

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

**EARTH ISLAND INSTITUTE d/b/a/
RENEW MISSOURI, et. al.**

COMPLAINANTS

v.

**THE EMPIRE DISTRICT ELECTRIC
COMPANY,**

RESPONDENT

Case No. EC-2013-0378

**MOTION TO COMPEL FILING OF TARIFF SHEETS
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Earth Island Institute d/b/a Renew Missouri (“Renew Missouri”), in response to the Supreme Court of Missouri’s mandate in SC93944 on April 2, 2015 and the Commission’s Order on April 3, 2015, and moves the Commission for an order, to be issued by April 8, directing Empire District Electric Company to file tariff sheets to implement the solar rebate of § 393.1030.3, RSMo, and 4 CSR 240-20.100(4) no later than April 15.

1. Renew Missouri filed a complaint against Empire in Case No. EC-2013-0378, which was consolidated with other complaints as Case No. EC-2013-0377. Following an adverse decision from the Commission on November 26, 2013, Renew Missouri appealed to the Missouri Supreme Court concerning the validity of § 393.1050 (2008), which purported to exempt Empire from paying the solar rebate required of the other electric utilities by § 393.1030.3, RSMo.

2. On February 10, 2015, the Supreme Court issued its opinion holding that § 393.1050 was invalid. Empire filed a motion for rehearing on Feb. 25, which the Supreme Court denied on March 31.

3. The Supreme Court issued its mandate on April 2. At that time the Commission resumed jurisdiction over the case. *City of Joplin v. PSC*, 186 S.W.3d 290, 293 (Mo.App. W.D. 2005). The complaint now returns to its previous status that existed before the order appealed from was made. *Praxair v. PSC*, 346 S.W.3d 377, 381 (Mo.App. W.D. 2011).

4. The consequence of the Supreme Court's judgment is that Empire must pay the solar rebate and must also meet the requirement that solar energy supply 2% of the renewable energy standard. Before it can offer the rebate, Empire must have approved tariffs on file. It is therefore incumbent on the Commission to order the filing of tariff sheets to ensure that Empire complies with the Supreme Court's mandate without delay. *Staff v. Missouri Gas Energy*, GC-2011-0100, 2013 WL 2255594 (Order of May 1, 2013).

5. On April 1, Empire filed a premature "Request for Prehearing Conference" asking the Commission to schedule a conference to discuss a procedural schedule. On April 3, 2015, the Commission issued an Order directing parties to file pleadings explaining what further action the Commission needs to take to resolve the complaint. Empire's request should be denied because no prehearing conference is necessary. There are no contested issues in this proceeding, and thus there is no schedule to discuss. The only step that remains to be taken is for Empire to file a tariff.

Reasons for Expedited Treatment

6. Pursuant to 4 CSR 240-2.080(14), Renew Missouri further states:

7. Renew Missouri has filed this motion at the earliest possible time, as soon as the Supreme Court's mandate returned jurisdiction to the Commission. 4 CSR 240-2.080(14)(C).

8. Renew Missouri asks that the Commission rule on this motion by April 8, 2015, to allow Empire time to file its tariff by April 15, 2015. 4 CSR 240-2.080(14)(A).

9. If the Commission acts by this date, it will avoid harm to the general public and to Empire's customers, particularly those who desire to install solar panels, for the reasons that follow. 4 CSR 240-2.080(14)(B).

10. After final disposition by the state's highest court, Empire can have no further excuse not to file tariff sheets and offer the solar rebate.

11. Empire has successfully avoided offering the rebate for more than five years, whereas customers of every other regulated electric utility have been entitled to it if their systems were fully operational after December 31, 2009. 4 CSR 240-20.100(4). This has had a discriminatory effect to the detriment of solar customers in Empire's territory.

12. It is reasonably foreseeable that Empire will try to delay offering the rebate until at least July 1, 2015, when the statutory rebate will drop from \$1.50 per watt to \$1.00 per watt for newly operational systems, § 393.1030.3, RSMo (2013), on the theory that the lower rebate will then apply. This would further disadvantage Empire's customers in comparison to those of the other utilities.

13. Such delay would have a negative effect on the general public by further delaying implementation of the Renewable Energy Standard, which was approved by 66% of the electorate as a ballot initiative, Proposition C, in 2008. As a result of Empire's delay there has been less solar generation installed and no progress by Empire in meeting the 2% solar generation standard mandated by the voters, part of which would have been met by customer generation enabled by the solar rebate.

Conclusion

WHEREFORE Renew Missouri prays the Commission to act on this motion by April 8, 2015, and order Empire to file the requisite tariff sheets for implementing the solar rebate no later than April 15, 2015.

Respectfully submitted,

/s/ Andrew J. Linhares

Andrew J. Linhares, # 63973
910 E Broadway, Ste. 205
Columbia, MO 65201
(314) 471-9973 (T)
(314) 558-8450 (F)
andrew@renewmo.org

/s/ Henry Robertson

Henry Robertson, # 29502
319 N. Fourth Street, Ste. 800
St. Louis, MO 63102
(314) 231-4181 (T)
(314) 231-4184 (F)
hrobertson@greatriverslaw.org

ATTORNEYS FOR COMPLAINANT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served by electronic mail to all parties of record on this 3rd day of April, 2015.

/s/ Henry B. Robertson

Henry B. Robertson