Exhibit No.:	
Issue:	*Pure Power/VGP*
Witness:	*Michael J. Ensrud*
Sponsoring Party:	*MO PSC Staff*
Type of Exhibit:	*Rebuttal Testimony*
Case No.:	*EO-2013-0307*
Date Testimony Prepared:	*February 5, 2013*

MISSOURI PUBLIC SERVICE COMMISSION

REGULATORY REVIEW DIVISION

UTILITY OPERATIONS DEPARTMENT

REBUTTAL TESTIMONY

OF

MICHAEL J. ENSRUD

UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

CASE NO. EO-2013-0307

Jefferson City, Missouri
February, 2013

** **Denotes Highly Confidential Information** **

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OF

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CASE NO. EO-2013-0307

Q. Please state your name and business address.

A. My name is Michael J. Ensrud, P.O. Box 360, Jefferson City, Missouri 65102.

Q. What are your qualifications to testify in this proceeding?

A. My qualifications are attached as Schedule MJE – 10.

Purpose of Testimony

Q. What is the purpose of your Rebuttal Testimony?

A. The purpose of my rebuttal testimony is (1) to respond to Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") witness William J. Barbieri pertaining to Ameren Missouri's Voluntary Green Program/Pure Power Program ("Pure Power"); (2) provide additional information about the filed tariff sheets and the operation of Pure Power that Mr. Barbieri failed to address, and (3) provide Staff's recommendation to reject the filed tariff sheets, or in the alternative, modify the tariff sheets and place certain constraints on the program's operation.

Q. What is the Staff's primary concern with Pure Power as it has been implemented by Ameren Missouri?

A. The Missouri Public Service Commission ("Commission") typically sets rates that are cost-based for the services it regulates. Development of cost-based rates requires performance of an audit of the costs incurred to provide that regulated service. In order to perform an audit the Commission and its Staff need access to basic accounting data that supports the actual cost booked by the utility to provide that service to its customer. Ameren Missouri has not been able to provide to Staff basic accounting information (as well as other information) that is necessary to support the cost basis of service provided pursuant to Pure Power. Ameren Missouri's responses to Staff's data requests (DR) clearly indicate its lack of support and justification for the use of the ratepayer dollars collected pursuant to its current Pure Power's tariff sheets.[1]

Absent this basic information about the costs incurred and the reasonableness of those occurrences, Staff cannot provide a recommendation as to the reasonableness of the tariffed rate.

Q. Is this problem addressed by the tariff sheets at issue in this case, or by Ameren Missouri's new contract?

A. No.

Q. Based on the information the Staff has obtained, is the cost of the service reasonable?

A. No. As I will discuss, based on information available to Staff regarding Renewable Energy Certificates (RECs) and the limited information provided by Ameren Missouri, the rates in the filed tariff sheets are not reasonable.

Recommendation

Q. Does Staff recommend the Commission approve or allow going into effect by operation of law the tariff sheets filed by Ameren Missouri in EO-2013-0307?

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[1] See Response to DR Nos. 0031, 0032, 0033, 0034, 0036, 0037.

A. No. Staff recommends the Commission reject the tariff sheets.

Q. Would de-tariffing prevent Ameren Missouri from offering Pure Power as a deregulated service?

A. No. However, as a deregulated service, charges for Pure Power could not be included on customer bills.

Q. If the Commission does not reject the tariff sheets, does Staff have any recommendations to address Staff's concerns with the tariff sheets and with Pure Power?

A. Yes. Staff would recommend the Commission order Ameren Missouri to file compliance tariffs that would:

1. Retain the "purpose" language from the existing tariff, which state that contributed monies will go "to the further development of renewable energy technologies"[2].

2. State that a minimum of 60% of the money collected under the tariff must be spent on REC procurement, and that a maximum of 40% of the money collected under the tariff may be spent on administration by the intermediate broker. These percentages should be put forth in the Pure Power tariff sheets.

3. Retain from the existing tariff Ameren Missouri's administrative fee of $1 per REC, to ensure that non-participating ratepayers are held-harmless from Ameren Missouri's offer of this program. The current collection of the $1 administrative fee is not reflected in the regulated books, but Ameren Missouri wants Pure Power reflected in the regulated tariff. Ameren Missouri should collect the one dollar fee and reflect in the regulated books.

Q. Does Staff have any recommendations in addition to the tariff modifications listed above?

A. Yes. Staff recommends the Commission order Ameren Missouri to:

1. Produce any and all supporting data necessary for Staff to perform a reasonable audit to provide a recommendation to the Commission of the reasonableness of the rate tariffed for the service being provided

[2] Union Electric Company Tariff / MO. P.S.C. 2nd Revised Sheet No. 216.

2. Provide accounting data so Ameren Missouri can set forth an annual distribution percentage, and so Staff can audit the distribution percentage that Ameren Missouri reports. An annual distribution percentage is the percentage of total monies collected. It is the percentage of total collections: A) retained by Ameren Missouri, B) spent on advertising and administration by 3 Degrees Group, Inc. d/b/a 3 Degrees ("3 Degrees"), and C) delivered to Farmer City Wind Power Project (Farmers' City/ IBERDROLA RENEWABLES/ IBERDROLA RENEWABLES, LLC.) or any other generator of the REC.

3. Prominently publish (in large print) last year's annual distribution percentage on the front page of Ameren Missouri's Pure Power website.

Testimony of Ameren Missouri Witness Barbieri

Q. Does Mr. Barbieri raise new issues in his Direct Testimony from his testimony in Ameren Missouri's recent rate case, ER-2012-0166?

A. No. He basically raises many of the same issues that Staff addressed in its Report – Revenue Requirement – Pages 184 to 188 and in my Surrebuttal in that same case. However, Mr. Barbieri addresses two issues that do require comments.

Q. What is the first issue you would like to address?

A. On page 7, Lines 14-16 Mr. Barbieri states the following:

> Further, the costs to administer this program are de minimis. Accordingly, Ameren Missouri does not believe it is necessary to continue to charge the administrative fee.

Q. Do you agree with that statement?

A. No. Ameren Missouri incurs costs associated with this program that would include items such as the use of Ameren Missouri's website, the use of the regulated billing system, payroll, reports, and utilizing the regulatory Staff to address Pure Power issues in various rate cases to name a few.

The costs associated with the Pure Power program includes joint & common costs that cannot be truly determined without a cost study.

Q. On page 5, lines 1-6, Mr. Barbieri states the following in his Direct Testimony:

> Information from the U.S. Department of Energy, as contained in the attached link, [2] indicates there are hundreds of green programs being offered by utilities, municipalities and co-operatives across the country. Based on a recent report from the Department of Energy's National Renewable Energy Lab (NREL), these voluntary programs resulted in the purchase of 35.6 million MWhs in CY 2010, and in the compliance market, those states with RPS or RES requirements, it resulted in the purchase of 55 million MWhs.

Q. Do you dispute this quote?

A. No. However, I would note that Mr. Barbieri[3] and I[4] acknowledged in Case No. ER-2012-0166 the following list of all the entities who offer REC-related programs on a voluntary basis regionally:

Utility	Price per kWh	Year Program Began
Ameren Missouri	1.5	2007
Boone Electric Cooperative	2	2003
Cuivre River Electric Cooperative	2.5	2004
Howell-Oregon Electric Cooperative	6	2004
Intercounty Electric Cooperative	3	2006
Laclede Electric Cooperative	3.5	2005
Lewis County Rural Electric Cooperative	2	2003
White River Valley Electric Cooperative	3.5	2004
City Utilities of Springfield	5	2001
Corn Belt Energy	0.5	2004

Of the ten (10) Missouri entities listed, only one is regulated by the Commission – Ameren Missouri. The other nine (9) engage in voluntary REC programs without the benefit of being tariffed by this Commission. Staff does not oppose Ameren Missouri continuing the

[3] Rebuttal Page 5, Lines 14 – 17.

[4] Surrebuttal Page 6, Lines 1 – 8.

Pure Power program, however, it should not be tariffed, and all corresponding costs should not be borne by the rate payer.

Lack of Cost Justification for Pure Power Rate

Q. Does Ameren Missouri have supporting data for the tariffed Pure Power rate?

A. No. Staff issued DR Nos. 0022 to 0037 in an attempt to obtain basic financial information from Ameren Missouri concerning the Pure Power rates, as well as other DRs where Ameren Missouri informed Staff no other information was in their possession .

3 Degrees is the third party who procures RECs for use in Pure Power. 3 Degrees has information regarding the cost of RECs and the cost of administering the program, but have not released it to Ameren Missouri as indicated in its responses to those data requests. This lack of data prohibits Staff from performing the audit necessary to provide the Commission with information to determine if the Pure Power rates are just and reasonable.

Q. Will the supporting data be provided under the new contract?

A. No. In Ameren Missouri's response to DR No. 0037, it states the following:

> **This information was voluntarily provided by 3 Degrees through CY 2011** in response to Data Request MPSC 0351 in Case No. ER-2012-0166. **This information is not required to be provided under the terms of the new contract.**
>
> Ameren Missouri does not have this information beyond CY 2011. **(Emphases Added)**

Q. Please describe the flow of Pure Power funds?

A. Under the current contract with 3 Degrees, Ameren Missouri collects money from customers participating in the Pure Power program, retains $1, and submits the remaining $14 to 3 Degrees who procures RECs from entities who have generated green power. Under the new contract, Ameren Missouri will collect $10 from its customers and submit the entire amount back to 3 Degrees. However, Staff would propose a $1.00 collection fee.

Q. Does the Commission have authority over 3 Degrees?

A. No. Even if 3 Degrees were to agree to provide Ameren Missouri information - pursuant to the contract, 3 Degrees (the custodian of the records) would not be a party of record. Further, the Commission has no authority over 3 Degrees to compel them to provide supporting data for the price and amount spent on RECs. To date, Staff has not been able to analyze any data pertaining to these RECs from 3 Degrees.

The response to Staff request for 2012 "averages" has been met with the following response:

> All available information related to this request has been provided in the response to DR 0351 dated May 21, 2012. Ameren Missouri does not possess any additional information[5] .

Further, this is also the response for requested support for the 2008 to 2011 averages that were supplied.

Q. Has Staff been able to determine what amount of the Pure Power funds that 3 Degrees spends, on either Advertising or on Administration?

A. Not in the traditional sense. Like with the REC averages, we can't audit or verify these averages without the underpinning data. All we can do is relay to the Commission the wholesale price for calendar year 2008 to 2011 as reported to Staff. But attempts to substantiate the Advertising average or the Administration average have been unsuccessful.

[5] Response to Data Request No. 15. Data Request No. 16 also seeks information concerning the 2012 averages. Ameren's response is simply to references one back to Response to Data Request No. 15. Data Request No. 34 seeks information of this nature & is given a similar response.

To date, Staff has yet to be supplied with 2012 averages for Advertising or Administration costs.

In theory, one can take the annual average multiplied by the reported number of RECs purchased to get a total annual dollar expended, but nothing Ameren Missouri provided documents dollars expended for wholesale RECs. Forcing Staff to "back into" traditional accounting data is not the same as the company providing it, and giving veracity to the numbers provided.

Q. How does the supporting information of Pure Power RECs compare with other RECs supplied by 3 Degrees to Ameren Missouri?

A. 3 Degrees seems to be able to supply more information for other REC transactions than Pure Power REC transactions.

Q. What are the average REC costs – as reported to you?

A. In responses to Staff data requests, Ameren Missouri provides:

YEAR	Amount[6] Paid Per-REC
2008	** __ **
2009	** __ **
2010	** __ **
2011	** __ **

Q. Is this consistent with the level of supporting information Ameren Missouri receives from 3 Degrees for other REC services?

[6] Schedule MJE - 4, Page 1 of 2.

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A. No. In addition to the RECs Ameren Missouri purchases from 3 Degrees for Pure Power, 3 Degrees sells Solar (photovoltaic) Renewable Energy Credit ("SREC") to Ameren Missouri for Missouri's Renewable Energy Standard. In Ameren Missouri's Tariff filing JE-2013-0221 pertaining to SRECs the information for activity between Ameren Missouri and 3 Degrees, greater detail is provided on these SRECs as seen on Schedule MJE – 1.

**

	___ ___			
___	___	___	___	___
___	___	___	___	___
	___	___	___	___
	___	___	___	___
	___	___	___	___

**

3 Degrees reports the various batches or vintage purchase of SRECs by specific dates, the "batch" quantity, and, most importantly, the per-REC price for each batch of SRECs.

It is interesting to note that 3 Degrees' cost for SRECs is between ** ___ ** and ** ___ ** and is trending down between 2010 and 2011, while wind–based RECs supplied by 3 Degrees (for Pure Power) cost between ** ___ ** and ** ___ ** and are trending up between 2010 and 2011.

Q. How do the wholesales rates reported to you compare to retail rates that Ameren Missouri pays for non-Pure Power acquisition of RECs?

A. The Pure Power RECs are dramatically higher priced than those supplied by other vendors. Information from Ameren Missouri's tariff filing JE-2013-0221 shows that as of September 12, 2012, Ameren Missouri paid Gainesville Regional Utilities ** ____________ **. Information from Ameren Missouri's tariff filing JE-2013-0221 also shows that as of December 1, 2011, Ameren Missouri paid Black Hills ** ____________ **. (See Schedule MJE - 1 for a copy of the attachment from tariff filing JE-2013-0221.)

SRECs are typically more expensive than are wind-based RECs. Without traditional supporting data, Staff is left to wonder why Pure Power wind RECs cost more than the 3 Degrees wholesale SRECs used for other purposes.

Q. Please describe the advertising costs 3 Degrees must incur for the Pure Power Program.?

A. 3 Degrees is contractually obligated to spend ** ________ ** per-year in advertising. However, the only detail Ameren Missouri was able to provide to Staff supporting the advertising costs were two per-REC averages of ** ___ ** average (per-REC) for 2010 and ** ___ ** average (per-REC) for 2011. Ameren Missouri has not provided any support for the costs incurred by 3 Degrees for advertising expense, nor has it presented Staff with any information that might indicate that it has taken any steps to ensure that the** ________ ** was spent in either year.

Q. Did Staff attempt any quantifications to see if the ** ________ ** annual threshold was met?

A. Yes. Calculating advertising expense from the limited information provided by Ameren Missouri reveals significant discrepancies.

Using information provided in Ameren Missouri's responses to DR 0351 in Case No. ER-2012–0166, and information from Ameren Missouri's response to DR 0022 in this docket, Case No. EO-2013-0307, Staff calculated the following for advertising expenditures:

Calendar Year	RECs # Purchased	Per REC Average	
2010	** _____ **	** __ **	** __________ **
2011	** _____ **	** _____ **	** __________ **

Calendar Year	Yearly Minimum Expenditure Per Contract	Cal Per Response	Shortage of Contractual Amount
2010	** ________ **	** __________ **	** __________ **
2011	** ________ **	** __________ **	** __________ **

Q. Did Ameren Missouri identify any other costs associated with the Pure Power program?

A. Yes. Staff has received average information for Administration cost which again lacks supporting information. In a response to DR 0351 in Case No. ER-2012–0166, Ameren Missouri indicated average Administrative costs of ** __ ** per-REC for 2010 and ** __ ** per-REC for 2011.

Q. Has Staff performed any analyses on other state jurisdictions pertaining to programs similar to Ameren Missouri's Pure Power program?

A. Yes.

I have called between 10 and 15 various state commissions concerning their respective REC programs over four Pure Power cases. I have also read numerous articles about characteristics of the various REC programs in various states.

There are many forms of REC programs across America, with a wide variation in the degree of involvement by the various state commissions. Indiana for instance, has the authority to reject a group or "batch" of RECs purchased by the utility.

However, Staff has not found in any other jurisdiction where a program similar to Pure Power is a tariffed rate, but was not subject to rate case treatment or other forms of traditional accounting- except for Florida's Sunshine Program for an intermediate period. It was terminated in 2008 because the Florida Commission considered it misleading, and its overheads were too high. (See Schedule MJE - 5 – News stories *and* See Schedule MJE - 6 - Order and the Concurrence Opinion by Commissioner McMurrian and Commissioner Skop)

Q. What is the currently tariffed purpose of the Pure Power Program?

A. The existing tariff's purpose is as follows:

> PURPOSE[7]
>
> The purpose of this Voluntary Green Program (Program) tariff is to provide customers with an option to contribute to the further development of renewable energy technologies.

The proposed Pure Power Program tariff language includes education, as shown below:

> PURPOSE[8]
>
> The purpose of this Voluntary Green Program/Pure Power Progam [Program] tariff is **to provide customers with an option to support renewable energy technologies and education** through the purchase of renewable energy credits. **(Emphasis Added)**

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[7] MO PSC #5 / 2nd Revised Sheet 216.

[8] MO PSC #5 / Original 216.1.

Based on Staff's understanding of current program operation, Ameren Missouri's request to add the word "education" would refer to activities such as advertising and promotion, and other internal activities. Use of additional monies to fund these activities will lead to a decrease in the amount of funds available to purchase wholesale RECs.

Q. Does Ameren Missouri have a web site for its Pure Power program?

A. Yes. Ameren Missouri has a website dedicated to its Pure Power program. By reading through the website, a customer or prospective customer can only conclude that their participation in the program leads to "green energy" – either the direct purchase of green energy or that the money will go "to the further development of renewable energy technologies"[9]. It says nothing about substantial monies going to the program's overhead for self perpetuation. Schedule MJE - 2 - Schedule MJE - 3 demonstrates that the website is not entirely true in its representations.

Neither the tariff, nor the website informs customers that some ** _____ _______ ** their monies given can go to various overheads, and not the intended purpose. The customers or prospective customers do not know that ** _______ ** the money collected by the Pure Power rate never went toward the purchase of RECs for two of the four years of reported "averages".

Q. What percentage of the money collected through the Pure Power program actually is provided to green power generators?

[9] Union Electric Company Tariff / MO. P.S.C. 2nd Revised Sheet No. 216.

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A. The "averages"[10] provided to Staff indicate that ** _____ **[11]of the money collected went to the generator of the RECs for 2008 and ** __ **[12] of the money collected went to the generator of the RECs for 2009.

Clearly these actual distributions of monies collected is at odds with what is inferred will happen to the monies collected when referencing the tariff and when referencing the Pure Power's website.

For years 2010 and 2011, ** _____ **[13] and ** _____ **[14] respectively of the Pure Power monies collected went to green power generators.

Q. Can you report a distribution percentage for other jurisdictions?

A. Yes. I've had conversation with North Carolina Staff. They have informed me that there is a 25% "hard cap" in place – meaning, by order. NC Green Power's Administration costs and Marketing Costs cannot exceed 25% of the monies taken in.

While configured somewhat differently[15] Georgia Power has Labor & Overhead costs of 8% and Marketing costs of 3.7%. These are blended 4-years averages, calculated by the Georgia Commission Staff in order to maintain the confidentiality of the specific data used. (See Schedule MJE - 9).

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[10] ER-2012-0166 / Staff Report / Schedule MJE – 1, Page 1 of 2.
[11] Schedule MJE - 4, Page 1 of 2.
[12] Schedule MJE - 4, Page 1 of 2.
[13] Schedule MJE - 4, Page 1 of 2.
[14] Schedule MJE - 4, Page 1 of 2.
[15] Georgia Power deals directly with green power generators. Also, what is being purchased is both the green power and the intangibles.

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Finally there is the following quote:[16]

> Some utilities with green energy programs in other states spend far less than FPL on marketing and administrative costs.
>
> In California, about 15 percent of the money collected from customers enrolled in Silicon Valley Power's Green Power program goes to administrative and marketing costs, program spokesman Larry Owens said. For Georgia Power's green energy program, about 1 percent of the money collected is spent on marketing and about 14 percent on administration.

Compare these percentages for other jurisdictions to the percentage of total collections absorbed by Pure Power's Administration and Advertising.

YEAR	Percentage[17] Spent
2008	** _____ **
2009	** _____ **
2010	** _____ **
2011	** _____ **

These comparisons demonstrate Pure Power is experiencing higher overhead than is being experienced by voluntary programs in other jurisdictions.

Q. What does the Staff recommend the Commission do about setting a maximum overhead level for 3 Degrees?

A. The Commission should state that a minimum of 60% of the money collected under the tariff must be spent on REC procurement, and that a maximum of 40% of the

[16] South Florida Sun Sentinel – Broward and Palm Beach "State shuts FPL "green program" / June 30, 2008".

[17] These are reciprocal percentages to those shown on Schedule MJE – 4, Page 1 of 2.

NP

money collected under the tariff may be spent on administration by the intermediate broker. These percentages should be put forth in the Voluntary Green Tariff.

Q. What are Staff's other concerns with Ameren Missouri's revised tariff sheets?

A. Ameren Missouri has eliminated its retention of one dollar ($1.00) out of every fifteen-dollars collected under Pure Power (the "Ameren Missouri Administration Fee"). Staff is concerned that because Ameren Missouri still incurs costs with offering the program, that other rate payers will be left absorbing costs associated with administering the program. Ameren Missouri incurs costs through the use of Ameren Missouri's website, the use of its regulated billing mechanism, and the use of regulatory staff including legal counsel to address Pure Power issues in various rate cases.

Staff proposes to re-establish the Ameren Missouri Administration Fee as shown on Schedule MJE – 7 be added to the rate reduction proposed by Ameren Missouri shown on Schedule MJE – 8.

Q. What is Staff's recommendation?

A. Staff's primary recommendation is that the Commission de-tariff Pure Power. Pure Power is incompatible with traditional regulation, but can function very well outside a regulatory environment – as demonstrated by nine other Missouri entities offering their respective version of a voluntary REC program without being tariffed.

Staff's secondary Recommendation to improve, but not completely fix, Pure Power is as follows:

1. Retain the "purpose" language from the existing tariff, which states that contributed monies will go "to the further development of renewable energy technologies"[18].

[18] Union Electric Company Tariff / MO. P.S.C. 2nd Revised Sheet No. 216.

2. State that a minimum of 60% of the money collected under the tariff must be spent on REC procurement, and that a maximum of 40% of the money collected under the tariff may be spent on administration by the intermediate broker. These percentages should be put forth in the Voluntary Green Tariff.

3. Retain from the existing tariff Ameren Missouri's administrative fee of $1 per REC, to ensure that non-participating ratepayers are held-harmless from Ameren Missouri's offer of this program. Unlike current practice, Ameren Missouri's administrative fee should be given above-the- line treatment for monies generated. This $1.00 administrative fee is an "add on" to the "cost justified rates".

4. Produce any and all supporting data necessary for Staff to perform a reasonable audit to provide a recommendation to the Commission of the reasonableness of the rate tariffed for the service being provided.

5. Provide accounting data so Ameren Missouri can set forth an annual distribution percentage, and so Staff can audit the distribution percentage that Ameren Missouri reports.

6. Prominently publish (in large print) last year's annual distribution percentage on the front page of Ameren Missouri's Pure Power website.

Q. Does this conclude your testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's Voluntary Green Program/Pure Power Program Tariff Filing	)))	Case No. EO-2013-0307

AFFIDAVIT OF MICHAEL J. ENSRUD

STATE OF MISSOURI	)	
	)	ss.
COUNTY OF COLE	)	

Michael J. Ensrud, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 17 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Michael J. Ensrud
MICHAEL J. ENSRUD

Subscribed and sworn to before me this 5th day of February, 2013.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 12, 2016
Commission Number: 12412070

D Suzie Mankin
Notary Public

SCHEDULE MJE - 1

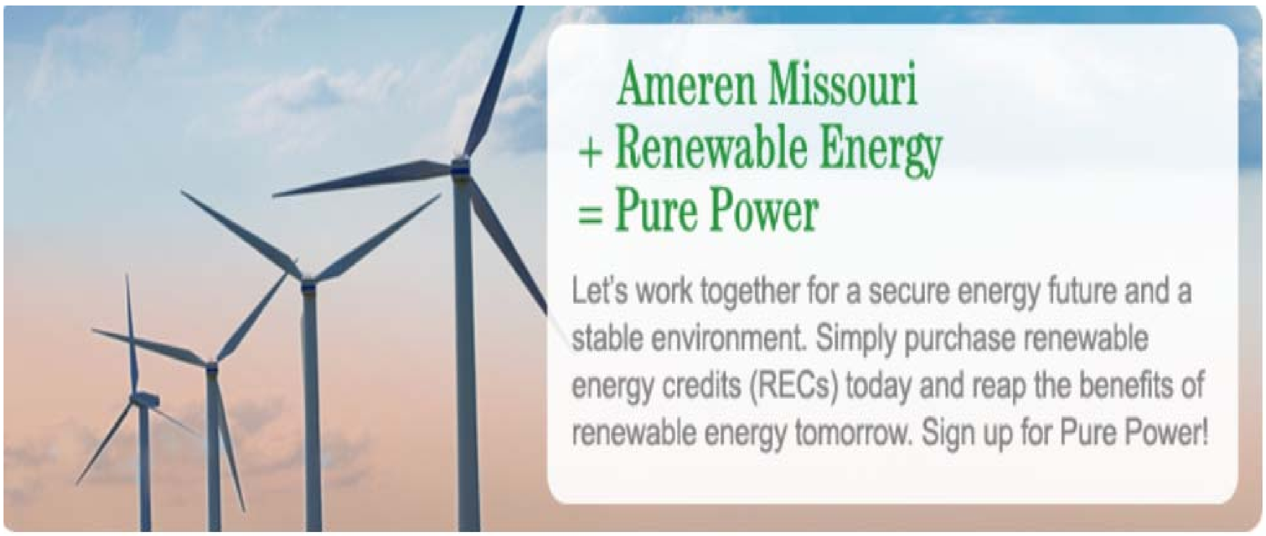
HAS BEEN DEEMED

HIGHLY CONFIDENTIAL

IN ITS ENTIRETY

These "examples" were extracted from the following Ameren Missouri website:
http://www.ameren.com/sites/aue/Environment/PurePower/Pages/PurePower.aspx

EXAMPLE #1



EXAMPLE #2
http://www.ameren.com/sites/aue/Environment/PurePower/Pages/FAQ.aspx

- How does the program work?

  100% Pure Option: When residential or small business customers enroll in the Pure Power 100% usage option, Ameren Missouri monitors their monthly energy usage and buys an equivalent amount of local, Green-e Energy certified, Renewable Energy Credits (RECs) and retires them on behalf of the customers. **Green-e Energy certification guarantees that your Pure Power premium supports renewable sources and keeps the economic and environmental benefits local. (Emphasis Added)**

EXAMPLE #3
http://www.ameren.com/sites/aue/Environment/PurePower/Pages/FAQ.aspx

- How much does the program cost?

  Pure Power participants pay an extra 1.5 cents per kilowatthour (kWh) of electricity or purchase $15 "Blocks"* or $7.50 "Half Blocks" **of power** to support renewable energy **(Emphasis Added)**

  100% Pure Option: Residential and small business customers can offset 100% of their energy with clean power. Ameren Missouri will monitor your monthly energy usage and buy an equivalent amount of Green-e Energy certified Renewable Energy Credits (RECs) and retire them on your behalf. The average residential customer, who uses about 1,000 kWh per month, will pay a Pure Power premium of $15 each month. **(Emphasis Added)**

EXAMPLE #4
http://www.ameren.com/sites/aue/Environment/PurePower/Pages/FAQ.aspx

- How can I be sure my purchase is making a difference and supporting renewable energy? Is the program certified?

  Pure Power is a Green-e Energy Certified® program.

  Green-e Energy was established by the non-profit Center for Resource Solutions to provide information and an objective standard for consumers to compare renewable energy options and to verify that consumers get what they pay for.

  When you see the Green-e Energy logo, it means:

  - The renewable energy option contains only new renewable resources;

EXAMPLE #5

http://www.ameren.com/sites/aue/Environment/PurePower/Pages/PurePower.aspx

EXAMPLE #6

http://www.ameren.com/sites/aue/Environment/PurePower/Pages/PurePower.aspx

The website contains the following:

> This is a Renewable Energy Credit (REC) product. For every unit of renewable electricity generated, an equivalent amount of renewable energy certificates is produced. **The purchase of RECs supports renewable electricity generation, which helps offset conventional electricity generation in the region where the renewable generator is located.**
> **(Emphasis Added)**

<u>Staff's Position</u>

The bolded language does not indicate that money goes to administration, advertising, or customer education and promotion. The bolded language indicates the money will go to support renewable electric generation.

Product Content Label

Pure Power[1]

Usage Product for Residential and Commercial Customers

	Eligible New[2] Renewable Resources		Generation Location[3]	
	2011 (Actual)	2012 (Projected)[4]	2011 (Actual)	2012 (Projected)
Wind	100%	75% or more	Missouri	Illinois, Missouri, Interconnected Midwest ISO power grid
Other (e.g. Biomass, Solar, small or low impact Hydroelectric)[5]	0%	Up to 25%	N/A	Illinois, Missouri, Interconnected Midwest ISO power grid
Total	**100%**	**100%**		

These figures reflect the resource makeup of Renewable Energy Credits (RECs) that we have contracted to provide. For comparison, the current default electricity mix of energy resources supplying Ameren Missouri customers includes:

- Coal (70%)
- Nuclear (23.9%)
- Hydroelectric (3.6%)
- Pumped Storage (0.9%)
- Natural Gas and Fuel Oil (0.6%)
- Other (0.2%)

[1]This is a Renewable Energy Credit (REC) product. For every unit of renewable electricity generated, an equivalent amount of renewable energy certificates is produced. The purchase of RECs supports renewable electricity generation, which helps offset conventional electricity generation in the region where the renewable generator is located.

[2]For 2012, "Eligible New Renewable Resources" are generation facilities in operation on or after Jan. 1, 1998.

[3]A minimum of 50% of the renewable generation facilities supported by Pure Power are located in Illinois and Missouri. The remaining renewable generation facilities will be located in the Midwest ISO power grid.

[4]In 2012, Supply for the Pure Power program is projected to have a greater percentage of Missouri Wind than the minimum numbers outlined above, closely matching 2011 supply of 100% Missouri Wind.

[5]Eligible hydroelectric facilities are defined in the Green-e Energy National Standard and include facilities certified by the Low Impact Hydropower Institute (LIHI); for Canadian hydropower facilities only, the facility is EcoLogo[M] certified; and facilities comprised of a turbine in a pipeline or a turbine in an irrigation canal.

Green-e Energy CERTIFIED

Green-e Energy certifies that Pure Power meets the minimum environmental and consumer protection standards established by the non-profit Center for Resource Solutions. For more information on Green-e Energy certification requirements, call 888.63.GREEN (47336) or visit Green-e.org.

For specific information about Pure Power, contact Ameren Missouri at 866.665.7873.

Participation in this program does not constitute the purchase of energy. Renewable Energy Credits which represent the environmental attributes associated with past renewable energy generation are retired on behalf of program participants. All RECs purchased under this program are Green-e Energy certified by the independent Center for Resource Solutions.

Share

Schedule MJE - 3 (Page 2 of 10)

The website contains the following:

> When you enroll in Pure Power, **Ameren Missouri purchases Renewable Energy Credits (RECs) equal to your Pure Power participation level.** The purchase of RECs supports wind and other renewable resources right here in the Midwest. **(Emphasis Added)**

Staff's Position

It is not true that **"Ameren Missouri purchases Renewable Energy Credits (RECs) equal to your Pure Power participation level."** Total collections of Pure Power monies are dramatically reduced for Advertising Costs and Administration Costs (self-perpetuation). The word "equal" makes it sound as if 100% of monies-collected will go to **"purchases Renewable Energy Credits"**

Environment

Pure Power
- Sign Up Information
- FAQs
- Pure Power Leaders
- Events
- Green e-Energy Certification
- Pure Power for My Home
- Pure Power for My Business
- Renewable Power
- Renewable Energy Links
- Green Tips
- Farmers City Profile

Environmental Stewardship
Renewables
Lake of the Ozarks
Energy Advisor
Energy Efficiency
Vegetation Management
Hydroelectric Reports
Integrated Resource Plan

How Does Pure Power Work?

Learn how the Pure Power Program works.
When you enroll in Pure Power, Ameren Missouri purchases Renewable Energy Credits (RECs) equal to your Pure Power participation level. The purchase of RECs supports wind and other renewable resources right here in the Midwest.

- **100% Pure**: You can sign up for Pure Power for an additional penny and a half ($0.015) per kilowatthour (kWh) on your monthly bill. For the average residential customer who uses 1,000 kWh per month, the monthly cost will be only $15.00 - about the cost of a pizza! Your monthly Pure Power premium will fluctuate to cover your entire home's energy usage. (Available for residential and small commercial customers.)

- **Pure Blocks**: If you want your Pure Power premium to remain the same each month, choose one of the "Block"* options.
  - $15 Block - 1,000 kWh per month
  - $7.50 Half Block - 500 kWh per month
  - Customers may sign up for as many blocks as they desire but can only sign up for one half block.

*1 "Block" = 1 Renewable Energy Credit = 1,000 kilowatthours

Share

The website contains the following:

- <u>How does the program work?</u>

  100% Pure Option: When residential or small business customers enroll in the Pure Power 100% usage option, Ameren Missouri monitors their monthly energy usage and buys an equivalent amount of local, Green-e Energy certified, Renewable Energy Credits (RECs**)** and retires them on behalf of the customers**. Green-e Energy certification guarantees that your Pure Power premium supports renewable sources and keeps the economic and environmental benefits local. (Emphasis Added)**

<u>Staff's Position</u>

Again, total collections of Pure Power monies are dramatically reduced for Advertising cost and Administration costs.

It is impossible for 100% of the monies collected be spent to "**supports renewable sources".**

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FAQs

More FAQs

Pure Power FAQs

For more information on Green-e Energy certification requirements, call 888.63.GREEN or log on to www.green-e.org.

- How does the program work?
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  Pure Power Block Option: As an alternative to the 100% Pure Power option, business or residential customers can sign up for the Pure Power "Block"* option. They choose how many 1,000 kilowatthour (kWh) blocks to buy each month. Each block costs $15, and customers can purchase as many blocks as they want.

  Pure Power Half Block Option: Residential customers also have the option to purchase a single "Half Block." This 500 kWh half block costs an additional $7.50 each month and is designed for customers who want to support the development of new renewable energy sources at a lower commitment level.

  Participation in this program does not constitute the purchase of energy. Renewable Energy Credits which represent the environmental attributes associated with past renewable energy generation are retired on behalf of program participants. All RECs purchased under this program are Green-e certified by the independent Center for Resource Solutions.

  *1 "Block" = 1 Renewable Energy Credit = 1,000 kilowatthours

- How much does the program cost?
  Pure Power participants pay an extra 1.5 cents per kilowatthour (kWh) of electricity or purchase $15 "Blocks"* or $7.50 "Half Blocks" of power to support renewable energy.

  100% Pure Option: Residential and small business customers can offset 100% of their energy with clean power. Ameren Missouri will monitor your monthly energy usage and buy an equivalent amount of Green-e Energy certified Renewable Energy Credits (RECs) and retire them on your behalf. The average residential customer, who uses about 1,000 kWh per month, will pay a Pure Power premium of $15 each month.

  Pure Power Block Option: Residential and business customers can sign up for a fixed-cost option by choosing to purchase "Blocks"* of Pure Power. Each block represents 1,000 kWh of renewable energy generation and costs $15. Customers can choose to buy as many blocks as they want each month.

  Pure Power Half Block Option: Residential customers can sign up for a fixed-cost option by choosing to purchase "Half Blocks" of Pure Power. Each half block represents 500 kWh of renewable energy generation and costs $7.50. Customers can only purchase one half block per month.

  *1 "Block" = 1 Renewable Energy Credit = 1,000 kilowatthours

- How do I enroll?
  You can enroll online now. Ameren Missouri customers can also sign up for Pure Power by checking the Pure Power box on their bill, or by calling customer service at 866.665.7873. Pure Power charges will appear on your bill with the first meter reading of your next full billing cycle.

- How will I be billed?
  Your purchase of Renewable Energy Credits (RECs) will appear on your regular utility bill as a separate line item labeled "Pure Power."

  100% Pure usage-based customers will see the "Pure Power" premium on their bill as a separate line item - an extra 1.5 cents per kilowatthour (kWh).

  Pure Block Option customers will see "Pure Power" as a separate line item on their bill for $15 for every Pure Power "Block"* (1,000 kWh) purchased.

  Pure Half Block Option customers will see "Pure Power" as a separate line item on their bill - an extra $7.50 for a "Half Block" purchase.

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  Ameren Missouri is responding to the desires of our customers, the importance of developing the regional economy and Ameren Missouri's commitment to expanding the use of renewable resources in the Midwest. Plus, we think it is the right thing to do.

The website contains the following:

> Ameren Missouri is responding to the desires of our customers, the importance of developing the regional economy and Ameren Missouri's commitment **to expanding the use of renewable resources in the Midwest.** Plus, we think it is the right thing to do.

Staff's Position

The bolded language does not indicate that money goes to administration, advertising, or customer education and promotion,

Environment

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Schedule MJE - 3 (Page 8 of 10)

The website contains the following:

Choose Pure Power and Go Green

> **Our voluntary Pure Power program makes it easy for residents and businesses to achieve the goal we all have in common: Preserve and protect the world we live in**. Join the Johnstons - enroll in our award-winning initiative and make a difference now. .
> **(Emphasis Added)**

Staff's Position

Again, total collections of Pure Power monies are dramatically reduced for advertising cost and administration costs.

Choose Pure Power and Go Green

Our voluntary Pure Power program makes it easy for residents and businesses to achieve the goal we all have in common: Preserve and protect the world we live in. Join the Johnstons - enroll in our award-winning initiative and make a difference now.

How Do I Sign Up?
In just three easy steps, you can put your concern for the environment to work for the benefit of everyone.

Renewable Energy Credits
Read our Product Content Label to learn where we get our Pure Power Renewable Energy Credits.

Who Is Involved in Pure Power?
Your neighbors and your neighborhood businesses are the champions and leaders of the program.

How Does Pure Power Work?
When you enroll in Pure Power, you support renewable energy generation resources in the Midwest.

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Schedule MJE - 3 (Page 10 of 10)

SCHEDULE MJE - 4

HAS BEEN DEEMED

HIGHLY CONFIDENTIAL

IN ITS ENTIRETY

FPL

PSC blasts FPL's green energy program

An audit shows that FPL's Sunshine Energy Program, which collected $9.6 million from customers, did not serve participants well.

Posted on Wed, Jun. 25, 2008

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BY JOHN DORSCHNER

jdorschner@MiamiHerald.com

A Florida Power & Light program to allow customers to voluntarily develop green energy wasted most of the money on administrative costs and "does not currently serve the interest of the program's participants," a report released Tuesday concluded.

The staff of the Public Service Commission was highly critical of FPL's Sunshine Energy program, in which 39,000 customers chose to pay an additional $9.75 a month, which was intended to be used for renewable energy.

Each customer's monthly contribution would then sponsor 1,000 kilowatt-hours a month of green power, FPL promised. The utility would also purchase 150 kilowatts of solar power for every 10,000 participating customers.

FPL collected $9.6 million from customers. FPL subcontracted with Green Mountain Energy Company to handle the program.

An audit by the PSC showed that FPL passed $8.6 million along to Green Mountain. About $6.4 million -- 74 percent of the money Green Mountain received -- went to marketing and other administrative costs.

"If the Sunshine Energy Program is to continue," the staff concluded, ``the program must be redesigned to address state renewable energy policies and to better serve the interest of the program's participants."

The staff recommended that marketing costs be limited to 20 percent.

An FPL spokeswoman told The Associated Press that the company is evaluating the report and has already filed paperwork with the PSC to modify the program.

"This report is really disappointing for customers, who, I think in good faith, spent their hard earned money to jump start renewable energy in Florida," Holly Binns, field director for Environment Florida, told AP.

http://www.miamiherald.com/982/story/581845.html

MiamiHerald.com

Posted on Wed, Jul. 30, 2008

State shutters FPL 'green' program

BY JOHN DORSCHNER

For almost five years, Florida Power & Light trumpeted green energy, saying customers could help the environment by contributing as little as $9.75 a month to buy renewable power.

About 39,000 customers signed up. In April, the U.S. Department of Energy called the program, Sunshine Energy, one of the top 10 residential green power programs in the country.

On Tuesday, angry state regulators killed the program by a unanimous vote after a Public Service Commission staff audit found that about 80 percent of the contributions went for marketing and other administrative expenses.

The staff reported that about $1.8 million of the $9.6 million FPL customers contributed over a four-year span went to purchase renewable energy.

"Oh, I'm not happy with that at all," said Dianne Martin of South Miami, a contributor to the program. 'I wonder if I should write them a letter, `Hey, you creeps, why did you do that?' "

The utility had acknowledged in regulatory filings that the program could be improved and it volunteered to do so, but it said Sunshine Energy met the requirements laid down by the commission in a formal document called a tariff, which did not specify what percentage of contributions should go directly to renewable energy.

Commissioner Nathan Skop on Tuesday called the program's performance "just appalling. . . . It was clearly mismanaged from the inception." He said the program had ``a lot of marketing hype but very little of substance."

The program started in 2004. Since then, FPL kept about $1 million to administer the program and passed the rest along to a subcontractor, Texas-based Green Mountain Energy, to purchase renewable energy.

NO TRANSPARENCY

For about a year, PSC staffers have tried to get detailed information about how Green Mountain spent the money. The staff estimated about 80 percent went for nonenergy expenses. Its report noted that FPL told the staff 75 percent of the money went for program management, marketing and administration, but the staff said it had a hard time proving where the money actually went.

Commissioner Skop, who once managed nine renewable energy projects for a sister company of FPL, complained on Tuesday that millions of customers' contributions had fallen ``into a black hole where there is no transparency. . . . Clearly this is not right."

Skop said he thought FPL should be forced to pay back the millions spent on administrative expenses by contributing to a new renewable program.

FPL Vice President Wade Litchfield said the utility and Green Mountain were eager to work with the commission to explain where the money went. He said the Texas company had met the obligations of its contract with FPL.

Robert Thomas, chief legal officer of Green Mountain, said the company would continue to provide information about its expenses to regulators. ``We have provided that cooperation in the past, and we will continue to work with the staff. . . . The money was spent for legitimate marketing expenses and other legitimate expenses."

PUBLIC SEEKS APOLOGY

One customer told the PSC via telephone that she thought that was nonsense. "I think there should be a public apology," said a woman the PSC identified as Alexandria Larson. ``I think we should hold FPL's feet to the fire."

At Tuesday's meeting, Commissioner Lisa Polak Edgar said FPL had complied with the formal specifications of the tariff that was crafted by the commission, but she noted, "It's incredibly important that transparency be there." Several commissioners wondered whether the tariff itself should have been crafted better.

Commissioner Katrina J. McMurrian said she wasn't certain what kind of administrative costs were needed for such renewable energy programs. ``Perhaps these types of programs take these kind of marketing costs."

Commissioner Nancy Argenziano said she was concerned about just abandoning 39,000 customers who were dedicated to the environment, and the PSC staff had recommended continuing the program after modifications.

But several commissioners noted that the Legislature recently passed a strong green energy bill encouraging renewable energy, meaning there was less need for a voluntary program.

Following the PSC action, FPL spokesman Mayco Villafaña said, ``The Public Service Commission just determined that the Sunshine Energy Program has met its objectives and is no longer needed in light of recent legislation that promotes renewable energy in the state."

"The PSC said we met our tariff" obligation and operated the program in compliance with its contract, Villafaña said. The utility will be notifying customers that the program is ending, Villafaña added.

Green Mountain Energy released a statement from Senior Vice President Paul Markovich, calling Sunshine Energy ``very successful. . . . Sunshine Energy provided tens of thousands of FPL customers an affordable, easy way to voluntarily reduce their carbon footprint."

PSC pulls plug on renewables program

South Florida Business Journal by Susan R. Miller

Date: Tuesday, July 29, 2008, 2:19pm EDT - Last Modified: Tuesday, July 29, 2008, 2:29pm EDT

Customers who enrolled in Florida Power & Light Co.'s Sunshine Energy Program to help develop renewable energy apparently were getting a lot less than what they bargained for, according to the Florida Public Service Commission.

As a result, commissioners on Tuesday put an end to the program, which had been subcontracted out to am Austin, Texas company, Green Mountain Energy Company.

An audit last year found that most of the $9.5 million collected from more than 38,000 customers, who paid an additional $9.75 a month to participate, was going toward administrative costs of the program such as salaries, office expenses, business travel, research, marketing and public relations.

“The commissioners determined the program no longer served the interest of participants and doesn’t serve the interests of its participants or reflects Florida’s current renewable energy policies,” PSC spokeswoman Bev DeMello said.

In a press release issued by Green Mountain the company noted it had provided tens of thousands of FPL customers with “an affordable and easy way” to reduce their carbon footprint.

“The Sunshine Energy program has delivered on its promises to customers. Our management of the program has been stellar for industry standards,” Paul Markovich, Green Mountain’s senior vice president, said in a prepared statement.

Money from those who paid for the current billing cycle will be placed in an escrow account, she said.

In an effort to further protect customers, the money already paid in to the fund will be audited and it will be determined if there are refunds or credits that need to be made, DeMello said.

Green Mountain Energy’s attorney told commissioners they would participate in anything the commission needed to do and is willing to participate with PSC staff.

Industries:

Energy

MIAMI - Florida utility regulators on Tuesday powered down an $11.4 million program designed to promote green energy, but whose budget overwhelmingly funded marketing and administrative costs.

The program, operated by Florida Power & Light and Austin, Texas-based Green Mountain Energy Co., charged willing FPL customers a $9.75 monthly fee in addition to their regular power bills. The parties were supposed to develop an extra 150 kilowatts of solar energy for every 10,000 residential customers who signed on to the Sunshine Energy program.

But a Public Service Commission report last month said only 24 percent of the money collected from more than 38,000 households paid for actual energy. The rest funded marketing and administration costs to promote the program.

The Public Service Commission voted Tuesday to terminate the program, rather than revise it as FPL recommended. It moved to put future customer contributions into an escrow account and planned an audit of how Green Mountain managed the money.

Paul Markovich, Green Mountain senior vice president, said the commission's suggestions the money was misappropriated were "distasteful." Markovich said Green Mountain spent $6 million to build the willing customer base from zero since the program began in late 2003, and still hadn't turned a profit in Florida.

"We have spent money on marketing, are cooperating with the commission to do an audit and verify money was spent, and that it was spent on growing the program," Markovich said. "These programs don't grow themselves. Customers don't wake up one day and say, 'I'm going to sign up for green power.'"

Markovich said similar Green Mountain programs in Oregon, New York and New Jersey worked the same way. However, he said it cost more money to market in Florida.

"From our perspective it was just turning the corner," Markovich said.

Florida ends voluntary green energy programTHE ASSOCIATED PRESS

HeraldTribune.comJuly 29, 2008 6:12 PM

<p>MIAMI - Florida utility regulators on Tuesday powered down an $11.4 million program designed to promote green energy, but whose budget overwhelmingly funded marketing and administrative costs.</p><p>The program, operated by Florida Power & Light and Austin, Texas-based Green Mountain Energy Co., charged willing FPL customers a $9.75 monthly fee in addition to their regular power bills. The parties were supposed to develop an extra 150 kilowatts of solar energy for every 10,000 residential customers who signed on to the Sunshine Energy program.</p><p>But a Public Service Commission report last month said only 24 percent of the money collected from more than 38,000 households paid for actual energy. The rest funded marketing and administration costs to promote the program.</p><p>The Public Service Commission voted Tuesday to terminate the program, rather than revise it as FPL recommended. It moved to put future customer contributions into an escrow account and planned an audit of how Green Mountain managed the money.</p><p>Paul Markovich, Green Mountain senior vice president, said the commission's suggestions the money was misappropriated were "distasteful." Markovich said Green Mountain spent $6 million to build the willing customer base from zero since the program began in late 2003, and still hadn't turned a profit in Florida.</p><p>"We have spent money on marketing, are cooperating with the commission to do an audit and verify money was spent, and that it was spent on growing the program," Markovich said. "These programs don't grow themselves. Customers don't wake up one day and say, 'I'm going to sign up for green power.'"</p><p>Markovich said similar Green Mountain programs in Oregon, New York and New Jersey worked the same way. However, he said it cost more money to market in Florida.</p><p>"From our perspective it was just turning the corner," Markovich said.</p>

Comments are currently unavailable on this article

State of Florida

Public Service Commission

NEWS RELEASE

7/29/2008 **Contact: 850-413-6482**

PSC Terminates FPL's Sunshine Energy Program

TALLAHASSEE — The Florida Public Service Commission (Commission or PSC) today voted to terminate Florida Power & Light Company's (FPL) Sunshine Energy Program and place any future customer contributions to the program into an escrow account. PSC Commissioners further directed staff to continue to pursue an audit of how the funds were utilized by Green Mountain Energy Company, a third party renewable contractor. The results of this audit will be considered in a future Commission proceeding.

FPL submitted a plan to modify the program, but the Commission directed the company to terminate the program instead. A prior Commission staff audit of the program indicated that only 20 percent of the $11.4 million collected from customers was applied to developing renewable energy facilities. The majority of the collected funds were alleged to have been used for marketing and administrative costs.

More than 38,000 customers voluntarily contributed to the program for almost five years. Participating residential and commercial customers made a $9.75 monthly contribution to the Sunshine Energy Program to promote the development of renewable energy. For every 10,000 residential customers who signed up for Sunshine Energy, FPL was to develop an additional 150kw of solar power in Florida.

FPL began offering its Sunshine Energy Program as a voluntary pilot green pricing program when the PSC approved it in December 2003. The pilot program was made permanent in November 2006.

The PSC is committed to making sure that Florida's consumers receive their electric, natural gas, telephone, water, and wastewater services in a safe, affordable, and reliable manner. The PSC exercises regulatory authority over utilities in the areas of rate base/economic regulation; competitive market oversight; and the monitoring of safety, reliability, and service.

For additional information, visit www.floridapsc.com.

Schedule MJE - 5, Page 7 of 12

July 30, 2008

Regulators end renewable energy program over suspect costs

By JIM SAUNDERS
Tallahassee bureau chief

TALLAHASSEE -- Trying to help the state go green, tens of thousands of Florida Power & Light customers volunteered in recent years to pay an extra $9.75 a month to increase the use of renewable energy.

But Tuesday, amid questions about how money has been spent, the Florida Public Service Commission shut down the program.

Regulators said much of the $11.4 million collected for the program -- estimates ranged up to 80 percent -- has gone to marketing and administrative costs.

Public Service Commissioner Nathan Skop said "no reasonable person" would have agreed to contribute to the program if aware such a large percentage of the money would not go to solar and other types of renewable energy.

"It's almost as if management of the program was an afterthought, secondary to marketing," said Skop, the most-outspoken critic of the program.

But FPL and a Texas-based firm that received a contract to manage the program defended the use of the money. They said marketing was important to boost the number of customers in the program, which could lead to more money for renewable energy.

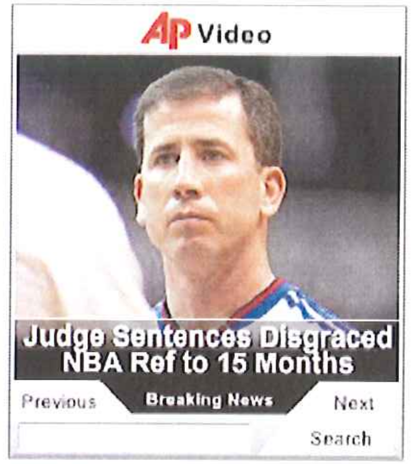
"Our contention is that the money was well-spent," said Mayco Villafana, an FPL spokesman. "The money was spent in the program as intended."

The Public Service Commission's decision to end the program came during wide-ranging efforts to increase Florida's use of renewable energy and reduce reliance on coal and natural gas to fuel power plants.

This month, for example, the commission approved a $688 million plan by FPL to build major solar facilities in Brevard, Martin and DeSoto counties. Those projects are not related to the program, known as the "Sunshine Energy" program, that the PSC scrapped Tuesday.

The program, which started in 2004, had steadily grown to include nearly 39,000 FPL customers, as of May 31. Those customers agreed to pay $9.75 a month in addition to their regular energy bills.

In exchange for the money, FPL and contractor Green Mountain Energy Co. agreed to develop solar-energy projects and to buy renewable energy credits, a type of financial instrument used to boost renewable generation.



As an example of the projects developed in the program, Gov. Charlie Crist traveled to Sarasota in February to take part in a dedication ceremony for what was billed as the largest solar-power facility in the state.

But the Public Service Commission's staff began raising questions about the Sunshine Energy program last year. Staff members finished an audit in May that raised a primary concern that the "vast majority of the program's revenues have been spent on marketing and administrative costs," according to a June report to the commission.

That report indicates as much as 74 percent of the money went to such costs from 2004 to 2007, though officials pointed to numbers as high as 80 percent during a meeting Tuesday.

Commission staff and company officials said they would continue working to detail how money was spent. In the meantime, FPL will notify customers the program is ending, and payments that continue being made will be placed into an escrow account.

It was not immediately clear Tuesday how that money would be returned to customers or used.

Commissioner Nancy Argenziano suggested temporarily suspending the program until regulators could further determine whether money was used appropriately.

"I need to find out where the money was spent," she said. But other commissioners pushed for ending the program.

Commissioner Lisa Edgar said she thinks the state, with its other efforts to increase renewable energy, has moved "beyond this program."

jim.saunders@news-jrnl.com

Schedule MJE - 5, Page 9 of 12

State shuts FPL 'green' program

July 30, 2008 | By Julie Patel Staff Writer

State regulators on Tuesday shut down a Florida Power & Light Co. green energy program after an audit revealed most of the money collected from customers was used to pay for administrative and marketing costs.

The Florida Public Service Commission voted unanimously to end the Sunshine Energy Program, in which approximately 39,000 customers voluntarily agreed to pay an extra $9.75 per month for renewable energy projects. The state will continue its investigation into handling of the money and will decide later if it should require FPL to issue refunds or invest it in renewable energy projects in the works.

Commissioners want breakdowns from FPL and its contractors showing how much of the money went to travel expenses, a public relations consultant, salaries, office expenses and marketing.

"It could all be profit," Commissioner Nathan Skop said. "It all boils down to lack of oversight by this commission, and our failure to review the contract."

FPL officials acknowledge that three quarters of the $11.4 million collected from customers since 2004 went to administrative, marketing and management expenses, according to a commission report. Much of the rest of the money went to buy renewable energy credits from companies outside Florida.

The credits often supplement the amount of renewable energy a utility produces, helping it meet goals related to reducing greenhouse gases.

"We're grateful to the ... customers who voluntarily contributed to the program and made it one of the best performing renewable energy programs in the nation," FPL spokesman Mayco Villafana wrote in an e-mail Tuesday.

The commission's decision comes weeks after FPL faced fury from customers over an 8 percent rate hike that will take effect next week and another 8 percent increase planned for January. FPL is expected to make a case in the next few months for passing an estimated $688 million in costs to customers for solar projects.

Some utilities with green energy programs in other states spend far less than FPL on marketing and administrative costs.

In California, about 15 percent of the money collected from customers enrolled in Silicon Valley Power's Green Power program goes to administrative and marketing costs, program spokesman Larry Owens said. For Georgia Power's green energy program, about 1 percent of the money collected is spent on marketing and about 14 percent on administration.

Sunshine Energy ranks in the Department of Energy's top five green energy programs by size. But it fell behind in a requirement that it develop 150 kilowatts of solar capacity for every 10,000 residential customers enrolled in the program. By the end of 2005, when more than 20,000 customers were enrolled, FPL did not have any new solar projects completed, according to a PSC report. By the end of 2007, it had 37,184 participants and projects with 319 kilowatts of solar energy - enough to power 44 homes.

Green Mountain Energy Co., an Austin, Texas-based contractor hired by FPL to run Sunshine Energy, defended the program.

"We started with no customers and built the program to 38,000," Paul Markovich, senior vice president of Green Mountain, wrote in an e-mail. "Very few of those customers sought us out - we had to present them with a compelling offer in an effective way."

Julie Patel can be reached at 954-356-4667 or jvpatel@sun-sentinel.com.

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State ends FPL's green program, questions where $8 million went

By CHRISTINE STAPLETON

Palm Beach Post Staff Writer

Tuesday, July 29, 2008

The state - unable to figure out what happened to more than $8 million that Florida Power & Light collected from customers in its green energy program - on Tuesday ordered FPL to end the program immediately.

"This program has been mismanaged from the inception," said Florida Public Service Commissioner Nathan Skop, the biggest critic of FPL's Sunshine Energy Program. "The bottom line is 80 percent of the money is unaccounted for."

About FPL

- Florida Power & Light Co. was incorporated in 1925 and is a wholly owned subsidiary of FPL Group.
- FPL is based in Juno Beach and serves more than 8.7 million people along the eastern seaboard and southern portion of Florida.

FPL's attorney, R. Wade Litchfield, defended the program, saying FPL complied with every requirement of the commission's 2006 order establishing the program. Although FPL filed a request to revamp it after a stinging audit released in June, the company offered no opposition to the commission's unanimous decision to end it. It merely asked for more time to "unwind the program," Litchfield said.

"We can't do it on a dime, and we can't do it today," Litchfield said. "Within about two weeks of the final consummating order, we believe we will have gotten through the last billing cycle."

But the commission held firm on ending the program Tuesday. FPL must deposit any money collected after Tuesday in an escrow account until the commission's staff can finish its audit of the program. Depending on the audit's findings, the commission may order rebates or credits to nearly 39,000 customers who enrolled.

After Tuesday's meeting, FPL officials disputed accusations that the program was mismanaged, saying that it had outlived its usefulness and that Florida legislators are focused on other renewable energy programs.

FPL touted the program as a way for customers to help the company develop renewable energy in Florida. The program promised to develop 150 kilowatts of solar energy in Florida for every 10,000 customers who agreed to give the company $9.75 a month. In addition, FPL agreed to purchase 1,000 kilowatt hours of renewable energy credits for every subscriber every month.

FPL contracted with Green Mountain, a company in Austin, Texas, to run the program. An audit found that Green Mountain spent most of the money for salaries, office expenses, business and travel, research, marketing and a public relations consultant. Details of those expenditures have not been given to auditors.

Most of the green energy that Green Mountain purchased for the Sunshine Energy Program came from utilities outside of Florida.

"We don't know how much is being spent on purchasing (green energy), which is why we think that a significant portion of the money is going into the pockets of someone or administration or whatever," said commission general counsel Michael Cooke. "That doesn't mean that they're doing anything wrong. ... We have tried diligently to get to the bottom of this. I don't think we're comfortable that we've gotten as much cooperation as we would like, and that raises red flags for us."

Green Mountain and FPL officials agreed to work with auditors.

"Was more spent on marketing than they liked? Yes," said Paul Markovich, Green Mountain's senior vice president of residential services. "It takes capital if you want to grow the program. The 38,000 customers who registered for the program didn't seek us out, we had to go to them with an effective way to reach them."

As for those customers, FPL will mail notices about the program's termination to every customer "within a reasonable period, 30 to 45 days," including those who receive and pay their bills on the Internet, spokesman Mayco Villafana said. However, no instructions were offered for customers whose bills are due in the next week.

"It was a lot of money, but I went along with it figuring my money has been doing something good," said Jan Mamone of suburban Lake Worth. She enrolled in the program three years ago. "I did get two free light bulbs. ... I hope we get some of that money back."

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Review of Florida Power & Light Company's Sunshine Energy Program.	DOCKET NO. 070626-EI ORDER NO. PSC-08-0600-PAA-EI ISSUED: September 16, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER TERMINATING PROGRAM AND CANCELLING TARIFF

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

BACKGROUND

The Commission first encouraged FPL to consider green pricing options in June 1995.[1] At the time, green pricing was a relatively new concept. In general, green pricing programs allow interested customers to voluntarily contribute towards renewable generating resources, which are often higher in cost than fossil-fuel based generation. In response to our encouragement, FPL requested, and we approved, a two-year Green Pricing Research and Development Project to test customer response to a green pricing initiative.[2] Customer contributions received as a result of the program were used to construct a 10 kW photovoltaic system at FPL's Martin generating site.

In August 1997, as a part of the demand-side management goal setting proceeding, we approved a stipulation between FPL and the Legal Environmental Assistance Foundation.[3] Under the stipulation, FPL agreed to "[i]nvestigate and, if feasible, implement a Green Energy Program under which FPL would purchase energy generated from new renewable resources."

[1] See Order No. PSC-95-0691-FOF-EG, issued June 9, 1995, in Docket No. 941170-EG, In Re: Approval of demand-side management plan of Florida Power and Light Company.
[2] See Order No. PSC-97-0528-FOF-EG, issued May 7, 1997, in Docket No. 960624-EG, In Re: Petition for approval of Green Pricing Research and Development Project by Florida Power and Light Company.
[3] See Order No. PSC-99-1412-S-EG, issued August 6, 1997, in Docket No. 971004-EG, In Re: Adoption of numeric conservation goals by Florida Power and Light Company.

We subsequently approved a three-year green energy research program as a part of FPL's demand-side management plan.[4] Under this program, FPL performed additional research on customer preferences regarding renewable energy and the potential for developing a green pricing program. FPL used this customer preference information to design a three-year pilot green pricing program.

We approved FPL's voluntary pilot green pricing program on December 22, 2003.[5] FPL's pilot green pricing program was available only to residential customers and was based primarily on tradable renewable energy credits (TRECs). TRECs are financial instruments used to promote renewable generation by providing an additional revenue source to renewable generators. TRECs are essentially formed by separating the environmental attributes from the actual energy produced by renewable generating resources. Residential customers who chose to participate were charged $9.75 per month. In return, FPL made two commitments: (1) to purchase the TRECs associated with 1,000 kWh of renewable energy for each $9.75 contribution, and (2) to develop or purchase 150 kW of solar capacity within Florida for every 10,000 participating customers. In our order, we allowed FPL to recover reasonable and prudent project administrative costs through its Energy Conservation Cost Recovery (ECCR) clause up to $1.5 million if project administrative costs exceeded revenues received. We also ordered FPL to provide marketing materials to our staff, for approval, prior to distribution to customers. Finally, we required FPL to file detailed semi-annual progress reports and to provide us with a schedule for expanding the program to include commercial customers.

On August 29, 2006, FPL filed a petition to convert its pilot green pricing program to a permanent program under its demand-side management plan and to expand the program to include commercial customers. We approved FPL's permanent green pricing program, the Sunshine Energy Program, and the associated tariff in November 2006.[6] Unlike the pilot program, our order did not require FPL to file semi-annual progress reports for the permanent program. Instead, FPL committed to record revenues and expenses, and provide status reports as part of its ECCR clause filings.

In 2007, our staff opened a docket to review FPL's Sunshine Energy Program. On September 27, 2007, our staff filed a recommendation that certain modifications should be made to the Sunshine Energy Program. Many of our staff's concerns involved FPL's contract with Green Mountain Energy Company (Green Mountain). On October 4, 2007, FPL requested that the recommendation be deferred in order for FPL to address the issues raised in staff's recommendation.

In an effort to fully evaluate the Sunshine Energy Program, our staff also initiated an audit for the purpose of identifying, to the extent possible, how these voluntary contributions

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[4] See Order No. PSC-00-0915-PAA-EG, issued May 8, 2000, in Docket No. 991788-EG, In Re: Approval of demand-side management plan of Florida Power and Light Company.
[5] See Order No. PSC-03-1442-TRF-EI, in Docket No. 030752-EI, In Re: Petition for approval of green power pricing research project as part of Demand-Side Management Plan by Florida Power and Light Company.
[6] See Order No. PSC-06-0924-TRF-EI, issued November 6, 2006, in Docket No. 060577-EI, In Re: Petition to convert green power pricing research project to permanent program and to extend program to commercial customers, by Florida Power and Light Company.

were being used and whether there is a clear and transparent accounting for these monies. This audit was completed on May 30, 2008. On June 16, 2008, FPL filed a response to our staff's audit of the Sunshine Energy Program.

Over the eight month period following our deferral of consideration of staff's September 2007 recommendation, FPL provided verbal updates to our staff on the status of its efforts to renegotiate its contract with Green Mountain. On June 5, 2008, FPL filed a petition to modify the Sunshine Energy Program. The petition included a proposed revised tariff sheet no. 8.841.

This order addresses our concerns regarding FPL's implementation of its existing Sunshine Energy Program, as well as FPL's petition to modify the program and the associated tariff. We have jurisdiction over this matter under Sections 366.04, 366.05, 366.06, 366.80, 366.81, and 366.82, Florida Statutes (F.S.).

REVIEW OF THE SUNSHINE ENERGY PROGRAM

The following describes the Sunshine Energy Program, the results of our staff's audit, and staff's concerns regarding implementation of the program.

FPL's Existing Sunshine Energy Program

FPL contracted with Green Mountain to fulfill its obligations to residential participants in the program. Under the existing contract, Green Mountain is responsible for:

- developing marketing plans and materials,
- marketing the program to residential customers,
- providing customer sign-up and account services,
- purchasing tradable renewable energy credits (TRECs) for these customers, and
- developing 150 kW of solar capacity for each 10,000 participating residential customers.

FPL's contract with Green Mountain is basically a turn-key agreement in which Green Mountain is responsible for meeting all of FPL's commitments for use of residential participants' contributions. In exchange, Green Mountain receives the vast majority of each participant's monthly $9.75 contribution as a flat fee; FPL receives a small portion of each contribution to cover internal administrative expenses and any associated taxes.

FPL has a separate contract with Sterling Planet to meet its commitments with respect to commercial participants. Sterling Planet is responsible for purchasing all TRECs for participating commercial customers. Under the existing Sunshine Energy Program, FPL does not count commercial participants toward its solar development obligation.

Program Participation, Revenues and Expenses

Table 1 below displays the data FPL provided on program enrollments, revenues, and expenses, from the beginning of the pilot program in 2004, through May 31, 2008.

Table 1

	2004	**2005**	**2006**	**2007**	**2008**	**Total**
Cumulative Participants	10,674	23,066	28,742	37,184	38,929	
Revenues	$514,642	$2,258,751	$2,928,225	$3,900,993	$1,833,288	$11,435,899
Expenses	$476,590	$2,101,449	$2,819,106	$3,915,094	$1,579,228	$10,891,467
Net Revenues	$38,052	$157,302	$109,119	$(14,101)	$254,060	$544,432

Revenues for the program are obtained from the $9.75 per month contributed by participating customers. Total program revenues through May 31, 2008, were $11,435,899, with total expenses of $10,891,467. As of May 31, 2008, total program revenues (including pilot years) exceeded total expenses by $544,432. Program expenses during this time period included FPL's payments to its third party contractors Green Mountain and Sterling Planet, FPL's internal administrative expenses, and gross receipts taxes.

TREC Purchases

As discussed above, Green Mountain and Sterling Planet purchase TRECs associated with 1,000 kWh of renewable energy for each $9.75 customer contribution. These TRECs can be purchased from in-state or out-of-state renewable facilities. FPL provided the data in Table 2 regarding annual in-state and out-of-state TREC purchases from the start of the pilot program in 2004, through June 20, 2008.

Table 2					
	In-State TRECs	**% of Total**	**Out-of-State TRECs**	**% of Total**	**Total**
2004	20,531	40.0%	30,797	60.0%	51,328
2005	106,885	47.6%	117,709	52.4%	224,594
2006	136,257	45.0%	166,535	55.0%	302,792
2007	97,017	26.0%	276,730	74.0%	373,747
Jan-June 2008	50,000	100.0%	0	0.0%	50,000

Solar Capacity Commitment

We requested that FPL provide an update on its progress to meet its commitment to develop 150 kW of solar capacity within Florida for every 10,000 participating residential customers. On June 16, 2008, FPL reported that 513 kW of solar projects have been completed or are in progress as a result of the Sunshine Energy Program. FPL is counting the following projects toward its solar commitment.[7]

- 8 kW of solar installed in cooperation with SunSmart Schools – 2 kW at 4 schools;
- 2 kW of solar installed at the Miami Science Museum;
- 54 kW of rooftop solar installed on homes at The Quarry residential subdivision in Naples, Florida;
- 250 kW solar array at Rothenbach Park in Sarasota;
- 75 kW Publix Supermarkets project – 50 kW complete, 25 kW in progress; and

[7] Note: the 10 kW photovoltaic system FPL installed at its Martin generating site as a result of an earlier pilot program is not counted toward FPL's solar commitment in its Sunshine Energy Program.

- 124 kW of solar photovoltaic systems under the Sun Funds Program.[8]

These projects have been financed in various ways, including contributions to capital costs, long-term agreements to purchase TRECs, and leveraging state solar rebates and tax incentives. FPL believes that leveraging Sunshine Energy funds with other sources provides an opportunity to increase the solar projects developed as a result of the program at a reduced cost. To support its view on leveraging, FPL referred to the 124 kW of customer-owned solar photovoltaic systems listed above which received rebates through the Sun Funds Program. The Department of Environmental Protection's Energy Office currently administers a state program which offers a rebate of $4 per watt for solar photovoltaic systems. The Sun Funds Program offers an additional rebate of $1.50 per watt to FPL customers that install solar photovoltaic systems and are approved to receive the state's $4 per watt rebate. The Sun Funds rebates were initially limited to a total of $150,000.

Audit Results

Our staff began requesting information as a part of its normal ongoing review process for an existing utility program; however, they determined that further scrutiny was warranted for two reasons. First, available data suggested that Green Mountain was behind schedule on solar project development. In addition, there appeared to be excess revenues that could have been used to provide greater benefits to program participants through additional renewable project development.

These initial concerns prompted our staff to conduct further discovery and an audit to more fully understand how the program's revenues were being used and whether the use of these revenues was in accordance with our order, as well as in the best interest of the program's participants. This audit was completed on May 30, 2008. FPL has requested that portions of the results of the audit be held confidential. One concern, however, is the audit's finding that the vast majority of the program's revenues have been spent on marketing and administrative costs. Table 3 below displays the total revenues and cost breakdown by categories from 2004 through 2007, as determined by our staff's audit.

[8] The Sun Funds Program is a solar rebate program that Green Mountain initiated on FPL's behalf under the Sunshine Energy Program in late 2007. Staff's audit shows that 100 kW of solar photovoltaic systems are to receive funding through the Sun Funds rebate program.

Table 3[9]

		% of Costs to Total Costs	% of Costs to Payments to Green Mountain	% of Costs to FPL Revenues
Revenues	$9,578,895			$9,578,895
Payments to Green Mountain	$8,614,950		$8,614,950	
Project Costs Paid	$431,504	4.99%	5.01%	4.50%
TREC Costs	$1,803,620	20.87%	20.94%	18.83%
Marketing and Other Costs	$6,408,070	74.14%	74.38%	66.90%
Total	$8,643,194	100.0%	100.33%	90.23%

On June 16, 2008, FPL filed a response to the staff audit. FPL takes issue with the audit report's finding on marketing expenses associated with the program. FPL states that the audit mischaracterized "direct costs and general and administrative costs" as marketing costs. FPL provided its own breakdown of program expenditures, as shown on the attached document prepared by FPL. FPL lists the following cost breakdown for the existing program:

- 7 percent – FPL program management
- 68 percent – marketing and administration
- 24 percent – TRECs and renewable projects

Concerns Regarding FPL's Implementation of the Existing Program

Several concerns have been identified with the Sunshine Energy Program; however, it is appropriate to note that the program has been successful on certain levels. The program stimulated customer awareness and support for renewable energy. Participation in the program, with 38,929 participants as of May 31, 2008, has demonstrated that there is strong interest among FPL's customers in renewable energy development. In addition, the program has provided funds

[9] The audit did not address the portion of customer contributions directed to FPL's administrative costs. Also, the data provided does not include Green Mountain's estimated $1 million for its corporate overhead in support of the program through 2007.

for the development of the renewable projects discussed above, as well as an additional revenue stream for renewable generators (both in-state and out-of-state) through the purchase of TRECs.

But, upon a more thorough review of the program's effectiveness and in light of recent legislative policies concerning renewable energy, there are concerns with the continuation of the program. The Florida Legislature has recently shown a clear preference for in-state renewable projects. Section 366.92, F.S., expresses the Legislature's intent to promote the development of renewable energy, diversify the types of fuel used to generate electricity in Florida, lessen Florida's dependence on natural gas and fuel oil for the production of electricity, and encourage investment within the state. Also, HB 7135, enacted during the 2008 regular session, requires the Commission to develop a renewable portfolio standard. While the bill includes a renewable energy credit trading system, the bill restricts utilities to meet their obligations with in-state renewable generation. HB 7135 also authorizes this Commission to allow utilities to recover costs for 110 megawatts of solar projects developed within Florida. In light of these shifts in policy, as well as questions raised about administrative, marketing, and other costs, we believe that other, better options are available to promote renewable generation, such that the Sunshine Energy Program is no longer the best means by which the State's renewable energy policies can be achieved.

Conclusion

As discussed above, the Sunshine Energy Program does not currently serve the interest of the program's participants and does not align with current state renewable energy policies. Therefore, the Sunshine Energy Program shall be terminated effective July 29, 2008. The existing tariff shall be cancelled, and FPL shall escrow all voluntary contributions collected as of July 29, 2008, and beyond. The escrow account shall be established between FPL and an independent financial institution pursuant to a written escrow agreement. This Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purpose set forth above; that no withdrawals of funds shall occur without the prior approval of this Commission through the Commission Clerk; that the account shall be interest bearing; that information concerning that escrow account shall be available from the institution to this Commission or its representative at all times. Pursuant to Rule 25-6.109(6), F.A.C., the utility shall provide a report by the 10th of each month indicating the monthly and total amount of money subject to refund as of the preceding month as well as the status of the escrow account. Within 30 days from the date of this Order, FPL shall submit a revised tariff sheet to remove the program from its tariff. In addition, FPL shall provide notice of termination of the program to the participants.

With respect to the money spent on the Sunshine Energy Program, we direct staff to continue with an audit of Green Mountain's books pertaining to the program, with the understanding that the information will be available to this Commission in the future. Green Mountain has agreed to provide us with the information that we need to better understand the program and has agreed to cooperate with staff, to the extent that it can, to provide the information that this Commission is seeking. If there are any unresolved issues that arise from the termination of the Sunshine Energy Program, those issues will be considered in the Energy Conservation Cost Recovery Clause (ECCR) proceeding.

TARIFF CANCELLATION

Pursuant to Section 366.06(3), F.S., we may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility making the request a reason or written statement of a good cause for doing so within 60 days. On June 5, 2008, FPL filed a petition, along with a revised tariff sheet, to modify the Sunshine Energy Program. Based on our decision to terminate the program and cancel the current tariff, we find that the revised tariff shall be denied.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Power & Light Company's Sunshine Energy Program shall be terminated, effective July 29, 2008, for the reasons set forth herein. It is further

ORDERED that Florida Power & Light Company shall escrow all voluntary contributions collected as of July 29, 2008, and beyond, as set forth herein. FPL shall also provide a report by the 10th of each month indicating the monthly and total amount of money subject to refund as of the preceding month and the status of the escrow account. It is further

ORDERED that Florida Power & Light Company shall submit a revised tariff sheet to remove the program from its tariff within 30 days from the date of this Order. It is further

ORDERED that Florida Power & Light Company shall provide notice of termination of the Sunshine Energy Program to the participants. It is further

ORDERED that the revised tariff sheet, filed on June 5, 2008, to modify the Sunshine Energy Program is hereby denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open pending resolution of our staff's audit.

By ORDER of the Florida Public Service Commission this 16th day of September, 2008.

/s/ Ann Cole
ANN COLE
Commission Clerk

This is an electronic transmission. A copy of the original signature is available from the Commission's website, www.floridapsc.com, or by faxing a request to the Office of Commission Clerk at 1-850-413-7118.

(S E A L)

KEF

CONCURRENCE BY: COMMISSIONER MCMURRIAN and COMMISSIONER SKOP

COMMISSION MCMURRIAN, concurring with opinion as follows:

I concur with the Commission's decision to terminate the Sunshine Energy program at this time. Between 2004 and 2008, a multitude of generous FPL customers voluntarily contributed at least $9.75 per month. This enabled the program to spur awareness of and investment in renewable energy. The need for the program, however, has diminished greatly due to the progressive policies advanced by the Florida Legislature and Governor Crist. Presently, the Commission is devoting its resources to implementation of these initiatives to advance renewables in Florida.

It is most likely the case that the Sunshine Energy program could have performed better and delivered greater benefits. It is definitely the case that the perfect information that only comes with the passage of time was not available at the program's inception.

As discussed during our deliberation of this matter, the Commission has remaining issues to sort through with respect to this now terminated program. Of course, it is important to reserve judgment on these related issues until the staff audit is complete and we have more information. However, I believe FPL has complied with the relevant tariff. This was confirmed by our staff during the Agenda conference.

Unfortunately, the Sunshine Energy program appears to have lost credibility with the public. This, coupled with the fact that recent policy changes have provided the state with other alternatives for advancing renewable energy, supports termination of the Sunshine Energy program at this time.

COMMISSIONER SKOP, concurring specially with comment:

It suffices to say that no reasonable person would have contributed to the Sunshine Energy® program had they known that approximately 76.4% of the contributions would be spent on marketing and administrative expenses instead of renewable energy.[10] In reaching this conclusion, it is important to recognize that FPL was paid an administrative fee to manage the Sunshine Energy® program.[11] Therefore, FPL was best positioned to know that the vast majority of the contributions that it collected from the voluntary ratepayers during the 4 ½ year period that the program was in effect were not being spent on renewable energy. Accordingly, FPL had a fiduciary duty to disclose this material fact to the customers that were solicited to participate in the program, to the program participants, and to this Commission. It is clear to me that FPL failed to make this disclosure. Furthermore, one need only look as far as the Frequently Asked Questions section of the FPL Sunshine Energy® webpage to appreciate how consumers could have been mislead with respect to how their contributions would be spent under the program.[12] Based upon the above, I firmly believe that FPL should be held accountable for failing to fully disclose material facts associated with the utilization of funds associated with this program and that refunds are warranted.[13]

Notwithstanding the aforementioned, an essential part of managing the Sunshine Energy® program was the FPL obligation to manage the performance of Green Mountain Energy under the contract.[14] In this regard, Green Mountain Energy clearly failed to perform its obligations under the contract as follows:

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[10] Audit Finding No. 2, Florida Power and Light Company Sunshine Energy Program Audit (for the 12 months ended December 31, 2007), dated May 29, 2007 (concluding that 23.6% of the total Sunshine Energy® program revenues during the period of 2004-2007 were spent on TREC(s) and solar projects). Accordingly, this directly implies that 76.4% (100% - 23.6%) of the total revenue during this period was spent on marketing and administrative costs for the Sunshine Energy® program.

[11] FPL retained an administrative fee in the amount of $0.65 from each monthly $9.75 contribution to manage the Sunshine Energy program.

[12] Excerpt from Frequently Asked Questions section of the FPL Sunshine Energy® webpage:

> Q: "What does the additional cost pay for?"
>
> A: "The charge goes toward the purchase of renewable resources for the program and **nominal** administrative costs to operate the program." **(Emphasis Added).**

[13] The issue of refunds will be addressed within the ECCR docket. As stated during the bench discussion, I believe that FPL should be ordered to pay a Contribution in Aid of Construction (CIAC) in the amount of six million dollars ($6,000,000) toward the construction of the FPL solar projects (110 MW) that were recently approved by this Commission. I believe that this remedy would provide a "win-win" situation for all parties in resolution of this matter recognizing the potential difficulty of refunding the voluntary contributions that were collected over a multi-year period.

[14] Trademark License and Services Agreement, by and between Florida Power & Light Company and Green Mountain Energy Company, dated 30 July, 2003. It is interesting to note that Florida Power & Light Company represented to Green Mountain Energy Company that it owned the federally registered Sunshine Energy® trademark at the time it entered the contract (see Section 1.21 and Schedule II of the contract). United States

Section 13.1

Green Mountain Energy failed to enroll 25,000 new customers per year (on a year to year basis). Green Mountain Energy alleges that it spent millions of dollars on marketing, yet enrollment from program inception to termination over a period of 4 ½ years totaled less than 39,000 customers. This number represents less than 1% of the overall FPL customer base which reflects upon the overall effectiveness and management oversight of the Green Mountain Energy marketing effort.

Section 18.1

Green Mountain Energy failed to perform its contractual obligation under Section 18.1 of the contract. Section 18.1 sets forth the General Commitment of Green Mountain Energy with respect to the construction of the solar resource projects.[15] The record clearly establishes that Green Mountain Energy did not meet this requirement in accordance with the provisions of the contract. Total installed solar capacity to date during the years of 2005 and 2006 was zero.[16] Additionally, the net metered, residential PV solar installations that Green Mountain Energy and FPL are claiming credit for under the Solar Capacity Commitment do not meet the requirement of provision 18.1(i) of the contract which requires FPL to purchase "all energy generated", NOT "net energy delivered" (from each solar resource project) under a Power Purchase Agreement (PPA).[17] As an illustrative example, the Rothenbach Park solar array clearly meets this requirement as reflected within the PPA for the project; while the net metered installations claimed for the Quarry subdivision and Sun Funds projects do not.[18] Furthermore, Green Mountain

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Trademark and Patent Office (USPTO) records, however, clearly indicate that Florida Power & Light Company did not own the Sunshine Energy® trademark as of the date of the contract. In fact, the Sunshine Energy® trademark was owned by FPL Energy Services, Inc. (an unregulated subsidiary of FPL Group, Inc., and an affiliate of Florida Power & Light Company) and was not legally conveyed to Florida Power & Light Company until April 5, 2004 (as recorded by the USPTO on May 10, 2004).

[15] Green Mountain Energy committed to supplying FPL with 150 kW of solar capacity in Florida for every 10,000 Customers enrolled in the program within one year after meeting each Customer enrollment threshold.

[16] Notwithstanding this fact, FPL sought approval from this Commission to make the Green Pricing Program permanent during the fourth quarter of 2006. The FPL petition failed to disclose that Green Mountain Energy was not meeting its solar construction obligation, and that no solar capacity had been installed to date. The FPL petition also did not disclose amendments to the underlying contract. Review of the transcript also indicates that FPL did not disclose these material facts during the Agenda conference discussion. Despite the fact that Green Mountain Energy was not meeting its solar construction obligation, and that no solar capacity had been installed to date, FPL continued to allow the solicitation of consumers during this period.

[17] Transcript (page 96, lines 18-23) from Item 11 of Agenda Conference; July 1, 2008.

[18] In these instances, voluntary contributions were being used for private residences which may not have even been enrolled in the Sunshine Energy® program. Additionally, the Sun Funds rebates were never approved by this Commission, and were offered only after this Commission began its formal review of the Sunshine Energy® program in 2007. Despite the spin and rhetoric, this appears to be an attempt by Green Mountain Energy to meet its long overdue solar capacity obligations as quickly and cheaply as possible, but does not meet the requirements of provision 18.1(i) of the contract. Accordingly, by failing to manage the performance of Green Mountain Energy in

Energy had the sole obligation for meeting the Solar Capacity Commitment under the contract. FPL, however, is counting the Miami Science Museum solar array (2 kW), an array developed and paid for by FPL, toward meeting the solar obligation of Green Mountain Energy under the contract. In this regard, it is uncertain why FPL seems to be performing an obligation of Green Mountain Energy under the contract.[19] Such actions would not be necessary if FPL properly managed the performance of Green Mountain Energy under the contract.

Section 18.2

Green Mountain Energy failed to perform its contractual obligation under Section 18.2 of the contract. Section 18.2 sets forth the Initial Commitment of Green Mountain Energy with respect to the construction of the solar resource projects.[20] Through its own admission, the record clearly establishes that Green Mountain Energy did not meet this requirement in accordance with the provision of the contract.[21]

Based upon the above, it is evident that Green Mountain Energy failed to fully perform its contractual obligations, and that FPL failed to manage the performance of Green Mountain Energy in accordance with the provisions of the contract.

Finally, in an attempt to divert attention away from the undisputed fact that the vast majority of contributions to the Sunshine Energy® program were not being spent on renewable energy, FPL focuses upon NREL rankings, the Tariff, and TREC(s) purchases as the basis for asserting why the Sunshine Energy® program was successful. Such arguments are not persuasive and should be rejected for the following reasons:

Discussion of NREL Rankings

FPL and Green Mountain Energy both cite NREL rankings as a basis for asserting why the Sunshine Energy® program was successful. The mere fact that a green program can achieve a top 5 status by spending only 23.6% of the total funds collected on renewable

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accordance with provision 18.1(i) of the contract, FPL is effectively allowing Green Mountain Energy to meet each new incremental solar capacity commitment at a mere fraction of the cost (150 kW = for a one-time total cost of only $225,000 - less the value of the retained TRECs) that Green Mountain Energy alleges to incur for a compliant project (i.e., the $22,000/month obligation that Green Mountain Energy claims to incur for the Rothenbach Park project through 2015).

[19] FPL has also recently committed to provide FAU with funding in the amount of $34,000 towards the completion of a 34 kW solar photovoltaic facility. To the extent that FPL is not attempting to count this project toward meeting the solar capacity obligation of Green Mountain Energy under the contract, I wholeheartedly support, encourage, and commend FPL's on-going efforts to support renewable energy projects in partnership with Florida's public schools and State universities.

[20] Green Mountain Energy committed to FPL that it would cause a solar project with a minimum capacity of 50 kW to be built in Florida within one year after the program start date.

[21] Transcript (page 85, lines 18-20) from Item 11 of Agenda Conference; July 1, 2008.

energy leaves much to be said about the inherent value and overall quality of such rankings.[22] It further stands to reason that the expected benefit to the environment is not maximized when the vast majority of contributions to such programs are spent on marketing and administrative costs. Based upon the above, I would respectfully suggest that the NREL rankings provide a false sense of authenticity to such programs which may not directly translate into value for consumers.

Discussion of Tariff

The FPL assertion that it should be relieved from regulatory accountability merely because it technically met the requirements of the Green Power Pricing Tariff is equally misguided and should be rejected. First, FPL wrote the Tariff that was filed for approval. Second, FPL knew, or should have known, that the Tariff was defective to the extent that the Tariff did not incorporate the solar capacity requirement that FPL openly represented as an inducement to the consumers that were solicited to participate in the Sunshine Energy® program and to this Commission.[23] Third, technically meeting the requirements of a defective Tariff is not dispositive to the controlling questions of whether FPL made full disclosure of material facts regarding the Sunshine Energy® program, and whether FPL was prudent in the management of the Sunshine Energy® program.

Discussion of TREC(s)

FPL further cites the cumulative number of TREC(s) purchased as an additional basis for asserting why the Sunshine Energy® program was successful. In the instant case, the record clearly reflects that only 18.83% of the total funds collected were spent on TREC purchases.[24] It further stands to reason that the expected benefit to the environment is not maximized when the vast majority of contributions to the Sunshine Energy® program were spent on marketing and administrative costs. Additionally, if carbon reduction was truly a goal of the program, then it is quite evident that a far greater number of TREC(s) could have actually been purchased under the program. Therefore, the FPL argument, while colorable, lacks substantial merit upon further review and scrutiny.

[22] Audit Finding No. 2, Florida Power and Light Company Sunshine Energy Program Audit (for the 12 months ended December 31, 2007), dated May 29, 2007 (concluding that 23.6% of the total Sunshine Energy® program revenues during the period of 2004-2007 were spent on TREC(s) and solar projects). Accordingly, this directly implies that 76.4% (100% - 23.6%) of the total revenue during this period was spent on marketing and administrative costs for the Sunshine Energy® program.

[23] FPL never sought to correct the defective tariff by seeking to amend it; yet FPL is apparently content to argue behind the same Tariff using it as a shield.

[24] Audit Finding No. 2, Florida Power and Light Company Sunshine Energy Program Audit (for the 12 months ended December 31, 2007), dated May 29, 2007 (concluding that 18.83% of the total Sunshine Energy® program revenues during the period of 2004-2007 were spent on TREC purchases).

Finally, although the question of whether the Sunshine Energy® program purchased the required number of TREC(s) under the contract was never at issue in this proceeding, I remain concerned by the fact that Green Mountain Energy significantly decreased its purchase of Florida generated TREC(s) for the Sunshine Energy® program, on a year-to-year basis from 2006 to 2007. While substantially decreasing its purchase of Florida generated TREC(s) in 2007, Green Mountain Energy conveniently purchased 74,658 TREC(s) from the FPL Energy Horse Hollow wind project in Texas via a third party transaction. At that time, Green Mountain Energy could have chosen to purchase the same number of TREC(s) originating from a non-FPL affiliated source, but did not do so. Accordingly, the Green Mountain Energy preference appears to favor an unregulated subsidiary of FPL Group.

In summary, no reasonable person would have contributed to the Sunshine Energy® program had they known that approximately 76.4% of the contributions would be spent on marketing and administrative expenses instead of renewable energy.[25] As the program manager, FPL was best positioned to know that the vast majority of the contributions that it collected from the voluntary ratepayers during the 4 ½ year period that the program was in effect were not being spent on renewable energy. Accordingly, FPL had a fiduciary duty to disclose this material fact to the customers that were solicited to participate in the program, to the program participants, and to this Commission. It is clear to me that FPL failed to make this disclosure. Furthermore, an essential part of managing the Sunshine Energy® program was the FPL obligation to manage the performance of Green Mountain Energy under the contract. As discussed above, it is clearly evident that Green Mountain Energy failed to fully perform its contractual obligations, and that FPL failed to manage the performance of Green Mountain Energy in accordance with the provisions of the contract. Based upon the above, I firmly believe that FPL should be held accountable for the lack of disclosure and management oversight problems associated with Sunshine Energy® program and that refunds are warranted.[26]

[25] Audit Finding No. 2, Florida Power and Light Company Sunshine Energy Program Audit (for the 12 months ended December 31, 2007), dated May 29, 2007 (concluding that 23.6% of the total Sunshine Energy® program revenues during the period of 2004-2007 were spent on TREC(s) and solar projects). Accordingly, this directly implies that 76.4% (100% - 23.6%) of the total revenue during this period was spent on marketing and administrative costs for the Sunshine Energy® program.

[26] The issue of refunds will be addressed within the ECCR docket. As stated during the bench discussion, I believe that FPL should be ordered to pay a Contribution in Aid of Construction (CIAC) in the amount of six million dollars ($6,000,000) toward the construction of the FPL solar projects (110 MW) that were recently approved by this Commission. I believe that this remedy would provide a "win-win" situation for all parties in resolution of this matter recognizing the potential difficulty of refunding the voluntary contributions that were collected over a multi-year period.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 7, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

EO-2013-0307
Ameren Missouri

Pure Power Rate Changes

Classification No. 1 (M)

Monthly Charge	Proposed Rates Ameren	Missouri Administration Fee	Proposed Rates Staff
1000 kWh	$10.00	10%	$1.00
500 kWh	$5.00	10%	$0.50
kWh	$0.010	10%	$0.0010

Classification No. 2 (M)

Monthly Charge	Proposed Rates Ameren	Ameren Missouri Administration Fee	Proposed Rates Staff
1000 kWh	$10.00	10%	$1.00
kWh	$0.010	10%	$0.0010

Classification No. 3 (M), 4(M), 5 (M), 6(M), 7(M), 8(M), 11(M) & 12 (M)

Monthly Charge	Proposed Rates Ameren	Ameren Missouri Administration Fee	Proposed Rates Staff
1000 kWh	$10.00	10%	$1.00

EO-2013-0307
Ameren Missouri

Pure Power Rate Changes

Classification No. 1 (M)

Monthly Charge	Current	Proposed	Reduction	Percent Reduction
1000 kWh	$15.00	$10.00	$5.00	33.33%
500 kWh	$7.50	$5.00	$2.50	33.33%
kWh	$0.015	$0.010	$0.005	33.33%

Classification No. 2 (M)

Monthly Charge	Current	Proposed	Reduction	Percent Reduction
1000 kWh	$15.00	$10.00	$5.00	33.33%
kWh	$0.015	$0.010	$0.005	33.33%

Classification No. 3 (M), 4(M), 5 (M), 6(M),
7(M), 8(M), 11(M) & 12 (M)

Monthly Charge	Current	Proposed	Reduction	Percent Reduction
1000 kWh	$15.00	$10.00	$5.00	33.33%

Ensrud, Michael

From: John Kaduk [jkaduk@psc.state.ga.us]
Sent: Friday, February 01, 2013 2:03 PM
To: Ensrud, Michael
Cc: Jamie Barber; John Kaduk
Subject: RE: Email from the PSC Web Site - AMENDED

I double checked my numbers and I was off for marketing in one of the four years.

Please use the updated values:

4 Year Averages:
Labor & Overhead vs. Total Expenses (includes Energy Expenses) Approx. 8%

Marketing vs. Total Expenses (includes Energy Expenses) Approx. 3.7%

Thanks.

John Kaduk
Senior Engineer, Internal Consultants (ARRA Team) Georgia Public Service Commission
404-463-4249
http://www.psc.state.ga.us/

-----Original Message-----
From: John Kaduk
Sent: Friday, February 01, 2013 12:18 PM
To: 'michael.ensrud@psc.mo.gov'
Cc: John Kaduk; Jamie Barber
Subject: RE: Email from the PSC Web Site

Mr. Ensrud,
As requested, I am sending you the following information about Georgia Power Company's Green Energy program for the years 2008 thru 2012.

4 Year Averages:
Labor & Overhead vs. Total Expenses (includes Energy Expenses) Approx. 8%

Marketing vs. Total Expenses (includes Energy Expenses) Approx. 4.5%

The underlying data behind these calculations is considered trade secret.

John Kaduk
Senior Engineer, Internal Consultants (ARRA Team) Georgia Public Service Commission
404-463-4249
http://www.psc.state.ga.us/

From: Ensrud, Michael [mailto:michael.ensrud@psc.mo.gov]
Sent: Mon 1/28/2013 9:53 AM
To: gapsc
Subject: Email from the PSC Web Site

My name is Michael Ensrud. I am a representative of the Missouri Public Service Commission. I am working on the issue of "caps" to administration & advertising expense for brokers of voluntary REC programs. Any help rendered is greatly appreciated.

I am seeking information about the Georgia Power's green energy program. I found this 5 -year old story which quotes Georgia as having a 15% overhead cap. I'd like to have a conversation with a Georgia Staffer about the Georgia thresholds, public information status, and other aspects of your voluntary REC program.

South Florida Sun Sentinel July 30, 2008 "State Shuts down FFL's renewable energy program"

Some utilities with green energy programs in other states spend far less than FPL on marketing and administrative costs. In California, about 15 percent of the money collected from customers enrolled in Silicon Valley Power's Green Power program goes to administrative and marketing costs, program spokesman Larry Owens said. For Georgia Power's green energy program, about 1 percent of the money collected is spent on marketing and about 14 percent on administration.

Thank you for your time v& consideration

My phone number is 573-751-8703.

Michael J. Ensrud

Ameren Missouri EO-2013-0307

My educational and professional experience is as follows:

I have a Bachelor of Science from Drake University. I attended the NARUC Annual Regulatory Studies Program at Michigan State University. In the regulatory field, I've worked for CompTel Missouri, and CommuniGroup, Inc., Teleconnect, TeleCom* USA, and General Telephone Company of the Midwest in the private sector. In addition, I have four-years of experience with the Iowa Public Utility Board – Iowa's equivalent to the Missouri Commission.

I have filed written testimony and have testified in several cases before Missouri Public Service Commission. Schedule 1 lists the cases where I have filed testimony (or otherwise materially participated) as a Staff witness before this Commission. (There are numerous cases going back to the mid-1980s where I filed testimony on behalf of Teleconnect (TeleCom*USA), CompTel of Missouri & CommuniGroup, Inc. - various private entities or trade associations - that are not listed). I have also testified in other jurisdictions.

Michael J. Ensrud

Ameren Missouri EO-2013-0307

Cases that I have testified (or otherwise materially participated) in as a Staff witness:

Atmos Energy Corporation - GR-2006-0387 - Miscellaneous Rate Issues & Seasonal Reconnection Charge.

Missouri Gas Energy (a Division of Southern Union Company) - GR-2006-0422 - Miscellaneous Rate Issues & Seasonal Reconnection Charge.

AmerenUE (Union Electric Company) - GR- 2007-0003 - Miscellaneous Rate Issues & Seasonal Reconnection Charge.

Laclede Gas Company - GR-2005-0284 - Miscellaneous Rate Issues & Credit Scoring / **GR - 2007-0208** - Miscellaneous Rate Issues & Credit Scoring & Rate Switching Customers

Southern Missouri Natural Gas Company (Southern Missouri Natural Gas Company) - GE-2005-0189 - Promotional Practices

Empire District Electric Company of Joplin - ER-2006-0315 - Street Lighting

Missouri Gas Utilities, Inc. (MGU) - GR-2008-0060 - Miscellaneous Rate Issues

Trigen Kansas City Energy Corporation - HR-2008-0300 - Miscellaneous Rate Issues

Union Electric Company d/b/a AmerenUE - ER-2008-0318 – Renewable Energy Certificates

Kansas City Power & Light – KCP&L Greater Missouri Operations Company ("GMO") – HR-2009-0092 – Contract Adjustment & Imputation – AG Processing (AGP)

Missouri Gas Energy (a Division of Southern Union Company) - GR-2008-0355 - Miscellaneous Rate Issues & Rewrite of Transportation Tariff.

Missouri Gas Energy (a Division of Southern Union Company) - GR-2010-0355 - Miscellaneous Rate Issues & Rewrite of Transportation Tariff.

Empire District Electric Company of Joplin – GR-2009-0434 - Miscellaneous Rate Issues & Rewrite of Transportation Tariff.

Missouri Gas Energy (a Division of Southern Union Company) - GT-2010-0261 - Rewrite of Transportation Tariff (Off-shoot of .GR-2010-0355).

Laclede Gas Company – GR-2010-0171 – Class Cost of Service

AmerenUE - GR- 2010-0363- Class Cost of Service

Ameren Missouri ER-2012-0166 – Voluntary RECs / Pure Power Program