

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(12) Fuel Sources) **Case No. EO-2006-0494**
Standard as Required by Section 1251 of the)
Energy Policy Act of 2005.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(13) Fossil Fuel) **Case No. EO-2006-0495**
Generation Efficiency Standard as Required by)
Section 1251 of the Energy Policy Act of 2005.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(14) Time-Based)
Metering and Communications Standard as) **Case No. EO-2006-0496**
Required by Section 1252 of the Energy Policy)
Act of 2005.)

In the Matter of the Consideration of Adoption)
of the PURPA Section 111(d)(15) Interconnection) **Case No. EO-2006-0497**
Standard as Required by Section 1254 of the)
Energy Policy Act of 2005.)

ORDER AND NOTICE REGARDING CLASSIFICATION OF CASES AND **EX PARTE RULE**

Issue Date: March 7, 2007

Effective Date: March 7, 2007

On June 23, 2006, the Commission granted its Staff's motions requesting that the Commission establish cases for these matters. When filed, Staff's motions designated these cases with the letters EO, implying that they were contested cases. In reality, these

matters are workshop cases, opened for the determination if a rulemaking proceeding will be required.

The Missouri Administrative Procedures Act defines a contested case as “a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing.”¹ Determination of contested cases involves the Commission’s exercise of its judicial power. Workshop cases, such as these, do not constitute contested cases, even if they result in a determination that the Commission will engage in rulemaking. Rulemaking is an exercise of the Commission’s legislative power.²

In contrast to an adjudicatory, trial-type hearing in the nature of that in a contested case, rulemaking procedures contemplate that the Commission will meet interested members of the public face to face providing an opportunity for oral presentation and comment.³ Consequently, the Commission’s *ex parte* contact rules do not apply in these matters.

IT IS ORDERED THAT:

1. Commission case numbers EO-2006-0493, EO-2006-0494, EO-2006-0495, EO-2006-0496, EO-2006-0497 are classified as workshop cases.
2. The Commission’s *ex parte* rule, Commission Rule 4 CSR-240.4.020, is inapplicable to the cases identified in ordered paragraph number 1.

¹ Section 536.010(2).

² “The identifying badge of a modern administrative agency is the combination of judicial power (adjudication) with legislative power (rulemaking).” *McNeil-Terry v. Roling*, 142 S.W.3d 828, 835 (Mo. App. 2004).

³ *State ex rel. Atmos Energy Corp. v. Public Service Com’n of State*, 103 S.W.3d 753, 759-760 (Mo. banc 2003).

3. This order shall become effective on March 7, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Harold Stearley, Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 7th day of March, 2007.