

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

IN ADDITION

**4 CSR 240-20.100 Electric Utility Renewable Energy Standard
Requirements**

On January 24, 2011, Senate Concurrent Resolution No. 1 regarding 4 CSR 240-20.100 was adopted by the Senate and was concurred in by the House of Representatives on February 1, 2011. On February 16, 2011, the governor sent a letter to the speaker of the Missouri House of Representatives and the president pro tem of the Missouri Senate serving as notice of his action on the resolution.

This concurrent resolution upheld a ruling issued by the Joint Committee on Administrative Rules on July 1, 2010, disapproving subsection (2)(A) and paragraph (2)(B)2. of 4 CSR 240-20.100. The concurrent resolution permanently disapproves and suspends the final order of rulemaking for the proposed amendment to the above stated subsection and paragraph.

Subsection (2)(A) and paragraph (2)(B)2. will both continue to appear as “Reserved” in the *Code of State Regulations*.

A copy of the letter issued by the governor and a copy of Senate Concurrent Resolution No. 1 is published below.



GOVERNOR OF MISSOURI

JEFFERSON CITY
65102

JEREMIAH W. (JAY) NIXON
GOVERNOR

P.O. Box 720
(573) 751-3222

February 16, 2011

Honorable Robert N. Mayer
Senate President Pro Tem
State Capitol, Room 326
Jefferson City, MO 65101

Honorable Steven Tilley
Speaker of the House
State Capitol, Room 308
Jefferson City, MO 65101

Honorable Victor Callahan
Senate Minority Floor Leader
State Capitol, Room 333
Jefferson City, MO 65101

Honorable Mike Talbot
House Minority Floor Leader
State Capitol, Room 204
Jefferson City, MO 65101

Dear Gentlemen:

This letter shall serve as notice of my action on Senate Concurrent Resolution No. 1.

On January 26, 2011, the Public Service Commission approved an order withdrawing 4 CSR 240-20.100 (2)(A) and 4 CSR 240-20.100(2)(B)2 pertaining to geographic sourcing. Twelve days later, on February 7, 2011, I was presented with Senate Concurrent Resolution No. 1 which purports to disapprove those same regulations. The action of the Public Service Commission approving an order to withdraw the relevant regulations renders Senate Concurrent Resolution No. 1 moot and therefore makes the approval or disapproval of Senate Concurrent Resolution No. 1 unnecessary.¹

Sincerely,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", written over a circular embossed seal.

Jeremiah W. (Jay) Nixon
Governor

c: Terry Spieler, Secretary of the Senate
D. Adam Crumbliss, Chief Clerk / House Administrator

¹ I am cognizant of the argument asserted by two members of the Public Service Commission that the Commission lacked authority to withdraw these regulations. I disagree with that view and find that the Public Service Commission was clearly vested with the necessary power to issue its January 26, 2011 order. While I am not approving this legislative resolution rendered unnecessary by mootness, I recognize that my action will allow Senate Concurrent Resolution No. 1 to become effective through Article III, Section 31 of the Missouri Constitution. This approach will not change the inevitable result – the relevant rules being withdrawn – but will eliminate future uncertainty surrounding the status of these rules and appropriately return our collective focus to developing a vibrant renewable energy industry in Missouri.

**SENATE CONCURRENT RESOLUTION NO. 1**

Relating to disapproval under Article IV, Section 8 of the Missouri Constitution the final order of rulemaking for the proposed amendment to 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2 regarding the Electric Utility Renewable Energy Standard Requirements.

WHEREAS, the Public Service Commission filed a proposed amendment for 4 CSR 240-20.100 on January 8, 2010, and filed the order of rulemaking with the Joint Committee on Administrative Rules on June 2, 2010 and filed an amended order of rulemaking with the Joint Committee on Administrative Rules on July 1, 2010; and

WHEREAS, the Joint Committee on Administrative Rules held hearings on June 24, June 30, and July 1, 2010, and has found 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, lacking in compliance with the provisions of Chapter 536, RSMo:

NOW THEREFORE BE IT RESOLVED that the General Assembly finds that the Public Service Commission has violated the provisions of Chapter 536, RSMo, when it failed to comply with the provisions of section 536.014, RSMo; and

BE IT FURTHER RESOLVED that the Ninety-sixth General Assembly, upon concurrence of a majority of the members of the Senate and a majority of the members of the House of Representatives, hereby permanently disapproves and suspends the final order of rulemaking for the proposed amendment to 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, Electric Utility Renewable Energy Standard Requirements; and

BE IT FURTHER RESOLVED that a copy of the foregoing be submitted to the Secretary of State so that the Secretary of State may publish in the Missouri Register, as soon as practicable, notice of the disapproval of the final order of rulemaking for the proposed amendment to 4 CSR 240-20.100(2)(A) and 4 CSR 240-20.100(2)(B)2, upon this resolution having been signed by the Governor or having been approved by two-thirds of each house of the Ninety-sixth General Assembly, First Regular Session, after veto by the Governor as provided in Article III, Sections 31 and 32, and Article IV, Section 8 of the Missouri Constitution; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the Governor in accordance with Article IV, Section 8 of the Missouri Constitution.

Terry L. Spieler, Secretary of the Senate, and D. Adam Crumbliss, Chief Clerk of the House, do hereby certify that the aforementioned is a true and correct copy of Senate Concurrent Resolution No. 1, adopted by the Senate on January 24, 2011, and concurred in by the House on February 1, 2010.



Robert W. Mager

PRESIDENT PRO TEM OF THE SENATE

Steven Siller

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR