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June 5, 2009

Re: Missouri Renewable Energy Standard/  
Proposition C Rulemaking

**RES Rulemaking Participants:**

Thanks to all of you for your work in the first phase of the Renewable Energy Standard (RES) rulemaking process. The comments, recommendations, and workshop discussions have provided significant value to this process. It is vitally important that representatives of all diverse stakeholders play an active role in formulation of concepts and actual language. The implementation of renewable energy standards in our state and other locations will have an impact on our future and will affect the lives of all Missourians.

The Staff has completed an updated draft of the proposed rule. During the course of incorporating comments and recommendations from the last workshop, Staff has significantly modified the portion of the draft rule that addresses Cost Recovery and Pass-through of Benefits to be more consistent with the rule being adopted by the Commission for the Environmental Cost Recovery Mechanism (ECRM). In making this change, an additional rule was deemed advisable to specify filing and submission requirements akin to the ECRM. The Staff is offering these changes for consideration as alternatives. The draft rule that has been discussed at the workshops will be in chapter 4 CSR 240-20, while the additional procedural rule will be in chapter 4 CSR 240-3. Both rule drafts are attached for your consideration.

During the course of any rulemaking process, the ideal conclusion is to reach consensus of all stakeholders on all or as many issues as possible. Unfortunately, in this instance, reaching a consensus may prove too difficult to achieve. While the RES rulemaking process has identified many topics where there appears to be consensus, some items remain unresolved. The timing and sequencing of the legislative and initiative petition activities have resulted in a number of unresolved issues and the ambiguities or differences of various statutes may prevent any further progress at this stage of the rulemaking process.

It is my understanding that consensus has been reached on most of the language and conceptual aspects of the rules with the exception of the disputed issues listed below:

1. Implementation or interpretation of the 1% retail rate increase in §393.1030.2(1) and 393.1045;
2. Utility RES cost recovery or benefit pass-through details in §393.1030.2(4) and 393.1045;
3. Geographic sourcing of RECs §393.1030.1;
4. Applicability of §393.1050 regarding the solar exemption;
5. Solar “carve out” portfolio requirements, §393.1030.1; and
6. Validity of §393.1035 because of conflicting language in Proposition C and §393.1040.

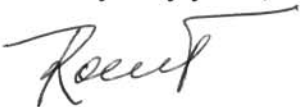
It is my hope that you will consider these proposals and help craft the final version in a manner that will attract support. The Commission is willing to take any reasonable action necessary to foster a productive dialogue and work session to lawfully address any potential problems in the rules and eliminate any of the potentially unresolved items mentioned above. If you believe that an additional workshop would be helpful, please advise in your filings with the Commission in this case or by communicating any suggestions to Mike Taylor at michael.taylor@psc.mo.gov or at 573-526-5880.

Following this last sequence of comments and review, the Staff will develop a final version of the proposed rules to submit to the Commission. The Commission will then direct which drafts will begin the formal rulemaking process pursuant to Chapter 536. Following the Commission’s initial review of the proposed rules, they will be delivered to the Department of Economic Development for a basic review. Upon the rules’ return to the PSC, the Commission will direct the Secretary of State to publish the rules in the Missouri Register to begin the formal rulemaking process. This will open a formal comment period, followed by public hearings.

**Your continued participation through the final phases of the rulemaking process is encouraged since additional changes in the proposed rules will be based on the filed comments and public hearings.** Any changes at this point must be made based on the record of public comment and hearings.

Thank you for your participation in this process as I hope that it has been open, transparent, informative and constructive. Regardless of how the Commission ultimately decides each issue, it is my hope to reach as much consensus as the circumstances allow. The Staff, especially Mike Taylor, is to be commended for their diligent efforts and attention to detail in drafting rules that are complex and new to Missouri. Please do not hesitate to contact me while we are in the workshop stage if you have any questions, concerns or observations about the process.

Very truly yours,



Robert M. Clayton III, Chairman  
Missouri Public Service Commission

Attachments