

BEFORE THE PUBLIC SERVICE COMMISSION OF MISSOURI

In the Matter of Certain Rules of the)	
Missouri Public Service Commission)	Case No. EX-2010-0169
relating to Electric Utility Energy)	
Standards Requirement being)	
Rules 4 CSR 240-20.100)	

MOTION FOR REHEARING

Pursuant to Section 36.500, RSMo, Missouri Retailers Association moves the Commission for rehearing of its Orders of June 2, 2010 and July 1, 2010, in the above-captioned cause. As grounds for its motion, Missouri Retailers Association states as follows:

1. The computation of the statutory one percent cap on average retail rates described in subsection (5)¹ is not consistent with the statutory intent and permits recovery of costs in excess of the maximum stated in Section 393.1030.2, RSMo.
2. The requirement of subsection (2)(A) requiring RECs generated outside Missouri to be tied to sales of that energy within Missouri is neither required nor authorized by the statute. Further, the imposition of such requirement violates the federal commerce clause.
3. The rebate requirement of Section 393.1030.3, RSMo, is a violation of Article I, Section 28 of the Missouri Constitution, which prohibits the taking of private property for private purposes. The rules implementing this provision are likewise unconstitutional and should be withdrawn.
4. The provisions of subsection (4)(D) that limits the rebate to the costs of new equipment is unauthorized by statute, and contrary to the purpose of the statute.

¹ All references are to the rules adopted by the Commission by its Order of June 2, 2010, and denominated 4 CSR 240-20.100.

5. The provisions of subsection (3) that require use of RECs and S-RECs to satisfy the renewable energy standards is in conflict with the definition of "renewable energy resources" in Section 393.1025(5), and with the provision in Section 393.1030.1 that "a utility may comply with a standard in whole or in part by purchasing RECs."

6. The provisions of subsection (8)(C) that specifies the use of payments by the Department of Natural Resources is *ultra vires* in that only rules promulgated by the Department of Natural Resources may address that subject.

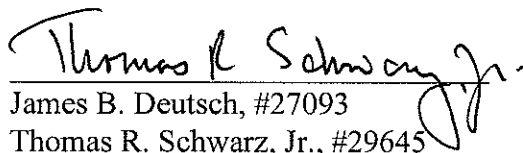
7. The prohibition on utility purchase of RECs from affiliates found in Section (4)(H)6.E. is not authorized by Section 393.1030, conflicts with Section 393.140(12), and is inconsistent with Section (2)(G) of the rule.

WHEREFORE, for the above-stated reasons, Missouri Retailers Association asks the Commission to reconsider the provisions of 4 CSR 240-20.100, and to address the deficiencies noted above.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

By:



James B. Deutsch, #27093

Thomas R. Schwarz, Jr., #29645

308 East High Street

Suite 301

Jefferson City, MO 65101

Telephone No.: (573) 634-2500

Facsimile No.: (573) 634-3358

E-mail: jdeutsch@blitzbardgett.com

E-mail: tschwarz@blitzbardgett.com

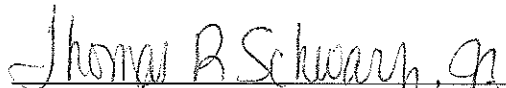
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above Motion for Rehearing, was sent via electronic mail on this 1st day of July, 2010, to the following parties of record:

Office of General Counsel
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Lewis Mills
Office of the Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Steve Dottheim
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Steve.Dottheim@psc.mo.gov



Thomas R. Schwarz, Jr. by: 