

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration of Adoption)	
of the PURPA §111(d)(11) Net Metering)	
Standard as Required by §1251 of the Energy)	Case No. EO-2006-0493
Policy Act of 2005.)	

STAFF’S RESPONSE TO COMMISSION’S DECEMBER 26, 2006 ORDER

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and respectfully states as follows:

1. A threshold question in this proceeding is whether or not, under the Energy Policy Act of 2005 (“EPAAct 2005”), prior state action exempts the Commission from having to consider and determine whether to adopt the Net Metering Standard, which was added to the Public Utility Regulatory Policies Act of 1978 (“PURPA”) standards by EPAAct 2005. If the Commission decides that the prior state action exemption applies, under the federal law it need not pursue the matter any further. Instead, the Commission may simply issue an order to that effect and close the case.

2. On December 26, 2006, the Commission issued an Order directing any party wishing to file an additional pleading on the applicability of the prior state action exemption to the Net Metering Standard, to do so by February 9, 2007. An analogous order was issued in each of the other four cases ---Case Nos. EO-2006-0494, EO-2006-0495, EO-2006-0496 and EO-2006-0497---established to address the other newly created PURPA standards.

3. The exemption language is set forth in 16 USC §2622(d), which provides: “Prior State Actions – Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 2621(d) of this title in the case of any electric utility in a State if, before August 8, 2005-

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.”

4. 16 U.S.C. §2621(d)(11) describes the Net Metering Standard as follows:

NET METERING – Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

5. The Staff believes that the prior state action exemption is applicable with respect to the Net Metering Standard because Missouri law already provides for net metering. Section 386.887 RSMo 2005, known as the “Consumer Clean Energy Act” (enacted in 2002), spells out, in some detail, the requirements for net metering in this state. The Commission subsequently conducted a proceeding that culminated in its adoption of the implementing rule (4 CSR 240-20.065). Although the Missouri statute caps generating capacity of generating systems eligible for net metering service at 100 kW, the Staff is not aware of any application for net metering service that has been denied because the generating capacity cap was triggered. In any event, the net metering regime set forth in the Missouri statute qualifies as “comparable” to the broadly worded federal standard.

WHEREFORE, the Staff respectfully recommends that the Commission issue an Order finding that the prior state action exemption of EPAct 2005 applies to the Net Metering Standard, and closing this case.

Respectfully submitted,

/s/ Dennis L. Frey

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed by first-class mail, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 9th day of February 2007.

/s/ Dennis L. Frey