MEMORANDUM

To: File No. EO-2023-0358, In the Matter of the 2022 RES Compliance Report and 2023 RES Compliance Plan of The Empire District Electric Company d/b/a Liberty

From: Lena Mantle, PE
Senior Analyst, Office of the Public Counsel

Re: Renewable Energy Standard Report and Plan

Date: August 17, 2023

The Empire District Electric Company ("Empire") met the Missouri renewable energy standard ("RES") requirements for 2022. While Empire attached an affidavit of compliance, Empire's report does not contain the information necessary to demonstrate that it met its statutory requirement for 2022. The determination was made only after a careful review of the report and plan, the confidential attachments to the filed RES report and plan, discussions with Empire personnel, and responses to data requests.

Empire's filed RES report and plan meet many of the Public Service Commission's ("Commission's") filing requirements in 20 CSR 4240-20.100 but the report and plan filed are confusing. While the section of the Commission rule regarding the filing of annual RES reports and plans (20 CSR 4240-20.100(8)) does not require clarity, section 393.1030.2(3) RSMo. requires provisions to be made for electric utilities to file annual reports that *document their progress in meeting Missouri RES targets*. Empire's filed RES report and plan do not clearly do so.

Empire's RES report shows that it used renewable energy credits ("RECs") from its North Fork Ridge and Kings Point wind facilities to meet its Missouri RES. It is important to document that Empire's other renewable resources provided enough RECs to meet the RES and these resources were not necessary for Empire to meet the RES. This is explained in greater detail in this memorandum.

Finally, Empire did not provide the Missouri jurisdictional retail rate impact ("RRI") of its projected plan.

Empire Provided Incomplete Information Regarding Generation

In the introduction of its RES Report, Empire offers that the North Fork Ridge wind facility was complete at the end of 2020 and that its Neosho Ridge and Kings Point facilities reached commercial operation in 2021. These statements suggest that Empire's customers had the benefits of these facilities for all of 2022 and that the RECs created throughout 2022 were available to be used to meet the RES. However, what Empire fails to disclose in its report is that the generation and RECs produced by these wind facilities benefited only Empire's shareholders until the costs of these facilities were included in customer rates in June 2022. 20 CSR 240-20.100(8)(A)C requires Empire to report "[t]otal retail electric sales supplied by renewable resources." The energy and RECs supplied by these facilities did not meet retail sales until the facilities were included in retail rates in June 2022.

In addition, Empire reports all of the energy output from the 105 megawatt ("MW") Meridian Way wind farm as being used for retail sales. However, it has a contract selling 20% of this asset's output to the Missouri Joint Municipal Electric Utility Commission, making this energy unavailable to meet Empire's retail sales.

For its report to be clear, Empire needs to state, plainly, how much of total retail sales were met by its three owned wind facilities in 2022. The tables should differentiate between the generation and RECs produced prior to June 2022 and after when the facilities were included in rates. Empire should also include the vintage of the wind facility RECs that were sold in 2022 and whether shareholders or ratepayers received the benefits from the sale of these RECs.

To meet the requirements of the Commission rule, Empire should distinguish between the generation and RECs assigned to its shareholders and available to its retail customers.

To meet the requirements of the Commission rule, Empire must further clarify which and how many of the retail sales were supplied through its purchased power agreement with Meridian Way wind farm.

Table 3 Provides Incorrect Data

Table 3 contains a column that purports to show the value for RECs generated by each of Empire's renewable resources. Ameren Missouri's RES Report shows that it purchased from Empire RECs from its North Fork Ridge and Kings Point facilities at an average price of $3.75/REC. The value Empire puts on these RECs is less than what Ameren Missouri reported it paid Empire.

Empire claimed the RECs they sold to Ameren Missouri had a different value to Ameren's records. Therefore burden falls on Empire to either 1) report actual REC value received, or 2) explain the deviation.

Empire's Designation of Confidential is Confusing

In Table 3 Empire designated the value of its RECs as confidential whereas Ameren Missouri did not in its RES report. In that same table, Empire designates as confidential the number of REC/SRECs produced by each resource. However, in Table 2 on that same page, Empire provides the amount of generation for each resource. While Empire never defines what a REC is, Commission rule states "A REC represents that one (1) mega-watt hour of electricity has been generated from renewable energy resources."[1] It is confusing that the generation from each renewable resource is public but the number of RECs produced from that resource is confidential.

Empire should explain why the information provided in Table 3 of its report should remain confidential.

[1] 20 CSR 4240-20.100(1)(M).

The Report is Confusing

There are many instances in the report that Empire uses imprecise language that makes the report confusing. What follows is a bullet point list of some of the more confusing aspects of the report.

- On page 6, Empire states 56,589 Ozark Beach RECs were retired during 2022. Table 4 shows that 44,763 Ozark Beach RECs were retired during 2022.
- The first footnote to Table 4 states that "North Fork Ridge and Neosho Ridge sales include some generation from 2021." It is unclear whether Empire is referring to the MWh generation which is sometimes referred to as sales or the RECs sold in 2022.
- The reference in the second footnote of Table 4 to "Prosperity Solar retirement" in fact, has nothing to do with the retirement of the Prosperity Solar farm. This table does not show any RECs retired for Prosperity Community Solar making it unclear what the foot note is referring to.

For clarity, Empire should refile its report using more precise language throughout the document.

Calculation of the Actual Calendar Year Impact is Incomplete

Commission rule 20 CSR 4240-20.100(8)(A)1.P requires, "for the most recently completed calendar year for the electric utility," a "calculation of its actual calendar year retail rate impact."

Empire's third revised report states that the 2022 retail rate impact was 0.3% and provides that this was calculated using the 2022 compliance cost of $2,163,203 divided by the Missouri retail rate revenue of $575,869,436. The report neither gives details on what makes up the cost nor points to the high level breakout of the costs that it provided in Attachment 8 which was only provided as a highly confidential document.

To adequately follow the Commission's RES rule, Empire should refile its report with either (1) details of the costs to meet the RES included in the report, or (2) a clarification that a breakdown of the costs can be found in Attachment 8. If the latter is chosen, then Empire needs to file a public version of Attachment 8.

Empire's RES Plan is Incomplete

Just as Empire did not provide complete information on who received the benefits of its new wind facilities its report, Empire was also not clear in its plan. The introduction to the RES plan describes the additions of the North Fork Ridge, Kings Point, and Neosho Ridge wind facilities stating that they achieved commercial operation in 2020, 2021, and 2021 respectively. While this is not critical for a clear understanding of the plan, it is misleading and a complete description should be provided.

Empire's RES plan should make clear that the North Fork Ridge, Kings Point, and Neosho Ridge facilities were not included in retail rates until June 2022, despite achieving commercial operation in 2020 and 2021 and that customers received no benefits until the facilities were included in rates in June 2022.

North Fork Ridge and Kings Point Facilities Were Not Necessary to Meet the RES in 2022

Empire stated that generation from its owned wind resources was "required" for compliance for 2022.[2] This is inconsistent with information provided in Empire's RES report and plan. In addition, Empire responded "No" when asked in Office of the Public Counsel ("OPC") data request 8000.1 if it was Empire's position that it could not have met the Missouri RES requirements without the Kings Point and North Fork Ridge facilities.

North Fork Ridge and Kings Point resources were not "required" but they *were* utilized.[3] If the RECs from Empire's other resources were properly managed, RECs from these two wind facilities would not have been "required" for Empire to meet the Missouri RES in 2022. However RECs from these two wind facilities were needed for Empire to meet the RES requirements for 2022 due to the following Empire decisions regarding the management of its RECs.[4]

1. Empire entered into a contract in which 20% of the generation and RECs from its Meridian Way PPA is assigned to the Missouri Joint Municipal Electric Utility Commission thus reducing the number of RECs available to meet the Missouri RES;
2. Empire sold RECs from 2020 and 2021 instead of banking them for use in the future; and
3. Empire carried forward 111,766 RECs from the Meridian Way and Elk River PPAs instead of retiring them to meet the Missouri RES.

It is important to note that these facilities were not needed to meet the RES. The Market Price Protection Mechanism ("MPPM"), agreed to in the *Fourth Partial Stipulation and Agreement* in Case No. ER-2021-0312, nets the costs and benefits of the wind facilities to assure a balance between the shareholders and customers. It includes a provision that accounts for the benefit provided when the facilities are needed to meet the RES. However, it would be inappropriate for a benefit for meeting the RES to be included in the MPPM if in fact the facilities were not really necessary to meet the RES.

Table 1, below, contains information provided in Empire's RES Plan regarding its projected compliance with the RES for years 2023 through 2025.[5] This information shows Empire currently projects generation from its wind Elk River and Meridian Way PPAs, Ozark Beach and customer-owned solar renewable resources will meet Empire's RES through 2025 with an expected excess of more than 43,000 RECs.

[2] *2022 Annual Renewable Energy Standard Compliance Report*, page 6.
[3] OPC is not against the use of RECs from Empire's owned wind facilities to meet the Missouri RES. In fact it may be beneficial to customers for Empire to use RECs from the North Fork Ridge and Kings Point wind facilities since these facilities are in Missouri and, for the RES, are accredited 1.25 compliance RECs for every MWh generated.
[4] While any one of Empire's owned wind facilities could have provided enough RECs to meet the remaining needs for 2022, Empire chose to retire RECs from two of the wind facilities.
[5] Information is from Tables 1 and 2 of the Plan.

Table 1

Yr	Mo Retail Load (MWh)	Generation (MWh)					Compliance RECs	RECs Required	Need/ (Excess)
		Elk River	Meridian Way	Ozark	Solar	Total			
2023	4,308,795	282,000	277,000	67,500	44,198	670,698	698,623	646,319	(52,303)
2024	4,338,622	282,000	277,000	67,500	44,198	670,698	698,623	650,793	(47,829)
2025	4,365,882	282,000	277,000	67,500	44,198	670,698	698,623	654,882	(43,740)

The data in this table is consistent with Empire's statement in its last triennial resource plan filing[6] that these wind projects will not be needed for Empire to meet the Missouri RES until the Elk River and Meridian Way PPAs end.

As Empire has stated that these facilities *were not* required to meet 2022 RES compliance, any indication that the RECs from North Fork Ridge and Kings Point *were* required should be removed. Further, the report should clarify that Empire could have meet the 2022 RES without the RECs from North Fork Ridge and Kings Point, even though some of their RECs were used.

<u>Empire's Retail Rate Impact Calculation is Suspect</u>

The results of Empire's RRI calculation are not provided in its filed plan. While, the report points to Empire's confidential Attachment 3, the RRI calculation in Attachment 3 is based on information for the total company, not just the Missouri jurisdictional portion.

A review of the RRI workpapers provided by Empire reveals the cost of the Neosho Ridge, Kings Point, and North Fork Ridge wind projects were included even though these facilities were not necessary to meet the RES in 2022, and according to Empire's RES plan, will not be necessary to meet the RES before 2025. The RRI is also suspect because, in response to OPC DR 8004, Empire provided that the RRI estimates included production tax credits for the North Fork Ridge, Kings Point, and Neosho Ridge wind facilities. The response was cryptic as to whether the total tax credits were included or just the tax credits that Empire receives as a part of its contract with its tax equity partner (1% of tax credit provided).

Empire's RRI calculation should only consist of the impact of RES compliance on a *Missouri* jurisdictional basis. Also, the RRI should not include the costs of the North Fork Ridge, Kings Point, and Neosho Ridge facilities until the facilities are necessary for compliance and should be limited to the cost of the portion of the facilities *needed* for compliance. Finally, Empire should provide details regarding the inclusion of production tax credits for these facilities in its calculation of the RRI.

[6] File No. EO-2021-0331, Volume 6: Integrated Resource Plan and Risk Analysis, page 6 - 29.