BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Ameren Missouri's	)	
Application for Authorization to Suspend	)	File No. ET-2014-0085
Payment of Certain Solar Rebates.	)	Tariff No. YE-2014-0173

STAFF'S STATEMENT OF POSITION

COMES NOW Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and files its Statement of Position with the Missouri Public Service Commission ("Commission") and states as follows:

Background

1. On October 11, 2013,[1] Union Electric Company d/b/a Ameren Missouri, ("Ameren Missouri") initiated this case by filing an *Application For Authority to Suspend Payment of Solar Rebates, Request for Variance and Motion for Expedited Treatment* ("*Application*").

2. As Ameren Missouri's *Application* points out, the purpose of the filing is to request Commission authority under House Bill 142 ("HB 142") to suspend payment of solar rebates.

3. On October 18, the Commission issued its *Order Adopting Procedural Schedule* ("*Order*") that directed parties to file Statements of Position no later than November 6. This filing complies with the Commission's directive.

4. Staff's understands that all of the Commission's decisions in this case will not be easy; you are being asked to make policy decisions on the application of the one percent (1%) retail rate impact ("RRI") calculation found in the Renewable Energy

[1] All dates herein refer to calendar year 2013, unless otherwise specified.

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Standard ("RES"), Section 393.1030, et seq., RSMo., and the Commission's RES rules, and decide between the interests of ratepayers, the solar industry and the wind industry. The RES was passed by voter initiative on November 4, 2008, and the rules promulgated thereafter became effective on September 30, 2010. Due to the relative newness of both the statute and rules, few decisions exist to give guidance to the parties on the meaning of certain provisions. Multiple methodologies have been proposed for performing the calculation. Staff, through the testimony of witnesses Claire Eubanks, Dan Beck and Mark Oligschlaeger, has set forth what it believes to be a correct calculation of the RRI, and bases its position on the Commission's analysis in its *Order of Rulemaking* in File No. EX-2010-0169, as well as the plain language of the rule.

5. Staff's testimony supports the Commission finding that Ameren Missouri has not reached its 1% RRI limit and recommends the Commission deny Ameren Missouri's *Application* to suspend solar rebate payments in 2013.

Staff's Position on the Issues

1. Is accurate and reliable information available to perform the 1% retail rate impact calculation under any of the methods proposed in this case? If not, should the Commission deny Ameren Missouri's application in this case?

Staff has not taken a position on this issue in testimony.

2. What is the proper method of calculating the 1% retail rate impact cap under Rule 4 CSR 240-20.100 (5)(B)?

Staff recommends the Commission find Staff's method, as presented in testimony, is the correct method for calculating the Retail Rate Impact ("RRI") limit under Rule 4 CSR 240-20.100 (5)(B). Staff's position on the many subparts of the calculation is expressed below, but overall, the Staff based its calculation

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and overall recommendation on the Commission's past guidance in the Order of Rulemaking in File No. EX-2010-0169, as well as the overall purpose of the 1% RRI for utility planning and rate payer protections.

3. In utilizing the method of calculating the 1% retail rate cap that the Commission determines is appropriate:

a. What generation resources are included in the non-renewable portfolio when completing the retail rate impact calculation under Rule 4 CSR 240-20.100 (5)(B)?

Staff recommends the Commission find Staff's method, as presented in the highly confidential rebuttal testimony of witness Claire Eubanks at page 4, line 6, through page 7 at line 10, to be the correct method for calculating the non-renewable portfolio revenue requirement for purposes of the RRI calculation under Rule 4 CSR 240-20.100 (5)(B). As indicated in the Staff Report on Ameren Missouri's RES Compliance Plan and Finding of Deficiency in File No. EO-2013-0503, Staff found Ameren Missouri's RES plan deficient in part due to the Company's inclusion of the Pioneer Prairie Wind Farm purchased power agreement ("Pioneer Prairie") and its Keokuk hydroelectric facility in calculating the non-renewable portfolio revenue requirement.

Rule 4 CSR 240-20.100 (5)(B) provides "The non-renewable generation and purchased power portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years." Staff's testimony supports the finding that the non-renewable portfolio should consist of all of the utility's existing non-renewable resources, but not its existing renewable resources as defined in Rule 4 CSR 240-20.100 (1)(K). Additionally, the Commission has agreed with Staff's analysis in the Order of Rulemaking in File No. EX-2010-0169 that the non-renewable portfolio is a hypothetical portfolio "…which assumes electricity comes from 'entirely non-renewable sources.'" 35 MoReg 1191.

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b. Is there any basis in the statutes, regulations or Commission's Orders for excluding some or all of the costs of any existing or anticipated renewable energy resources from the ten year RES-compliant portfolio revenue requirement calculation used to determine the cap? If so, which costs?

Yes.

First, Rule 4 CSR 240-20.100 (5)(A) provides that the calculation of the RRI "…shall exclude renewable energy resources owned or under contract prior to the effective date of this rule. Staff recommended in witness Claire Eubanks' rebuttal testimony, at pages 7 through 9, the removal of renewable energy resources, such as Pioneer Prairie, from the RRI calculation based on this reason. Ameren Missouri has changed its position from direct testimony as explained in the surrebuttal testimony of Matt Michels at page 12, to agree with Staff to exclude the costs of Pioneer Prairie RECs from the RES-compliant portfolio revenue requirement of the RRI.

Second, the revision to the Renewable Energy Standard ("RES") Statute, Section 393.1030.2 (1), RSMO., by House Bill 142 ("HB 142") contemplates the removal of the costs associated with utility-scale solar projects from the portfolio's revenue requirement "…if the maximum average retail rate increase would be less than or equal to one percent if an electric utility's investment in solar-related projects initiated, owned or operated by the electric utility is ignored for purposes of calculating the increase…" The rebuttal testimony of Claire Eubanks at page 12 discusses the increase of rebates available if Ameren Missouri's investment in utility-scale solar is ignored for purposes of the RRI.

Third, as discussed in the rebuttal testimony of Claire Eubanks at page 11, both Section 393.1030.2(1) and Rule 4 CSR 240-20.100 (7)(B)1.E. require a utility's compliance with the RES to be the least cost renewable generation and prudent methodology for compliance. Additionally, the surrebuttal testimony of Dan Beck discusses at page 7 the inclusion of Maryland Heights Renewable Energy Center ("Maryland Heights") costs in Ameren Missouri's RES-compliant portfolio for calculation of the RRI. The disagreement for inclusion of this cost comes from MOSEIA witness Hausman who argues Ameren Missouri could have obtained RECs to comply with the RES at a lower cost than it produced from the Maryland Heights facility. Staff recommends the Commission find that Ameren Missouri's inclusion of such costs in the RES-compliant portfolio for calculation of the RRI is proper. It is improper, as MOSEIA suggests, to only review a single year of costs and benefits for a long-term project like Maryland Heights to determine the cost-effectiveness of a project. The Integrated Resource Planning ("IRP") process requires that

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the life-cycle costs and benefits of such projects be evaluated, contrary to MOSEIA's conclusion. The Commission has already determined that the costs of Maryland Heights should be included in rates in Ameren Missouri's most recent rate case, Case No. ER-2012-0166.

c. Should the Commission make a determination in this case of whether Ameren Missouri's prudently-incurred expenditures on solar rebate payments be expensed or amortized? If yes, what determination should the Commission make?

No.

Such a determination is best considered in Ameren Missouri's next general rate case. However, if the Commission decides a determination is appropriate in this case, then Staff's recommendation is contained within the surrebuttal testimony of Mark Oligschlaeger at pages 2 through 6. Witness Oligschlaeger's testimony states that all Commission regulated electric utilities are charging solar rebates to expense as they are incurred. As his testimony explains, a utility's payment of a solar rebate did not result in any probable future economic benefit to the utility until August 28, 2013, when HB 142 became effective. Section 393.1030.3, as amended by HB 142, now provides that as a condition of receiving a rebate customers installing photovoltaic facilities shall transfer the associated RECs produced by the facilities for a period of ten years from the date the electric utility confirms the facility is installed and operational. Now that Ameren Missouri receives RECs through the solar rebate payments, such RECs can be retired as a means of complying with the RES requirements. Because solar rebate payments made after August 28, 2013, now provide utilities with a probable future economic benefit, it is Staff's view that there is some objective basis for electric utilities to account for solar rebates made on or after August 28, 2013, as an asset and amortize them to expense over a maximum of ten years, if the Commission determines this would be the appropriate accounting treatment for these costs. However, Staff does not affirmatively recommend changing Ameren Missouri's current practice of charging the cost of solar rebates to expense as incurred at this time.

Staff has concerns with amortizing solar rebate payments in the RRI calculation, including post-HB 142 payments, because it is obvious that part of MOSEIA's rationale for advocating the ten-year amortization is to create a higher ceiling that would allow paying additional solar rebates within the constraints of the RRI limit. Payment of solar rebates is currently not the least-cost approach of meeting the minimum solar RES

requirements, let alone the other RES portfolio requirements. The surrebuttal testimony of Staff witness Dan Beck at pages 8 through 9 demonstrates that the estimated cost of S-RECs from a customer system is currently much higher than buying an S-REC on the market.

If the Commission chooses to amortize solar rebate payments, Staff recommends the Commission do so only in conjunction with the adoption of Staff's RRI calculation method. This will help ensure that payments of solar rebates as a RES compliance strategy are incurred in appropriate amounts, considering the relative economics of alternative compliance approaches for the RES portfolio requirements over a forward-looking ten-year period.

d. How does a utility implement the directive in Rule 4 CSR 240-20.100 (5)(A) that the retail rate impact "…shall exclude renewable energy resources owned or under contract prior to the effective date of this rule" when it calculates the retail rate impact limit under Rule 4 CSR 240-20.100 (5)(B)?

As explained in 3.a. above, Rule 4 CSR 240-20.100 (5)(B) provides "The non-renewable generation and purchased power portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years." The non-renewable portfolio should consist of all of the utility's existing non-renewable resources, but not its existing renewable resources as defined in Rule 4 CSR 240-20.100 (1)(K). The Commission agreed with Staff's analysis in the Order of Rulemaking in File No. EX-2010-0169 that the non-renewable portfolio is a hypothetical portfolio "…which assumes electricity comes from 'entirely non-renewable sources.'" 35 MoReg 1191.

Further, as explained in 3.b. above, Rule 4 CSR 240-20.100 (5)(A) provides that the calculation of the RRI "…shall exclude renewable energy resources owned or under contract prior to the effective date of this rule." Staff recommended in witness Claire Eubanks' rebuttal testimony, at pages 7 through 9, the removal of renewable energy resources, such as Pioneer Prairie, from the RES-compliant portfolio for the calculation of the RRI based on this reason. Ameren Missouri has changed its position from direct testimony as explained in the surrebuttal testimony of Matt Michels at page 12, to agree with Staff to exclude the costs of Pioneer Prairie RECs from the RES-compliant portfolio revenue requirement of the RRI.

Staff recommends the Commission find that when calculating the RRI, a utility should remove all renewable energy resources, regardless of the owned or contract date, from the revenue requirement of the non-renewable portfolio, and remove from the RES-compliant revenue

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requirement all renewable energy resources "…owned or under contract prior to the effective date of this rule."

e. Must an electric utility's most current adopted preferred resource plan be used for determining the renewable energy resource additions to the RES-compliant portfolio when completing the retail rate impact calculation under Rule 4 CSR 240-20.100 (5)(B)?

As explained in the surrebuttal testimony of Dan Beck at pages 5 through 7, the Commission has a policy decision to make regarding the balancing of available funds under the 1% RRI that go to solar rebates or to the resource additions included in a utility's IRP filing to meet its RES portfolio requirements. Staff will point out to the Commission that Rule 4 CSR 240-20.100 (5)(B) explicitly states that the resources added in the planning period for the RES-compliant portfolio "…will utilize the most recent electric utility resource planning analysis." The Commission's Electric Resource Planning chapter, Rule 4 CSR 240-22, became effective May 6, 1993, and in the twenty years that have passed, the Commission has repeatedly reaffirmed the value of integrated resource planning.

Further, as explained in the rebuttal testimony of Staff witness Claire Eubanks at page 10, Ameren Missouri added additional wind resources in its calculation of the RRI for this case, above the wind resources it included in its preferred resource plan. Staff believes the additional resources are more reflective of the goals of the rule than the model used in the IRP. Staff recommends the Commission grant a waiver from this rule provision if the Commission believes a waiver is necessary.

And as explained below in 6., even with the additional wind resources added, Staff's testimony supports a finding by the Commission that Ameren Missouri has not exceeded the 1% RRI that would allow the Commission to approve the suspension of solar rebate payments.

f. Should payment of solar rebates be "front-loaded" as suggested by MOSEIA?

*Staff has not taken a direct position on this issue in testimony. However, Staff believes that with the approximately **_____** that remains under Staff's method for calculating the RRI limit, the Commission has a policy decision to make regarding the amount of the limit remaining that the Company should pay out in solar rebates.*

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4. What method of scaling costs of the RES-compliant portfolio should be used to achieve compliance with the 1% RRI limitation under Rule 4 CSR 240-20.100 (5)(D)?

In his surrebuttal testimony, Ameren Missouri's witness Matt Michels has applied an artificial percentage available for solar rebates, which in effect decreased the amount Staff calculated in rebuttal testimony that remained available under the RRI limit for solar rebates or other renewable resources. Though Rule 4 CSR 240-20.100 (5)(D) does not indicate how a utility is to scale back its renewable resources to stay within the 1% RRI limit, there is a question as to whether Ameren Missouri's scaling of solar rebates and some renewable resources meets the requirements of the RES rule, or whether it is simply a way to limit its payment of solar rebates when it has not yet reached the 1% RRI limit.

a. Does the RES statute, Section 393.1030 et seq., or the RES Rule, 4 CSR 240-20.100 create a preference for paying solar rebates or for complying with the renewable portfolio requirements?

No, not explicitly. Staff understands the RES rule to require a utility to utilize their most recent filed electric utility resource planning analysis when determining the RRI over the succeeding ten (10) year period. In as much as Ameren Missouri's filed preferred resource plan contains a preference for meeting the renewable portfolio requirements that is where any preference is created. As stated in the rebuttal testimony of Staff witness Claire Eubanks, Staff views this as a policy decision for the Commission, absent further clarification as part of a rulemaking. The Commission will need to decide how the RES statute and rule directs the payment of solar rebates verses the least-cost plan to comply with the RES portfolio requirements.

5. What is the one percent retail rate impact (1%) amount when calculated by the method the Commission determines in Issues 2 and 3 is the correct method?

*When Ameren Missouri calculates the 1% RRI according to Staff's methodology, the 1% amount equals **_____.***

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6. Are the sums of solar rebate payments Ameren Missouri has made and those it projects to pay by the end of 2013, greater than the one percent (1%) retail rate impact amount determined in 5 above?

No.

See 4. and 4. a. above.

7. Should the Commission authorize Ameren Missouri to stop making solar rebate payments beginning no earlier than December 10, 2013, in order to comply with Section 393.1030.2 (1) and .3 RSMo (Supp. 2013) and Rule 4 CSR 240-20.100 (5)?

No.

As Ameren Missouri has not reached its 1% RRI limit, the Commission does not have the authority under Section 393.1030.3, RSMo., to approve Ameren Missouri's proposed tariff to suspend solar rebate payments. Section 393.1030.3, states in part that the Commission may authorize a utility to suspend solar rebate payments "If the commission determines that the maximum average retail rate increase will be reached…." Ameren Missouri has not met its burden in this matter to show it has exceeded the 1% RRI limit because:

it has continued to perform the RRI calculation in a way that Staff noted was deficient as part of Ameren Missouri's RES compliance plan filing made in File No. EO-2013-0503;

Ameren Missouri has randomly scaled back certain resources while including the full costs of others when calculating the RRI;

Ameren Missouri has failed to ignore the cost of utility-scale projects for purposes of the RRI and pay rebates in an amount "…that would produce a retail rate increase equal to the difference between a one percent retail rate increase and the retail rate increase calculated when ignoring an electric utility's investment in solar-related projects initiated, owned, or operated by the electric utility";

Ameren Missouri has adopted an artificial percentage available for solar rebates, which in effect decreased the amount Staff calculated in rebuttal testimony that remained available under the RRI limit for solar rebates or other renewable resources; and

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Ameren Missouri's actual payments updated for solar rebates through the end of October 2013 are significantly below the projections of the number of solar rebates it would pay in 2013 used to support its Application in this case.

Staff recommends the Commission deny Ameren Missouri's requested relief to suspend payment of solar rebates for 2013.

8. If Ameren Missouri's unconstrained payments of solar rebates for 2013 would, given its planned other RES compliance expenditures for the period 2013-2022, cause a rate impact greater than 1%, must the excess solar rebate payment amounts be carried over as a RES compliance cost for 2014 and future years, and other planned RES compliance rolled back in those future years?

Staff does not believe the Commission needs to address this question as a part of this case because Staff recommends the Commission find that Ameren Missouri has not reached its 1% RRI limit. Should the Commission determine otherwise, Staff recommends in the rebuttal testimony of Mark Oligschlaeger at page 11 that the carry-over provision, or a mechanism similar to it, is not authorized as part of the current RES rule. This issue is better served through the discussion and consideration of all parties' diverging interests in the workshop docket to propose modifications to the RES rule (Case No. EW-2014-0092), than as part of this case.

WHEREFORE, Staff submits its Statement of Position for the Commission's information and consideration and in compliance with the Commission's October 18, 2013 *Order*, and recommends the Commission deny Ameren Missouri's *Application* for the requested relief to suspend payment of solar rebates for 2013.

Respectfully submitted,

STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 6th day of November, 2013 to all counsel of record in this proceeding.

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