



Robin Carnahan
Secretary of State

FILED**OCT 26 2010****Missouri Public
Service Commission**

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12162
Date Printed: 10/25/2010
Rule Number: 4 CSR 240-22.020
Rulemaking Type: Proposed Amendment
Date Submitted to Administrative Rules Division: 10/25/2010
Date Submitted to Joint Committee on Administrative Rules: 10/25/2010

Name of Person to Contact with questions concerning this rule:

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Included with Rulemaking:

Cover Letter	10/25/2010
Affidavit for public cost	10/25/2010

**Robin
Carnahan**

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-22.020

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

COPY

Name of person to call with questions about this rule:

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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**

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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 240-22.020 Definitions

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.

Robin Carnahan
Secretary of State
October 25, 2010
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Statutory Authority: sections 386.040, 386.250, 386.610, and 393.140, RSMo 2000

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

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.

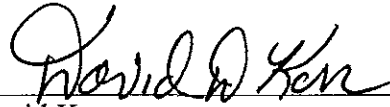
Morris L. Woodruff
Chief Regulatory Law Judge

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 240-22.020, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

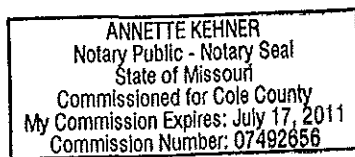
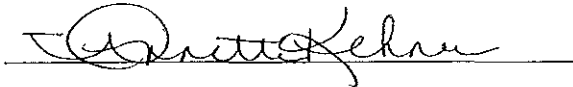


David Kerr

Director

Department of Economic Development

Subscribed and sworn to before me this 7th day of October, 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

4 CSR 240-22.020 Definitions. Six definitions were changed, eight new definitions were added and eight definitions were deleted.

PURPOSE: This proposed amendment reflects the definitions necessary for the proposed revisions to rules 4 CSR 240-22.030 through 4 CSR 240-22.080.

[PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.]

(1) *[Avoided cost means the cost savings obtained by substituting demand-side resources for existing and new supply resources.4 CSR 240-22.050(2) requires the utility to develop the following measures of avoided cost:] Annual update filing means the annual update report prepared by the utility in advance of the annual update workshop and the summary report prepared by the utility following the workshop as referenced in 4 CSR 240-22.080(3).*

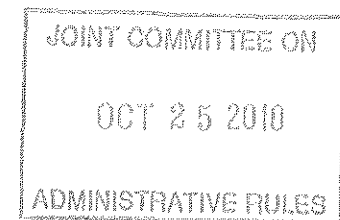
[(A) Avoided utility costs developed pursuant to 4 CSR 240-22.050(2)(D), which include energy cost savings plus demand cost savings associated with generation, transmission and distribution facilities; and]

(B) Avoided probable environmental costs developed pursuant to 4 CSR 240-22.050(2)(D) and 4 CSR 240-22.040(2)(B).]

(2) *[Candidate resource options are demand-side programs that pass the screening test required by 4 CSR 240-22.050(7), or supply-side resources that are not rejected on the basis of the screening analysis required by 4 CSR 240-22.040(2).] Candidate resource options are the potential demand-side resource options pursuant to 4 CSR 240-22.050(6) and the potential supply-side resource options pursuant to 4 CSR 240-22.040(4) that advance to be included in one or more alternative resource plans.*

(3) Capacity means the maximum capability to continuously produce and deliver electric power via supply-side resources or *[the]*the avoidance of the need for this capability by demand-side resources.

(4) *[Chance node is a decision-tree fork consisting of two (2) or more branches that represent the range and number of relevant potential outcomes for an uncertain factor.*



(5) *Coincident demand* means the hourly demand of a component of system load at the hour of system peak demand within a specified interval of time.

(5) **Concern** means anything that, while not rising to the level of a deficiency, may prevent the electric utility's resource acquisition strategy from effectively fulfilling the objectives of Chapter 22.

(6) *Contingency [option]resource plan* means an alternative *[choice, decision or course of action]resource plan* designed to enhance the utility's ability to respond quickly and appropriately to events or circumstances that would render the preferred resource plan obsolete.

(7) *[Decision node is a decision-tree fork consisting of two (2) or more branches that represent the set of decision alternatives being considered by utility planners at that stage of the resource planning process.] Critical uncertain factor* is any uncertain factor that is likely to materially affect the outcome of the resource planning decision.

(8) *[Decision tree is a diagram that specifies the order in which key resource decisions must be made, enumerates the set of decision alternatives to be considered at each stage, identifies the critical uncertain factors that affect the outcome of each decision and shows how the potential range of values for uncertain factors interact with each decision option to affect the expected cost of providing an adequate level and quality of energy services]* **Deficiency** means anything that would cause the electric utility's resource acquisition strategy to fail to meet the requirements identified in Chapter 22..

(9) **Demand** means the rate of electric power use measured in kilowatts (kW).

(10) *Demand-side [measure is synonymous with end-use measure.*

(11) *Demand-side resource (for program)]* means an organized process for packaging and delivering to a particular market segment a portfolio of end-use measures that is broad enough to include at least some measures that are appropriate for most members of the target market segment.

[(12) Driver variable means an external economic or demographic factor that significantly affects some component of utility loads.]

(11) **Demand-side rate** means a rate structure for retail electric service designed to reduce the net consumption or modify the time of consumption of a customer rate class.

(12) **Demand-side resource** is a demand-side program or a demand-side rate conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter. A load building program or rate is not a demand-side resource.

(13) **Describe and document** refers to the demonstration of compliance with each provision of this chapter. **Describe** means the provision of information in the technical volume(s) of the triennial compliance filing, in sufficient detail to inform the stakeholders, how the

utility complied with each applicable requirement of Chapter 22, why that approach was chosen, and the results of its approach. The description in the technical volume(s), including narrative text, graphs, tables and other pertinent information, shall be written in a manner that would allow a stakeholder to thoroughly assess the utility's resource acquisition strategy and each of its components. Document means the provision of all of the supporting information relating to the filed resource acquisition strategy pursuant to 4 CSR 240-22.080(11).

(14) Distributed generation means a grid-connected electric generation system that is sized based on local load requirements and distributed primarily to the local load.

(15) Electric utility or utility means any electrical corporation as defined in section 386.020, RSMo which is subject to the jurisdiction of the commission.

[(14)](16) End-use energy service or energy service means the specific need that is served by the final use of energy, such as lighting, cooking, space heating, air conditioning, refrigeration, water heating or motive power.

[(15)](17) End-use measure means an energy-efficiency measure or an energy-management measure.

[(16)](18) Energy means the total amount of electric power that is generated or used over a specified interval of time measured in kilowatt-hours (kWh).

[(17)](19) Energy-efficiency measure means any device, technology[, rate structure] or operating procedure that makes it possible to deliver an adequate level and quality of end-use energy service while using less energy than would otherwise be required.

[(18)](20) Energy-management measure means any device, technology[, rate structure] or operating procedure that makes it possible to alter the time pattern of electricity usage so as to require less generating capacity or to allow the electric power to be supplied from more fuel-efficient generating units. **Energy-management measures are sometimes referred to as demand-response measures.**

[(19)](21) Expected cost of an alternative resource plan is the statistical expectation of the cost of implementing that plan, contingent upon the uncertain factors and associated [subjective] probabilities [represented by chance nodes in the decision tree. 4 CSR 240-22.060 requires the]. The utility [to]shall consider probable environmental costs as well as direct utility costs in its assessment of alternative resource plans.

[(20)](22) Expected unserved hours means the statistical expectation of the number of hours per year that a utility will be unable to supply its native load without importing emergency power.

[(21)] Fixed cost margin means the portion of electric energy and demand rates that is designed to recover all nonvariable costs.]

(23) Historical period shall be the ten (10) most recent years or the period of time used as the basis of the utility's forecast, whichever is longer.

[22/24) Implementation period means the time interval between the triennial compliance filings required of each utility pursuant to 4 CSR 240-22.080.

[23/25) Implementation plan means descriptions and schedules for the major tasks necessary to implement the preferred resource plan over the implementation period.

[(24) Inefficient energy-related choice means any decision that causes the life-cycle cost of delivering an adequate level and quality of end-use energy service to be higher than it would be for an available alternative choice.]

(25) Inefficient price means a price that is not equal to the long-run marginal cost of providing a good or service.]

(26) Information means any fact, relationship, insight, estimate or expert judgment that narrows the range of uncertainty surrounding key decision variables or has the potential to substantially influence or alter resource- planning decisions.

(27) Legal mandates include applicable state and federal executive orders, legislation, court decisions, and applicable state and federal administrative agency orders, rules, and regulations affecting electric utility loads, resources or resource plans.

(28) Levelized cost means the dollar amount of a fixed annual payment for which a stream of those payments over a specified period of time is equal to a specified present value based on a specified rate of interest.

[28/29) Life-cycle cost means the present worth of costs over the lifetime of any device or means for delivering end-use energy service.

[29/30) Load-building program means an organized promotional effort by the utility to persuade energy-related decision-makers to choose electricity instead of other forms of energy for the provision of energy service or to persuade existing customers to increase their use of electricity, either by substituting electricity for other forms of energy or by increasing the level or variety of energy services used. This term is not intended to include the provision of technical or engineering assistance, information about filed rates and tariffs, or other forms of routine customer service.

[(30) Load duration curve is a plot of ranked hourly demand versus the number of hours in which demand was greater than or equal to that value over a specified interval of time.]

(31) Load [factor means the average demand over a specified interval of time divided by the maximum demand in the interval.

(32) *Load* impact means the change in energy usage and the change in diversified demand during a specified interval of time due to the implementation of a demand-side *[measure or program]* resource.

(/33/32) Load profile means a plot of hourly demand versus chronological hour of the day from the hour ending 1:00 a.m. to the hour ending 12:00 midnight.

(/34/33) Load-research data means **major class level** average hourly demands (kWhs per hour) derived from the metered instantaneous demand for each customer in the load-research sample.

(/35) *Load-research estimates, or class hourly loads, or class load estimates* means the statistical expectation of the average hourly demands for each major class derived from the load-research data for that class.

(36) *Load-research sample* means a subset of utility customers from each major class whose demands are metered to provide statistical estimates of class hourly loads to a specified level of accuracy.]

(/37/34) Long run means an analytical framework within which all factors of production are variable.

(/38/35) Lost *[margin or lost]* revenues means the reduction between rate cases in billed demand (kW) and energy (kWh) due to installed demand-side measures, multiplied by the fixed-cost margin of the appropriate rate component.

(/39/36) **Major class is a cost-of-service class of the utility.**

(37) Market imperfection means any factor or situation that contributes to inefficient energy-related choices by decision-makers, including at least/--/:

- (A) Inadequate information about costs, performance and benefits of end-use measures;
- (B) Inadequate marketing infrastructure or delivery channels for end-use measures;
- (C) Inadequate financing options for end-use measures;
- (D) Mismatched economic incentives resulting from situations where the person who pays the initial cost of an efficiency investment is different from the person who pays the operating costs associated with the chosen efficiency level;
- (E) Ineffective economic incentives when decision-makers give low priority to energy-related choices because they have a short-term ownership perspective or because energy costs are a relatively small share of the total cost structure (for businesses) or of the total budget (for households); or
- (F) Inefficient pricing of energy supplies.

(/40/38) Market segment means any subgroup of utility customers (or other energy-related decision-makers) which has some or all of the following characteristics in common: they have a similar mix of end-use energy service needs, they are subject to a similar array of market imperfections that tend to inhibit efficient energy-related choices, they have similar values and

priorities concerning energy-related choices, or the utility has access to them through similar channels or modes of communication.

(~~41~~/39) Nominal dollars *[mean]* **means** future or then-current dollar values that are not adjusted to remove the effects of anticipated inflation.

(~~42~~/40) Participant means an energy-related decision-maker who implements one (1) or more end-use measures as a direct result of a demand-side program.

(~~43~~/41) Planning horizon means a future time period of at least twenty (20) years' duration over which the costs and benefits of alternative resource plans are evaluated.

(42) Plot means a graphical representation to present data. Each plot shall be labeled as a stand-alone figure, whose axes shall be labeled with units. The data presented in each plot also shall be provided in tabular form in the technical volumes and in workpapers. Data tables will be labeled, including the identification of the corresponding plot. The plots and data tables shall be numbered, referenced and explained in the text of the technical volumes and in workpapers.

(43) Potential resource options are all of the resources in the comprehensive set of demand-side resources that shall be considered pursuant to 4 CSR 240-22.050(1), and in the comprehensive set of supply-side resources that shall be considered pursuant to 4 CSR 240-22.040(1).

(44) Preferred resource plan means the resource plan that is contained in the resource acquisition strategy that has most recently been adopted by the utility decision-maker(s) for implementation by the electric utility.

(45) Probable environmental *[benefits test is a test of the cost-effectiveness of end-use measures that uses the sum of avoided utility costs and avoided probable environmental costs to quantify the savings obtained by substituting the end-use measure for supply resources.*

(46) Probable environmental *]cost* means the expected cost to the utility of complying with new or additional environmental *[laws, regulations]* legal mandates, taxes or other requirements that, **in the judgment of the** utility decision-makers *[judge]*, may be imposed at some point within the planning horizon which would result in compliance costs that could have a significant impact on utility rates.

(46) Public counsel means the public counsel of the state of Missouri or their designated representative.

(47) Realistic achievable potential of a demand-side candidate resource option or portfolio is an estimate of the load impact that would occur if that resource option or portfolio were implemented in amounts consistent with the most aggressive cost-effective implementation of the resource option or portfolio considered by the utility.

(48) Renewable energy means electricity generated from a source that is classified as a renewable energy source under a state or federal renewable energy standard to which the utility is subject.

(49) Resource acquisition strategy means a preferred resource plan, an implementation plan/ and], a set of contingency [options for responding to]resource plans and the events or circumstances that would [render the preferred plan obsolete.]result in the utility moving to each contingency resource plan. It includes the type, estimated size and timing of resources that the utility plans to achieve in its preferred resource plan.

(/48/50) Resource plan means a particular combination of demand-side and supply-side resources to be acquired according to a specified schedule over the planning horizon.

(/49/51) Resource planning means the process by which an electric utility evaluates and chooses the appropriate mix and schedule of supply-side[and], demand-side, and distribution and transmission resource additions and retirements to provide the public with an adequate level, quality and variety of end-use energy services.

(/50) Screening test or cost-effectiveness test means the probable environmental benefits test for demand-side measures and the total resource cost test for demand-side programs.

(51/52) RTO means Regional Transmission Organization.

(53) Special contemporary issues means a written list of issues prepared by commission staff with input from public counsel and intervenors that are evolving new issues, which may not otherwise have been addressed by the utility or continuations of unresolved issues from the preceding triennial compliance filing or annual update filing. Each utility shall evaluate and incorporate special contemporary issues in its next triennial compliance filing or annual update filing.

(54) Stakeholder group means:

(A) Staff, public counsel, and any person or entity granted intervention in a prior Chapter 22 proceeding of the electric utility. Such persons or entities shall be a party to any subsequent related Chapter 22 proceeding of the electric utility without the necessity of applying to the commission for intervention; and

(B) Any person or entity granted intervention in a current Chapter 22 proceeding of the electric utility.

(55) Subjective probability means the judgmental likelihood that the outcome [represented by each branch of a chance node]will actually occur. [The sum of the probabilities associated with the branches of a single chance node must equal one (1). This means that the specified set of potential outcomes must be exhaustive and mutually exclusive.

(52) Sulfur dioxide emission allowance is an authorization to emit, during or after a specified calendar year, one (1) ton of sulfur dioxide, as defined in Title IV of the Clean Air Act Amendments of 1990, 42 USC 7651a(3).]

(/53/56) Supply-side resource or supply resource means any device or method by which the electric utility can provide to its customers an adequate level and quality of electric power supply.

(/54/57) Technical potential of a **demand-side candidate resource option or portfolio** is an *[end-use measure is an]*estimate of the load impact that would occur if that *[measure]***resource option or portfolio** were *[installed]***implemented** at every location in the utility's service territory where the *[measure]***resource option or portfolio** is technically feasible but has not yet been *[installed]***implemented**.

(/55/58) Total resource cost test is a test of the cost-effectiveness of demand-side programs or **demand-side rates** that compares the sum of avoided utility costs plus avoided probable environmental costs to the sum of all incremental costs *[off]***related to the end-use measures** that are implemented due to the program or **related to the rates** (including both utility and participant contributions), plus utility costs to administer, deliver and evaluate each demand-side program or **demand-side rate** to quantify the net savings obtained by substituting the demand-side program or **demand-side rate** for supply-side resources.

(/56/59) Uncertain factor means any event, circumstance, situation, relationship, causal linkage, price, cost, value, response or other relevant quantity which can materially affect the outcome of resource planning decisions, about which utility planners and decision-makers have incomplete or inadequate information at the time a decision must be made.

(/57/60) Utility costs are the costs of operating the utility system and developing and implementing a resource plan that are incurred and paid by the utility. On an annual basis, utility cost is synonymous with utility revenue requirement.

(/58/61) The utility cost test is a test of the cost-effectiveness of demand-side *[programs]***programs or demand-side rates** that compares the avoided utility costs to the sum of all utility incentive payments, plus utility costs to administer, deliver and evaluate each demand-side program or **demand-side rate** to quantify the net savings obtained by substituting the demand-side program or **demand-side rate** for supply-side resources.

[(59) The utility benefits test is a test of the cost-effectiveness of end-use measures that uses avoided utility costs to quantify the savings obtained by substituting the end-use measure for supply resources.]

(/60/62) Utility discount rate means the post-tax rate of return on net investment used to calculate the utility's annual revenue requirements.

(/61/63) Weather measure means a function of daily temperature data that reflects the observed relationship between electric load and temperature.

*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.

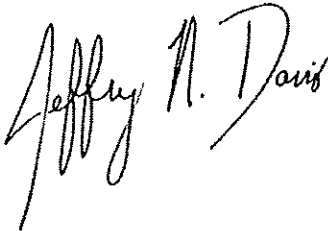
The findings of the Wood Mackenzie report ought to send a shiver down the spine of everyone here at the PSC as well as anyone employed by a Missouri utility. More than 80% of the electricity consumed in this state is fueled by coal. Collectively, Missouri utilities probably own around 10,000 megawatts 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 25th day of October, 2010.

Small Business Regulatory Fairness Board

Small Business Impact Statement

Date: 9-13-2010

Rule Number: 4 CSR 240-22.020

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.