

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

In the Matter of The Empire District Electric)	
Company's Submission of its 2013 Renewable)	<u>File No. EO-2013-0458</u>
Energy Standard (RES) Compliance Plan)	

**UPDATE TO STAFF REPORT ON COMPANY'S
CALENDAR YEAR 2012 RES COMPLIANCE REPORT**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and submits this *Update To Staff Report On Company's Calendar Year 2012 RES Compliance Report* ("*Updated Staff Report*") to the Missouri Public Service Commission ("Commission"). In support of the *Updated Staff Report*, Staff respectfully states the following:

1. On May 30, 2013,¹ Staff filed its Report on The Empire District Electric Company's ("Empire") *2012 Annual Renewable Energy Standard Compliance Report* ("*Compliance Report*"). Staff found the following deficiencies in information provided in the *Compliance Report*: the total retail electric sales supplied by Elk River Wind Farm ("Elk River"), which is a Renewable Energy resource as defined by section 393.1025 (5), RSMo. of the Renewable Energy Standard ("RES"); the quantity of Elk River 2011 renewable energy credits ("RECs") sold; the gains or losses from the sale of 2011 RECs produced by Elk River; Affidavits required to certify the energy and attributes of Elk River and Meridian Way Wind Farm ("Meridian Way"); the dates and amounts of payments to Elk River and Meridian Way; and the meter readings for Elk River and Meridian Way.

¹ All dates herein refer to calendar year 2013, unless otherwise specified.

2. Staff stated in its May 30 Report that it understood after discussions with Empire that Empire intended to supplement its *Compliance Report* with the missing information. Staff also stated it would review any filing by Empire and update its Report as necessary. This *Updated Staff Report* is filed to meet that agreement.

3. On June 10, Empire filed a *Motion for Permission to Supplement Renewable Energy Standard Compliance Report and Motion for Expedited Treatment ("Motion")*, in part to request leave to file the information requested by Staff, but also to explain why it did not file the information as part of its original *Compliance Report*.

4. Staff responded to Empire's *Motion* on June 14 to reiterate why filing such information is important. Of particular interest to this filing is part (II) of Rule 4 CSR 240-20.100 97)(A)1.I, which requires:

For acquisition of electrical energy and/or RECs from a renewable energy resource that is not owned by the electric utility, the following information for each resource that has a rated capacity of ten (10) kW or greater: ... (II) An affidavit from the owner of the facility certifying that the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate.

Staff conveyed to Empire through discussions with the Company and again as part of its response filing that Staff views attestation documentation to be an acceptable alternative if Empire cannot obtain an affidavit from the owner of generation, but that Empire would need a variance from the Commission for this subpart of the RES rule, i.e., Staff views that the unavailability of such an affidavit would constitute "good cause" for relief from this rule requirement.

5. On June 21, Empire provided the supplemental information as attachments to its *Compliance Report* requested by Staff, except the generator affidavits. Empire did provide a Green-E Energy Renewable Generator Registration Form and Attestation for both Elk River and Meridian Way.

6. Based on its review of the supplemental attachments, Staff has concluded that the Company's *Compliance Report* has met the spirit of the RES rule and supplied all the reporting information outlined in the rule, Rule 4 CSR 240-20.100 (7)(A)1.A. through N, except the affidavits. For part (II) of Rule 4 CSR 240-20.100(7)(A)1.I., Empire provided attestation documentation instead of the affidavits required under Rule 4 CSR 240-20.100(7)(A)1.I.(II) to certify the energy of Elk River and Meridian Way was "...derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate."

7. While Empire did not request a variance, Staff recommends the Commission grant Empire relief from Rule 4 CSR 240-20.100(7)(A)1.I.(II) and allow the filing of attestations instead of affidavits for this *Compliance Report*, only because Empire states in its June 10 *Motion* that it cannot obtain an affidavit for Elk River and did not use renewable energy credits from Elk River or Meridian Way for compliance with the 2012 RES requirements.

8. Empire has filed its calendar year 2012 annual report as required by Section 393.140(6), RSMo., and paid its fiscal year 2013 assessment as required by Section 386.370, RSMo.

9. A decision in this case may directly affect, or be affected by a Commission decision in EC-2013-0382, *Earth Island Institute d/b/a Renew Missouri, et. al. v. The Empire District Electric Company*. That complaint alleges a deficiency in the RES retail impact calculation in Empire's 2012-2014 RES Compliance Plan. The Commission's decision in this file may also directly affect, or be affected by a decision in Case No. EC-2013-0378, *Earth Island Institute d/b/a Renew Missouri, et. al. v. The Empire District Electric Company*. Complainants allege in that case that Empire fails to comply with the RES requirements for calendar year 2011 by use of certain resources, vintage renewable energy credits and the claim of exemption from RES solar requirements.

WHEREFORE, Staff files this *Updated Staff Report* for the Commission's information and consideration and recommends the Commission also grant Empire relief from filing the affidavits required by Rule 4 CSR 240-20.100 (7)(A)1.I.(II) for this *Compliance Report* only for good cause shown.

Respectfully submitted,

/s/ Jennifer Hernandez

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically on this 14th day of August 2013, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Jennifer Hernandez

MEMORANDUM

TO: Missouri Public Service Commission Case File
Case No. EO-2013-0458, Empire District Electric Renewable Energy Standard
Compliance Report for Calendar Year 2012

FROM: Claire M. Eubanks, P.E., Energy Unit – Engineering Analysis

/s/ Daniel I. Beck 8/14/13 /s/ Jennifer Hernandez 8/14/13
Engineering Analysis / Date Staff Counsel's Office / Date

SUBJECT: Update to Staff Report and Conclusion on The Empire District Electric Company's 2012
Renewable Energy Standard Compliance Report

DATE: August 14, 2013

CONCLUSION

Staff has reviewed the information filed by The Empire District Electric Company ("Empire") on June 21, 2013, to supplement its *2012 Annual Renewable Energy Standard Compliance Report* ("Compliance Report"). Empire's filing is in response to the Commission's *Order Granting Motion to Supplement Compliance Report* ("Order") dated June 17, 2013. Based on its review of the supplemental attachments, Staff has concluded that the Company has met the spirit of the rule and supplied all the reporting information outlined in the Commission's Renewable Energy Standard ("RES") rule, Rule 4 CSR 240-20.100 (7)(A)1.A. through N. For part (II) of Rule 4 CSR 240-20.100(7)(A)1.I., Empire provided attestation documentation instead of the affidavits required under Rule 4 CSR 240-20.100(7)(A)1.I.(II) to certify the energy of Elk River Wind Farm ("Elk River") and Meridian Way Wind Farm ("Meridian Way") was "...derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate." During its review of the RES *Compliance Report*, Staff conveyed to Empire that it views attestation documentation an acceptable alternative if Empire cannot obtain an affidavit from the owner of the facility. Counsel for Staff also conveyed this position again in its June 14, 2013 *Response To Order Directing Filing*. The Commission did not make any finding in regard to the need of a waiver in its June 17, 2013 *Order* allowing Empire to supplement its *Compliance Report*. Staff recommends the Commission grant Empire relief from the requirement to file affidavits under Rule 4 CSR 240-20.100(7)(A)1.I.(II) for this *Compliance Report* for good cause shown.

OVERVIEW

On April 15, 2013, Empire filed its *Compliance Report* for calendar year 2012 initiating Case No. EO-2013-0458. The *Compliance Report* was filed in accordance with 4 CSR 240-20.100(7), Electric Utility Renewable Energy Standard Requirements, Annual RES Compliance Report and RES Compliance Plan. This rule states, in part, “Each electric utility shall file an RES compliance report no later than April 15 to report on the status of the utility’s compliance with the renewable energy standard and the electric utility’s compliance plan as described in this section for the most recently completed calendar year.” Subparagraphs 4 CSR 240-20.100(7)(A)1.A. through N. provide the minimum requirements for the Compliance Report. Subsection 4 CSR 240-20.100(7)(D) requires that Staff examine Empire’s *Compliance Report* and file a report within forty-five (45) days of the filing. As Staff noted in the *Staff Report on Company’s Calendar Year 2012 RES Compliance Report* filed on May 30, 2013, The following items were missing from the *Compliance Report*:

- the total retail electric sales supplied to Empire by Elk River, which is a Renewable Energy resource as defined by section 393.1025 (5), RSMo.¹;
- the quantity of Elk River 2011 RECs Empire sold;
- the gains or losses from the sale of 2011 RECs produced by Elk River;
- affidavits required to certify the energy and attributes of Elk River and Meridian Way;
- the dates and amounts of payments to Elk River and Meridian Way; and
- the meter readings for Elk River and Meridian Way.

DISCUSSION

Staff has reviewed the Company’s supplemental information filed on June 21, 2013. Empire provided the following supplemental information in attachments:

- The energy supplied to Missouri customers by Elk River and Meridian Way;
- Quantity and gains from sale of Elk River RECs;
- Elk River generator attestation;
- Meridian Way quarterly generator attestations;
- Dates and amount of Empire payments to Elk River, including MWhs; and
- Dates and amount of Empire payments to Meridian Way, including MWhs

¹ 393.1025 (5), RSMo: Renewable energy resources include “...electric energy produced from wind”

Based on its review of the supplemental attachments, Staff has concluded that the Company has supplied all the reporting information outlined in 4 CSR 240-20.100 (7)(A)1.A. through N, providing generator attestation documents instead of affidavits for part (II) of Rule 4 CSR 240-20.100(7)(A)1.I. Staff recommends the Commission grant Empire relief from the requirement to file affidavits under Rule 4 CSR 240-20.100(7)(A)1.I.(II) for this *Compliance Report* for good cause shown.

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Renewable Energy Standard (RES))
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Case No. EO-2013-0458

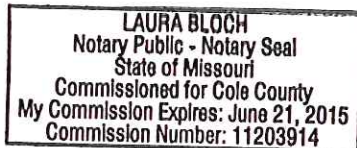
AFFIDAVIT OF CLAIRE M. EUBANKS

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Claire M. Eubanks of lawful age, on oath states: that she participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to her; that she has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of her knowledge and belief.

Claire M Eubanks
Claire M. Eubanks

Subscribed and sworn to before me this 14th day of August, 2013.



Laura Bloch
Notary Public