

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's)
Application Concerning Demand-Side Programs) **File No. EO-2012-0206**
and a Demand-Side Program Investment Mechanism)

ORDER GRANTING REQUEST TO INTERVENE

Issue Date: March 20, 2012

Effective Date: March 20, 2012

On March 9, 2012, at 3:27 p.m., the Regulatory Law Judge (“RLJ”) assigned to this matter received an electronic notification from the Commission’s Electronic Information and Filing System (“EFIS”) indicating that Earth Island Institute d/b/a Renew Missouri (“Renew Missouri”) had filed a request to intervene. March 9, 2012 was the deadline for intervention requests. After receiving the notification, the RLJ examined EFIS docket entry number 8 (the corresponding entry for the notification) and discovered that a “parent” document had been generated, but that no application from Renew Missouri was attached.

On March 12, 2012, the Commission convened a procedural conference. Renew Missouri did not enter an appearance at the conference. During the conference the RLJ noted the deficiency in Renew Missouri’s attempted filing. At the time of the conference, there was no application from Renew Missouri upon which to render a decision.

On March 20, 2012, when reviewing the file, the RLJ discovered that an application to intervene from Renew Missouri had been attached to EFIS docket entry number 8. Since the application was attached to the original parent document in EFIS it gave the appearance of the application having been filed on March 9, 2012 – effectively back-dating the subsequent filing. Consequently, the RLJ contacted the Commission’s Data Center and discovered that the Data Center had assisted counsel for Renew Missouri with

attaching the application to intervene on March 12, 2012. The Data Center was unaware of any unintended consequences from attaching the application to the originally created parent document.

Renew Missouri did not file any notification of the actual date and time the application was submitted into EFIS. Renew Missouri did not contact the RLJ to inform him of the delay in attaching the application.¹ Because the application was attached to the EFIS docket entry on March 12, 2012, the application to intervene is untimely.

The Commission will assume that the filing error was inadvertent. Certainly, the Commission's Data Center was trying to assist counsel for Renew Missouri and was unaware of any potential legal consequences of attaching the application to the previously created EFIS parent document. The Commission will rule on the application as if it were timely filed; however, future filings in this matter must be appropriately dated and appropriate leave must be sought for untimely filings. The Commission would further suggest that Renew Missouri attend scheduled conferences and hearings in this matter, because failure to attend can be grounds for dismissal.²

The Commission finds that Renew Missouri's application satisfies the requirements of Commission Rule 4 CSR 240-2.075 and intervention will be granted. Renew Missouri must accept the present procedural posture of the case.

¹ The application's certificate of service states the application was filed and emailed to counsel of record on January 13, 2012. Empire did file notice of its intended case filing on January 6, 2012, but it is unclear if Renew Missouri actually served any other party in January given the timing of the filing in EFIS.

² See Commission Rule 4 CSR 240-2.116(3).

THE COMMISSION ORDERS THAT:

1. The application to intervene filed by Earth Island Institute, d/b/a Renew Missouri, is granted.
2. This order shall become effective upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Harold Stearley, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 20th day of March, 2012.