

**FILED****OCT 26 2010****Missouri Public  
Service Commission****Robin Carnahan  
Secretary of State****Administrative Rules Division  
Rulemaking Transmittal Receipt**

Rule ID: 12158  
Date Printed: 10/25/2010  
Rule Number: 4 CSR 240-22.040  
Rulemaking Type: Proposed Amendment  
Date Submitted to Administrative Rules Division: 10/25/2010  
Date Submitted to Joint Committee on Administrative Rules: 10/25/2010

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Name of Person to Contact with questions concerning this rule:

Content: Morris Woodruff

Phone: 1-2849

Email:

Fax:

RuleDataEntry:

Phone:

Email:

Fax:

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Included with Rulemaking:

Cover Letter

10/25/2010

Affidavit for public cost

10/25/2010

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*Robin  
Carnahan*

Secretary of State  
Administrative Rules Division

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OCT 25 2010

SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-22.040

**copy**

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Interagency mailing address Governor Office Bldg., Suite 900, 200 Madison St., Jefferson  
City, MO 65102

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

OCT 25 2010

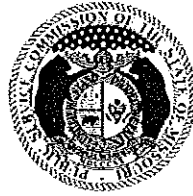
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JOINT COMMITTEE ON

OCT 25 2010

ADMINISTRATIVE RULES



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**KEVIN GUNN**

**ROBERT S. KENNEY**

***Missouri Public Service Commission***

POST OFFICE BOX 360  
JEFFERSON CITY MISSOURI 65102  
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**WESS A. HENDERSON**  
Executive Director

**DANA K. JOYCE**  
Director, Administration and  
Regulatory Policy

**ROBERT SCHALLENBERG**  
Director, Utility Services

**NATELLE DIETRICH**  
Director, Utility Operations

**STEVEN C. REED**  
Secretary/General Counsel

**KEVIN A. THOMPSON**  
Chief Staff Counsel

October 25, 2010

Robin Carnahan  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-22.040 Supply-Side Resource Analysis

Dear Secretary Carnahan,

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: sections 386.040, 386.250, 386.610, and 393.140, RSMo 2000

Robin Carnahan  
Secretary of State  
October 25, 2010  
Page Two

If there are any questions regarding the content of this proposed rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
[morris.woodruff@psc.mo.gov](mailto:morris.woodruff@psc.mo.gov)

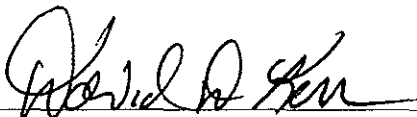
A handwritten signature in cursive script, reading "Morris L. Woodruff". The signature is written in dark ink and is positioned above the printed name and title.

Morris L. Woodruff  
Chief Regulatory Law Judge

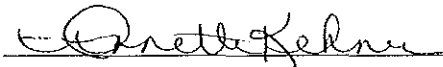
**AFFIDAVIT  
PUBLIC COST**

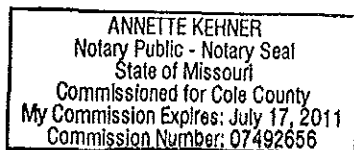
STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF COLE        )

I, David Kerr, Director, Missouri Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of the proposed amendment to rule, 4 CSR 240-22.040, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
David Kerr  
Director  
Department of Economic Development

Subscribed and sworn to before me this 7<sup>th</sup> day of Oct, 2010. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 JULY 2011.

  
\_\_\_\_\_



Title 4-Department of Economic Development  
Division 240-Public Service Commission  
Chapter 22-Electric Utility Resource Planning

PROPOSED AMENDMENT

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**4 CSR 240-22.040 Supply-Side Resource Analysis.** There are changes throughout this rule to update this rule to current practices.

*PURPOSE: This proposed amendment reduces the prescriptiveness of the current supply-side analysis rule while making transmission planning a more integral part of the supply-side analysis.*

(1) The *[analysis of ]*utility shall evaluate all existing supply-side resources *[shall begin with the identification of a ]*and identify a variety of potential supply-side resource options which the utility can reasonably expect to use, develop ~~and ]~~, implement *[solely through its own resources]* or *[for which it will be a major participant]*acquire, and for purposes of integrated resource planning all such supply-side resources shall be considered as potential supply-side resource options. These potential supply-side resource options include full or partial ownership of new plants using existing generation technologies; full or partial ownership of new plants using new generation technologies, including technologies expected to become commercially available within the twenty (20) year planning horizon; renewable energy resources on the utility-side of the meter, including a wide variety of renewable generation technologies; technologies for distributed generation; life extension and refurbishment at existing generating plants; enhancement of the emission controls at existing or new generating plants; purchased power from *[utility sources, cogenerators or independent power producers;]* bi-lateral transactions and from organized capacity and energy markets; generating plant efficiency improvements which reduce the utility's own use of energy; and upgrading of the transmission and distribution systems to reduce power and energy losses. The utility shall collect generic cost and performance information *[for ]*sufficient to fairly analyze and compare each of these potential *[resource options which shall include at least the following attributes where applicable:*

- (A) Fuel type and feasible variations in fuel type or quality;
- (B) Practical size range;
- (C) Maturity of the technology;
- (D) Lead time for permitting, design, construction, testing and startup;
- (E) Capital cost per kilowatt;
- (F) Annual fixed operation and maintenance costs;
- (G) Annual variable operation and maintenance costs;
- (H) Scheduled routine maintenance outage requirements;
- (I) Equivalent forced-outage rates or full- and partial-forced-outage rates;
- (J) Operational characteristics and constraints of significance in the screening process;
- (K) Environmental impacts, including at least the following:
  - 1. Air emissions including at least the primary acid gases, greenhouse gases, ozone precursors, particulates and air toxics;
  - 2. Waste generation including at least the primary forms of solid, liquid, radioactive and hazardous wastes;

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3. Water impacts including direct usage and at least the primary pollutant discharges, thermal discharges and groundwater effects; and

4. Siting impacts and constraints of sufficient importance to affect the screening process; and

(L) Other characteristics that may make the technology particularly appropriate as a contingency option under extreme outcomes for the critical uncertain factors identified pursuant to 4 CSR 240-22.070(2).

(2) Each of the ]supply-side resource options[ referred to in section (1) shall be subjected to a preliminary screening analysis. The purpose of this step is to provide an initial ranking of these options based on their relative annualized utility costs as well as their], including at least those attributes needed to assess capital cost, fixed and variable operation and maintenance costs, probable environmental costs and [to eliminate from further consideration those options that have significant disadvantages in terms of utility costs, environmental costs, operational efficiency, risk reduction or planning flexibility, as compared to other available supply-side resource options.]operating characteristics.

(2) The utility shall describe and document its analysis of each potential supply-side resource option referred to in section (1). The utility may conduct a preliminary screening analysis to determine a short list of preliminary supply-side candidate resource options, or it may consider all of the potential supply-side resource options to be preliminary supply-side candidate resource options pursuant to section (2)(C). All costs shall be expressed in nominal dollars.

(A) Cost rankings of each potential supply-side resource option shall be based on estimates of the installed capital costs plus fixed and variable operation and maintenance costs levelized over the useful life of the [resource]potential supply-side resource option using the utility discount rate. [In lieu of levelized cost, the utility may use an economic carrying charge annualization in which the annual dollar amount increases each year at an assumed inflation rate and for which a stream of these amounts over the life of the resource yields the same present value.]

(B) The probable environmental costs of each potential supply-side resource option shall be quantified by estimating the cost to the utility to comply with additional environmental [laws or regulations]legal mandates that may be imposed at some point within the planning horizon. [

1.] The utility shall identify a list of environmental pollutants for which, in the judgment of the utility decision-makers, [additional laws or regulations]legal mandates may be imposed [at some point within]during the planning horizon which would result in compliance costs that could [have a significant]significantly impact [on ]utility rates. [

2. For each pollutant identified pursuant to paragraph (2)(B)1., the utility shall specify at least two (2) levels of mitigation that are more stringent than existing requirements which are judged to have a nonzero probability of being imposed at some point within the planning horizon.

3. For each mitigation level identified pursuant to paragraph (2)(B)2., the ] The utility shall specify a subjective probability that represents utility decision-maker's judgment of the likelihood that [additional laws or regulations]legal mandates requiring [that level]additional levels of mitigation will be imposed at some point within the planning horizon. The utility, based on these probabilities, shall calculate an expected mitigation [level]cost for each identified pollutant.

*[4. The probable environmental cost for a supply-side resource shall be estimated as the joint cost of simultaneously achieving the expected level of mitigation for all identified pollutants emitted by the resource. The estimated mitigation costs for an environmental pollutant may include or may be entirely comprised of a tax or surcharge imposed on emissions of that pollutant.*

*(C) The utility shall rank all supply-side resource options identified pursuant to section (1) in terms of both of the following cost estimates: utility costs and utility costs plus probable environmental costs.](C) The utility shall indicate which potential supply-side resource options it considers to be preliminary supply-side candidate resource options. Any utility using the preliminary screening analysis to identify preliminary supply-side candidate resource options shall rank all preliminary supply-side candidate resource options based on estimates of the utility costs and also on utility costs plus probable environmental costs. The utility shall[ indicate which supply-side options are considered to be candidate resource options for purposes of developing the alternative resource plans required by 4 CSR 240-22.060(3). The utility shall also indicate which options ]:*

**1. Provide a summary table showing each potential supply-side resource option and the utility cost and the probable environmental cost for each potential supply-side resource option and an assessment of whether each potential supply-side resource option qualifies as a utility renewable energy resource; and**

**2. Explain which potential supply-side resource options are eliminated from further consideration [on the basis of the screening analysis] and[ shall explain] the reasons for their elimination.**

*(3) [The analysis of supply-side resource options shall include a thorough analysis of existing and planned interconnected generation resources. The analysis can be performed by the individual utility or in the context of a joint planning study with other area utilities.]The utility shall describe and document its analysis of the interconnection and any other transmission requirements associated with the preliminary supply-side candidate resource options identified in section (2)(C).*

**(A) The analysis shall include the identification of transmission constraints, as estimated pursuant to 4 CSR 240-22.045 (3), whether within the RTO's footprint, on an interconnected RTO, or a transmission system that is not part of a RTO. The purpose of this analysis shall be to ensure that the transmission network is capable of reliably supporting the preliminary supply-side candidate resource options under consideration, that the costs of the transmission system investments associated with preliminary supply-side [resources ]candidate resource options, as estimated pursuant to 4 CSR 240-22.045(3), are properly considered and to provide an adequate foundation of basic information for decisions about the following[ types of supply-side resource alternatives]:**

**[(A)]1. Joint ownership or participation in generation construction projects;**

**[(B)]2. Construction of wholly-owned generation [or transmission ]facilities;[ and ]**

**[(C)]3. Participation in major refurbishment, life extension, upgrading or retrofitting of existing generation [or transmission resources. ]facilities;**

**[(D)]4. The utility shall identify and analyze opportunities for life extension and refurbishment of existing generation plants, taking into account their current condition to the extent that it is significant in the planning process.]. Improvements on its transmission and distribution system to increase efficiency and reduce power losses;**



*[(15)] The utility shall identify and evaluate potential opportunities.] Acquisition of existing generating facilities; and*

**6. Opportunities for new long-term power purchases and sales, and short-term power purchases that may be required for bridging the gap between other supply options, both firm and nonfirm, that are likely to be available over all or part of the planning horizon[. This evaluation shall be based on an analysis of at least the following attributes of each potential transaction:**

- (A) Type or nature of the purchase or sale (for example, firm capacity, summer only);*
- (B) Amount of power to be exchanged;*
- (C) Estimated contract price;*
- (D) Timing and duration of the transaction;*
- (E) Terms and conditions of the transaction, if available;*
- (F) Required improvements to the utility's generating system, transmission system, or both, and the associated costs; and*
- (G) Constraints on the utility system caused by wheeling arrangements, whether on the utility's own system, or on an interconnected system, or by the terms and conditions of other contracts or interconnection agreements.*

*(6) For the utility's preferred resource plan selected pursuant to 4 CSR 240-22.070(7), the utility shall determine if additional future transmission facilities will be required to remedy any new generation-related transmission system inadequacies over the planning horizon. If any such facilities are determined to be required and, in the judgment of utility decision-makers, there is a risk of significant delays or cost increases due to problems in the siting or permitting of any required transmission facilities, this risk shall be analyzed pursuant to the requirements of 4 CSR 240-22.070(2).*

*(7) The utility shall assess the age, condition and efficiency level of existing transmission and distribution facilities, and shall analyze the feasibility and cost-effectiveness of transmission and distribution system loss-reduction measures as a supply-side resource. This provision shall not be construed to require a detailed line-by-line analysis of the transmission and distribution system, but is intended to require the utility to identify and analyze opportunities for efficiency improvements in a manner that is consistent with the analysis of other supply-side resource options.*

*(8) Before developing alternative resource plans and performing the integrated resource analysis, the***(B) This analysis shall include the identification of any output limitations imposed on existing or new supply-side resources due to transmission and/or distribution system capacity constraints, in order to ensure that supply-side candidate resource options are evaluated in accordance with any such constraints.**

**(4) All preliminary supply-side candidate resource options which are not eliminated shall be identified as supply-side candidate resource options. The supply-side candidate resource options that the utility passes on for further evaluation in the integration process shall represent a wide variety of supply-side resource options with diverse fuel and generation technologies, including a wide range of renewable technologies and technologies suitable for distributed generation.**

**(A) The utility shall describe and document its process for identifying and analyzing potential supply-side resource options and preliminary supply-side candidate resource**

options and for choosing its supply-side candidate resource options to advance to the integration analysis.

(B) The utility shall indicate which, if any, of the preliminary supply side candidate resource options identified in section (2)(C) are eliminated from further consideration on the basis of the interconnection and other transmission analysis and shall explain the reasons for their elimination.

(C) The utility shall include the cost of interconnection and any other transmission requirements, in addition to the utility cost and probable environmental cost, in the cost of supply-side candidate resource options advanced for purposes of developing the alternative resource plans required by 4 CSR 240-22.060(3).

(5) The utility shall develop, and describe and document, ranges of values and probabilities for several important uncertain factors related to supply[ resources. *These values can also be used to refine or verify information developed pursuant to section (2) of this rule.*]-side candidate resource options identified in section (4). These cost estimates shall include at least the following elements[ and shall be based on the indicated methods or sources of information:], as applicable to the supply-side candidate resource option:

(A) Fuel price forecasts, including fuel delivery costs, over the planning horizon for the appropriate type and grade of primary fuel and for any alternative fuel that may be practical as a contingency option[.

1. *Fuel price forecasts shall be obtained from a consulting firm with specific expertise in detailed fuel supply and price analysis or developed by the utility if it has expert knowledge and experience with the fuel under consideration. Each forecast shall consider at least the following factors as applicable to each fuel under consideration:*

A. *Present reserves, discovery rates and usage rates of the fuel and forecasts of future trends of these factors;*

B. *Profitability and financial condition of producers;*

C. *Potential effect of environmental factors, competition and government regulations on producers, including the potential for changes in severance taxes;*

D. *Capacity, profitability and expansion potential of present and potential fuel transportation options;*

E. *Potential effects of government regulations, competition and environmental legislation on fuel transporters;*

F. *In the case of uranium fuel, potential effects of competition and government regulations on future costs of enrichment services and cleanup of production facilities; and*

G. *Potential for governmental restrictions on the use of the fuel for electricity production.*

2. *The utility shall consider the accuracy of previous forecasts as an important criterion in selecting providers of fuel price forecasts.*

3. *The provider of each fuel price forecast shall be required to identify the critical uncertain factors that drive the price forecast and to provide a range of forecasts and an associated subjective probability distribution that reflects this uncertainty;]*

(B) Estimated capital costs including engineering design, construction, testing, startup and certification of new facilities or major upgrades, refurbishment or rehabilitation of existing facilities[.

1. Capital cost estimates shall either be obtained from a qualified engineering firm actively engaged in the type of work required or developed by the utility if it has available other sources of expert engineering information applicable to the type of facility under consideration.

2. The provider of the estimate shall be required to identify the critical uncertain factors that may cause the capital cost estimates to change significantly and to provide a range of estimates and an associated subjective probability distribution that reflects this uncertainty];

(C) Estimated annual fixed and variable operation and maintenance costs over the planning horizon for new facilities or for existing facilities that are being upgraded, refurbished or rehabilitated/.

1. Fixed and variable operation and maintenance cost estimates shall be obtained from the same source that provides the capital cost estimates.

2. The critical uncertain factors that affect these cost estimates shall be identified and a range of estimates shall be provided, together with an associated subjective probability distribution that reflects this uncertainty];

(D) Forecasts of the annual cost or value of [sulfur dioxide ]emission allowances to be used or produced by each generating facility over the planning horizon/.

1. Forecasts of the future value of emission allowances shall be obtained from a qualified consulting firm or other source with expert knowledge of the factors affecting allowance prices.

2. The provider of the forecast shall be required to identify the critical uncertain factors that may cause the value of allowances to change significantly and to provide a range of forecasts and an associated subjective probability distribution that reflects this uncertainty; and];

(E) Annual fixed charges for any facility to be included in the rate base, or annual payment schedule for leased or rented facilities/]; and

[9) Reporting Requirements. To demonstrate compliance with the provisions of this rule, and pursuant to the requirements of 4 CSR 240-22.080, the utility shall furnish at least the following information:

(A) A summary table showing each supply resource identified pursuant to section (1) and the results of the screening analysis, including:

1. The calculated values of the utility cost and the probable environmental cost for each resource option and the rankings based on these costs;

2. Identification of candidate resource options that may be included in alternative resource plans; and

3. An explanation of the reasons why each supply-side resource option rejected as a result of the screening analysis was not included as a candidate resource option;

(B) A list of the candidate resource options for which the forecasts, estimates and probability distributions described in section (8) have been developed or are scheduled to be developed by the utility's next scheduled compliance filing pursuant to 4 CSR 240-22.080;

(C) A summary of the results of the uncertainty analysis described in section (8) that has been completed for candidate resource options; and

(D) A summary of the mitigation cost estimates developed by the utility for the candidate resource options identified pursuant to subsection (2)(C). This summary shall include a description of how the alternative mitigation levels and associated subjective probabilities were determined and shall identify the source of the cost estimates for the expected mitigation level. ]

(F) Estimated costs of interconnection or other transmission requirements associated with each supply-side candidate resource option.

*AUTHORITY: sections 386.040, 386.250, 386.610 and 393.140, RSMo 2000. \* Original rule filed June 12, 1992, effective May 6, 1993.*

*\*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991; 386.610, RSMo 1939; and 393.140, RSMo 1939, amended 1949, 1967.*

*PUBLIC COST: Adoption of this proposed amendment will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE COST: Adoption of this proposed amendment will not cost affected private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Steve Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before January 3, 2011, and should include a reference to Commission File No. EX-2010-0254. Comments may also be submitted via a filing using the Commission's electronic filing and information system (EFIS). A public hearing regarding this proposed rule is scheduled for January 6, 2011 at 9:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.*

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Proposed Rulemaking )  
Regarding Revision of the Commission's )  
Chapter 22 Electric Utility Resource )  
Planning Rules )

File No. EX-2010-0254

## **DISSENT OF COMMISSIONER JEFF DAVIS TO THE PROPOSED RULEMAKING REVISING THE COMMISSION'S CHAPTER 22 ELECTRIC UTILITY RESOURCE PLANNING RULES**

I respectfully dissent from my colleagues' order to promulgate these rules as they are currently written.

Anyone who has ever been involved in the integrated resource planning (IRP) process knows these rules have desperately needed revision for years. It's taken a long time to get where we are. These rules are an improvement in some respects, but something important is missing: accountability for the Public Service Commission and the PSC Staff for any outcome in these IRP proceedings. It may seem like an antiquated note, but I think we need to take responsibility for the decisions we make – or in this case – fail to make.

Both the Missouri Energy Development Association (MEDA) and the Missouri Department of Natural Resources (MDNR) offered language whereby the Commission would at least "acknowledge" the utility's resource plan. "Acknowledgement" of the plan would enhance the process because it would force the parties and the staff to focus on outcomes as well as the process by which those outcomes were determined. After all, outcomes should be the purpose of the IRP process. More importantly, electric utilities could use the acknowledgement process to establish the prudence of making--or not making--certain large capital expenditures that are going to amount to billions of dollars over the next decade (e.g.

– whether to shut down and decommission one or more coal plants or to continue retrofitting all of them) before they get to a rate case and have to argue over imprudence or lack thereof.

Whether and how we address IRP decisions will definitely impact customer rates for years to come. Failing to act on the substance of IRPs constitutes a decision in and of itself. The Commission's failure sends a message of uncertainty to the utilities we regulate, their investors and Wall Street saying either "we want to be free to disavow your plan and disallow the expenses later" or "we are afraid to be criticized for acknowledging a plan that later failed."

Ultimately, our failure to address the substance of utility resource plans increases financing costs for capital investment projects as well as litigation costs in future rate cases because parties will litigate the issue in future cases and knowing the Commission may disallow expenses, lenders and investors will want higher returns. That uncertainty will assuredly cause Missouri investor-owned electric utilities to place the least possible amount of investment capital at risk short-term. This is important because the cheapest plan today will not likely be the cheapest plan over the next one to five years, and even less likely over the long-term (from 30 to 50 years). Thus, the ratepayers could end up paying higher rates long-term so the utility can consistently save a few dollars on the front end, or because the utility opted for cheaper, less reliable technology.

The importance of this issue is best illustrated by the decisions the Commission faces regarding our aging fleet of coal plants. In September, Wood Mackenzie's North American power research group issued a startling report that almost 60 gigawatts of coal-fired electric plants could be retired over the next decade. Independent verification of that estimate comes from Ellen Lapson, Managing Director of Corporate Ratings for Fitch Rating Agency. On

September 30, 2010, at the Financial Research Institute, Director Lapson said that Wood Mackenzie's number was a reasonable number. At least two Commissioners were present at that meeting.

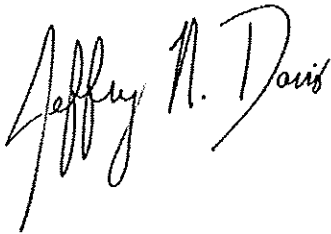
The findings of the Wood Mackenzie report ought to send a shiver down the spine of everyone here at the PSC as well as anyone employed by a Missouri utility. More than 80% of the electricity consumed in this state is fueled by coal. Collectively, Missouri utilities probably own around 10,000 megawatts of coal-fired generation, if not more. Ameren Missouri is the largest Missouri utility and owns several thousand megawatts of coal-fired generation all by itself, but everyone including the utilities who've camouflaged themselves as being leaders in the green revolution have similar risks. So, when the Wall Street analysts say "Coal is in the crosshairs" they mean pretty much every Missouri utility, but especially Ameren because they own the most coal plants, and that ultimately every utility customer in the state is in the crosshairs. Each and every one of our investor-owned electric utilities is going to make significant investment decisions regarding the retirement or retrofitting of a large fleet of coal plants averaging more than 40 years or older as well as the addition of new resources to replace these retiring coal plants, meet growing demand and comply with government mandates for utilities to buy certain amounts of "renewable" electricity.

Presidents and governors don't punt and this Commission shouldn't punt either. Hundreds of millions, if not billions, of dollars are at stake when our electric utilities make these decisions and customer rates are hanging in the balance. We owe it to the ratepayers and to the utilities we regulate to be decisive and thereby meet this Commission's statutory obligation to assure safe and adequate service for consumers at a just and reasonable rate. It's silly and unconscionable to spend a couple of years working on more than 60 pages of

rules that force the utility to think of every scenario, to document how every calculation is made, to check to see if the work was performed correctly and then do nothing with such documents except hold them, waiting to whip them out on some unsuspecting utility executive for not following a plan we don't intend to make them follow until the day they deviate from it.

In conclusion, a Commission majority that has shown a willingness to micro-manage electric utilities by requiring them to undertake low-income assistance programs and make our utilities buy Missouri wind-generated electricity ought not have a problem "acknowledging" whether an electric utility's preferred resource plan seems like a good or a bad one.

Respectfully submitted,

A handwritten signature in black ink, reading "Jeffery N. Davis". The signature is written in a cursive, flowing style with a large initial 'J'.

Jeff Davis, Commissioner

Dated at Jefferson City, Missouri  
On this 25<sup>th</sup> day of October, 2010.



# Small Business Regulatory Fairness Board

## Small Business Impact Statement

Date: 9-13-2010

Rule Number: 4 CSR 240-22.040

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Lena Mantle

Phone Number: 573-751-520

Email: Lena.Mantle@psc.mo.gov

Name of Person Approving Statement:

**Please describe the methods your agency considered or used to reduce the impact on small businesses** *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state. However, the MoPSC held stakeholder workshops where any interested entity could participate in the process.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

No additional fees will be collected specifically associated with this rulemaking.

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

The four investor-owned electric utilities in the state.

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes\_\_\_ No\_X\_

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*