

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

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(18¹) Consideration)
of Smart Grid Investments Standard as Required) Case No. EW-2009-0290
by Section 1307 of the Energy Independence and)
Security Act of 2007.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(16) Integrated)
Resource Planning Standard as Required by) Case No. EW-2009-0291
Section 532 of the Energy Independence and)
Security Act of 2007.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(17) Rate Design)
Modifications to Promote Energy Efficiency) Case No. EW-2009-0292
Investments Standard as Required by Section)
532 of the Energy Independence and Security)
Act of 2007.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(19) Smart Grid)
Information Standard as Required by Section) Case No. EW-2009-0293
1307 of the Energy Independence and Security)
Act of 2007.)

**RESPONSE OF THE MISSOURI INDUSTRIAL ENERGY CONSUMERS
TO THE ORDER OF THE COMMISSION ISSUED MARCH 25, 2009
CONCERNING STATE ACTION EXEMPTION
PROCEDURES FOR CONSIDERING NEW PURPA STANDARDS**

The Missouri Industrial Energy Consumers, by and through counsel, and for its response to the Commission's March 25, 2009 order states as follows:

Missouri Industrial Energy Consumers (MIEC) appreciates the opportunity to provide its views regarding how the Commission should approach consideration of the four indicated

¹The original legislation contained numbering errors which were corrected in Section 408 (Technical Corrections to the Public Utility Regulatory Policies Act of 1978), enacted as part of the American Recovery and Reinvestment Act of 2009 (H.R. 1).

PURPA standards. The purpose of this docket is to enable the Commission to discharge its duties under the Energy Independence and Security Act of 2008 (EISA) with respect to the consideration of four new PURPA standards. While the Commission must give consideration to these standards, the Commission is not compelled to adopt any of them.

The EISA requires state public service commissions to consider and make a determination with respect to each of these standards by December 19, 2009. However, there is no penalty for failing to meet this compliance date, and PURPA provides that if a commission does not meet this date it must simply consider and make a determination at the time of the next rate action involving each utility.

The four PURPA standards under consideration address Smart Grid Investments, an Integrated Resource Planning (IRP) standard, rate design modifications to promote energy efficiency investments, and Smart Grid Information. MIEC will discuss these four PURPA standards together because they are related.

On the question of whether there has been prior state action which would exempt further consideration of any of the proposed new PURPA standards, MIEC believes that any prior consideration that may have occurred is inadequate to exempt the Commission from taking further action and further considering whether or not to adopt the standards with respect to Standard 18 (Smart Grid Investments), Standard 17 (rate design) and Standard 19 (Smart Grid Information). MIEC believes that while the Commission has given consideration to IRP in the context of the adoption of IRP rules, that the form and structure of IRP deserves a fresh look in the context of changed circumstances.

With respect to the process for considering these standards, MIEC notes that Staff and some other parties have stated that at least some of these standards could appropriately be

considered in the context of the Commission's upcoming workshops which will consider modifications to Chapter 22, Electric Utility Resource Planning Rules. MIEC believes that it would not be appropriate to consider these proposed standards in the context of the review and update of the IRP rules. There are several reasons for this. First, the existing IRP rules are extensive and complex, and the necessary study and potential modification of these rules already will be a substantial undertaking. Second, IRP rules in Chapter 22 are mainly about what must be considered in resource planning and the mechanics of consideration. On the other hand, the four PURPA standards basically address policy considerations which are much broader in context than the IRP rules.

As the policy questions are being considered, it is also important to have a full base of information upon which to evaluate the cost of adopting these standards as compared to their potential benefit. To develop an appropriate fact base for consideration of these standards, MIEC believes that it is important that the standards be considered in the context of a traditional contested evidentiary hearing in which parties file testimony, appear and are cross-examined under oath, and where all parties have the right to seek information through discovery. The implications of the four standards are broad-ranging, and an informal workshop setting is not suitable for developing an appropriate evidentiary base and considering what is likely to be the varying opinions of the participants. An evidentiary hearing is best suited for this purpose.

MIEC also believes that it would be appropriate to consider all four standards in a consolidated hearing. There are many interrelationships among these various standards. For example, the Smart Grid standard (Number 18) involves improvements to the utility grid that would lead to increased efficiency of operation and enhanced reliability. In addition, Smart Grid Investments relate as well to communications with individual utility customers, and perhaps even

certain energy consuming devices behind their meters. The consumer interface obviously has implications for rate design and the kinds of incentives and price signals that should be conveyed to consumers via the Smart Grid. The Commission will need to have information about the cost of each of these functionalities as well as how rates could be designed and an ability to appraise the likely reaction of consumers to the choices offered by Smart Grid and two-way communications. Similarly, Smart Grid Information relates directly to price signals, rate design and communication with customers. The IRP standard addresses the role of energy efficiency in resource planning from a policy perspective and as such has implication for the other standards.² Accordingly, MIEC believes that it would be appropriate to have a single case and a single set of hearings to consider all four proposed PURPA standards.

Respectfully submitted,

BRYAN CAVE, LLP

By: /s/ Diana M. Vuylsteke

Diana M. Vuylsteke, # 42419

211 N. Broadway, Suite 3600

St. Louis, Missouri 63102

Telephone: (314) 259-2543

Facsimile: (314) 259-2020

E-mail: dmvuylsteke@bryancave.com

Attorney for The Missouri Industrial
Energy Consumers

²Any IRP issues or conclusions from this case that are relevant to the IRP workshops can be considered in the workshops.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 15th day of April, 2009, to all parties on the Commission's service list in this case.

/s/ Diana M. Vuylsteke