for the current year and subsequent two calendar years.

EDE began to develop its wind renewable energy portfolio on December 10, 2004, when it entered into a 20-year contract with Elk River Windfarm, LLC (owned by Iberdrola Renewables) to purchase all of the energy generated at the 150-megawatt (MW) Elk River Windfarm located in Butler County, Kansas.

On June 19, 2007, EDE enhanced its renewable energy portfolio when it entered into a 20-year purchased power agreement with Cloud County Windfarm, LLC, owned by EDP Renewables North America LLC (formerly known as Horizon Wind Energy LLC). Pursuant to the terms of the agreement, EDE purchases all of the output from the 105 MW Phase 1 Meridian Way Wind Farm located in Cloud County, Kansas.

In addition, the Ozark Beach Hydroelectric Project, owned by EDE has produced renewable hydropower for many years.

The following sections provide information required to indicate compliance with the rule:

## **SECTION (7) (B) 1 A: PLANNED RES COMPLIANCE**

4 CSR 240-20 provides the procedure by which utilities must meet statutory obligations for renewable energy. Missouri law required that by 2011, electric companies must either generate, purchase energy, or purchase renewable energy certificates (RECs) equal to at least 2 percent of the electricity they sell to retail customers from renewable sources. That percentage increases to 15 percent by 2021.

This year and in the subsequent two years, EDE plans to comply with the RES through contracts with Elk River Windfarm, LLC and Cloud County Windfarm, LLC, and/or generation from its Ozark Beach Hydroelectric facility. In fact, EDE currently could meet the 2021 requirement through its renewable energy purchase power agreements and owned generation if it chose not to sell any RECs generated from these facilities.

EDE owns the Ozark Beach Hydroelectric Project (Ozark Beach) which generates approximately 67,000 megawatt-hours (MWh) each year. Since the facility is located in Missouri, EDE is allowed to claim the amount of MWhs generated plus an additional twenty-five hundredths (0.25) credits, as authorized by subsection (3)(G) of this rule. Consequently, Ozark Beach counts as one and twenty-five hundredths (1.25) RECs for purposes of compliance with this rule.

Pursuant to Section 393.1050, RSMo, EDE is exempt from solar requirements and solar rebates. (See memorandum of explanation regarding Missouri Renewable Energy Initiative Solar Exemption, Attachment 1.)

The table below represents EDE's expected Missouri retail sales and the non-solar percentage requirements of Missouri retail electric sales that must be achieved by EDE either through the purchase of RECs or the production of energy, and the total expected potential of qualifying RECs that could be used for compliance. EDE expects to sell all or a portion of its remaining RECs after all current or future state and/or federal mandates have been met.

Time Period	RES Requirement Non-Solar %	MO Retail Sales	Elk River*	Meridian Way*	Ozark Beach*	Total Potential <sup>1</sup>	RES Requirement
2013	2%	4,134,125	550,000	330,000	83,750	963,750	82,683
2014	5%	4,153,783	550,000	330,000	83,750	963,750	207,689
2015	5%	4,177,254	550,000	330,000	83,750	963,750	208,863

\*Expected average operation; Ozark Beach number includes additional 0.25 credit

<sup>1</sup>Total expected eligible REC's not including potential 3<sup>rd</sup> party sales or other RES requirements.

## SECTION (7) (B) 1 B: LIST OF EXECUTED CONTRACTS

EDE's executed renewable energy contracts include a 20-year contract with Elk River Windfarm, LLC to purchase all of the energy generated at the 150 MW Elk River Windfarm located in Butler County, Kansas. In addition, EDE entered into a 20-year purchased power agreement with Cloud County Windfarm, LLC, owned by EDP Renewables North America LLC, Houston, Texas. Pursuant to the terms of that agreement, EDE will purchase all of the output from the 105 MW Phase 1 Meridian Way Wind Farm located in Cloud County, Kansas. Empire anticipates generation of approximately 550,000 MWhs for Elk River and approximately 330,000 MWhs for Meridian Way.

The effective date of the Elk River agreement was December 10, 2004 and the effective date of the Meridian Way agreement was on June 19, 2007. Unless otherwise terminated in accordance with contract stipulations each of those agreements will remain in full force for a term ending at midnight local time on the 20<sup>th</sup> Anniversary of each facility's respective completion date.

## SECTION (7) (B) 1 C: PROJECTED TOTAL RETAIL SALES

The following table represents EDE's projected Missouri retail sales for each year of the Annual Compliance Plan period. These MWhs are the sales numbers that each non-solar requirement is multiplied by in order to calculate EDE's RES requirements.

<b>*Missouri Retail Sales</b>	<b>Year</b>	<b>MWh</b>
Projected		
	2013	4,134,125
	2014	4,153,783
	2015	4,177,254

*\*Source: 2013-2017 Revenue Model, draft 6*

## **SECTION (7) (B) 1 D: COMPARISON TO PREFERRED RESOURCE PLAN**

EDE will fully meet the RES compliance requirements for 2013, 2014, and 2015 with its current purchased power contracts and hydroelectric facility. Therefore, there is no difference between the RES Compliance Plan and the most recent Integrated Resource Plan (IRP) filed with the Commission in September of 2010 and updated in March of 2013.

Empire submitted its most recent annual update to the IRP on March 27, 2012. One of EDE's special contemporary issues listed in the updated IRP discusses the impact potential or proposed changes to Renewable Energy Standards would have on EDE. Regardless of the outcome of proposed changes, in the future, EDE will continue to retain a sufficient amount of RECs to meet any current or future RES.

## **SECTION (7) (B) 1 E: RES COMPLIANCE PLAN COST**

EDE has already achieved expected RES compliance for the plan period, and therefore it expects very minimal spending will be necessary to achieve the required compliance designation. Analysis of the IRP indicates the current RES plan is the least cost, most prudent methodology to achieve compliance with the RES.

## **SECTION (7) (B) 1 F: RES RETAIL RATE IMPACT**

EDE does not anticipate any retail rate impact for the Compliance Plan period. Very minimal cost is directly attributable to EDE's current or anticipated RES compliance and all those costs are associated with (1) the registration of assets and RECs (Renewable Energy

Credits) in the North American Renewables Registry, and (2) costs associated with retirement of RECs. Costs incurred for 2012 compliance totaled \$77,293, and EDE does not anticipate filing for RES recovery associated with these costs as Empire's base rates reflect a representative level of renewable registry costs. To illustrate the magnitude of its required expenditures for compliance, EDE's current annual revenue requirement approved by the Commission in Case No. ER-2012-0345 is \$429,171,799. One percent of that number is approximately \$4.3M and EDE's expected cost of compliance is much less than that number.

Although 4 CSR 240-20.100 (7)(B)1.F prescribes a detailed calculation of the retail rate impact on EDE's customers during the compliance plan period, because EDE does not propose to add incremental renewable energy resource generation directly attributable to RES compliance during the 2013-2015 Compliance Plan period, 4 CSR 240-20.100(5)(B) exempts EDE from having to make that calculation. Consequently, EDE believes the information provided in the preceding paragraph satisfies the Commission's rules. However, if the Commission believes a formal waiver of its rules is required, concurrently with the filing of this RES Compliance Plan EDE has requested a waiver from the specific requirements of 4 CSR 240-20.100 (7)(B)1.F, as authorized by 4 CSR 240-20.100(10).

## **SECTION (7) (B) 1 G: COMPLIANCE WITH AIR, WATER, OR LAND USE REQUIREMENTS**

Pursuant to Section 393.1030.4 RSMo, any renewable energy facility located in the state of Missouri shall not cause undue adverse air, water or land use impacts.

All generating facilities utilized by EDE to meet the requirements of the Missouri RES have, to EDE's knowledge, received all necessary environmental and operational permits and are in compliance with any necessary federal, state and/or local requirements related to air, water and land use.

# ATTACHMENT

1

## MEMORANDUM

DATE: January 7, 2009

TO: Brad Beecher                      Blake Mertens  
Harold Colgin

FROM: Tim Wilson

SUBJECT: Missouri Renewable Energy Initiative Solar Exemption

The Missouri Renewable Energy Initiative has been voted on and was certified by the Secretary of State on December 2, 2008. The initiative essentially calls for the following:

- (a) 2% of sales to come from renewable energy sources for calendar years 2011 through 2013;
- (b) 5% of sales to come from renewable energy sources for calendar years 2014 through 2017;
- (c) 10% of sales to come from renewable energy sources for calendar years 2018 through 2020;
- (d) 15% of sales to come from renewable energy sources for calendar years beginning in 2021;

Further, the Missouri Renewable Energy Initiative contains the following requirement:

**At least 2% of each portfolio requirement shall be derived from solar energy....**

Senate Bill 1181 was also passed by the Missouri legislature and signed into law by the Governor in 2008 which contained the following provision:

*Section 1. Notwithstanding any other provision of law, any electrical corporation as defined by subdivision 15 of section 386.020, RSMo, which, by January 20, 2009, achieves an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of such corporation's total owned fossil-fired generating capacity, shall be exempt thereafter from a requirement to pay any installation subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any mandated solar renewable energy standard requirements.*

In other words, if Empire has a renewable energy nameplate capacity of greater than 15% of its total owned fossil-fired generating capacity by January 20, 2009, Empire does not have to meet the solar requirement of "At least 2% of each portfolio requirement shall be derived from solar energy" contained in the Missouri Renewable Energy Initiative. Furthermore, Empire will be exempt thereafter as well.

Empire's renewable energy nameplate capacity as of January 1, 2009 is 255 megawatts (MW). This number is derived from the 150 MW of capacity related to the Elk River Windfarm (with commercial operation date of December 15, 2005) and the 105 MW Meridian Way Wind Farm (with a commercial operation date of December 23, 2008). Empire's total owned fossil-fired generating capacity in operation as of January 1, 2009 is as follows:

Asbury Power Plant	210 MW
Energy Center Power Plant	269 MW
Iatan Power Plant	80 MW
Riverton Power Plant	286 MW
State Line Power Plant	<u>396 MW</u>

1/7/2009

Total

1,241 MW

As such, when one divides the 255 MW of renewable energy nameplate capacity by the 1,241 MW of owned fossil-fired generating capacity one gets 20.5% meaning, according to the Section 1 provision of Senate Bill 1181, Empire, "...shall be exempt thereafter from a requirement to pay any installation subsidy, fee, or rebate to its customers that install their own solar electric energy system and shall be exempt from meeting any mandated solar renewable energy standard requirements" such as that provided in the Missouri Renewable Energy Initiative.

In summary, due to Empire achieving an amount of eligible renewable energy technology nameplate capacity equal to or greater than fifteen percent of our total owned fossil-fired generating capacity by January 20, 2009 we are thereby exempt from the 2% solar requirement stated in the Missouri Renewable Energy Initiative and will continue to be exempt thereafter.

We, the Strategic Projects Department, will continue to monitor any effects this may have on our ability to market and sell the Renewable Energy Credits we receive via the Elk River and Meridian Way purchased power contracts. Based on previous conversations with Green-e representatives, it is our current understanding that Empire's invoking of this provision will NOT affect the status of our Renewable Energy Certificates; however, in this ever evolving renewable energy market continued due diligence is required. Since compliance with the Missouri Renewable Energy Initiative is not required until 2011, Empire still has time to act in regards to the 2% solar requirement if Green-e brings forth any concerns.