BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Submission of its 2015 RES Compliance Report and 2016 RES Compliance Plan	)))	File No. EO-2016-0279

RESPONSE OF THE EMPIRE DISTRICT ELECTRIC COMPANY

COMES NOW The Empire District Electric Company ("Empire" or "Company"), by and through counsel, and pursuant to the *Order Establishing Time to Respond to Staff's Reports and Comments of Renew Missouri*, issued herein on June 1, 2016, by the Missouri Public Service Commission ("Commission"), and in response to the Comments of Renew Missouri filed herein on May 27, 2016, respectfully states as follows:

Although the Staff of the Commission ("Staff") found Empire's 2015 Renewable Energy Standard Compliance Report and 2016-2018 Renewable Energy Standard Compliance Plan to be in full compliance with the applicable statutes and rules, Earth Island Institute d/b/a/ Renew Missouri ("Renew Missouri') alleges that there are an assortment of deficiencies in Empire's filings.

I. Empire's 1% RRI Calculation. As noted by Renew Missouri, Empire "made a special effort" to work with Staff to ensure that its retail rate impact ("RRI") calculation would be in compliance with Commission Rule 4 CSR 240-20.100(5). (Renew Missouri Comments, p. 2) Renew Missouri, however, goes on to state that "it does not appear that Empire accomplished the task" of adding non-renewable resources to its non-RES portfolio "to make up for the excluded renewable resources." (Renew Missouri Comments, p. 4)

To create its non-RES portfolio, Empire, in full compliance with 4 CSR 240-20.100(5), included replacement energy at least cost. Empire's 1% RRI calculation is in full compliance with 4 CSR 240-20.100(5), a rule which Empire believes is clear in its directives.

II. Use of Hydropower to Satisfy the RES Requirements. Pursuant to RSMo. §393.1025(5), "hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of ten megawatts or less" is a renewable energy resource within the meaning of the RES statutes. Additionally, Commission Rule 4 CSR 240-20.100(1)(K)(8) defines eligible renewable energy resources as including hydropower that has "*generator* nameplate ratings of ten (10) megawatts or less." (emphasis added) Rule 10 CSR 140-8.010 also defines eligible renewable energy resources as including hydropower when "*each generator* has a nameplate rating of ten megawatts (10 MW) or less." (emphasis added)

Pursuant to RSMo. §393.1025(5), Commission Rule 240-20.100(1)(K)(8), and Division of Energy Rule 140-8.010, Empire uses RECs from its Ozark Beach Hydroelectric Project ("Ozark Beach") to satisfy RES requirements. Ozark Beach, certified by the Division of Energy as a renewable energy resource pursuant to 10 CSR 140-8.010, consists of generators with nameplate ratings of ten megawatts or less.

Although the Commission did not issue a decision on this point, the issue was fully discussed and briefed in Case Nos. EC-2013-0377 and EC-2013-0378. As Staff noted therein, there is nothing in the RES statutes that requires aggregating of the generators' nameplate ratings, and both the Commission rule and the Division of Energy rule clearly state that the 10 MW limitation is placed on individual generators at a hydropower facility.

III. Use of Third Party SRECs to Satisfy the Solar Portfolio Requirement. For its third and final criticism of Empire's RES filings, Renew Missouri alleges that use of third party wholesale solar RECs ("SRECs") to satisfy solar obligations is in direct violation of the RES statute. Renew Missouri's allegation is based on the mistaken belief that "compliance can only be based on power sold to Missouri consumers." (Renew Missouri Comments, p. 9) The Commission

took up and ruled upon the exact issue of "unbundled" SRECs in Case No. EC-2013-0377, finding against Renew Missouri.

In its Order in Case No. EC-2013-0377, issued November 26, 2013, effective December 26, 2013, the Commission held as follows:

> The RES statute does not require that a REC represent renewable energy delivered to Missouri customers. The Commission's rule, as published by the Secretary of State, also does not impose such a requirement. . . .Renew Missouri has not shown, and cannot show that Ameren Missouri has violated any statute, regulation, or tariff by relying on RECs not associated with power sold to Missouri customers to comply with the two percent portfolio requirement for 2011.

No further information is required from Empire in order to prove Empire's compliance with the solar portfolio requirement. In any event, use of these purchased SRECs may not be necessary in order for Empire to comply with the solar portfolio requirement in the future. Empire's current solar requirement is approximately 4,121 MWhs, and Empire's current solar generation from participating customers is approximately 9,000 MWhs annually (before applying the in-state multiplier).

WHEREFORE, The Empire District Electric Company submits this filing in response to the Comments of Renew Missouri filed herein on May 27, 2016. Empire requests such relief as is just and proper under the circumstances.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:

/s/ Diana C. Carter_____

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was filed in EFIS, notifying all counsel of record of the filing, and that a copy of the same was sent via electronic mail on this 13th day of June, 2016, to all counsel of record.

/s/ Diana C. Carter