

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

In the Matter of Empire District	)	
Electric Company's Submission of its	)	<b>File No. E0-2015-0260</b>
2014 RES Compliance Report and	)	
2015-2017 Compliance Plan	)	

**COMMENTS OF RENEW MISSOURI**

Renew Missouri submits these comments on the Empire District Electric Company's ("Empire") RES Compliance Report for 2014 ("Report"), required by 4 CSR 240-20.100(7)(A), and RES Compliance Plan for 2015-2017 ("Plan") required by 4 CSR 240-20.100(7)(B).

Note on the Commission's Power to Enforce the RES

The Missouri Public Service Commission ("Commission") has previously stated that it will not take action on comments and that the proper procedure for addressing deficiencies in an RES Compliance Report and RES Compliance Plan is through the formal complaint process. Notice Regarding Empire District Electric Company's 2011 RES Compliance Report and 2012-2014 RES Compliance Plan, File No. EO-2012-0336. While acknowledging the existence of that Order, Renew Missouri brings the below deficiencies to the Commission's attention in order to give the Commission the opportunity to correct these deficiencies through an Order, pursuant to its power under the statute: "The commission, except where the department is specified, shall make whatever rules are necessary to enforce the Renewable Energy Standard..." including rules to enforce the 1% RRI calculation, assess penalties, and require the filing of annual reports. §393.1030.2, RSMo. The responsibility to prescribe rules carries with it a corresponding power to enforce them. Accordingly, Renew Missouri respectfully requests that the Commission use its power to enforce compliance with the RES statute and rules in this case and other similar compliance cases.

## Deficiencies in Empire's 2014 RES Compliance Report

### **A. Use of RECs from Hydroelectric Facility Larger than 10 MW**

In the Report, Empire states that it retired 165,947 RECs (in-state allowance of 207,434) generated by the Ozark Beach Hydroelectric Project for compliance with the RES for calendar year 2014. Empire 2014 RES Compliance Report, pg. 5. The Renewable Energy Standard (“RES”) law includes as a renewable energy resource “hydropower . . . that has a nameplate rating of 10 megawatts or less.” RSMo. § 393.1025(5), RSMo. Nameplate rating” is commonly used to refer to a hydro-electric facility’s total or aggregate rating even when neither of those adjectives is used. Empire itself represents the Ozark Beach facility as having a “rating” of 16 MW on its website.<sup>1</sup> “Also, on the website’s Fast Facts page, Empire lists its power plants, including Ozark Beach with a “Power Plant *Rating*” of 16 MW.<sup>2</sup> (emphasis added).

The Ozark Beach facility has a capacity of 16 MW, which is above the RES statute’s 10 MW limitation. Accordingly, retirement of RECs from the Ozark Beach facility is in direct contravention of the RES statute.

This issue has been explored on several occasions, notably in File No. EC-2013-0378 and EC-2013-0377, et al. Renew Missouri believes the allowance of RECs from the Ozark Beach facility substantially frustrates the intent of the RES statute, and asks that the Commission use its authority under the statute to rectify this deficiency.

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

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.

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<sup>1</sup> Today, Ozark Beach Hydroelectric Plant supplies Empire with 16 18 megawatts of power and the Taney County area with a beautiful recreational area.” <https://www.empiredistrict.com/About/History.aspx>

<sup>2</sup> <https://www.empiredistrict.com/About/FastFacts.aspx>

## Deficiencies in Empire's 2015-2017 RES Compliance Plan

### **A. Lack of 1% RRI Calculation According to 4 CSR 240-20.100(5)**

Empire's 2015-2017 RES Compliance Plan ("Plan") fails to include a calculation of its 1% Retail Rate Impact calculation pursuant to Section (5) of the Commission's rule. Inclusion of the 1% RRI calculation is required as part of utilities' annual RES compliance plans by 4 CSR 240-20.100(7)(B)1.F.

Empire's Revised Plan (filed May 27, 2015) addresses the requirements of Section (5) at pg. 7 and in the attached file entitled "RES Attachment 7." However, Empire fails to include any calculation whatsoever, let alone anything resembling Section (5)(B) of the Commission's rule. Empire's attachment makes reference to the fact that it has done a calculation, in addition to a number of the assumptions and scenarios the Company developed. However, the Company does not display the results or the methodology behind their calculation, but instead states that in the five scenarios modeled: "the 1% rate cap was never an issue. RES Attachment 7, pg. 2.

Section (5)(B) requires utilities to perform a cost comparison between an RES-compliant portfolio and a hypothetical portfolio representing what they otherwise would have spent to achieve the same amount generation without investments in renewables:

(B) The RES retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio.

Furthermore, the RES statute itself requires that the 1% RRI be: "determined by estimating and comparing the electric utility's cost of compliance with least-cost renewable generation and the cost of continuing to generate or purchase electricity from entirely nonrenewable sources..." §393.1030.2(1), RSMo. Thus the RRI calculation is an attempt to estimate what the utility would have otherwise spent as compared to what it spent on renewables.

Empire attempts to argue that “because EDE does not propose to add incremental renewable energy resource generation directly attributable to RES compliance during the 2015-2017 Compliance Plan period, 4 CSR 240-20.100(5) (B) exempts EDE from having to make that calculation.” Plan, pg. 8. However, Empire does plan to add incremental renewable energy resource generation in the form of customer-sited distributed solar generation, which it states it will utilize for solar compliance in the future.

Empire’s failure to include its calculation of the 1% RRI in its Plan violates the clear requirements of 4 CSR 240-20.100(7)(B)1.F. The Commission should issue an Order requiring Empire to refile its 1% RRI calculation according to the exact language of Section (5)(B) of the Commission’s rule.

#### Conclusion

The Commission possesses clear authority under the RES statute to enforce utility compliance with the law. To that end, Renew Missouri respectfully requests that the Commission issue an Order finding Empire District Electric Company in non-compliance with the RES by virtue of its use of RECs from a hydroelectric facility larger than 10 MW. In addition, Renew Missouri respectfully requests that the Commission issue an Order requiring Empire to file its 1% RRI calculation in accordance with the requirements of Section (5)(B) of the Commission’s rule.

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 29th day of May, 2015.

*/s/ Andrew J Linhares*

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