

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

In the Matter of Ameren Missouri's Request for a Waiver)
Regarding its Renewable Energy Standard Compliance) **File No. EO-2012-0150**

STAFF RECOMMENDATION TO APPROVE REQUEST FOR WAIVER

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through the undersigned counsel, and files this *Staff Recommendation To Approve Request For Waiver (Recommendation)* with the Missouri Public Service Commission (Commission), respectfully stating the following:

Background and Recommendation

1. On November 14, 2011,¹ Union Electric Company, d/b/a Ameren Missouri (Ameren Missouri or the Company), filed a *Request For Waiver (Request)* from a portion of the Commission's Renewable Energy Standard (RES) rules, in particular, 4 CSR 240-20.100(7)(A)1.I.² The Company's *Request* is limited to waivers for the RECs purchased from the Company's customers and those purchased from aggregators lawfully registered in another renewable energy registry, such as the Western Renewable Energy Generation Information System (WREGIS).

2. On November 15, the Commission issued its *Notice And Order Setting Intervention Deadline And Order Directing Staff Recommendation (Order)*. The *Order* directed the Staff to file a recommendation no later than December 15, 2011. Attached hereto is the Staff's *Memorandum* recommending the Commission approve the Company's *Request* for good

¹ All dates herein refer to calendar year 2011, unless otherwise specified.

² Ameren Missouri interchanges 4 CSR 240-20.100(7)(A)1.I. with 4 CSR 240-20.100(7)(B)1.I. throughout its pleading and the wherefore clause for relief requested. However, 240-20.100(7)(B)1.I. does not exist in the rules. The Staff has interpreted the Company's pleading to implicitly request relief from 4 CSR 240-20.100(7)(A)1.I. and makes this *Recommendation* to the Commission with that understanding.

cause shown, because the information required from customer-owned facilities and registration in WREGIS meets the intent of the requirements of 4 CSR 240-20.100(7)(A)1.I.

Analysis

3. 4 CSR 240-20.100(7)(A)1.I. requires that an electric company submit as part of its Annual RES Compliance Report and RES Compliance Plan certain information pertaining to the acquisition of energy and/or renewable energy credits (RECs) from a resource not owned by the company, including:

(I) Name, address, and owner of the facility; (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; (III) The renewable energy technology utilized at the facility; (IV) The dates and amounts of all payments from the electric utility to the owner of the facility; and (V) All meter readings used for calculation of the payments referenced in part (IV) of this paragraph;

4 CSR 240-20.100(7)(A)1.I(I) through (V).

4. 4 CSR 240-20.100(10) states “[u]pon written application, and after notice and an opportunity for hearing, the commission may waive or grant a variance from a provision of this rule for good cause shown.”

5. Although without a precise definition, good cause “refers to a remedial purpose and is to be applied with discretion to prevent a manifest injustice or to avoid a threatened one.” *Bennett v. Bennett*, 938 S.W.2d 952 (Mo. App. S.D. 1997).

6. The Staff believes the Commission can find good cause to grant a waiver of the 4 CSR 240-20.100(7)(A)1.I requirements for customer-owned renewable energy facilities. The number of customer-owned facilities under ten (10) kW the Company utilizes to produce solar RECs is large, approximately 170 facilities at the time of this filing, with growth anticipated. Because of the number of these facilities, the Company intends to aggregate the less than ten (10) kW systems annually

and register them in the MissouriRECS tracking system as one project. When the Company and customers enter into Standard Offer Contracts for the purchase of solar RECs, the Company obtains the information required under 4 CSR 240-20.100(7)(A)1.I. Thus, the Staff has access to the information required under the rule should it be necessary to conduct a review.

7. The Staff also believes the Commission can find good cause to grant a waiver of the requirements for RECs purchased from aggregators lawfully registered in another renewable energy registry. In this case, the aggregators purchase solar RECs that are registered in the WREGIS. After Ameren Missouri's purchase of the RECs, WREGIS transfers the RECs into the MissouriRECS tracking system. Because the information required for the registration of solar RECs in WREGIS is similar to the information required by the Commission's rule 4 CSR 240-20.100(7)(A)1.I, the intent of the Commission's rule is met in this instance.

8. The Staff has verified that Ameren Missouri filed its calendar year 2010 annual report and is not delinquent in the payment of its fiscal year 2012 assessment.

9. The Staff is not aware of any other matter before the Commission affected by this file, or that a decision by the Commission will affect.

WHEREFORE, the Staff recommends that the Commission grant Ameren Missouri a waiver from the requirements of 4 CSR 240-20.100(7)(A)1.I. for the RECs purchased from the Company's customer-owned facilities and those purchased from aggregators lawfully registered in another renewable energy registry.

Respectfully submitted,

/s/ Jennifer Hernandez

Jennifer Hernandez

Associate Staff Counsel

Missouri Bar No. 59814

Attorney for the Staff of the

Missouri Public Service Commission

P. O. Box 360

Jefferson City, MO 65102

(573) 751- 8706 (Telephone)

(573) 751-9285 (Fax)

jennifer.hernandez@psc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that I have sent a true and accurate copy of the foregoing by United States Postal Mail postage prepaid or by electronic mail to all parties of record on this 15th day of December, 2011.

/s/ Jennifer Hernandez

MEMORANDUM

TO: Missouri Public Service Commission Case File
Case No. EO-2012-0150, Ameren Missouri's Request for a Waiver Regarding its
Renewable Energy Standard Compliance

FROM: Michael E. Taylor, Energy Department – Engineering Analysis

/s/ Lena M. Mantle 12/15/11 /s/ Jennifer Hernandez 12/15/11
Energy Department / Date Staff Counsel's Office / Date

SUBJECT: Staff Report and Recommendation on Ameren Missouri's Request for a Waiver

DATE: December 15, 2011

CONCLUSION

The Staff has reviewed Ameren Missouri's *Request for Waiver*. Based on its review of the information provided by Ameren Missouri and other sources, Staff recommends approval of the waiver request for the reasons that follow. The solar renewable energy certificates ("S-RECs") obtained from the sources cited in the waiver request meet the requirements of the Missouri Renewable Energy Standard, 393.1020 through 393.1030, RSMo and the Commission's Electric Utility Renewable Energy Standard Requirements, 4 CSR-240-20.100. The requirements of the rule section implicitly cited in Ameren Missouri's request are not necessary to prove S-REC eligibility in this instance.

OVERVIEW

On November 14, 2011, Union Electric Company dba Ameren Missouri ("Ameren Missouri" or "Company") filed a request for a waiver of a specific subparagraph of the Commission's Renewable Energy Standard (RES) rules 4 CSR 240-20.100(7)(A)1.I.¹ This subparagraph includes requirements for energy and/or renewable energy certificates from a renewable energy resource that is not owned by the electric utility. The requirements include providing specific information for each resource that has a rated capacity of ten (10) kW or greater. Ameren Missouri stated in its Renewable Energy Standard

¹ In the Company's request, various subparagraphs and parts of the RES rule are referenced. Staff believes the request is pertinent to the subparagraph referenced in this sentence.

Compliance Plan filed on April 15, 2011 (File No. EO-2011-0275) that it intended to comply with the 2011 solar RES requirements through the use of S-RECs from three sources: S-RECs purchased from its own customers, S-RECs purchased from third party vendors, and S-RECs created by the operation of solar generating facilities installed at its corporate headquarters. Ameren Missouri's waiver request pertains to the first two of these three sources.

DISCUSSION

4 CSR 240-20.100(7)(A)1.I. states:

I. 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:

(I) Name, address, and owner of the facility;

(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;

(III) The renewable energy technology utilized at the facility;

(IV) The dates and amounts of all payments from the electric utility to the owner of the facility; and

(V) All meter readings used for calculation of the payments referenced in part (IV) of this paragraph;

The purpose of this subparagraph is to maintain the integrity of RECs or S-RECs that are created by generation of qualified renewable electrical energy at facilities that are not owned (and operated) by the electric utility. Generation of renewable electrical energy at Company-owned resources is typically monitored by revenue-quality meters and/or reported through an independent system operator if the resources are interconnected with the transmission system. Other facilities may be smaller capacity and not necessarily monitored by the utility that seeks to utilize the associated renewable energy certificates. By requiring this additional information, the rule requirement compensates for the lack of utility ownership/control of the alternative sources of renewable energy.

In the Company's RES Compliance Plan and this waiver request, the Company discusses the use of two sources of two alternative solar renewable energy certificates. The first source is renewable energy facilities installed by the Company's customers. These customers installed solar photovoltaic

systems on their residences or businesses. Effective, January 1, 2011, the Company's tariff provided for Standard Offer Contracts such that these customers could sell the S-RECs created by their systems to the Company. The Company's tariff contain provisions for purchases for five (5) or ten (10) year contract durations, dependent on the output rating of the customer-owned system. Since these customer-owned systems are net-metered and qualified for solar rebates under other Company tariff, extensive documentation has been obtained by the Company relative to the technical and administrative details of these systems. Because of the number of these systems and the anticipated growth in the number of these systems, the Company has proposed that the information required by the Commission's RES rule 4 CSR 240-20.100(7)(A)1.I. not be reported. Also, the number of facilities that are utilized to produce the S-RECs from customer-owned systems is large. In the case of these customer-owned facilities, the Company intends to aggregate the less than ten (10) kW systems annually and register them in the MissouriRECS tracking system as one project. The systems that are ten (10) kW and larger will be reported to the MissouriRECS tracking system monthly, based on actual meter data. These projects will qualify for the 1.25 credit for Missouri in-state facilities.

Second, the Company intends to utilize S-RECs purchased from third party aggregators. These aggregators purchase S-RECs from solar power facilities in various locations, in this case, the western United States. Since Ameren Missouri is not the initial purchaser of these S-RECs, the specific data required by the Commission's RES rule is not directly available. The S-RECs have been registered in another compliance tracking system (Western Renewable Energy Generation Information System [WREGIS]) and will be or have been transferred into the MissouriRECS system. Staff has reviewed the registration requirements for facilities in WREGIS. The information required for registration in WREGIS and subsequent creation of S-RECs in WREGIS is similar to information required in MissouriRECS. This information is similar to the requirements of the subparagraph of the Commission rule 4 CSR 240-20.100(7)(A)1.I. Staff has performed an on-line verification of a random sample of the solar generating facilities that created the WREGIS S-RECs. Registration of the solar facilities in WREGIS provides assurance that the facilities will meet the requirements of the Missouri RES.

In both of these cases, customer-owned, net-metered systems and systems registered in WREGIS, the information required by the Commission rule in 4 CSR 240-20.100(7)(A)1.I. as listed below is available and could be reviewed by Staff upon the Company's filing of its 2011 REC Compliance Report.

- (I) Name, address, and owner of the facility: For the customer-owned, net-metered systems, the Company has this information on file from the solar rebate application and the net-metering application. For the WREGIS S-RECs, the WREGIS system requires this information as part of the registration process.
- (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: For the customer-owned, net-metered systems, the Company has entered into multiple contracts/agreements with the customer. In these documents, the type of generator is verified by the customer and/or the installer and a Licensed Engineer/Inspector. In the Standard Offer Contract for the purchase of the customer-owned S-RECs, the customer warrants that the S-RECs are not sold to any other party during the term of the agreement. For the WREGIS S-RECs, the systems are qualified through the WREGIS certification process. The WREGIS system requires that 100% of a registered generator's output be reported to and tracked by WREGIS. This prevents double-counting and ensures that the renewable attributes are tied to the WREGIS S-RECs and only the WREGIS S-RECs.
- (III) The renewable energy technology utilized at the facility: For the customer-owned systems and the WREGIS S-RECs, the verification is conducted as explained in the previous item.
- (IV) The dates and amounts of all payments from the electric utility to the owner of the facility and (V) all meter readings used for calculation of the payments referenced in part (IV) of this paragraph: The payments to the customer-generators are controlled by the Standard Offer Contracts. For calendar year 2011, the Standard Offer Contract pricing was one hundred dollars

(\$100.00) per S-REC. The payments were made as a lump sum for ten (10) years of S-RECs for the systems less than ten (10) kW and annual payments for five (5) years for systems equal to or greater than ten (10) kW. The metering requirements for the customer-owned systems meet the requirements of the Commission rules. For the WREGIS S-RECs, the Company provided an average cost for the aggregate S-RECS obtained from WREGIS systems. WREGIS requirements for metering are provided in the attachment to the Company's waiver request. The metering requirements meet the intent of the Commission rules.

