

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Consideration of Adoption)	
Of the PURPA Section 111(d)(12) Fuel Sources)	Case No. EO-2006-0494
Standard as Required by Section 1251 of the)	
Energy Policy Act of 2005)	

ADDITIONAL PLEADING BY CONCERNED CITIZENS
OF PLATTE COUNTY, SIERRA CLUB, OZARK ENERGY SERVICES, MID-
MISSOURI PEACEWORKS AND HEARTLAND RENEWABLE ENERGY SOCIETY

Come now Concerned Citizens of Platte County (“CCPC”), Sierra Club, Ozark Energy Services, Mid-Missouri Peaceworks and Heartland Renewable Energy Society and in response to the Commission’s December 26 Order Directing Filing of Additional Pleadings on the issue of prior state action state:

On Oct. 31, 2006, PSC Staff filed a “Motion to Open Rulemaking Docket” to deal in one proceeding with all the EAct 2005 standards. On Dec. 22, “Staff’s Updated Suggestions for Future Proceedings” pulled back from this recommendation and asked the Commission first to determine whether each case could be closed on the basis of prior state action.

IRP Rulemaking

As a prefatory matter, it is not clear to us whether the combined rulemaking proposed for the five EAct standards in the Staff’s Oct. 31 “Motion to Open Rulemaking Docket” was intended to include a revision of the 4 CSR Chapter 22 Integrated Resource Planning rules. In the event the Commission were to decide that this standard is best dealt with under the IRP rules, this case could be merged in that rulemaking, which we believe Staff and the Commission still intend to open.

Prior State Action

The IOUs cite Chapter 22 as prior state action, with Aquila more plausibly admitting that

IRP may not be prior state action.

The only relevant portion of Chapter 22 is the IRP Supply-Side Resource Analysis in 4 CSR 240-22.040. Resource options include new plants using new or existing generation technologies and refurbishment of existing plants. 4 CSR 240-22.040(1). None of these options necessarily involves the use of alternative fuels.

Moreover, these options are subject to preliminary screening for a variety of “disadvantages,” 22.040(2), and possible elimination. 22.040(2)(C). If passed through, they are subject to further scrutiny for “uncertain factors.” 22.040(8). If included in alternative resource plans, they are subject to further analysis for cost, uncertainty and “additional planning objectives” under 22.060(1–4). The EPAct standard does not contemplate elimination of any given fuel source for any of these reasons. The goal of IRP is to identify a single preferred resource plan for implementation. 22.070(6, 9).

The IRP process does not necessarily result in any diversification of fuels or technologies and thus does not fulfill the unqualified mandate of PURPA § 111(d)(12): “Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.” No such plan emerges from the IRP process. Instead, individual fuel sources may or may not find their way into one or more alternative resource plans; there is no comprehensive “plan to minimize dependence on 1 fuel source.”

Missouri has not acted on or otherwise considered the same or a comparable standard, since the IRP process does not result in anything recognizable as a plan within the meaning of the 111(d)(12) standard. This case should therefore proceed.

/s/Henry B. Robertson
Henry B. Robertson (Mo. Bar No. 29502)
Kathleen G. Henry (Mo. Bar No. 39504)
Great Rivers Environmental Law Center
705 Olive Street, Suite 614
St. Louis, Missouri 63101
(314) 231-4181
(314) 231-4184
khenry@greatriverslaw.org

Attorneys for Intervenors

CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was sent by email on this 9th day of February, 2007, to the persons on the EFIS service list.

/s/Henry B. Robertson
Henry B. Robertson