BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of a Working Case to	)	
Consider Policies to Improve	)	File No. EW-2016-0313
Electric Utility Regulation	)	

ENTRY OF APPEARANCE AND INITIAL
COMMENTS OF RENEW MISSOURI

COMES NOW Andrew J. Linhares and enters his appearance on behalf of Earth Island Institute d/b/a Renew Missouri ("Renew Missouri") in the above-captioned case, and also offers the initial comments of Renew Missouri included herein. In support of its filing, Renew Missouri states the following:

1. On June 8, 2016, the Commission invited stakeholders to submit detailed suggestions for policy changes to improve the way in which the Commission regulates Missouri's investor-owned electric utilities by July 8, 2016.

2. Renew Missouri echoes the comments and specific proposals of the Natural Resources Defense Counsel ("NRDC"), including the following proposal items:

a. Revisions to the MEEIA statute (at §393.1075, RSMo.), including a mandatory 1.5% annual energy efficiency savings requirement for all investor-owned utilities;

b. Eliminating the "throughput disincentive" by embracing revenue decoupling for all investor-owned utilities, either legislatively or through the Commission's existing authority found in the MEEIA statute as described in multiple comments in File No. AW-2015-0282.

3. In addition to echoing the comments and proposals of NRDC, Renew Missouri submits the below comments drafted by Mark Walter, Deputy Director of Renew Missouri. Along with the below comments, we have submitted several articles and resources for reference.

4. Please send all correspondence relating to this case to:

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Respectfully Submitted,

/s/ ______________________________
Andrew J. Linhares

ATTORNEY FOR EARTH ISLAND
INSTITUTE d/b/a RENEW MISSOURI

Comments of Renew Missouri:
The Need to Improve Electric Utility Regulation in Missouri

Mark Walter, Deputy Director – July 8, 2016 File No. EW-2016-0313

Renew Missouri is grateful to the Commission and Staff for the opportunity to comment on Missouri's current regulatory environment for electric utilities. The past year has provided several concrete examples of how our traditional Cost of Service Regulation ("COSR") system – while providing Missouri with affordable and reliable electricity – fails to provide the preferred outcomes for many parties involved in many ways. With intentionality and good-faith discussion, we believe it is possible to develop changes to the current ratemaking system that satisfy the needs of all parties while maintaining the safety, reliability, and affordability of our current electrical systems.

I. Current Issues with the Cost of Service Rate Framework

As the Supreme Court articulated in cases like *Smyth v. Ames* (1898) and subsequent cases, natural monopolies derive their existence and powers from the state, even where they are constructed and maintained by private corporations. Monopoly entities affect a public interest of the state and thus are required to respect two primary responsibilities: (1) the monopoly must recognize a set of mutual rights, obligations, and benefits which form a relational contract between the utility and its customers; and (2) the monopoly must adhere to the will of the constituents of the state, i.e. the Legislature or the democratic/political process.

The first responsibility, a contract commonly referred to as the "regulatory compact," traditionally gives the utility exclusive rights to service a given territory. In exchange, the utility accepts the responsibility to serve everyone in the territory and submit to price regulation.[1] COSR in Missouri has maintained the regulatory compact fairly well. The second, and more

[1] McDermott, Karl. "Cost of Service Regulation in the Investor-Owned Electric Utility Industry." Pg. vii.

commonly overlooked, responsibility that comes with being a monopoly entity as a function of the state is to adhere to the will of the constituents of that state. On a variety of fronts related to renewable energy and energy efficiency, it is clear that COSR as it exists in Missouri doesn't adequately to respond to the will of Missourians in the modern day energy sector for a variety of reasons.

a. Reexamining the Regulatory Compact.

The first and still most common method of enforcing the regulatory compact is the COSR model, which attempts to arrive at the proper answer to the question, "Are we paying the correct price for what we received from the utility?" While this model for monopoly regulation has been very successful historically, the question that COSR attempts to answer is predicated on two assumptions: (1) that utilities will continue to see an increase in sales; and (2) that there is no qualitative difference in energy generation from the perspective of utility customers so long as the utility maintains certain standards of safety, reliability, and affordability. Over the past several decades, more efficient technology, competition from distributed solar resources, economic slowdowns, unpredictability in fossil fuel costs, etc., have all put stress on the COSR model. In truth, changes in the modern energy world have shown that both assumptions – reliance on perpetual growth, and that customers have no preference where their electricity comes from so long as the lights stay on – are in fact false.

The issue of economic instability and its impact on investor-owned utilities is not new. Utility regulation has been evolving since the 1970s to mitigate the risks that economic unpredictability poses to the regulatory compact. Be that as it may, the 2008 financial collapse arguably impacted American IOUs more significantly than any previous economic downturn. The growth in electric demand has since stagnated and declined, and most indicators point to this trend continuing indefinitely. This further underscored the ways in which COSR's reliance on the assumption of sales growth puts the regulatory compact in danger. The Edison Electrical Institute prepared a paper on this topic in response to the 2008 financial crisis, stating: (italics added)

> Capital is now scarcer and more expensive. Given the large degree to which the industry is dependent upon the capital markets, this new reality will require much more forethought from utilities. In contrast to even a few months ago, attempts to tap the markets on an as-needed basis now could result in funds being unavailable or, if access exists, cost-prohibitive. Either circumstance would hurt a utility's financial condition. *Eventually, this could culminate in the need for rate relief and place pressure on consumers*.[2]

Especially in states like Missouri where the majority of generation assets are aging and technologically out of date, this new economic reality slows the rate of necessary change. Due to the combination of reduction in demand and COSR's assumption of unending growth, a new model of regulation in needed which minimizes the connection between financing and utility health. Such a strong connection serves to put greater stress on the regulatory compact.

b. How Changes in Technology and Consumer Preference Affect the Regulatory Compact.

Changes in technology present another major challenge to the utility sector. In the past decade, emerging technologies have made energy efficiency and renewable energy technologies more affordable and useful than ever before. When energy efficiency is viewed as a supply-side resource, it is undoubtedly the most cost-effective resource available. And yet Missouri utilities fail to maximize this resource, instead putting forth plans to extend the life of more expensive fossil fuel plants and build additional combined cycle natural gas generation. Distributed solar generation is also financially attractive to end-use customers, but Missouri utilities are the main opponents standing in the way of common sense net metering and renewable access reform.

[2] Cannell, Julie, 2009. "The Financial Crisis and Its Impact On the Electric Utility Industry." Italics added.

The challenge that energy efficiency and distributed generation pose to utilities is that of lost revenue. Efficiency and distributed solar are putting downward pressure on utility sales, and this pressure will only increase as the price for both technologies continue to drop. This is yet another example of how COSR's reliance on constant utility growth challenges utility business models. Despite the challenge of lost revenue, utilities have an obligation to respond to both the demands of its customers as well as the statutory requirements the state has promulgated.

Another major way in which COSR is proving to fall short of the current challenges in the electric sector is related not to *how much* energy is being sold but rather *what kind* of energy is being sold. When the industry and its regulators were developing, it made sense to have a "one size fits all" approach to energy generation and regulation. However, that paradigm has long since changed, due to worries about fossil fuel-induced changes to the Earth's climate, impending federal regulation on fossil fuel-based electrical generation, and ballooning customer demand for cleaner sources of energy. In 2008, for example, Missouri voters voiced their concern by enacting the Renewable Energy Standard, requiring that utilities procure at least15% of their electricity from renewable sources by 2021. Global consensus among scientists and the world population at large has long ago determined that burning fossil fuels threatens the future stability of civilization; and recently the United States has finally begun to take real policy steps to respond to this consensus. Because COSR is not naturally designed to handle challenges like this, we must develop Rube-Goldberg machines to accommodate, such as the complex regulatory framework of the Clean Power Plan and line-item charges such as the Renewable Energy Standard Rate Adjustment Mechanism (RESRAM).

This approach of incrementally changing the way we generate electricity is meaningful, but many large electric customers would like more clean energy than what the RES will ultimately provide, and they want it much sooner. The World Resources Institute has assembled a coalition of 51 companies including Google, Facebook, Walmart, Starbucks, Sprint, Volvo, and more who have internal commitments to power their companies with clean energy in the near term. Combined, these companies represent a total of 42 million megawatt hours of clean energy need.[3] In Missouri, several of those companies have publicly pushed for a specific legislative solution to help satisfy a need that the regulated monopoly utilities cannot provide them: access to affordable 100% clean energy choices.[4] This is yet another example of how COSR fails to meet the challenges of the modern energy economy. In a regulated environment that truly emulated the free-market system, this unmet demand would necessitate a response and would create the opportunity for a profit stream. In the current COSR environment in Missouri, however, demand for access to renewable electricity continues to go unmet.

The primary question that COSR was designed to answer in its attempt to preserve the regulatory compact, "Are we paying the right price for what we got?", is now in question. With disruptive technologies that are constantly becoming more and more cost effective, the fears regarding global climate change and the accompanying regulations, changing consumer expectations of their utilities, and the ongoing impact of uncertain economic stability, that question no longer seems adequate. Perhaps it is time to consider asking new questions which more capably deal with the challenges being faced in the regulated electric marketplace.

II. Alternatives to Cost of Service Regulation

Many states, for reasons both economic and political, have made the transition away from traditional COSR. There are a variety of solutions to be discussed and evaluated by the entire community of electric consumers in Missouri. In our work at Renew Missouri, it is clear that the

[3] Tawny, Letha. "Corporate Renewable Energy Buyers' Principles: Increasing Access to Renewable Access."
[4] See attached sign-on letter. Companies include Walmart, Unilever, Cargill, and General Mills.

current trajectory of our Investor Owned Utilities being powered primarily by fossil fuels is unsustainable – both economically and environmentally. It is also clear through the past year of our work that solutions for Missouri's ratemaking issues would be best accomplished legislatively. As such, Renew Missouri respectfully requests that the Commission, in conjunction with Missouri's energy stakeholders and the legislature, commit to a series of facilitated stakeholder dialogues in an effort to find as much common ground as possible regarding the potential changes that are before us. These dialogue sessions should occur well before the 2017 Legislative Session begins.

The alternatives to COSR are varied, and each has its own merits depending on the goals we wish to achieve as an energy community in Missouri. At the very least, Renew Missouri believes that finding a way to decouple the profit of utilities from their volumetric sales (i.e. revenue decoupling) could result in a system which is more prepared to handle the current challenges in the industry. Stakeholders could also work together to design a version of Performance Based Ratemaking, one that incentivizes the industry to meet the needs of the regulatory compact, become more innovative in their solutions to our current energy demands of their constituents, and gives the utility a healthy rate of return for accomplishing these goals. Finally, any alternative regulatory structure should operate with the goal of maximizing the cheapest and cleanest resource available (energy efficiency), and should provide customers with the unlimited option of acquiring their power from cleaner sources of electricity. Renew Missouri would be happy to participate in any such facilitated discussion.