

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 5th day of October, 2011.

In the Matter of a Repository File)
Concerning The Empire District Electric)
Company's Submission of its)
2011 RES Compliance Plan)

File No. EO-2011-0276

NOTICE REGARDING EMPIRE'S 2011 RES COMPLIANCE PLAN

Issue Date: October 5, 2011

On April 15, 2011, The Empire District Electric Company filed its Renewable Energy Standard Compliance Plan for 2011-2013, as it was required to do by Commission Rule 4 CSR 240-20.100(7). The Commission's rule requires the Staff of the Commission to review the utility's compliance plan and to file a report about its review within 45 days.¹ Staff complied with that requirement by filing a report on May 31, in which it reported that it found no deficiencies in Empire's plan.

The Commission's rule also allows Public Counsel and other interested persons or entities to file comments regarding Empire's plan.² The Missouri Coalition for the Environment, d/b/a Renew Missouri filed such comments on May 31.

Renew Missouri described what it believes to be two deficiencies in Empire's compliance plan. First, it contends that Empire may not rely on electrical output from its existing Osage Beach hydroelectric plant as a renewable resource. Second, it argues that

¹ 4 CSR 240-20.100(7)(D).

² 4 CSR 240-20.100(7)(E).

the statute under which Empire claims to be exempt from compliance with the solar provisions of the controlling statute has been repealed by implication by the passage of Proposition C.

The Commission's regulation does not specify what, if any, action the Commission is to take regarding Empire's RES Compliance Plan and any alleged deficiencies in that plan, except to allow the Commission to "establish a procedural schedule if necessary".³ Staff, Public Counsel, the Missouri Department of Natural Resources, the Missouri Industrial Energy Consumers (MIEC), and Empire filed written responses to Renew Missouri's comments and the Commission held a hearing regarding those comments on August 30.

After considering the comments of all the parties, the Commission concludes that no further order from the Commission is appropriate at this time. On April 15, 2012, Empire must file its annual RES Compliance Report to explain how it has complied with the renewable energy mandates of the Renewable Energy Standard Law,⁴ also known as Proposition C. The plan that is currently before the Commission is only Empire's suggestion of how it intends to meet those requirements. The Commission's actual determination of whether Empire has met the renewable energy mandates will not be made until after the company files its 2012 report.

For that reason, any decision the Commission could make in this case, would have no binding effect on its determination regarding the 2012 report and could only prejudice or confuse the decisions the Commission will need to make next year. Therefore, the Commission will decline to issue any further orders in this case.

³ 4 CSR 240-20.100(7)(F).

⁴ Sections 393.1020, et seq., RSMo (Supp. 2010).

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', written in a cursive style.

Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Jarrett, and Kenney, CC., concur;
Davis, C., concurs with concurring opinion to follow.

Woodruff, Chief Regulatory Law Judge