

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

In the Matter of The Empire District Electric            )  
Company's Submission of its 2014 Renewable            )       File No. EO-2014-0285  
Energy Standard (RES) Compliance Plan                )

**COMMENTS OF RENEW MISSOURI AND  
MOTION FOR LEAVE TO FILE OUT OF TIME**

COMES NOW Earth Island Institute d/b/a Renew Missouri ("Renew Missouri"), pursuant to 4 CSR 240-20.100(7)(E), and offers the below comments regarding Empire District Electric Company's ("Empire") 2013 RES Compliance Report and 2014-2016 RES Compliance Plan. In addition, Renew Missouri moves that the Commission permit it to file these comments out of time, pursuant to 4 CSR 240-2.050(3)(B).

**INTRODUCTION**

1.       These comments are intended to bring compliance issues to the Commission's attention. Some of these comments involve violations of both Missouri law and the Commission's regulations. However, the Commission's August 15, 2012 Notice in File No. EO-2012-0336 indicated that the Commission did not intend to take any further action on comments alleging violations of the RES law or the Commission's regulations unless they were formally brought as complaints, pursuant to 4 CSR 240-20.100(8)(A) and the statutes and regulations governing complaints before the Commission.

2.       Renew Missouri recognizes that the Commission is not required by law to take action on comments. However, the Commission is nonetheless tasked with enforcement of Missouri's Renewable Energy Standard (§ 393.1025-1030, RSMo) and implementing its regulations at 4 CSR 240-20.100. Renew Missouri asks that the Commission consider issuing orders to correct the issues identified in these comments if it determines that it is prudent to do

so. Such action may avoid time-consuming complaint cases and provide greater foreseeability for all stakeholders involved.

#### COMMENTS ON EMPIRE'S 2013 RES COMPLIANCE REPORT

##### **A. Empire attempts to retire RECs from hydro facility larger than 10 MW.**

3. On pg. 5 of its Report, Empire states that it retired 65,370 RECs from its Ozark Beach Hydroelectric Generating Station for RES compliance in 2013.

4. Renew Missouri believes that RECs produced from Ozark Beach do not qualify for RES compliance. Renew Missouri has argued so in File No. EC-2013-0377, et al., as well as in previous RES Compliance comments.

5. Furthermore, Renew Missouri has made a formal request to the Division of Energy, the Department of Economic Development, and the Governor to clarify that the RES law's 10 MW limitation on hydropower applies on a facility-wide basis. Renew Missouri urges the Commission to use its authority to enforce the RES law's clear limit on the size of qualifying hydroelectric resources to 10 MW by clarifying that the limitation applies on a facility-wide basis.

##### **B. Empire has made no attempt to comply with the solar requirements of the RES.**

6. Empire's Report does not include any information regarding the retirement of SRECs or the payment of solar rebates, pursuant to the requirements of Section 393.1030, RSMo.

7. Renew Missouri considers Empire to be in violation the solar provisions of the RES law, even despite Section 393.1050, which purports to exempt Empire from the solar requirements. Renew Missouri believes that Section 393.1050, RSMo. is an illegally passed, unconstitutional statute that fails to exempt Empire from the solar requirements of the RES.

Renew Missouri has raised these concerns in File No. EC-2013-0377, et al. as well as in previous RES Compliance comments. Moreover, this issue is currently being considered by the Supreme Court of Missouri.

COMMENTS ON EMPIRE'S 2014-2016 RES COMPLIANCE PLAN

**A. Empire fails to clarify how it is prepared to comply with the solar requirements of the RES following a Supreme Court decision against it.**

8. On pg. 4 of its Plan, Empire claims that it is exempted from the solar requirements of the RES by virtue of Section 393.1050, RSMo, and it references a memorandum included with the Plan as Attachment 1. (Note: perhaps by mistake, pages from this memorandum are not included within the Plan.)

9. Empire's Plan and accompanying memorandum do not state whether Empire is prepared to begin procuring solar energy and paying solar rebates to applying customers should the Supreme Court decide that Empire is not exempted by Section 393.1050. It would benefit Empire's customers as well as solar companies across the state of Missouri to have these expectations clarified. Renew Missouri anticipates a decision from the Supreme Court by the end of 2014. Moreover, paying solar rebates may drastically affect Empire's RES retail rate impact calculation, which Empire continues to refuse to perform.

10. The Commission should order Empire to revise its Plan to include its contingency strategy for meeting the RES law's 2% solar requirement, as well as its plans for processing and paying solar rebates during the 2014-2016 period. Such revisions should also include the Company's calculation of its 2014-2016 retail rate impact limit.

WHEREFORE, Renew Missouri offers the above comments for the Commission's consideration in this case.

MOTION FOR LEAVE TO FILE COMMENTS OUT OF TIME

1. Renew Missouri's attorney was unable to meet the July 30, 2014 deadline established by the Commission due to unforeseen obligations.

2. Allowing Renew Missouri to file comments in this case will assist the Commission's record for making a decision

3. Granting this motion will not prejudice any other party in this case.

Wherefore, Renew Missouri requests that it be permitted to file the above comments in this case beyond the June 30, 2014 deadline established by the Commission.

Respectfully Submitted,

*/s/ Andrew J. Linhares*

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 2<sup>nd</sup> day of July, 2014.

*/s/ Andrew J. Linhares*

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