

## **Comments on Version 11 of Staff Draft on Missouri RES**

The American Wind Energy Association<sup>1</sup> appreciates the time and dedication that the staff is giving to the very difficult task of developing rules governing the new Missouri Renewable Energy Standard (RES). If implemented properly, the RES will usher in significant new investment in the state, provide an important incentive for the attraction of new green energy jobs at a very critical time in Missouri's economy and bring about what Missouri voters said they wanted in overwhelming numbers -- an effective new energy policy and vision for the state that is economically and environmentally sound. This new policy will provide protections for Missouri consumers against the volatility of fuel prices and future environmental costs of fossil fuels. However, the latest draft of the proposed Missouri Renewable Energy Standard rules raises concerns that AWEA believes must be changed if the vision of the voters of this state is to be fulfilled. In fact, on the most important issue -- the actual construction and use of new renewable energy to serve Missouri customers -- the newest draft appears to be moving in the wrong direction, toward an RES that would not create the economic development of renewable energy to serve Missouri consumers.

In addition, the latest rendition of the rule language inserts completely new material on the subject of rate impact and cost pass-through. AWEA believes that these subjects should be given another opportunity for discussion in a setting that allows more time for discussion among all the parties rather than the staff driven formats that have occurred in the two previous meetings.

### Delivery of Energy

The Missouri RES clearly requires the delivery of renewable energy to Missouri customers in order to qualify for the RES. Yet the staff's version completely undermines this incentive for the development of new renewable resourced energy to serve Missouri by allowing all of the RES to be met by RECs from any renewable source from any location. This renders the language requiring delivery of the energy to Missouri meaningless and is thus contrary to proper statutory construction. In order to give the language meaning the RECs must represent energy that meets the same requirement. Energy that is delivered to Missouri customers includes the customers of Missouri's Municipals and Electric Cooperatives, thus creating available RECs. The staff's language in the latest draft states that there is no requirement that the RECs represent the very energy that is required in the statute. This interpretation will not encourage renewable energy development for use by Missouri citizens. The Missouri Commission has the authority and, under the Initiative, the directive to define the RECs as representative of the energy that qualifies under the Initiative.

---

<sup>1</sup> AWEA is a national trade association representing a broad range of entities with a common interest in encouraging the expansion and facilitation of wind energy resources in the United States. AWEA members include wind turbine manufacturers, component suppliers, project developers, project owners and operators, financiers, researchers, renewable energy supporters, utilities, marketers, customers and their advocates.

## Rate Impact

AWEA is very concerned about the lack of understanding and consensus on the rate impact language. AWEA recognizes the difficulty of writing language to address this issue. The complexity is compounded by language that was passed by the General Assembly in the 2008 Session that also appears to address rate impact of an RES in a prospective way. AWEA submits that the language in the Senate Bill (codified as § 393.1045) is inapplicable to Proposition C and should be ignored in this rulemaking.<sup>2</sup> In order to provide some clarity and limit the gaming that could occur around the rate impact language found in the Initiative itself, AWEA submits that the rules should include certain guideposts and restrictions on the modeling that will need to occur in projecting the forward-looking resource planning comparisons contemplated under it. An additional workshop that would begin crafting this portion of the rule is needed.

The Initiative language on rate impact is clearly a forward-looking comparison of two scenarios—one meeting the RES and one without any renewable resources. The scenarios are to be compared in a modeling of future forecasts of load, fuel, weather, fuel prices, transportation costs, capital costs, environmental costs including carbon and other matters that are required to be examined in an Integrated Resource Planning session. These scenarios will not produce exact numbers for comparison but rather a range of probable outcomes and costs. These possible outcomes may cause the future to look more or less cost effective in the RES versus the nonrenewable scenario. There will not be one number for one scenario and one for the other. The rationale for the rate impact language was thus not to suggest that the utilities may on their own motion choose to ignore the policy of the RES by claiming that a threshold had been met, but rather to allow utilities to come to the Commission in the event the probabilities of rate impact were of such a magnitude that some adjustments in the forward planning of the utility appropriately could be considered without incurring penalty under the Initiative.

Resource planning is never an exact science. It is instead an attempt to make decisions around likely future events. The conclusions result in decisions about the resources that will be necessary to meet load over time. The current IRP process in Missouri provides for forward planning under certain guidelines. The law now requires that the IRP process include the requirements of the RES. Further, it makes sense for the Res versus non-RES comparisons to take place in the 20 year planning time frame used in Integrated Resource Planning.

AWEA submits that more must be done to ensure that the rate impact provision of the Initiative is not being gamed to avoid RES compliance. AWEA submits that the rules at a minimum contain certain requirements on the calculation of the scenarios and that they be projected over a 20 year time period as used in IRP. AWEA further suggests that the Commission, not the

---

<sup>2</sup> The requirement to write rule language that is contained in the Initiative does not require the Commission to write a rule involving § 393.1045, RSMo. AWEA believes that the language passed in the 2008 Senate Bill attempting to amend the Initiative prior to its approval by the Missouri voters is unconstitutional. While the Commission may not have the authority to determine the constitutionality of a law it is not required here to write a rule on § 393.1045, RSMo. In light of the Constitutional question that surrounds it should decline to do so.

utility, determine, after appropriate review of evidence, the validity of a utility's assertion that it is unable to meet the RES percentages due to the rate impact and then determine whether to grant a utility's request that penalties be diminished based on the same.

### Conclusion

AWEA requests that the staff change language in its draft that conflicts with the clear intention of the people of this state to have access to greater levels of renewable energy with a premium given to Missouri based renewables. Failure to correct the staff's language will allow RECs to be used that have no relationship to renewable energy consumed by Missourians. The incentives for the development of renewable resources within the state that is a part of this Initiative will be lost.

AWEA requests that the staff schedule one additional session for discussion of two areas. First for a discussion of rate impact language that will track the Initiative language and second to explain the language that staff has proffered for the pass through of charges or credits outside the scope of a rate case. AWEA believes that at this point the discussion of the rate impact language would be best served in a setting where the stakeholders could discuss the language together in a table setting rather than the staff directed format of the previous sessions. For the reasons set forth above, the language sent to the Commission for review should reflect the language of the Initiative only and avoid the legal pitfalls that will arise in the language contained in the 2008 Senate Bill (§ 393.1045, RSMo). The language adopted should reflect adequate protections to help prevent gaming by entities attempting to avoid complying with the RES. The language should be forward-looking and fit into the 20 year time period and framework of the Missouri IRP process. The IRP rules should be revised to take into account the requirements of the RES as well.

AWEA wishes to thank the staff for its work in working toward a draft to submit to the Commission and expresses the hope that the Initiative will be implemented in a way that will reflect the vision of the voters of the state.

The following companies concur with AWEA on the comments in this document:

Iberdrola Renewables  
201 King of Prussia Rd  
Suite 500  
Radnor, PA 19129

Invenenergy LLC  
One South Wacker Drive, Suite 1900  
Chicago, IL 60606

Wind Capital Group  
1430 Washington Ave., Suite 300  
St. Louis, MO 63103

Additionally, AWEA endorses the proposed language regarding geographic sourcing that was submitted by Wind Capital Group to PSC staff on June 26, 2009.

Sincerely,

Hans Detweiler  
Director of State Policy  
American Wind Energy Association  
1020 W. Bryn Mawr, Suite 304  
Chicago, IL 60660  
[hdetweiler@awea.org](mailto:hdetweiler@awea.org)