

**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 SUGGESTIONS REGARDNG FUTURE PROCEEDINGS

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and for its Second Proposed Procedural Schedule, respectfully states as follows:

1. This case was opened for the purpose of establishing a record of the Commission’s consideration and determination whether to adopt the Net Metering Standard established by §1251 of the Energy Policy Act of 2005 (“EPAAct 2005”).

2. On August 17, 2006, the Commission issued an Order directing the parties to file a proposed procedural schedule by September 29, 2006. In addition, the Order scheduled a technical conference for September 22, 2006, and directed the parties to file pleadings offering their responses to three items of inquiry, essentially dealing with how to proceed with this matter. Analogous orders were issued also on August 17 in four other cases (Case Nos. EO - 2006-0494, ER-2006-0495, ER-2006-0496 and ER-2006-0497) addressing the other new standards established by EPAAct 2005. The Staff and the other parties filed their responses prior to the September 22, 2006 technical conference, which was held for the purpose of determining whether a consensus could be reached concerning a recommendation to the Commission as to how the Commission should rule in this matter, and in any event, how this case should be treated procedurally.

3. The technical conference revealed that it is not yet possible for the parties to develop a detailed procedural schedule in this case (or in any of the other companion cases mentioned above). It was decided, therefore, that the Staff should file a pleading setting out its general view as to how to proceed from this point, and reflecting to the extent possible, the views of the other parties. The other parties should then be allowed a period of time in which to respond to the Staff's pleading.

4. The threshold question to be answered is whether this case may be closed based on "prior state actions" as provided in Section 1251 (b)(3) of the Act [16 U.S.C. 2622(d)]¹. The Staff believes, along with a number of other parties, that the enactment of Section 386.887 RSMo, also known as the Consumer Clean Energy Act, and the Commission's adoption of implementing Rule 4 CSR 240-20.065 Net Metering constitute such prior state actions for purposes of EAct 2005, and that as a consequence, this case may be closed. However, not all parties agree that these actions qualify for the federal "prior state actions" exemption. Rather, some parties believe that modifications to the existing statute and rule will be necessary in order to bring it into compliance with federal law.

5. In its September 15, 2006 Response to the aforementioned August 17, 2006 Commission Order, the Staff expressed its view that this case should be consolidated with case

¹ 16 USC §2622(d) provides: "Prior State Actions- Subsection (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

- (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."

No. EO-2006-0497, which addresses the new Interconnection Standard. However, based on the discussion at the technical conference, the Staff is now of the opinion, particularly in light of the fact that under EAct 2005, the Commission's determination with respect to the Interconnection Standard must occur one year earlier than the determination deadline regarding the Net Metering Standard, that instead of consolidating, it would be preferable to process the two cases on independent tracks.

6. Specifically, the Staff proposes the following for further processing of the matters in the case:

- a) An EX docket should be opened as soon as possible for the purpose of considering limited revisions to Rule 4 CSR 240-20.065 Net Metering that can be made within the parameters of Section 386.887 RSMo. Specifically, a prompt opening of this docket is necessary to accommodate an immediate need for timely consideration of the Interconnection aspect of the rule, which needs a Commission determination no later than August 8, 2007.
- b) An EW docket should be opened for the limited purpose of developing proposed revisions to Section 386.887 RSMo, with resulting recommendations due by June 1, 2007.
- c) The instant case should remain open for an eventual Commission determination regarding the adoption of the Net Metering Standard pending the results of the rulemaking docket.

7. The other parties to this proceeding should be permitted until October 13, 2006 to file pleadings in response to this Staff pleading.

WHEREFORE, the Staff respectfully submits its Suggestions Regarding Future Proceedings, and requests that any party wishing to respond to this pleading be given until October 13, 2006 to do so.

Respectfully submitted,

/s/ Dennis L. Frey

Dennis L. Frey
Senior Counsel
Missouri Bar No. 44697
Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-8700 (telephone)
573-751-9285 (fax)
e-mail: denny.frey@psc.mo.gov

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 29th day of September 2006.

/s/ Dennis L. Frey