MISSOURI ENERGY DEVELOPMENT ASSOCIATION

October 1, 2010

Mr. Steven Reed
Missouri Public Service Commission
200 Madison Street
Jefferson City, MO 65102-0360

RE: Case No. **EW-2011-0031**, Electric RES Workshop Docket - Response to Missouri Public Service Commission Order Issued August 5, 2010

Dear Mr. Reed:

On August 5, 2010 the Missouri Public Service Commission (MoPSC) issued an Order opening a workshop docket to explore legislative and regulatory means to improve and clarify Missouri's renewable energy standard law, MO Rev. Stat. 393.1020 to 393.1030. The Order opening this workshop docket includes a series of questions and requires that interested parties provide responses to these questions by October 1, 2010. This letter is in response to that Order.

Each question in the Order issued August 5, 2010 is provided below with the Missouri Energy Development Association's (MEDA) response. MEDA hopes that these responses are helpful in charting next steps in development of Missouri's renewable energy standard. I look forward to participating in whatever workshops may be scheduled to further discuss these matters.

4.A. What are the legal, economic and public policy consequences and implications of requiring electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located in Missouri?

Response: Missouri's electric utility renewable energy standard (RES or Prop C) included two important provisions related to this question:

1) For calculating quantities of energy in compliance with the RES in-state renewable energy resources and RECs have a 1.25 credit applied to them vs. a 1.00 credit if the resource or REC is from a resource outside of Missouri. This creates a 25% economic 'hurdle' for out-of-state resources to overcome in competing with in-state resources.

2) To protect consumers from inappropriate levels of subsidies and rate increases a 1% rate increase cap was included in Prop C.

Legal Implications: A requirement that electric energy or RECS be sourced in Missouri in order to comply with Prop C is in conflict with the statutory authorization to utilize resources located outside of Missouri. Additionally, any such restriction would represent protectionist legislation that discriminates against interstate commerce.

Economic Implications: As noted above, Prop C includes a 25% hurdle rate for resources outside of Missouri to compete with in-state resources. If resources located outside of Missouri do not even have the opportunity to compete, in-state resources will not have the incentive to operate at a cost level no more than 24.9% above those of their out-of-state competitors. This will contribute to higher cost of compliance with Prop C and result in the 1% rate cap being met with a lower total percentage of renewable energy resources or RECs than would be achieved otherwise.

Public Policy Implications: As noted above, Prop C included in-state vs. out-of-state incentives and rate caps. To require that qualifying renewable energy resources are located in-state makes the 25% economic hurdle rate irrelevant and likely results in the 1% rate cap being hit with fewer units of renewable energy being generated than would have been generated absent this requirement. The 25% hurdle rate for out-of-state resources may result in significant investments in renewable energy resources in Missouri. If Missouri's renewable energy resources are not competitive at this high of a hurdle rate, however, Prop C requires that lower cost out-of-state resources be utilized to comply with Prop C.

MEDA's members are among the largest industries in Missouri and the infrastructure investments they make in the state support thousands of good paying jobs with benefits and pay over half a billion dollars in taxes each year. A supportive regulatory environment is critically important to making needed utility infrastructure investments in the future and the same is true of all industries – including the renewable energy industry. In terms of appropriate public policy, the provisions of Prop C provide direction on appropriate levels of incentives vs rate impacts. In discussions with stakeholders prior to submittal of the rules now in question, MEDA and several consumer organizations supported several options to assure that more renewable energy resources be built in and/or near Missouri. MEDA recognizes that Prop C would likely need to be changed in order to specifically authorize these additional in-state provisions in a manner that does not offend a federal policy of open commerce among the states.

These proposed options included, but were not limited to, the following:

- Limiting compliant renewable energy resources and/or RECs to locations in the RTOs serving Missouri's utilities.

- Agreeing to source some percentage of RECs and S-RECs from Missouri with the remaining out-of-state incremental RECs and S-RECs being limited to the United States. The Missouri sourced RECs and S-RECs would include RECs associated with compliant renewable energy resources physically located in the state or from energy sold to Missouri customers from compliant renewable energy resources in other states.

Additional possible approaches were discussed but it became apparent that some parties had no room for negotiation and the geographic sourcing dispute was not resolved. MEDA hopes that the discussions the MoPSC schedules in the near future on this topic are constructive. MEDA's members have discussed possible tariff approaches to more quickly resolve some of the issues currently in dispute in support of the requirements of Prop C and encouraging more in-state development of renewable energy resources. These approaches will hopefully be a point of discussion at the first workshop the MoPSC schedules.

4.B. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located outside of Missouri, only if the energy for compliance with the RES is sold to Missouri customers?

Response: The two provisions of Prop C identified in response to question 4.A. also apply to the response to this question. While question 4.A. would require in-state resources this question would require that any utilized resource be selling electricity to Missourians.

Legal Implications: Prop C authorizes compliance through purchasing of RECs and/or S-RECs without any sort of geographic limitation. To require that RECs or S-RECS only be sourced from renewable energy resources selling electricity to Missourians is inconsistent with the supporting statute and such a requirement would have the practical consequence of discriminating against interstate commerce for a protectionist purpose.

Economic Implications: As previously noted, Prop C includes a 25% hurdle rate for out-of-state resources to compete with in-state resources in order incent more in-state infrastructure investment. A requirement that electricity associated with a qualifying out-of-state resource be sold to Missourians would limit access to RECs and S-RECS from markets beyond a relatively short distance of Missouri. This distance restriction is determined by access to transmission between Missouri and the region where the RECs and/or S-RECs would be purchased.

A requirement that electricity associated with qualifying out-of-state resources be sold to Missourians would also apply pressure on Missouri utilities to either own out-of-state resources or enter into purchased power agreements (PPA) in order to assure they have contract path and can demonstrate that electricity from these resources was sold to Missourians. This requirement will result in limited flexibility for RES compliance and therefore higher RES compliance cost leading to hitting the 1% rate cap with less renewable energy being generated

Public Policy Implications: A requirement that compliant renewable energy resources sell electricity to Missourians is not consistent with statutory authority in Prop C. This requirement will improperly guarantee a market to local developers and projects in or near Missouri. To the degree that these projects and developers can compete with more distant resources no sales requirement will be necessary to keep these investments close to Missouri. Alternatively, to the degree that these projects and developers cannot compete with more distant resources a sales requirement will permit them to build these investments close to Missouri despite being non-competitive.

Other public policy implications in response to question 4.A. apply here as well.

4.C. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located outside of Missouri, only if the energy for compliance with the RES is sold to retail customers located within the Regional Transmission Organization or Independent Transmission System Operator in which Missouri is located?

Response: The two provisions of Prop C identified in response to question 4.A. also apply to the response to this question. Question 4.B. requires that electricity from qualifying resources be sold to Missourians in an effort to support these resources being built in or near Missouri. Question 4.C. is similar to question 4.B. but would require that the qualifying resource's electricity be sold to customers located within the RTOs in which Missouri's utilities are members.

Question 4.C. proposes a compliance approach that is very complicated and would do little to incent construction of renewable energy resources in or near Missouri (beyond the 1.25 factor for in-state resources in Prop C). MEDA's previous offer regarding RTOs differs from the approach in question 4.C. in that the qualifying resource would be located in the RTOs that Missouri's utilities are members of. MEDA's approach would provide a simple means to assure that resources are built in or near Missouri as opposed to the east or west coast. MEDA did not contemplate a requirement that the energy be sold to customers within the RTOs that Missouri utilities participate in. The approach in question 4.C. would permit a renewable energy resource built in a distant state to qualify if the electricity was sold to any state in the SPP or MISO footprint.

Legal Implications: MEDA believes that the provisions of Prop C would likely need to be changed in order to specifically address a RTO renewable energy resource and/or REC requirement as Prop C currently includes no such limitations.

Economic Implications: The economic implications of this approach are similar to those addressed in response to question 4.B. Question 4.C. however further complicates the economics of compliance by permitting sales to customers outside of Missouri that are within certain RTO footprints. If the conditions of question 4.C. were changed to require that qualifying renewable energy resources be operating within the footprints of RTOs in which Missouri's utilities are members of the economics are much simpler. Under this alternate approach renewable energy resources would be built in or near Missouri but no unnecessary requirement to track sales would be imposed.

Public Policy Implications: The public policy implications response to question 4.B. applies to this question as well.

4.D. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located anywhere outside of Missouri irrespective of the location of the delivery of the energy.

Response: Missouri's electric utility renewable energy standard (RES or Prop C) included two important provisions related to this question:

1) For calculating quantities of energy in compliance with the RES in-state renewable energy resources and RECs have a 1.25 credit applied to them vs. a 1.00 credit if the resource or REC is from a resource outside of Missouri. This creates a 25% economic 'hurdle' for out-of-state resources to overcome in competing with in-state resources.

2) To protect consumers from inappropriate levels of subsidies and rate increases a 1% rate increase cap was included in Prop C.

Legal Implications: No legal implications as the circumstances described in this question match the authority granted in Prop C.

Economic Implications: To the degree that in-state resources can deliver electricity within 124.9% of the cost of out-of-state resources they will be competitive. If in-state developers cannot however operate within this hurdle/incentive rate then lower cost means will be utilized to comply with the provisions of Prop C in an effort to maximize the development of renewable energy resources at the lowest possible cost before hitting the 1% rate cap.

Public Policy Implications: Prop C provides public policy guidance in the use of in-state vs out-of-state renewable energy resources. The provisions of question 4.D. specifically recognize that Prop C allows purchasing of RECs and S-RECs without geographic limitation but does not adequately recognize the in-state 25% incentive. In an effort to be responsive to the MoPSC's interest in encouraging greater local development of renewable energy resources MEDA has proposed additional in-state and near-state limitations (see response to question 4.A.). These provisions would likely require changes to Prop C. MEDA looks forward to further discussions with stakeholders to determine what approaches may be acceptable to all parties.

4.E. Which of the above potential scenarios (as set forth in A, B, C, or D above) are legally permissible and/or supportable under the current statute?

Response: In each of the responses above MEDA has included legal implications. We believe that 4.D. is the only scenario legally supported by the current statute.

4.F. In answering the questions set forth in A-D, stakeholders should also discuss the operation of the 1% retail rate impact under each of the scenarios.

Response: In each of the responses above MEDA has included implications of the 1% rate impact cap. In general the operation of the 1% rate cap is the same under all scenarios. As the cost of compliance under different scenarios increases the cap is hit faster. When this issue is discussed at a future MoPSC workshop (to be scheduled), MEDA proposes that stakeholders discuss the idea that the 1% rate impact calculation be based on the utilities' revenue requirements to ensure that rate payers are limited to a true 1% rate impact.

5. The Commission invites the stakeholders and interested parties to file suggested statutory and/or regulatory language regarding geographic sourcing.

Response: MEDA hopes that the MoPSC will schedule workshops in the near future to discuss the views of interested stakeholders. Hopefully these workshops will provide a means to resolve some of the differences between parties.

Statutory Language: At this time MEDA does not suggest that the statutory language of Prop C be modified regarding geographic sourcing since the current language appropriately balances in-state vs. out-of-state incentives and rate caps. MEDA does however support discussions with stakeholders to resolve differences and could likely support some form of statutory language that would require some regional and/or in-state resources if subsidy levels, rate impacts and rate recovery provisions are reasonably balanced.

MEDA does anticipate that legislation will be filed next session to discuss changes to Prop C to clarify and better align several of the statutory and regulatory requirements of Prop C.

Regulatory Language: MEDA suggest that the regulatory language changes recommended by JCAR be adopted since these changes make the RES rule and authorizing statute consistent. MEDA's members have discussed possible tariff approaches to more quickly resolve some of the issues currently in dispute in support of the requirements of Prop C and encouraging more in-state development of renewable energy resources. These approaches will hopefully be a point of discussion at the first workshop the MoPSC schedules.

If you have any questions regarding this, please do not hesitate to e-mail me at Warren@missourienergy.org or call me at (573) 634-8678.

Sincerely,

Warren T. Wood, PE
President