BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Submission of its 2013 Renewable Energy Standard (RES) Compliance Plan	)))	**File No. EO-2013-0458**

STAFF REPORT ON COMPANY'S CALENDAR YEAR 2012 RES COMPLIANCE REPORT

COMES NOW Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and submits this *Staff Report On Company's Calendar Year 2012 RES Compliance Report* ("*Staff Report*") to the Missouri Public Service Commission ("Commission"). In support of the *Staff Report*, Staff respectfully states the following:

Background

1. On April 15, 2013,[1] The Empire District Electric Company ("Empire") filed its *2013 Annual Renewable Energy Standard Compliance Plan* ("*Compliance Plan*"), as well as its *2012 Annual Renewable Energy Standard Compliance Report* ("*Compliance Report*").

2. In addition to the *Compliance Plan* and *Compliance Report*, Empire filed a *Request For Waiver or Variance From 4 CSR 240-20.100(7)(B)1.F And Motion For Expedited Treatment* ("*Request For Waiver*"). Empire's *Request For Waiver* requested the Commission grant it relief (a variance) from the requirement of 4 CSR 240-20.100(7)(B)1.F. that Empire provide as part of its Renewable Energy Standard (RES) Compliance Plan "A detailed explanation of the calculation of the RES retail impact limit calculated in accordance with section (5) of this rule."

[1] All dates refer to calendar year 2013.

3. On April 16, the Commission issued its *Order Directing Notice And Setting Filing Deadlines* ("*Order*"), directing any interested person or entity to respond to Empire's *Request For Waiver* no later than April 25. By the same Order, the Commission also directed Staff to examine the *Compliance Plan* and file a report of its review no later than May 30, forty-five (45) days after the April 15th filing requirement.

4. On April 24, Staff filed a request for an extension of time until May 2 to file its recommendation on the *Request For Waiver*. The Commission granted Staff's request on April 25.

5. On May 2, Staff filed its recommendation on the *Request For Waiver* stating it is Staff Counsel's opinion that Empire is not required to perform the calculation under Rule 4 CSR 240-20.100 (5)(B) for the 2013 *Compliance Plan* because the calculation is only required when an electric utility proposes to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources. However, if the Commission views that Rule 4 CSR 240-20.100 requires Empire to perform the RES retail rate impact limit calculation or explain it, then Staff recommends the Commission grant Empire variances from the calculation of the RES retail rate impact limit requirement of Subsection (5)(B) and the detailed explanation of that calculation required by Subparagraph (7)(B)1.F of Rule 4 CSR 240-20.100.

6. On May 22, the Commission issued its Order to hold the *Request For Waiver* in abeyance until the resolution of File No. EC-2013-0379[2]. On January 30, Earth Island Institute d/b/a Renew Missouri, et.al., filed a *Complaint* against Empire in

[2] On April 9, 2013, the Commission issued its *Order Consolidating Cases* that consolidated File Nos. EC-2013-0380, EC-2013-0381, and EC-2013-0382 into File No. EC-2013-0379.

Case No. EC-2013-0382, alleging a deficiency in the RES retail impact calculation in Empire's 2012-2014 RES Compliance Plan. Although the *Complaint* involves a different calendar year, a decision on Empire's *Request For Waiver* may affect a decision in that case.

Applicable Rules

7. Rule 4 CSR 240-20.100(7) states that "Each electric utility shall file an RES compliance report no later than April 15 to report on the status of the utility's compliance with the renewable energy standard and the electric utility's compliance plan as described in this section for the most recently completed calendar year."

8. Subparagraphs (7)(A)1.A. through N. of Rule 4 CSR 240-20.100 provide the minimum requirements for the *Compliance Report*.

9. Rule 4 CSR 240-20.100(7)(D) provides that:

> The staff of the commission shall examine each electric utility's annual RES compliance report and RES compliance plan and file a report of its review with the commission within forty-five (45) days of the filing of the annual RES compliance report and RES compliance plan with the commission. The staff's report shall identify any deficiencies in the electric utility's compliance with the RES.

Staff's Report

10. In its *Memorandum*, attached hereto and labeled as Attachment A, Staff reports on its review of Empire's RES *Compliance Report*. Staff found the following deficiencies: the total retail electric sales supplied by Elk River Wind Farm ("Elk River") which is a Renewable Energy resource as defined by section 393.1025 (5), RSMo.; the quantity of Elk River 2011 RECs sold; the gains or losses from the sale of 2011 RECs produced by Elk River; Affidavits required to certify the energy and attributes of Elk River and Meridian Way Wind Farm ("Meridian Way"); the dates and amounts of

payments to Elk River and Meridian Way; and the meter readings for Elk River and Meridian Way.

11. Staff understands that Empire intends to supplement its *Compliance Report* with the deficient information. When Empire's does so, Staff will review the filing and update this *Staff Report* as necessary.

12. Empire has filed its calendar year 2012 annual report as required by Section 393.140(6), RSMo., and paid its fiscal year 2013 assessment as required by Section 386.370, RSMo.

13. As mentioned above, a decision in this case will affect, or be affected by, the Commission's decision in EC-2013-0382. The Commission's decision in this file may directly affect, or be affected by, a decision in Case No. EC-2013-0378, Earth Island Institute d/b/a Renew Missouri, et. al. v. The Empire District Electric Company. Complainants allege in that case that Empire fails to comply with the RES requirements for calendar year 2011 by use of certain resources, vintage renewable energy credits and the claim of exemption from RES solar requirements.

WHEREFORE, Staff files this *Staff Report* for the Commission's information and consideration.

Respectfully submitted,

/s/ Jennifer Hernandez

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically on this 30th day of May 2013, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

/s/ Jennifer Hernandez

MEMORANDUM

TO: Missouri Public Service Commission Case File
File No. EO-2013-0458, Empire District Electric Renewable Energy Standard Compliance Report for Calendar Year 2012

FROM: Claire M. Eubanks, P.E., Energy Unit – Engineering Analysis

/s/ Daniel I. Beck / 5/30/13
Energy Unit / Date

/s/ Jennifer Hernandez / 5/30/13
Staff Counsel's Office / Date

SUBJECT: Staff Report and Conclusion on Empire District Electric's 2012 Renewable Energy Standard Compliance Report

DATE: May 30, 2013

CONCLUSION

Staff has reviewed The Empire District Electric Company's ("Empire" or "Company") 2012 RES Compliance Report. Based on its review, Staff has concluded that the Company has not supplied all the reporting information outlined in 4 CSR 240-20.100 (7)(A)1.A. through N. However, Staff understands that the Company intends to make an additional filing. The discussion below outlines the specific information not provided:

- The total retail electric sales supplied by Elk River which is a Renewable Energy resource as defined by section 393.1025 (5), RSMo. [1]
- The quantity of Elk River Wind Farm ("Elk River") 2011 RECs sold.
- The gains or losses from the sale of 2011 RECs produced by Elk River.
- Affidavits required to certify the energy and attributes of Elk River and Meridian Way Wind Farm ("Meridian Way").
- The dates and amounts of payments to Elk River and Meridian Way.
- The meter readings for Elk River and Meridian Way.

The Company has retired the appropriate number of RECs to meet the RES requirement for 2012.

OVERVIEW

On April 15, 2013, Empire filed its Compliance Report for calendar year 2012 (File No. EO-2013-0458). The Compliance Report was filed in accordance with 4 CSR 240-20.100(7), Electric Utility Renewable Energy Standard Requirements, Annual RES Compliance Report and RES Compliance Plan. This rule states, in part, "Each electric utility shall file an RES compliance report no later than April 15 to report on the status of the utility's compliance with

[1] 393.1025(5), RSMo: Renewable energy resources include "…electric energy produced from wind …."

the renewable energy standard and the electric utility's compliance plan as described in this section for the most recently completed calendar year." Subparagraphs 4 CSR 240-20.100(7)(A)1.A. through N. provide the minimum requirements for the Compliance Report. Subsection 4 CSR 240-20.100(7)(D) requires that Staff examine the Company's Compliance Report and file a report within forty-five (45) days of the filing. Staff has utilized the North American Renewables Registry (NAR) to independently verify the retirement of the RECs and S-RECs by the Company

DISCUSSION

Staff has reviewed the Company's Compliance Report in accordance with the established requirements to verify the Compliance Report contains the information required by rule. The results of this review are detailed below, with appropriate rule subparagraphs A. through N. identified and quoted.

A. "Total retail electric sales for the utility, as defined by this rule:"

The Company provided the total retail electric sales for 2012 expressed as total megawatt-hours (MWh) sold to ultimate consumers (4,023,549 MWh), consistent with the 2012 FERC Form 1 filed with the Commission on May 14, 2013.

B. "Total jurisdictional revenue from the total retail electric sales to Missouri customers as measured at the customers' meters;"

The Company provided the total retail electric sales for 2012 expressed as annual operating revenues (dollars) from ultimate consumers ($416,041,419), consistent with the 2012 FERC Form 1 filed with the Commission on May 14, 2013.

C. "Total retail electric sales supplied by renewable energy resources, as defined by section 393.1025(5), RSMo, including the sources of the energy;"

The Company utilized two renewable energy generating facilities as defined by 393.1025(5), RSMo during 2012; the Company-owned Ozark Beach Hydroelectric Project ("Ozark Beach") and a purchased power agreement with Elk River. Meridian Way is also a renewable energy resource but is not currently certified by MDNR. The total amount of energy generated at Ozark Beach was 57,806 MWhs. Ozark Beach is located in Missouri, thus it qualifies for the one and twenty-five hundredths (1.25) credit multiplier allowed by statute and regulation.[2] With the credit multiplier, the total compliance REC credit for the facility is 72,257.5.

The Company did not provide the total retail electric sales supplied by Elk River which is a Renewable Energy resource as defined by section 393.1025 (5), RSMo.[3]

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[2] 393.1030.1., RSMo; 4 CSR 240-20.100(3)(G)

[3] 393.1025 (5), RSMo: Renewable energy resources includes "….electric energy produced from wind …."

D. "The number of RECs and S-RECs created by electrical energy produced by renewable energy resources owned by the electric utility. For the electrical energy produced by these utility-owned renewable energy resources, the value of the energy created. For the RECs and S-RECs, a calculated REC or S-REC value for each source and each category of REC;"

The Company reported that the Company-owned Ozark Beach facility generated 57,806 MWh in 2012. The Company does not assign a cost or value for the RECs produced, due to the restrictive nature of using hydroelectric RECs and the RECs created by this facility are a benefit to Missouri ratepayers since capital and operational costs for Ozark Beach are already part of the rate structure of the Company's annual revenue requirement.

E. "The number of RECs acquired, sold, transferred, or retired by the utility during the calendar year;"

Based on data from NAR, the Company acquired 572,146 RECs (2012 Vintage) through a purchased power agreement (PPA) with Elk River. The Company has carried these RECs forward for future compliance with the Missouri RES, as shown in Attachment 1 of the Compliance Report.

In Section (7)(A)1.G. of the Compliance Report, the Company discusses the sale of 2011 RECs from Elk River, but did not provide the quantity of RECs sold.

The Company retired RECs from Ozark Beach for calendar year 2012 compliance. Staff verified that the Company retired 64,381 Ozark Beach RECs (2009 and 2010 Vintage) which qualify for the in-state multiplier to total 80,476 RECS; which meets the requirement of 80,471.[4] These RECs were registered and retired in the electronic tracking system[5] utilized for compliance purposes. In accordance with statute and regulation, these RECs were produced by a qualified facility and were banked and utilized appropriately.[6]

F. "The source of all RECs acquired during the calendar year;"

See comments in Section E. of this report.

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[4] Pursuant to 4 CSR 240-20.100(2)(C)1., the amount of RECs necessary is determined by calculating two percent (2%) of the Company's total retail sales, less the solar requirement.

[5] North American Renewables Registry: http://missourirecs.com/

[6] Qualified facility per 393.1025.(5), RSMo and 4 CSR 240-20.100(1)(K); Banked RECs per 393.1030.2., RSMo and 4 CSR 240-20.100(1)(J).

G. "The identification, by source and serial number, of any RECs that have been carried forward to a future calendar year;"

The Company provided a listing of RECs, by source and serial number, which are being carried forward for future year(s), as Attachment 1 of the Compliance Report. The list includes RECs from Ozark Beach and Elk River (2010-2012 vintage).

H. An explanation of how any gains or losses from sale or purchase of RECs for the calendar year have been accounted for in any rate adjustment mechanism that was in effect for the utility;"

The Company sold a portion of the 2011 Vintage RECs produced by Elk River but did not provide the gains or losses from the sale. REC revenues factor into Empire's Fuel Adjustment Clause in effect during the 2012 calendar year under P.S.C. Mo. No. 5, Sec. 4, 1st Revised Sheet No. 17i.

I. "For acquisition of electrical energy and/or RECs from a renewable energy resource that is not owned by the electric utility, the following information for each resource that has a rated capacity of ten (10) kW or greater:

(I) Name, address, and owner of the facility;

The Company provided the name, address, and owner for Elk River and Meridian Way.

(II) An affidavit from the owner of the facility certifying that the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate;

The affidavits for Elk River and Meridian Way were not provided.

(III) The renewable energy technology utilized at the facility;

The type of technology was provided.

(IV) The dates and amounts of all payments from the electric utility to the owner of the facility;

The dates and amounts of the payments to Elk River and Meridian Way were not provided.

(V) All meter readings used for the calculation of the payments referenced in part (IV) of the paragraph;"

The meter readings for Elk River and Meridian Way were not provided.

J. "The total number of customers that applied and received a solar rebate in accordance with section (4) of this rule;"

The Company is exempt from the solar requirements of the RES. The Company provided a copy of a Memorandum (dated January 7, 2009) explaining this exemption as Attachment 2 of the Compliance Report.

K. "The total number of customers that were denied a solar rebate and the reason(s) for denial;"

Not applicable.

L. "The amount of funds expended by the electric utility for solar rebates, including the price and terms of future S-REC contracts associated with the facilities that qualified for the solar rebates;"

Not applicable.

M. "An affidavit documenting the electric utility's compliance with the RES compliance plan as described in this section during the calendar year. This affidavit will include a description of the amount of over- or under-compliance costs that shall be adjusted in the electric utility's next compliance plan;"

The Company included the affidavit as Attachment 3 of the Compliance Report and included $77,293 in NAR Administration costs. Since Empire's revenue requirement includes a representative amount of RES costs, no adjustment of costs is required for the next compliance plan.

N. "If compliance was not achieved, an explanation why the electric utility failed to meet the RES."

The Company retired the appropriate number of RECS to comply with the RES requirements[7] for calendar year 2012.

[7] Pursuant to 4 CSR 240-20.100(2)(C)1., the amount of RECs necessary is determined by calculating two percent (2%) of the Company's total retail sales, less the solar requirement.

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OF THE STATE OF MISSOURI

In the Matter of The Empire District Electric Company's Submission of its 2013 Renewable Energy Standard (RES) Compliance Plan	))))	File No. EO-2013-0458

AFFIDAVIT OF CLAIRE M. EUBANKS

STATE OF MISSOURI)
) **ss**
COUNTY OF COLE)

Claire M. Eubanks, of lawful age, on oath states: that she participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was provided to her; that she has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true to the best of her knowledge and belief.

Claire M Eubanks
Claire M. Eubanks

Subscribed and sworn to before me this 30th day of May, 2013.

SUSAN L. SUNDERMEYER
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: October 03, 2014
Commission Number: 10942086

Susan L Sundermeyer
Notary Public