

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a	)	
Ameren Missouri's RES Compliance Report and	)	<b>File No. EO-2020-0328</b>
RES Compliance Plan	)	

**COMMENTS OF SIERRA CLUB**

Pursuant to 20 CSR 4240-20.100(8)(F) Sierra Club asks the Commission to direct Ameren and Commission Staff to provide additional information and address deficiencies in Ameren's Report.

Staff has verified that Ameren has shown itself to be in compliance with the RES when, by Ameren's and Staff's admission, Ameren has not obtained "certain information for RECs purchased through a third party."<sup>1</sup> Staff has completed its review and found no deficiencies even while "Ameren Missouri is in the process of responding to Staff's inquiries."<sup>2</sup> Sierra Club cannot be certain that the problem is the same one we identify below, but if they are separate issues they are both worthy of notice.

**The dubious third-party RECs**

Ameren's 2019 RES Compliance Report shows on page 11 that the Company relies on the purchase of more than three million third-party Renewable Energy Certificates (RECs). Credible information has reached Sierra Club showing that some of these RECs come from sources that are ineligible for compliance with Missouri's Renewable Energy Standard.

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<sup>1</sup> Staff Report ¶ 6, filed June 12, 2020.

<sup>2</sup> Staff report ¶ 4.

The Division of Energy (DE) within the Department of Natural Resources is responsible under the statute for the certification of renewable energy facilities. 10 CSR 140-8.010. It does not determine if RECs may be used for RES compliance, which is the job of Commission Staff in its report.<sup>3</sup>

On June 12, 2019, DE certified four pulp and paper mills in the states of Florida, Louisiana and South Carolina belonging to a packaging company called WestRock.<sup>4</sup> The Commission should not approve Ameren's use of RECs from these mills without further investigation.

The mills are Fernandina,<sup>5</sup> Florence,<sup>6</sup> Hodge,<sup>7</sup> and Panama City.<sup>8</sup> WestRock boasts that "Our most energy intensive operations generate most of their own steam and electricity by using highly efficient combined heat and power systems fueled with renewable biomass."<sup>9</sup>

The fuel used in these CHP facilities consists of spent liquor, tree bark, wood waste and some non-renewable fuels such as coal, oil and natural gas. Spent liquor, also known as black liquor, is a waste product of the papermaking process consisting of an aqueous solution of lignin residues, hemicellulose, inorganic chemicals, and waste solids

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<sup>3</sup> 20 CSR 4240-20.100(8)(D).

<sup>4</sup> <https://www.westrock.com/>

<sup>5</sup> <https://www.industryabout.com/country-territories-3/1063-usa/paper-industry/31653-westrock-fernandina-beach-paper-mill>

<sup>6</sup> <https://ir.westrock.com/press-releases/press-release-details/2017/WestRock-to-Upgrade-Florence-SC-Mill/default.aspx>

<sup>7</sup> <https://www.opportunitylouisiana.com/led-news/news-releases/news/2017/10/18/gov.-edwards-and-westrock-announce-commitment-to-hodge-mill>

<sup>8</sup> <https://www.countyoffice.org/westrock-panama-city-mill-panama-fl-84d/>

<sup>9</sup> <https://www.westrock.com/sustainability>

both organic and inorganic.<sup>10</sup> CHP is primarily for internal, behind-the-meter use. At best, only a small part of the electricity produced by these mills — that which is exported onto the grid — could qualify as a renewable energy resource under the Missouri RES.

**CHP is not an eligible resource.**

Missouri's RES is a requirement that renewable energy constitute a percentage of delivered energy "sold to Missouri consumers." § 393.1030.1, RSMo. The only exception made for behind-the-meter use is for the solar arrays of the utility's own net-metered customer-generators.

The statute allows the purchase of RECs for compliance, but this must be read in harmony with the statute as a whole. A purchased REC would not be eligible if it came from a source that is expressly forbidden by the RES such as nuclear energy or pumped storage. § 393.1025(5), RSMo. Energy that was consumed in a southern paper mill and never went out onto the grid is of no conceivable service to Missouri.

CHP is primarily an efficiency measure used by industrial and commercial facilities that burn fossil fuels. It is treated under the Commission's cogeneration rule, 20 CSR 4240-20.060. It is not eligible under the RES even if some amount of electricity goes onto a utility system in another state.

**The fuel burned by these mills is not eligible under the RES.**

The RES allows a generous but limited suite of biomass fuels to qualify as renewable energy resources, of which the only ones that could arguably be applicable here are "plant residues" and "clean and untreated wood such as pallets." § 393.1025(5),

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<sup>10</sup> <https://www.sciencedirect.com/topics/engineering/spent-liquor>; [https://en.wikipedia.org/wiki/Black\\_liquor](https://en.wikipedia.org/wiki/Black_liquor)

RSMo.

DNR's certification rule fleshes out the possibilities. Plant residues are such that "would be converted into energy, that otherwise would be waste material." 10 CSR 140-1.080(2)(A)5. The rule gives examples of clean untreated wood and makes it clear that it must be segregated from any unclean wood. 10 CSR 140-8.010(2)(A)6B(III).

Spent liquor contains the broken-down remnants of what once was wood, such as lignin and hemicellulose, but the liquor itself, even if it contains the residues of what would have been eligible wood fuel, is not qualifying biomass. The wood is not being directly "converted into energy;" rather, it is combined with components that are not eligible resources into a noxious solution that is also not eligible.

The lignin can be separated out of the liquor and burned, in which case it could arguably be considered plant residue. Tree bark could qualify as plant residue. Wood waste could qualify as a resource, but DE, Staff, and the Commission must be satisfied that it is clean and untreated.

**RECs must represent only the eligible resources used to produce electricity.**

"If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the portfolio requirements." § 393.1030.4, RSMo. By implication the same should go for non-fossil fuels that are ineligible under the RES. This is made clear by the Commission's rule, 20 CSR 4240-20.100(3)(E), which sets forth the method to be used for determining the proportions on a BTU basis.

If it turns out that lignin was separated out of solution and burned, and that this qualifies it as “plant residue,” it was likely used internally for “station service,” which does not qualify it for RECs.<sup>11</sup>

In light of what’s been said above, it is doubtful that the RECs from these mill sources have been limited to the renewable portion of the fuel. The Commission should satisfy itself that this has been done before accepting Ameren’s report.

**The Commission must be satisfied that there has been no double-counting of RECs.**

Sierra Club infers that the RECs in question are those designated on page 11 of Ameren’s report as having come from Southern Company. They were transferred to the Commission’s designated REC-tracking entity, the North American Renewables Registry (NAR), from the North Carolina Renewable Energy Tracking System (NC-RETS). Sierra Club has no reason to suspect that these RECs have previously been used by an entity other than Ameren to satisfy another renewable energy mandate, but this is forbidden by the statute, § 393.1030.2, RSMo, and in these unusual circumstances it behooves Staff and the Commission to make sure.

**Neither Staff nor Ameren has shown that Ameren is entitled to a waiver.**

While completing these comments Sierra Club has seen Staff’s report and memo filed today in this docket. They say that Staff, and Ameren too, still lack “certain information for RECs purchased through a third party.” Staff suggests that Ameren seek a waiver under 20 CSR 4240-20.100(8)(A).1.I.

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<sup>11</sup> See NAR Operating Procedures, November 2018, p. 16, § 6.1.2.

Sierra Club finds this troubling. If Staff does not verify compliance, who does? Staff states that it has verified Ameren has retired enough RECs even though Ameren has not been able to provide sufficient information to confirm this. This docket should not be closed until the missing information is supplied.

Sierra Club opposes the grant of a waiver in these circumstances.

### **CONCLUSION**

Sierra Club asks the Commission not to approve Ameren's 2019 Compliance Report, and not to grant a waiver, until it is shown by additional information whether, or to what extent, the WestRock RECs are eligible to be used toward the Missouri RES.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct PDF version of the foregoing was sent by email on this 12th day of June, 2020, to all counsel of record.

/s/ Henry B. Robertson

Henry B. Robertson