

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

In the Matter of a Proposed Rulemaking     )  
Regarding Electric Utility Renewable       )  
Energy Standard Requirements                )

**File No. EX-2010-0169**

**DISSENTING OPINION OF  
COMMISSIONER TERRY M. JARRETT**

The law is clear and I strongly oppose the majority's decision with regard to its approval of filing with the Secretary of State the second/revised Order of Rulemaking of this Commission without compliance with the provisions of Section 536.073.8 RSMo 2009. That section makes it clear that this agency shall "not file [any] disapproved portion of any rule with the secretary of state ..." if the joint committee on administrative rules disapproves any rule or portion thereof. On July 1, 2010 the Joint Committee on Administrative Rules voted to disapprove sections 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2 and to hold these sections in abeyance. In a letter dated July 1, 2010, by Senator Luann Ridgeway, Chairman Joint Committee on Administrative Rules to the Missouri Secretary of State, this information is communicated while also informing the Secretary to refrain from publishing the disapproved sections.<sup>1</sup>

The Missouri Public Service Commission, however, by a 3-2 vote, has determined that it will overlook the mandatory statutory obligations assigned to it under Section 536.073.8 and has directed the Secretary of the Commission to *submit*<sup>2</sup> the Amended

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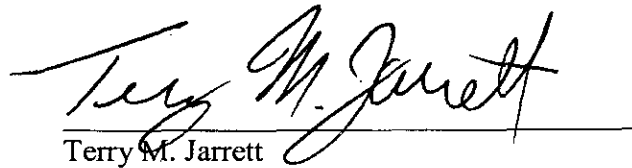
<sup>1</sup> State of Missouri, Joint Committee on Administrative Rules, Letter from the Honorable Luann Ridgeway, July 1, 2010 to the Honorable Secretary of State Robin Carnahan.

<sup>2</sup> Section 536.021.1 requires this Commission to *file*, not submit the final Order of Rulemaking to the Secretary of State. I do not know what the majority means by the term "submit" but I assume it means something different then the term "file" in that they chose not to use "file" which is contained in the law.

Rule, in its complete form, without regard to the law. Because the rule being presented to the Secretary of State is not in conformance with the law, I respectfully dissent.

Focus on the outcome or effect of following the law is not a matter for deliberation by this Commission; rather, this Commission's charge is plain, straightforward and simple - that is, to follow the law, not to ignore it as it sees fit. John Adams once said, "we are a nation of laws, not men." I am afraid that the majority's action today turns that bedrock principle on its head.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Terry M. Jarrett", written over a horizontal line.

Terry M. Jarrett

Submitted this 6<sup>th</sup> day of July, 2010.