

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

**EARTH ISLAND INSTITUTE d/b/a/
RENEW MISSOURI, et. al.**

COMPLAINANTS

v.

**THE EMPIRE DISTRICT ELECTRIC
COMPANY,**

RESPONDENT

Case No. EC-2013-0378

**JOINTLY PROPOSED PROCEDURAL SCHEDULE AND
REQUEST FOR CASE CONSOLIDATION**

COME NOW Earth Island Institute d/b/a Renew Missouri, et. al. (“Complainants”), the Empire District Electric Company (“Empire”), the Staff of the Missouri Public Service Commission (“Staff”), the Office of Public Counsel (“OPC), and the Missouri Industrial Energy Consumers (“MIEC”), known collectively herein as “the Parties,” and hereby submit this *Jointly Proposed Procedural Schedule*. In support hereof, the Parties state as follows:

1. On January 30, 2013, Renew Missouri filed a formal complaint alleging that Empire is in violation of Missouri’s Renewable Energy Standard for compliance year 2011.
2. On January 31, 2013, the Missouri Public Service Commission (“the Commission”) issued its *Notice of Complaint* and directed Empire to file an answer. Empire filed its Answer on March 4, 2013. The Commission scheduled a Procedural Conference for March 28, 2013, and at the request of Renew Missouri the Commission rescheduled the Procedural Conference for April 1, 2013.

3. At the Procedural Conference on April 1, 2013, Judge Ron Pridgin (standing in for Judge Morris Woodruff) ordered the Parties to file a Proposed Procedural Schedule by April 8, 2013.

4. The Parties discussed a proposed procedural schedule at the April 1 Procedural Conference. As a result of the discussions, the Parties reached agreement on a proposed procedural schedule, the dates of which are as follows:

Direct Testimony	Tuesday, May 28
Data Request time changes to 15 calendar days to respond/8 calendar days to object or notify Parties additional time is necessary	Tuesday, May 28
Rebuttal Testimony	Tuesday, July 9
Data Request time changes to 5 business days to respond/3 business days to object or notify Parties additional Time is necessary	Tuesday, July 9
Deadline for Dispositive Motions of the Parties	Tuesday, July 23
Answers to Dispositive Motions	Friday, August 9
Surrebuttal Testimony	Friday, August 30
List of Issues, List of Witnesses, Order of Cross, Order of Opening Statements	Thursday, September 12
Position Statements	Monday, September 16
Evidentiary Hearing	Thur. Sept. 19 – Fri. Sept. 20
Initial Post-Hearing Briefs	Friday, October 18
Reply Briefs	Friday, November 1

5. The parties recommend the Commission order the following procedures regarding any testimony, discovery or filings in this matter:

a. Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.

b. Where the information is available in electronic format (.pdf, .doc,.wpd, or .xls), all parties shall provide copies of testimony (including schedules), exhibits and pleadings to other counsel of record by electronic means and in electronic form essentially concurrently with

the filing of such testimony, exhibits or pleadings. Parties shall not be required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

c. Concerning the position statements, each party shall file a simple and concise statement summarizing its position on each disputed issue.

d. All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

e. All parties shall bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, copies for each of the Commissioners, the Presiding Judge, and all counsel.

f. An effort should be made to not include in data request questions either highly confidential or proprietary information. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135.

g. Each party serving a data request on another party shall provide an electronic copy of the text of the “description” of that data request to counsel for all other parties contemporaneously with service of the request. If the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the Commission’s Electronic Filing and Information System (“EFIS”) record of that data request shall be considered a sufficient copy. If a party desires the response to a data request that has been served on another party, the party

desiring a copy of the response must request a copy of the response from the party answering the data request, except that all data request responses for all parties shall also be served on counsel for Staff, Office of the Public Counsel, and Empire or Empire's counsel's designee. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to the service list for data requests. Any party that requests copies of answers to data request shall assume responsibility for compliance with any restrictions related to confidentiality. Counsel may designate other personnel to be added to the service list but shall assume responsibility for compliance with any restrictions on confidentiality. If a data request has been responded to, a party's request for a copy of the response shall be timely responded to. Data request responses will be served on counsel for the requesting party and on the requesting party's employee or representative who submitted the data request and shall be served electronically, if feasible and not voluminous as defined by Commission rule. Except as provided herein, the Parties will conduct discovery as prescribed by Rule 4 CSR 240-2.090. Until direct testimony is filed on May 28, 2013, the response time for all data requests shall be twenty calendar days, with ten calendar days to object or notify the requesting party that more than twenty calendar days will be needed to provide the requested information. After May 28, 2013, until rebuttal testimony is filed on July 9, 2013, the response time for data requests shall be fifteen calendar days to provide the requested information and eight calendar days to object or notify the requesting party that more than fifteen calendar days will be needed to provide the requested information. After rebuttal testimony is filed on July 9, 2013, the response time for data requests shall be five business days to provide the requested information and three business days to object or notify the requesting party that more than five business days will be needed to provide the requested information. If a data request has been

responded to, a party's request for a copy of the response shall be timely responded to. All parties shall submit their responses to Staff data requests in EFIS.

h. Workpapers that were prepared in the course of developing a witness' testimony should not be filed with the Commission but should be submitted to each party within 2 business day following the filing of the particular testimony without further request. If there are no workpapers associated with testimony, the party's attorney shall so notify the other parties within the time allowed for providing workpapers. Workpapers containing highly confidential or proprietary information should be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. Counsel shall undertake to advise other counsel if the sponsored witness has no workpapers related to the round of testimony.

i. Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format with formulas intact and where inputs or parameters may be changed to observe changes in inputs or outputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact.

6. The Parties agree that consolidation of Case Nos. EC-2013-0377 and EC-2013-0378 is appropriate due to the similarity of certain of the issues and allegations contained therein, and the Parties request that the Commission order consolidation for the more expeditious resolution of the cases.

7. As of the filing of this proposed procedural schedule, the parties have been unable to identify any issues material to the complaint that are not currently at issue; however, the parties pledge to make a good faith effort to identify such issues and to enter into appropriate stipulations prior to the proposed date for commencement of evidentiary hearings. In addition, the Parties will strive to address by dispositive motion all issues which the Parties agree do not involve any factual disputes.

WHEREFORE, the Parties respectfully request that the Commission adopt this *Jointly Proposed Procedural Schedule* and issue an order containing the terms and conditions agreed to herein and order the consolidation of Case Nos. EC-2013-0377 and EC-2013-0378.

Respectfully Submitted,

EARTH ISLAND INSTITUTE d/b/a
RENEW MISSOURI, et. al.

/s/ Andrew J. Linhares

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been submitted via the Public Service Commission's Electronic Filing and Information System ("EFIS") and transmitted by electronic mail to all counsel of record this 8th day of April, 2013.

/s/ Andrew J. Linhares

Andrew J. Linhares