

**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-2013-0382

ANSWER

The Empire District Electric Company (“Respondent”), through its undersigned attorneys, hereby answers and responds as follows to the Complaint filed with the Missouri Public Service Commission (“Commission”) on January 30, 2013, by Earth Island Institute d/b/a Renew Missouri; Missouri Coalition for the Environment; Missouri Solar Energy Industries Association; Wind on the Wires, Alternative Energy Company, LLC; StraightUp Solar; and Missouri Solar Applications, LLC (collectively “Complainants”):

1. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Complaint; therefore, Respondent denies each and all of those allegations.
2. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 of the Complaint; therefore, Respondent denies each and all of those allegations.

3. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 3(a), (b), and (c) of the Complaint; therefore, Respondent denies each and all of those allegations.

4. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraphs 4(a), (b), and (c) of the Complaint; therefore, Respondent denies each and all of those allegations.

5. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 of the Complaint; therefore, Respondent denies each and all of those allegations.

6. Respondent admits the allegations in paragraph 6 of the Complaint.

7. Respondent denies each and all of the allegations in paragraph 7 of the Complaint.

8. Respondent denies each and all of the allegations in paragraph 8 of the Complaint.

9. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 of the Complaint; therefore, Respondent denies each and all of those allegations.

10. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Complaint; therefore, Respondent denies each and all of those allegations.

11. Respondent admits that in November 2008 Missouri voters approved an initiative designated Proposition C, later codified as the “Renewable Energy Standard,” Sections 393.1020 through 393.1035, RSMo. Respondent denies each and all of the remaining allegations in paragraph 11 of the Complaint.

12. Respondent admits the allegations in paragraph 12 of the Complaint.

13. Respondent admits the allegations in paragraph 13 of the Complaint.
14. Respondent admits the allegations in paragraph 14 of the Complaint.
15. Respondent admits the allegations in paragraph 15 of the Complaint.
16. Respondent admits that paragraph 16 of the Complaint accurately quotes a portion of 4 CSR 240-20.100(5). Respondent denies each and all of the remaining allegations in paragraph 16.
17. Respondent admits that paragraph 17 of the Complaint accurately quotes a portion of the decision of the Missouri Court of Appeals in *State ex rel. Missouri Energy Dev. Assn. v. Pub. Serv. Comm'n.*, 386 S.W.3d 165 (2012). Respondent denies each and all of the remaining allegations in paragraph 17.

18. Respondent denies each and all of the allegations in paragraph 18 of the Complaint.

COUNT I: CALCULATION OF THE RES RETAIL IMPACT

19. Respondent incorporates by reference each and all of its responses to paragraphs 1 through 18 of the Complaint.
20. Respondent denies each and all of the allegations in paragraph 20 of the Complaint.
21. Respondent admits that paragraph 21 of the Complaint correctly quotes a portion of 4 CSR 240-20.100(7)(B)1.F. Respondent denies each and all of the remaining allegations in paragraph 21.
22. Respondent denies each and all of the allegations in paragraph 22 of the Complaint.
23. Respondent denies each and all of the allegations in paragraph 23 of the Complaint.
24. Respondent admits that in its report on Respondent's RES Compliance Plan filed in Case No. EO-2012-0336 the Commission Staff recommended that the Commission grant Respondent a waiver from the requirements of 4 CSR 240-20.100(7)(B)1.F. Respondent further

admits that the Commission has not granted such a waiver. Respondent denies each and all of the remaining allegations in paragraph 24 of the Complaint.

25. Respondent lacks knowledge or information sufficient to form a belief as to the truth of the allegation that the Commission has not granted any utility a waiver of the requirements of 4 CSR 240-20.100(7)(B)1.F; therefore, Respondent denies that allegation. Respondent denies each and all of the remaining allegations in paragraph 25 of the Complaint.

26. Respondent denies each and all of the allegations in paragraph 26 of the Complaint.

27. Each and all of the allegations in the Complaint not specifically admitted in this Answer are denied.

RELIEF REQUESTED

28. Respondent denies that Complainants are entitled to any of the relief requested in paragraphs 1 through 3 of its prayer for relief.

ADDITIONAL DEFENSES

29. Respondent alleges that the Complaint fails to state a claim upon which the Commission can grant relief because, without limitation, (i) the Commission docket in which Complainants allege Respondent submitted a compliance plan that did not comply with the Commission's rules – Case No. EO-2012-0349 – did not involve Respondent but, instead, involved KCP&L Greater Missouri Operations Company, and (ii) 4 CSR 240-20.100(10) allows the Commission to grant Respondent a waiver from the requirements of 4 CSR 240-20.100(7)(B)1.F and Respondent has filed a request for a waiver or variance from that rule in Case No. EO-2012-0336 and that request is pending.

30. Respondent alleges that the Commission lacks jurisdiction to decide one or more of the issues raised by the Complaint.

WHEREFORE, having fully answered the Complaint, Respondent requests the Commission to dismiss the Complaint with prejudice or to otherwise dispose of the Complaint in a manner that ensures Complainants take nothing by their Complaint, and to grant Respondent such other relief as the Commission deems appropriate.

Respectfully submitted,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:

/s/ L. Russell Mitten
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ATTORNEYS FOR THE EMPIRE DISTRICT
ELECTRIC COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served, via e-mail, on counsel for each of parties of record on the 4th day of March, 2013.

/s/ L. Russell Mitten