



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

October 13, 2006

FILED³

OCT 13 2006

Public Service Commission
Governor Hotel
200 Madison Street
Jefferson City, MO 65102

Missouri Public
Service Commission


RE: *In the Matter of the Consideration of Adoption of the PURPA:*
Section 111(d)(11), Case No. EO-2006-0493
Section 111(d)(12), Case No. EO-2006-0494
Section 111(d)(13), Case No. EO-2006-0495
Section 111(d)(15), Case No. EO-2006-0497

Dear Sir/Madam:

Enclosed for filing please find an original and 9 copies of the Department of Natural Resources' Response to Staff's Suggestions Regarding Future Proceedings in the above-styled cases. Please stamp "filed" on the extra copies for my files. Thank you.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General


SHELLEY A. WOODS
Assistant Attorney General

SAW:mg
Enclosure
c: Counsel of Record

FILED³

OCT 13 2006

Missouri Public
Service Commission

**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 Standard as Required by)
Section 1251 of the Energy Policy Act of 2005)**

Case No. EO-2006-0493

**Department of Natural Resources' Response to Staff's Suggestions Regarding
Future Proceedings**

COMES NOW the Missouri Department of Natural Resources and
respectfully states as follows:

On September 29, 2006, Staff of the Missouri Public Service Commission
filed "Staff's Suggestions Regarding Future Proceedings" following the technical
conference held among the parties on September 22, 2006. According to this
Commission's Order, the other parties may file pleadings in response to the Staff
filing by October 13, 2006.

In its filing Staff stated that they, along with a number of other parties,
believe the enactment of Section 386.887, RSMo, also known as the Consumer
Clean Energy Act, and the Commission's adoption of 4 CSR 240-20.065, Net
Metering, constitute prior state actions for the purposes of EAct 2005, and that
consequently the above-styled case may be closed. Staff noted that not all parties
agree that these actions constituted "prior state actions" that would qualify for the
federal exemption.

Staff went on to then recommend that this Commission institute several
further proceedings: (a) an EX docket to consider limited revisions to 4 CSR 240-

20.065 that can be promulgated within the parameters of Section 386.887, RSMo; (b) an EW docket for the limited purpose of developing proposed revisions to Section 386.887, RSMo; and (c) leaving the instant case open for an eventual Commission determination pending the results of the rulemaking docket.

The Department of Natural Resources does not agree that the enactment of Section 386.887, RSMo and the Commission's adoption of 4 CSR 240-20.065, Net Metering, constitute prior state action. To constitute a prior state action as defined in Section 1254 (b)(3) of EPAct, 16 U.S.C. 2622(f), the state must have implemented, or conducted a proceeding to consider implementation or voted on implementation of the standard concerned or a comparable standard.

The department does not believe Section 386.887, RSMo or 4 CSR 240-20.065 are comparable to the EPAct Net Metering Standard, and for this reason, do not constitute prior state action for purposes of EPAct 2005. In the Department's Responses to Questions Posed in the August 17, 2006, Commission Order filed on September 15, 2006, the department provided its reasons in support of this position. The department will not repeat those reasons here, but will cite the Commission to its September 15, 2006, Response.

The department agrees with Staff's recommendation to open an EW docket for the purpose of convening a working group to identify and document any potential revisions to Missouri's statute (Section 386.877, RSMo) that would be necessary for Missouri to adopt the EPAct Net Metering Standard. The department also recommended this action in its September 15, 2006, Response.

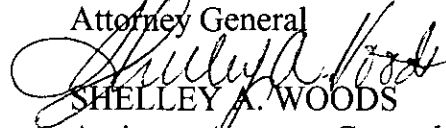
However, because of the fundamental differences between the EAct Net Metering Standard and Section 386.887, RSMo, the department does not believe opening a separate EX docket to consider limited revisions to 4 CSR 240-20.065 that can be made within the parameters of Section 386.887, RSMo will be productive. Without revisions to key language in the net metering provisions of the statute (e.g., the definition of net metering), any revisions to the rule that would be within the parameters of Section 386.887, RSMo would not be sufficient to adopt the EAct Net Metering Standard should that be the Commission's determination.

The department supports Staff's recommendation to keep the instant case open for an eventual Commission determination on the EAct Net Metering Standard, which, according to EAct, must be made by August 2008.

WHEREFORE, the Department of Natural Resources respectfully submits its response to Staff's Suggestions regarding Future Proceedings.

Respectfully submitted,

JEREMIAH W. (JAY) NIXON,
Attorney General



SHELLEY A. WOODS
Assistant Attorney General
MBE #33525

P. O. Box 899
Jefferson City, MO 65102
Telephone (573) 751-8795
TELEFAX No. (573) 751-8464
shelley.woods@ago.mo.gov

Attorneys for Missouri Department of
Natural Resources
CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by mailing a copy thereof, via U.S. Mail, this 13th day of October, 2006, to:

Steve Dottheim
Chief Deputy General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Lewis R. Mills, Jr.
Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102

Thomas Byrne
1901 Chouteau Avenue
P.O. Box 66149 (MC 1310)
St. Louis, MO 63166-6149

Kathleen Henry
Henry Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101

Diana Vuysteke
211 North Broadway, Suite 3600
St. Louis, MO 63102

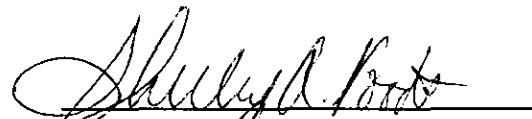
Dennis Frey
Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

James Lowery
David Kurtz
111 South Ninth Street, Suite 200
P.O. Box 918
Columbia, MO 65202-0918

Russell Mitten
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102

Curtis Blanc
1201 Walnut, 20th Floor
Kansas City, MO 64106

David Woodsmall
428 East Capitol Avenue, Suite 300
Jefferson City, MO 65102


Shelley A. Woods
Assistant Attorney General