



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Michael L. Parson
Governor

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Director

May 29, 2024

Missouri Public Service Commission
200 Madison St.
PO Box 360
Jefferson City, MO 65102-0360

RE: File No. OX-2024-0256

Dear Commissioners:

The Missouri Department of Natural Resources' Division of Energy (DE) provides the following comments on the proposed amendment to 20 CSR 4240-2.075. In summary, given the possibility that DE could intervene in a case to provide information but not take a position, we recommend striking the proposed language at 20 CSR 4240-2.075(2)(F) reading, "and when such a position could be asserted." In the alternative, DE proposes including an exemption from this proposed requirement for state agencies.

DE contains Missouri's federally recognized State Energy Office, administers the state's federal allocation of Low-Income Weatherization Assistance Program funds, and is vested with the powers and duties set forth in § 620.035, RSMo to:

- (1) Plan for future energy needs and energy resource development.
- (2) Monitor and analyze all federal, state, local and voluntarily disclosed private sector energy research projects and voluntarily disclosed private sector energy related data and information concerning supply and consumption.
- (3) Develop, promote, administer and monitor energy conservation programs.
- (4) Consult and cooperate with all state and federal governmental agencies, departments, boards and commissions and all other interested agencies and institutions, governmental and nongovernmental, public and private, on matters of energy research and development, management, conservation and distribution.
- (5) Analyze the potential for increased use of diverse energy sources, energy efficient technologies, and other energy alternatives and make recommendations for the expanded use of such alternate energy sources and technologies.

Under the proposed amendment to 20 CSR 4240-2.075, if an intervenor takes no position on the relief sought in a case, the intervenor would be required to submit an explanation as to why it takes no position and when the intervenor could be expected to assert a position. DE notes that the amendment could preclude its participation in an array of cases where it may intervene only to provide information on a topic (such as its operations), rather than to take a position on an issue.



The disadvantage created by this sort of situation could be more pronounced if no party raised the topic in question prior to an intervention deadline.

As an example, a utility might file a general rate case that does not specifically mention how it provides weatherization funding to community organizations. Even if the utility makes no proposal that would create the initial appearance of affecting these organizations' operations, subsequent filings (such as other parties' testimony or Stipulations and Agreements) could reveal or lead to potential impacts. Such impacts could affect the efficient use of the federal Low-Income Weatherization Assistance Program funds administered by DE through these organizations. We might then wish to provide information in the formal case record without taking a position.

Under the proposed amendment, the Commission could preclude timely intervention by DE absent a statement of when – if ever – we could take a position, even if we only wished to provide information in the case record in the event that a particular topic arose. Under the proposed amendment, DE could be precluded from being able to provide the Commission with useful evidence if a party raised a pertinent issue after the intervention deadline.

DE proposes that the Commission consider revising the amendment to remove the new language at 20 CSR 4240-2.075(2)(F) reading “and when such a position could be asserted.” The remaining provisions of 20 CSR 4240-2.075 would continue to require an intervention request to include a statement of the intervenor's unique interest in the case and potential positions, if any. In addition, potential intervenors would still need to demonstrate under 20 CSR 4240-2.075(3) that they have an interest different than that of the general public and which may be adversely affected by a final order arising from the case, or that granting the proposed intervention would serve the public interest.

In the alternative, if the proposed language is retained, DE proposes adding an exemption for state agencies in recognition of the relevant information they could provide in a formal case record. The language, which could be added to the end of the proposed text at 20 CSR 4240-2.075(2)(F), would read, “The requirement to indicate when a position could be asserted does not apply to a state agency.”

DE appreciates the opportunity to comment on this rulemaking. Please contact me with any questions.

Sincerely,

DIVISION OF ENERGY



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