

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of the Consideration of Adoption       )  
Of the PURPA Section 111(d)(13) Fossil Fuel       )       Case No. EO-2006-0495  
Generation Efficiency Standard as Required by       )  
Section 1251 of the Energy Policy Act of 2005       )

**RESPONSE TO PROPOSED QUESTIONS 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 August 17 Order Directing Filing answer the three proposed questions as follows.

**Prior State Action**

The only relevant prior state action is the IRP Supply-Side Resource Analysis in 4 CSR 240-22.040. Resource options include “life extension and refurbishment at existing generating plants” and “efficiency improvements which reduce the utility’s own use of energy.” 4 CSR 240-22.040(1). However, these options are subject to preliminary screening for a variety of “disadvantages,” 22.040(2), and possible elimination. 22.040(2)(C). If passed through, they are subject to further scrutiny for “uncertain factors.” 22.040(8). If included in alternative resource plans, they are subject to further analysis for cost, uncertainty and “additional planning objectives” under 22.060(1–4). The goal of IRP is to identify a single preferred resource plan for implementation. 22.070(6, 9).

The IRP process does not necessarily result in the kind of plan envisioned by EAct 2005 and so does not fulfill the unqualified mandate of PURPA § 111(d)(13): “Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel

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

### **Consolidation**

This case should be consolidated with EO-2006-0494, Consideration of the Adoption of the 111(d)(12) Fuel Sources Standard. Both concern the development of utility plans under the heading of generation technologies. One option for implementing each is by amending the IRP rules of 4 CSR 240 Chapter 22. Even if a separate rulemaking is used, a single proceeding could realize administrative efficiencies due to the similarity in subject matter. The two standards should therefore be considered in tandem.

### **Type of Proceeding**

Rulemaking is the only suitable type of proceeding. Rate cases are inapplicable. Workshops or collaboratives without the direct participation of the Commission are not conducive to the “determination” by the “State regulatory authority” of the appropriateness of implementing the standard that is required by PURPA § 111(a)(16 U.S.C. § 2621(a)).

/s/Henry B. Robertson  
Henry B. Robertson (Mo. Bar No. 29502)  
Kathleen G. Henry (Mo. Bar No. 39504)  
Great Rivers Environmental Law Center  
705 Olive Street, Suite 614  
St. Louis, Missouri 63101  
(314) 231-4181  
(314) 231-4184  
[khenry@greatriverslaw.org](mailto:khenry@greatriverslaw.org)

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 15th day of September, 2006, to the persons on the EFIS service list.

/s/Henry B. Robertson  
Henry B. Robertson