

**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)	Case No. EO-2006-
the Energy Policy Act of 2005.)	

**MOTION TO ESTABLISH A CASE, PROVIDE NOTICE AND
SCHEDULE A PREHEARING CONFERENCE**

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and respectfully requests that the Commission establish a case, provide notice of this matter, set an intervention deadline and schedule an early prehearing conference, all for the purpose of establishing a record of its consideration and determination whether to adopt the Net Metering Standard established by §1251 of the Energy Policy Act of 2005. In support thereof, the Staff states as follows:

1. On August 8, 2005, the Energy Policy Act of 2005 (“EPAAct 2005” or “EPAAct”)¹ was signed into law. Among many other things, EPAAct 2005 amended various parts of the Public Utility Regulatory Policies Act of 1978 (“PURPA”).² PURPA’s general objectives are to encourage: (i) conservation of electric energy, (ii) efficiency in use of facilities and resources by electric utilities, and (iii) equitable rates to consumers of electricity.³ EPAAct incorporated five new standards in PURPA §111(d), i.e., new PURPA §111(d)(11)-(15).

¹ Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005).

² Appears generally in 16 U.S.C. §§ 2601, et seq. However, various provisions appear elsewhere in the United States Code.

³ PURPA §101.

2. In order to comply with EAct, the Commission is to consider and determine whether to adopt each of the new Section 111(d) standards with respect to each jurisdictional electric utility. The law prescribes various deadlines for the commencement of the Commission's consideration and for its determination as to whether or not it is appropriate to implement each standard to carry out PURPA's general objectives. Not all of the new PURPA §111(d) standards have the same deadlines. In the event the Commission decides to adopt a particular standard, specifics as to the implementation of that standard would then need to be addressed. Therefore, the Staff is recommending that the Commission address the new standards by establishing a separate EO case for each standard. Any or all of these cases could be consolidated at a later time if found appropriate by the Commission, but the Staff believes that separate dockets will provide the Commission the greatest flexibility.

3. The Staff requests that the instant case be created for the purpose of establishing a record of the Commission's consideration and determination related to whether to adopt the Net Metering Standard, i.e., new PURPA §111(d)(11), established by §1251 of EAct 2005. The Commission is required to commence consideration of this standard no later than August 8, 2007, and is further required to make a determination no later than August 8, 2008, whether:

Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric

utility to the electric consumer during the applicable billing period.
(PURPA §111(d)(11).)

The Staff views new PURPA §111(d)(11) Net Metering and new PURPA §111(d)(15) Interconnection as interrelated, and notes that the deadlines for the latter are more stringent in that the Commission is required to commence consideration of that standard no later than August 8, 2006, and is further required to make a determination respecting that standard no later than August 8, 2007.

4. Under PURPA §111(b), the Commission's consideration "shall be made after public notice and hearing" and the Commission's determination shall be in writing, based upon findings and upon the evidence presented at the hearing, and available to the public. PURPA §112(a) states that the Commission may consider and make the determination with respect to the standard "in any proceeding respecting the rates of the electric utility."

5. Under new PURPA §112(d) Prior State Actions, the obligation to consider the standard does not apply and no new consideration process is required if prior to the enactment of EPCA 2005: (i) the state implemented the standard or a comparable standard for electric utilities under the Commission's jurisdiction, (ii) the Commission conducted a proceeding considering the implementation of the standard or comparable standard for electric utilities under its jurisdiction, or (iii) the state's legislature voted on implementation of the standard or comparable standard for electric utilities under the Commission's jurisdiction.⁴

⁴ Currently, Commission rule 4 CSR 240-20.065, Net Metering, implements the Consumer Clean Energy Act (§386.887, RSMo Supp. 2002), which establishes standards for interconnection of qualified net metering units (generating capacity of one hundred kilowatts (100kW) or less) with retail electric power suppliers.

6. The Staff suggests that the Commission encourage electric utilities and intervenors to provide, as part of the intervention process, written comments and support regarding the threshold question of whether the Commission should find that Prior State Actions are comparable and meet the objectives of EAct 2005's Net Metering Standard.

7. The Staff also proposes that an early prehearing conference be scheduled for the purpose of developing an appropriate procedural schedule which will permit the Commission to meet the various requirements of §1251 of EAct. The procedural schedule should provide for the submission of testimony regarding the appropriateness of implementing the Net Metering Standard and, if relevant, specifics as to implementation. Parties should be directed to submit a proposed procedural schedule to the Commission within one (1) week following the early prehearing conference.

8. The early prehearing conference will allow parties the opportunity to explore whether an agreement can be reached and submitted to the Commission recommending either:

- a. no further action with respect to the Net Metering Standard due to the Commission qualifying for no further action under new PURPA §112(d) Prior State Actions; or
- b. further Commission action with respect to the Net Metering Standard in the instant case; or
- c. further Commission action with respect to the Net Metering Standard in some other case. For example, the Commission could:
 - i. open an EX (rulemaking) case, so that further evidence can be provided and considered for purposes of deciding the extent to which, if at all, implementation of the standard should be, or is required to be, in the form of a rule; or

- ii. direct individual electric utilities to include testimony regarding the need for and, if relevant, the extent of applicability of that standard, in either a pending general rate case or in its next general rate case filing.

9. Since the Staff is also filing motions to establish separate EO cases for each of the other new PURPA Sec. 111(d) standards, it would be helpful and efficient for the Commission to schedule simultaneous initial prehearing conferences for all these cases. Doing so would allow parties to discuss how to best coordinate and prioritize the consideration of these standards and develop procedural schedule recommendations.

10. Attached hereto (Appendix A) is a list of persons and entities to which this pleading is being mailed or e-mailed, including rural electric cooperatives and municipal electric utilities because of the jurisdiction of the Commission under §386.887 RSMo. This approach is the Staff's attempt to provide wide distribution of this pleading. However, the list is not intended to imply that each person or entity on this list should be a party to this proceeding, nor is it meant to imply that a person or entity not on this list should be excluded from this proceeding.

WHEREFORE, the Staff requests that the Commission: (1) create a case for the purpose of establishing a record of its consideration and determination of the matter of adopting the Net Metering Standard of §1251 of the Energy Policy Act of 2005 (new PURPA §111(d)(11)); (2) provide notice of this matter; (3) set an intervention deadline; (4) encourage electric utilities and intervenors to provide, as part of their applications or motions for intervention, written comments as to whether the Commission should determine that there is basis for finding that any utility within its jurisdiction qualifies under new PURPA §112(d) Prior State Actions of EPAAct 2005; and (5) schedule an early

prehearing conference simultaneous with other new PURPA §111(d) early prehearing conferences.

Respectfully submitted,

Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149
573-751-7489
e-mail: steve.dottheim@psc.mo.gov

/s/ Dennis L. Frey

Dennis L. Frey
Senior Counsel
Missouri Bar No. 44697
573-751-8700
e-mail: dennyfrey@psc.state.mo.us

Attorneys for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
573-751-9285 (Fax)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to those individuals on the attached list this 22nd day of June 2006.

/s/ Dennis L. Frey

Ameren Services Company

Tom Byrne
E-mail: tbyrne@ameren.com
Bus: (314) 554-2514

Wil Cooper
E-mail: wcooper@ameren.com
Bus: (314) 554-3248
Bus Fax: (314) 554-4679

Greg Lovett
E-mail: GLovett@ameren.com
Bus: (314) 554-6415
Mobile: (314) 602-9653

John Luth
E-mail: JLuth@ameren.com
Bus: (314) 992-6884

Bob Mill
E-mail: bmill@ameren.com
Bus: (314) 554-3734

Larry Pleus
E-mail: LPlaus@ameren.com
Bus: (573) 681-7202

Wendy Tatro
E-mail: wtatro@ameren.com
Bus: (314) 554-3484

Michael Whitmore
E-mail: MWhitmore@ameren.com
Bus: (314) 554-2380

Aquila, Inc.

Matt Tracy
E-mail: matt.tracy@aquila.com
Bus: (816) 737-7769

Missouri Department of Natural Resources

Anita Randolph
E-mail: anita.randolph@dnr.mo.gov
Bus: (573) 751-2254

Kurt Schaefer
E-mail: kurt.schaefer@dnr.mo.gov

Brenda Wilbers
E-mail: brenda.wilbers@dnr.mo.gov
Bus: (573) 751-8509

Shelley Woods
E-mail: shelley.woods@ago.mo.gov

The Empire District Electric Company

Brad Beecher
E-mail: BBeecher@empiredistrict.com
Bus: (417) 625-4260
Mobile: (417) 850-7960

Bill Eichman
E-mail: beichman@empiredistrict.com
Bus: (417) 625-5116

Dave Gibson
E-mail: dgibson@empiredistrict.com

Sherry McCormack
E-mail: SMcCormack@empiredistrict.com
Bus: (417) 625-6519
Bus Fax: (417) 625-5173

Todd Tarter
E-mail: ttarter@empiredistrict.com
Bus: (417) 625-6533

Kelly Walters
E-mail: kwalters@empiredistrict.com
Bus: (417) 625-6100

Kansas City Power & Light Company

Curtis Blanc
E-mail: curtis.blanc@kcpl.com
Bus: (816) 556-2483

John Grimwade
E-mail: john.grimwade@kcpl.com
Bus: (816) 556-2896

Lois Liechti
E-mail: Lois.Liechti@kcpl.com
Bus: (816) 556-2612

Paul Ling
E-mail: paul.ling@kcpl.com
Bus: (816) 556-2899

Sue Nathan
E-mail: susan.nathan@kcpl.com
Bus: (816) 654-1970

George Phillips
E-mail: george.phillips@kcpl.com
Bus: (816) 556-2648

Tim Rush
E-mail: tim.rush@kcpl.com
Bus: (816) 556-2344

Marsha Troy
E-mail: marsha.troy@kcpl.com
Bus: (816) 556-2327

Missouri Energy Development Association

Chuck Caisley
E-mail: chuck@missourienergy.org
Bus: (573) 634-8678

Missouri Public Service Commission

Angie Robyn
E-mail: angie.robbyn@psc.mo.gov
Bus: (573) 751-7504

Missouri Public Utility Alliance

Gerald Feller
E-mail: jfeller@mpua.org
Bus: (573) 445-3279

Duncan Kincheloe
2407 W. Ash
Columbia, MO 65203-0045
E-mail: dkincheloe@mpua.org
Bus: (573) 445-3279
Bus Fax: (573) 445-0680

Office of the Public Counsel

Ryan Kind
E-mail: ryan.kind@ded.mo.gov
Bus: (573) 751-5563

Lewis Mills
E-mail: lewis.mills@ded.mo.gov
Bus: (573) 751-1304

City Utilities of Springfield

Scott Miller
E-mail: scott.miller@cityutilities.net
Bus: (417) 831-8998

OTHER

Susan Brown
14 Mill St.
Dearborn, MO 64439
E-mail: s.brown@netzero.net
Bus: (816) 450-8948

Maurice Brubaker
E-mail: Mbrubaker@consultbai.com
Bus: (314) 275-7007
Beth Burka
E-Mail: bburka@energymat.com

Dan Chiles
E-mail: dchiles@wattsradiant.com

John Coffman
E-mail: john@johncoffman.net

Mark Comley
601 Monroe St., Suite 301
P.O. Box 537
Jefferson City, MO 65102
E-mail: comleym@ncrpc.com
Bus: (573) 634-2266
Bus Fax: (573) 634-3306

Stuart Conrad
3100 Broadway, Suite 1209
Kansas City, MO 64111
E-mail: stucon@fcplaw.com
Bus: (816) 753-1122
Bus Fax: (816) 756-0373

Travis Creswell
E-mail: ozsolar@ipa.net

Ed Irvine (Harvest Station)
E-mail: info@harveststation.com

Sandy Fernstrom
E-mail: SFernstrom@twacs.com

Jeremiah Finnegan
3100 Broadway, Suite 1209
Kansas City, MO 64111
E-mail: jfinnegan@fcplaw.com
Bus: (816) 753-1122
Bus Fax: (816) 756-0373

James Fischer
101 Madison, Suite 400
Jefferson City, MO 65101
E-mail: jfischerpc@aol.com
Bus: (573) 636-6758
Bus Fax: (573) 636-0383

Jay Hasheider
E-mail: rjh@gocolumbiamo.com
Bus: (573) 874-7685

Kathleen Henry
705 Olive Street, Suite 614
St. Louis, MO 63101
E-mail: khenry@greatriverslaw.org
Bus: (314) 231-4181
Bus Fax: (314) 231-4184

Jackie Hutchinson
E-mail: jackieh@hdstl.org
Bus: (314) 613-2200 x-1010

Bob Jackson
E-mail: Robert_T_Jackson@kcmo.org

Craig Johnson
E-mail: craig@csjohnsonlaw.com
Bus: (573) 632-1900

Nathan Jones
E-mail: powersourcesolar@aol.com

Lisa C. Langeneckert
911 Washington Avenue
St. Louis, MO 63101-1290
E-mail: llangeneckert@stolarlaw.com
Bus: (314) 641-5158
Bus Fax: (314) 436-8400
Mobile: (314) 973-5743

Frank Lewon
E-mail: bzp@bzproducts.net

Eve Lissik
2407 W. Ash
Columbia, MO 65203-0045
E-mail: elissik@mpua.org
Bus: (573) 445-3279
Bus Fax: (573) 445-0680

Bill Loesch
E-mail: bill_loesch@compuserve.com

Ken McClure
E-mail: ken.mcclure@mo.gov
Bus: (573) 751-5261

Ron McLinden
E-mail: ronmclinden@yahoo.com

Tim Miller
E-mail: tim@missourienergy.org
Bus: (573) 634-8678

Craig Paulson
E-mail: craig.paulson@tyndall.af.mil

Bob Quinn
E-mail: bquinn74@earthlink.net
Bus: (573) 635-1370

Henry Rentz
John Ervin
Missouri Valley Renewable Energy
2378 Berkemeyer Rd.
Hermann, MO 65041
E-mail: solucionesdeenergia@yahoo.com

Bill Roush
E-mail: billroush@gmail.com
Bus: (816) 868-9695

Andrew Sporleder
E-mail: asporleder@lawofficemo.com

James Swearengen
Brydon, Swearengen & England, P.C.
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102
E-mail: ltrackers@brydonlaw.com
Bus: (573) 635-7166

Diana Vuylsteke
211 N. Broadway, Suite 3600
St. Louis, MO 63102
E-mail: dmvuylsteke@bryancave.com
Bus: (314) 259-2543
Bus Fax: (314) 259-2020

Tom Werdenhouse
E-mail: twerdenh@threeiverselectric.com
Bus: (573) 897-2251
P. J. Wilson
E-mail: serendipity1234@yahoo.com