

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(16) Consideration)	
of Smart Grid Investments Standard as Required)	Case No. EW-2009-0290
by Section 1307 of the Energy Independence and)	
Security Act of 2007.)	

In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(16) Integrated)	
Resource Planning Standard as Required by)	Case No. EW-2009-0291
Section 532 of the Energy Independence and)	
Security Act of 2007.)	

In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(17) Rate Design)	
Modifications to Promote Energy Efficiency)	Case No. EW-2009-0292
Investments Standard as Required by Section)	
532 of the Energy Independence and Security)	
Act of 2007.)	

In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(17) Smart Grid)	
Information Standard as Required by Section)	Case No. EW-2009-0293
1307 of the Energy Independence and Security)	
Act of 2007.)	

**STAFF’S RESPONSE TO ORDER SETTING DATE FOR FILING PROCEDURAL
SCHEDULES AND REQUEST FOR LEAVE TO LATE-FILE**

Comes now the Staff of the Missouri Public Service Commission (“Staff”) through the Office of the General Counsel of the Missouri Public Service Commission (“Commission”) in response to the Commission’s February 11, 2009 Order Granting Leave To Late-File Proposal For Determining Procedural Schedules And Setting Deadlines For Proposals And Responses. The Staff also requests (a) leave to late-file this response and (b) that other participants be afforded additional time from March 3, 2009 to respond, if they request additional time. The Staff states as follows regarding these matters:

1. The Commission in an Order issued December 17, 2008 directed the parties to the prior “EO” cases to jointly prepare and file proposed procedural schedules no later than February 9, 2009.¹ On February 11, 2009, the Staff filed Staff’s Response To Order Setting Date For Filing Procedural Schedules And Request For Leave To Late-File. The Commission in its February 11, 2009 Order Granting Leave To Late-File Proposal For Determining Procedural Schedules And Setting Deadlines For Proposals And Responses accepted the proposal that the Staff would file on February 19, 2009 its approach and procedural proposal(s) for the Commission addressing the four Public Utility Regulatory Policies Act (“PURPA”) electric standards in the Energy Independence and Security Act of 2007 (“EISA”) and the other parties would file their responses on March 3, 2009.

2. Specifically, EISA calls for the Commission to complete its consideration and make its determination with respect to the standards not later than two years after enactment of the standard, *i.e.*, by December 19, 2009, the standard having been enacted on December 19, 2007. If the Commission fails to consider a standard by the compliance deadline, the statute directs the Commission to consider and make a determination respecting the standard in the first rate proceeding commenced after the date three years after the December 19, 2007 date of enactment of the standard, *i.e.*, the first rate proceeding commenced after December 19, 2010, unless the Commission has already done so. (PURPA Section 112(c); 16 U.S.C. Section 2622(c)). The Staff is not advocating in this pleading whether or not a standard should or should not be adopted

¹ The Staff has received a request to identify which EO case was changed to which EW case. The EO cases were changed to the EW cases as follows:

EO-2009-0247 to EW-2009-0291

EO-2009-0248 to EW-2009-0292

EO-2009-0249 to EW-2009-0290

EO-2009-0250 to EW-2009-0293

by the Commission. The Staff is merely providing in this pleading its view whether the Commission has already considered the “new” PURPA / EISA standards. If the Staff believes that the Commission has not previously considered one of the new standards, the Staff is setting out in this pleading how the Staff proposes that Commission consider the new standard.

3. Proposition C (“Renewable Energy Standard” or “RES”), Sections 393.1025 and 393.1030, addresses renewable energy resources. “Green Power Initiative,” which was repealed by RES, directly addressed “energy efficiency.” Therefore, the Staff does not consider the RES rulemaking as relevant to the Commission considering any of the four new standards.

4. Case No. EW-2009-0290 addresses PURPA Section 111(d)(16) as required by Section 1307(a)(16) of EISA, which requires as follows:

(A) IN GENERAL – Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including --

- (i) total costs;
- (ii) cost-effectiveness;
- (iii) improved reliability;
- (iv) security;
- (v) system performance; and
- (vi) societal benefit.

(B) RATE RECOVERY – Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) OBSOLETE EQUIPMENT – Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

The Staff does not view that the entirety of this standard falls under the prior state action exemption. The Staff has indicated on a number of occasions that it has believed for some time that Chapter 22 Electric Utility Resource Planning is in need of a rule on transmission and distribution investment and the Staff intends to address this deficiency in the upcoming general review of Chapter 22. The Staff believes that Sections 1307(a)(16)(A) and (C) of EISA / PURPA Section 111(d)(16) will be considered in the review of Chapter 22 which the Staff plans based on the following schedule of three, two-day workshops: May 18-19, 2009, June 29-30 2009, and late July or early August 2009.² Since these proceedings are occurring in “EW” dockets, the Commissioners and their personal advisors are welcome to attend and participate in the workshops. The workshops are scheduled for the Ballroom of the Governor Office Building, 9:00 a.m. – 5:00 p.m. for the first day of each workshop, and 8:00 a.m. – 4:00 p.m. for the second day of each workshop. The goal is to submit a revised Chapter 22 to the Commission by mid- to late-September 2009 and place the matter on a Commission Agenda for Commission discussion in anticipation that there would be Commission direction to either (a) make revisions to the proposed order of rulemaking or (b) send it to the Department of Economic Development (“DED”) and the Joint Committee On Administrative Rules (“JCAR”) for DED, Small Business Regulatory Fairness Board, and JCAR processing, then submission to the Secretary of State as a Proposed Order Of Rulemaking.

Regarding Section 1307(a)(16)(B) / PURPA Section 111(d)(16), the Staff is not aware of any rate case in which the Commission has not allowed recovery from ratepayers of the capital, operating expenditures, and other costs relating to the deployment of a “qualified smart grid system,” including a reasonable rate of return on the capital expenditures for the deployment of

² Of course, rate relief itself, indicated by Sections 1307(a)(16)(B) and (C), cannot be effectuated outside the context of a rate case.

components of the “qualified smart grid system.” For example, electric utilities’ supervisory control and data acquisition (“SCADA”) systems monitor distribution and transmission facilities, and the costs of technological improvements to SCADA systems have been among the costs allowed recovery in rate cases by the Commission.

5. Case No. EW-2009-0291 addresses PURPA Section 111(d)(16) as required by Section 532(a)(16) of EISA, which requires as follows:

- (A) integrate energy efficiency resources into utility, State, and regional plans;
and
- (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

The Staff believes that this standard falls under the prior state action exemption as having been considered in the context of the Commission’s adoption of Chapter 22. The Staff would note that 4 CSR 240-22.010 Policy Objectives states in subsection (2)(A) that the electric utility shall:

Consider and analyze demand-side efficiency and energy management measures on an equivalent basis with supply-side alternatives in the resource planning process

6. Case No. EW-2009-0292 addresses PURPA Section 111(d)(17) as required by Section 532(a)(17) of EISA, which requires as follows:

- (A) IN GENERAL – The rates allowed to be charged by any electric utility shall –
 - (i) align utility incentives with the delivery of cost-effective energy efficiency; and
 - (ii) promote energy efficiency investments.
- (B) POLICY OPTIONS – In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider --
 - (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

(ii) providing utility incentives for the successful management of energy efficiency programs;

(iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

(iv) adopting rate designs that encourage energy efficiency for each customer class;

(v) allowing timely recovery of energy efficiency-related costs; and

(vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

The Staff believes that this standard falls under the prior state action exemption as having been considered in the context of the Commission's adoption of Chapter 22, and as being addressed subsequently in the electric resource plans filed by the electric corporations covered by Chapter 22, most recently Union Electric Company, d/b/a AmerenUE ("AmerenUE") in Case No. EO-2007-0409, Kansas City Power & Light Company ("KCP&L") in Case No. EE-2008-0034, Aquila, Inc., now KCP&L Greater Missouri Operations Company ("KCP&L GMO") in Case No. EO-2004-0298, and The Empire District Electric Company ("Empire") in Case No. EO-2008-0069.

7. Case No. EW-2009-0293 addresses PURPA Section 111(d)(17) as required by Section 1307(a)(17) of EISA, which requires as follows:

(A) STANDARD – All electricity purchasers shall be provided direct access, in written or machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) INFORMATION – Information provided under this section, to the extent practicable, shall include:

(i) PRICES – Purchasers and other interested persons shall be provided with information on –

- (I) time-based electricity prices in the wholesale electricity market; and
- (II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) USAGE. – Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) INTERVALS AND PROJECTIONS – Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) SOURCES – Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) ACCESS – Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

The Staff believes that facets of this standard have been addressed by the electrical corporations under the Commission’s jurisdiction, and, thus, there is prior state action. For example, ratepayers of electrical corporations under the Commission’s jurisdiction already are provided with the number of electricity units, expressed in kwh, purchased by them. Residential and commercial customers of electrical corporations under the Commission’s jurisdiction can see, though their electric utility’s website, their own usage and estimates of the usage of electric appliances. However, this standard in general has not been considered by the Commission. This

standard could be considered in the context of the rulemaking that is planned for the revision of Chapter 22 discussed above, and this is how the Staff proposes to meet this requirement.

8. Undersigned counsel for the Staff requests leave to late-file the Staff's response out-of-time. Undersigned counsel apologizes for the inconvenience to the Commissioners, Regulatory Law Judge, and parties, but the necessary members of the Staff encountered difficulty finding the time to discuss these matters, and undersigned counsel was unable to timely draft and file this response due to the demands of other Commission cases and other Commission business. The Staff requests that the other participants to these EW dockets be afforded additional time from March 3, 2009 to file responses, if they request additional time. (Intervention has not previously been required or deemed appropriate in an EW docket.)

Wherefore the Staff submits the proposal set out above for immediately addressing the matter of the Commission's consideration of the four Public Utility Regulatory Policies Act ("PURPA") electric standards in the Energy Independence and Security Act of 2007 ("EISA"), which standards are identified in the captions of the instant cases, EW-2009-0290, EW-2009-0291, EW-2009-0292, and EW-2009-0293. The Staff also requests leave to late-file this pleading and that other participants be afforded additional time from March 3, 2009 to respond, if they request additional time.

Respectfully submitted,

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record and individuals and entities on the Staff's electronic mail list of interested individuals and entities this 23rd day of February 2009.

/s/ Steven Dottheim