

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Consideration of Adoption     )  
Of the PURPA Section 111(d)(14) Time-based     )     Case No. EO-2006-0496  
Metering and Communication Standard as Required by     )  
Section 1252 of the     Energy Policy Act of 2005     )

**RESPONSE TO ORDER DIRECTING FILING OF ADDITIONAL PLEADINGS BY**  
**CONCERNED CITIZENS**  
**OF PLATTE COUNTY, SIERRA CLUB, OZARK ENERGY SERVICES, MID-**  
**MISSOURI PEACEWORKS AND HEARTLAND RENEWABLE ENERGY SOCIETY**

Come now Concerned Citizens of Platte County (“CCPC”), Sierra Club, Ozark Energy Services, Mid-Missouri Peaceworks and Heartland Renewable Energy Society and in response to the Commission’s December 26, 2006 Order Directing Filing of Additional Pleadings state:

On Oct. 31, 2006, PSC Staff filed a “Motion to Open Rulemaking Docket” to deal in one proceeding with all the EAct 2005 standards. On Dec. 22, “Staff’s Updated Suggestions for Future Proceedings” pulled back from this recommendation and asked the Commission first to determine whether each case could be closed on the basis of prior state action.

**Prior State Action**

We are unaware of the existence of any comparable standard unless it is in the form of individual utility tariffs. This is what the IOUs claim except for AmerenUE, which admits there has been no prior state action.

EAct 2005 § 1252(i) amends PURPA § 112 (16 U.S.C. 2622) by adding:

(e) Prior State actions...

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a

comparable standard) for such utility within the previous 3 years; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.

The burden rightly belongs on the regulated utilities to show that (1) the state or some agency thereof has imposed on them the same or a comparable standard; or (2) the PSC has conducted a rate case or other proceeding within the last three years that considered implementing the same or a comparable standard; the legislature has certainly not implemented it.

The utilities have not to this point endeavored to show how their tariffs implement the specific elements of § 111(d)(14)(A)–(C).

EPAct § 1252(b)(3) (16 U.S.C. § 2625(i)) provides in connection with this standard: “Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices...” This strongly suggests that tariffs alone do not constitute consideration and action upon the standard.

EPAct § 1252(e)(1) envisions regional coordination of state energy policies to provide demand response services to the public. A uniform statewide policy is advisable if not essential if this goal is to be met.

In the IRP rules there is no requirement that these particular demand response measures be included in the initial identification of demand-side measures in 4 CSR 240-22.050(1), let alone in any later stage of the Demand-Side Resource Analysis.

Missouri has not acted on or otherwise considered the same or a comparable standard. This case should therefore proceed.

/s/Henry B. Robertson  
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Attorneys for Intervenors

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct PDF version of the foregoing was sent by email on this 9th day of February, 2007, to the persons on the EFIS service list.

/s/Henry B. Robertson  
Henry B. Robertson