BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Establishment of a Working Case for the Review and Consideration of Amending the Commission's Rule on Electric Utility Renewable Energy Standard Requirements	))))	**File No. EW-2020-0377**

COMMENTS OF SIERRA CLUB

Sierra Club takes the opportunity afforded by this docket to address issues raised by Staff in its Motion to Establish Working Case and other issues Sierra Club sees with the existing rule 20 CSR 4240-20.100.

Sierra Club has raised concerns in Ameren's 2019 compliance docket, EO-2020-0328, at the lack of information by both Ameren and Staff to verify compliance, and these concerns are reinforced by Ameren's variance requests in File No. EE-2020-0411.

Missouri's REC tracking entity is the North American Renewables Registry (NAR). Sierra Club has consulted NAR's Operating Procedures[1] for enlightenment and come away with uncertainties and concerns on these subjects:

- Missouri's compliance procedure is described on page 26. It appears that the PSC, as final holder of compliance RECs, has limited knowledge and limited access to information about compliance RECs, perhaps not enough to fully document compliance. We hope the Commission has access to the utilities' Retirement Compliance Reports.
- Asset registration is the job of the facility owner or a Responsible Party to

[1] https://apx.com/registries/nar-1/documents/

whom the owner has given registration rights (pages 9–10). The role of MDNR-DE as the agency entrusted by statute to certify sources as renewable is not acknowledged. This can be especially problematic for facilities in other states that may have been originally registered on another tracking system, as happened with Ameren. Certification by the Division of Energy must be ascertained, and the Commission, as the agency entrusted with overall RES compliance, should review DE's own compliance with the statute.

- Ameren in its variance requests pp. 2–3 admits to having minimal information from NAR about the source of its RECs.
- Ameren (variance motion 3) also admits that it lacks payment information about RECs if they were bought from an aggregator.

It seems to us that Ameren takes an extremely cavalier attitude to wasting ratepayer money to buy dirt-cheap RECs that confer no benefit on Missouri. We also wonder if Staff and DE are being as vigilant as they need to be, or if their sources of information are adequate.

Staff Issue 1.B. The lack of information about the market value of RECs is a problem, but Staff's proposed solution is unclear. One possible source of information is NAR's Bulletin Board, where account holders post RECs for sale.

Staff Issue 1.C. Sierra Club is disposed to agree that separate compliance reports and plans are unnecessary, but does not agree that oversight can be reduced to a "simple form." The RES should be completely irrelevant by now, but Ameren demonstrates that it

is not.

Staff Issue 1.D. It is not clear what Staff is trying to accomplish. The utilities report how they claim to have met the RES requirements. Any "voluntary" application concerning "internal" goals or customer green-tariff goals in excess of RES compliance is beyond the scope of the law and therefore not authorized by the enabling statute.

Other issues. The following list is not intended to be exhaustive.

20.100(1)(E). Division of Energy has been returned from DED to the Department of Natural Resources.

20.100(1)(N)(9). Hydropower is intended by the statute, § 393.1025(5), RSMo, to mean a facility with a total, not per-generator, nameplate rating of 10 MW or less. This issue was raised in Case No. EC-2012-0377 but was removed from contention by stipulation and was never resolved. Renew Missouri thoroughly documented in that case that Ameren and Empire's claim that "nameplate rating" could **only** mean the rating on the physical nameplate of an individual generator was patently false.

20.100(2). At this late date the spectacle of Ameren buying millions of dime-store RECs on the market to meet a mere 10% RES should be shocking.

Section 393.1030.1, RSMo states: "The portfolio requirements shall apply to all power sold to Missouri consumers whether such power is self-generated or purchased from another source in or outside of this state. A utility may comply with the standard in whole or in part by purchasing RECs." To read the second sentence as allowing unbundled RECs is to contradict the basic meaning of the first sentence of 393.1030.1. Portions of an earlier rule that gave some meaning to this part of the statute were struck

down in 2010 by the Joint Committee on Administrative Rules, but this action by JCAR was not reviewed in court because the Missouri Supreme Court held that it was moot. *MCE v. JCAR,* 519 S.W.3d 805 (2017). The issue needs to be revisited. RECs that do not represent energy delivered to Missouri or that do not have the character of "additionality," *i.e.* whose purchase does not serve to add new renewable generation somewhere, do not satisfy the law.

Respectfully submitted,

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