

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

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| 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 |) | |

**STAFF REPORT ON COMPANY'S RES COMPLIANCE PLAN
FOR CALENDAR YEARS 2013-2015**

COMES NOW Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and submits this *Staff Report On Company's RES Compliance Plan For Calendar Years 2013-2015* ("*Staff Report*") to the Missouri Public Service Commission ("Commission"). In support of the *Staff Report*, Staff respectfully states the following:

Background

1. On April 15, 2013,¹ The Empire District Electric Company ("Empire") filed its *2013 Annual Renewable Energy Standard Compliance Plan* ("*Compliance Plan*"), as well as its *2012 Annual Renewable Energy Standard Compliance Report* ("*Compliance Report*").

2. In addition to the *Compliance Plan* and *Compliance Report*, Empire filed a *Request For Waiver or Variance From 4 CSR 240-20.100(7)(B)1.F And Motion For Expedited Treatment* ("*Request For Waiver*"). Empire's *Request For Waiver* requested the Commission grant it relief (a variance) from the requirement of 4 CSR 240-20.100(7)(B)1.F. that Empire provide as part of its Renewable Energy Standard (RES) Compliance Plan "A detailed explanation of the calculation of the RES retail impact limit calculated in accordance with section (5) of this rule."

¹ All dates refer to calendar year 2013.

3. On April 16, the Commission issued its *Order Directing Notice And Setting Filing Deadlines* (“*Order*”), directing any interested person or entity to respond to Empire’s *Request For Waiver* no later than April 25. By the same Order, the Commission also directed Staff to examine the *Compliance Plan* and file a report of its review no later than May 30, forty-five (45) days after the April 15th filing requirement.

4. On April 24, Staff filed a request for an extension of time until May 2 to file its recommendation on the *Request For Waiver*. The Commission granted Staff’s request on April 25.

5. On May 2, Staff filed its recommendation on the *Request For Waiver* stating it is Staff Counsel’s opinion that Empire is not required to perform the calculation under Rule 4 CSR 240-20.100 (5)(B) for the 2013 *Compliance Plan* because the calculation is only required when an electric utility proposes to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources. However, if the Commission views that Rule 4 CSR 240-20.100 requires Empire to perform the RES retail rate impact limit calculation or explain it, then Staff recommends the Commission grant Empire variances from the calculation of the RES retail rate impact limit requirement of Subsection (5)(B) and the detailed explanation of that calculation required by Subparagraph (7)(B)1.F of Rule 4 CSR 240-20.100.

6. On May 14, Empire filed revisions to the *Compliance Plan* after discussion with Staff.

7. On May 22, the Commission issued its Order to hold the *Request For Waiver* in abeyance until the resolution of File No. EC-2013-0379. On January 30,

Earth Island Institute d/b/a Renew Missouri, et.al., filed a *Complaint* against Empire in Case No. EC-2013-0382², alleging a deficiency in the RES retail impact calculation in Empire's 2012-2014 RES Compliance Plan. Although the *Complaint* involves a different calendar year, a decision on Empire's *Request For Waiver* may affect a decision in that case.

Applicable Rules

8. Commission Rule 4 CSR 240-20.100(7) states in part that "Each electric utility shall file an annual RES compliance plan with the commission. The plan shall be filed no later than April 15 of each year."

9. Rule 4 CSR 240-20.100(7)(B) specifies the minimum information the RES Compliance Plan shall provide.

10. Rule 4 CSR 240-20.100(7)(D) provides that:

The staff of the commission shall examine each electric utility's annual RES compliance report and RES compliance plan and file a report of its review with the commission within forty-five (45) days of the filing of the annual RES compliance report and RES compliance plan with the commission. The staff's report shall identify any deficiencies in the electric utility's compliance with the RES.

Staff's Report

11. In its *Memorandum*, attached hereto and labeled as Attachment A, Staff reports on its review of Empire's RES *Compliance Plan*. Staff found no deficiencies within the *Compliance Plan* as revised.

12. 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.

² On April 9, the Commission issued its *Order Consolidating Cases* that consolidated File Nos. EC-2013-0380, EC-2013-0381, and EC-2013-0382 into File No. EC-2013-0379.

13. As mentioned above, a decision in this case will affect, or be affected by, the Commission's decision in EC-2013-0382. The Commission's decision in this file may 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 *Staff Report* for the Commission's information and consideration.

Respectfully submitted,

/s/Jennifer Hernandez

Jennifer Hernandez
Senior Staff Counsel
Missouri Bar No. 59814

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically on this **30th day of May 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
File No. EO-2013-0458, Empire District Electric Renewable Energy Standard
Compliance Plan for Calendar Years 2013, 2014, and 2015

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

/s/ Daniel I. Beck / 5/30/13 /s/ Jennifer Hernandez / 5/30/13
Energy Unit / Date Staff Counsel's Office / Date

SUBJECT: Staff Report and Conclusion on Empire District Electric Company's 2013 Renewable
Energy Standard Compliance Plan

DATE: May 30, 2013

CONCLUSION

The Staff has reviewed The Empire District Electric Company ("Empire" or "Company") 2013 RES Compliance Plan. Based on its review, Staff has not identified any deficiencies.

OVERVIEW

On April 15, 2013, the Company filed its Renewable Energy Standard ("RES") Compliance Plan ("Plan") for calendar years 2013 through 2015 (Case No. EO-2013-0458) and on May 14, 2013 the Company filed a revision to the Plan. The Plan 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 annual RES compliance plan with the commission. The plan shall be filed no later than April 15 of each year." Subparagraphs 4 CSR 240-20.100(7)(B)1.A. through G. provide the minimum requirements for the plan. Subsection 4 CSR 240-20.100(7)(D) requires that Staff examine the plan and file a report within forty-five (45) days of the filing. This is the third compliance plan filing for the Missouri electric utilities required by the Missouri Renewable Energy Standard, Sections 393.1020 through 393.1030, RSMo.

DISCUSSION

Staff has reviewed the Company's Plan in accordance with the established requirements to verify the Plan contains the information required by rule. The results of this review are detailed below, with appropriate rule subparagraphs A. through G. identified and quoted.

A. "A specific description of the electric utility's planned action to comply with the RES;"

The Company explained in detail its planned actions for compliance with the RES for 2013, 2014, and 2015. For non-solar compliance, the Company will utilize renewable energy certificates ("RECs") from purchased power agreements ("PPAs") from two wind farms, Elk River located in Butler County, Kansas ("Elk River"), and Meridian Way located in Cloud County, Kansas ("Meridian Way") and/or Ozark Beach Hydroelectric facility located in Taney County, Missouri ("Ozark Beach"). The Company is exempt from the solar

requirements of the RES (393.1050, RSMo). The Company-owned Ozark Beach generation will qualify for the Missouri in-state one and twenty-five hundredths (1.25) credit¹.

The Company included its projected Missouri Retail sales² and estimated REC generation potential to demonstrate that the existing renewable resources and PPAs will produce excess RECs over the three-year planning period.

B. “A list of executed contracts to purchase RECs (whether or not bundled with energy), including type of renewable energy resource, expected amount of energy to be delivered, and contract duration and terms;”

The Company has 20 year PPAs for energy and RECs from Elk River and Meridian Way, effective December 10, 2004 and June 19, 2007, respectively.

C. “The projected total retail electric sales for each year;”

The Company has provided values for projected retail electric sales. The values appear to be reasonable estimates.

D. “Any differences, as a result of RES compliance, from the utility’s preferred resource plan as described in the most recent electric utility resource plan filed with the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning;”

The Company filed its most recent triennial compliance filing in February 2011 and its most recent annual update report in March of 2012. The Company requested and was granted an extension until July 1, 2013, for the annual Integrated Resource Plan filing for this year. However, the Plan is consistent with the information regarding renewable resources in Empire’s February 2011 preferred resource plan and its annual update for 2012.

E. “A detailed analysis providing information necessary to verify that the RES compliance plan is the least cost, prudent methodology to achieve compliance with the RES;”

The Company provided information regarding its utilization of existing resources to comply with the non-solar portion of the RES for 2013 through 2015. The costs associated with these resources are already included in revenue requirements.

F. “A detailed explanation of the calculation of the RES retail rate impact limit calculated in accordance with section (5) of this rule. This explanation should include the pertinent information for the planning interval which is included in the RES compliance plan;”

On April 15, 2013, the Company filed a request for a variance from this subparagraph. Staff filed a recommendation on May 2, 2013, regarding the variance. Although Empire’s calculation method did not follow the method outlined in Section 5 of 4 CSR 240-20.100, Staff believes the explanation provided is sufficient for the following reasons: Empire’s RES-compliant portfolio and non-renewable portfolio are the same; Empire cannot adjust downward its proposed renewable resource mix since it is not proposing to add any new

¹ 393.1030.1., RSMo; 4 CSR 240-20.100(3)(G)

² 2013-2017 Revenue Model, Draft 6

renewable resources; the RES retail rate impact is to be calculated only when a new renewable resource is planned; and the actual costs incurred by Empire, for RES compliance, are significantly less than its current annual revenue requirement. Staff believes a variance is not required, but supports the Commission granting Empire variances from the calculation of the RES retail rate impact limit requirement of section (5) and the detailed explanation of that calculation required by subparagraph (7)(B)1.F of rule 4 CSR 240-20.100, if the Commission deems such necessary. On May 22, 2013, the Commission ordered Empires' request for waiver or variance to be held in abeyance until the resolution of File No. EC-2013-0379.

G. "Verification that the utility has met the requirements for not causing undue adverse air, water, or land use impacts pursuant to subsection 393.1030.4. RSMo, and the regulations of the Department of Natural Resources."

The Company states in its Plan that, to its knowledge, "All generating facilities utilized by EDE to meet the requirements of the Missouri RES have, to EDE's knowledge, received all necessary environmental and operational permits and are in compliance with any necessary federal, states and/or local requirements related to air, water and land use." Staff has no reason at this time to dispute this finding by Empire.

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| Electric Company's Submission of its |) | |
| 2013 Renewable Energy Standard (RES) |) | File No. EO-2013-0458 |
| Compliance Plan |) | |

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 30th day of May, 2013.



Susan L Sundermeyer
Notary Public