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Robert S. Kenney, Commissioner
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

RE: EW-2011-0031
Roundtable Discussions Regarding Renewable Energy Standards
Offer Of A Slightly Different Approach

Dear Commissioner:

Preface

I am a ratepayer and Missouri citizen. I have attended your hearings since April 6, 2010. In these meetings I, as a citizen and ratepayer, have been showered with respect and care. Each participant that has offered testimony seems fully aware of my needs and has anticipated my desires. My pocketbook has been fully protected. Basking in this adoration I have become giddy with importance and know my remarks here will carry full weight with the participants attending your hearings. I do need to be forthcoming. I know I will be labeled a sheep in wolf's clothing if I don't tell all. While I have no other portfolio than citizenship and loyal ratepayer, I am a solar industry wantabe. I want one of those Green Jobs everyone is talking about; and why not here in Missouri rather than New Jersey? I am frustrated that we are not ready to go full steam ahead in Missouri and we must visit the legislature for an uncertain solution.

Commissioner Kenney, I wish to thank you personally for volunteering to lead and moderate the Roundtable discussions and I extend my thanks to the remainder of the Commission and its staff on all of your long hours regarding Renewable Energy Standards (Prop C and associated statutes and rules) over these last two years.

I withhold my thanks for the stalwart participation by the two sides represented by the utilities and the large utility customers who appear in opposition the renewable energy industry. In spite of, or because of, *each* side's dedicated efforts we find that the process continues to drag on without a full set of rules, we have lawsuits, and without predicable investment incentives to create an attractive business climate in this state. The need to add yet another Roundtable date is evidence to my point. The old battle lines persist. This is not to be taken as criticism of the Commission. The Commission ended the cat-herding rulemaking process with a balanced set of rules, given the limitations of Prop C. All those who have *my* interest in mind should have supported the Commission without objection.

Criticism must be reserved for JCAR who abdicated its responsibilities in August. Their action was shameful. Reservations, if any, of the rules and approval or disapproval was their job. By forcing the Commission to negotiate their own rules with those who may object with them put the entire state of Missouri on its heels. The balance of power shifted between the regulator and the regulated. State control of the implementation of the renewable energy standards was lost at that moment to the utilities. This loss of control may continue into the future well beyond our ability to see the consequences. I do not assign blame to the utilities for stepping into the vacuum. Their response was predictable.

JCAR then confirmed their unwillingness or incompetence or both by withholding approval of the geographic provisions of the Commission's rules. The utilities were correct to offer their argument that statute 393.1030 allows unbundled RECs (S-RECs). In public discourse this argument needs to be made if for no other reason then to prove the mettle of a counter argument. Their argument relies on a "legal fiction" in order to be valid at all. But when this argument is put to the final test of reasonableness and commonsense it does not pass muster. There is no price for an out of state, unbundled REC (S-REC) that is low enough that it is not a patent waste of ratepayer's money. At its

kindest this is false economy. By suspending the geographical provision, JCAR, in the vernacular, foisted a fraud upon the citizens of Missouri. I don't know whom these people work for, but it is not for the benefit of Missourians. Anyone with responsibility and authority to review JCAR's decision risks confirming and enforcing this fraud if they do not overturn JCAR's decision. The Roundtable participants should plan for the possibility that JCAR's error could be confirmed by the full legislature. Surely this would be a dark day for the citizen/ratepayer.

We may never divine what influenced JCAR to run so completely off the tracks. As a citizen I do not see either the utilities or the renewable energy industry as my protection from their comparatively better position to negotiate with me in procuring electrical energy or wisely metering out incentives. Again, as a citizen I want my Commission back in the driver's seat. Someone needs to offer an alternative that ameliorates this turn of events.

When I voted for Prop C in 2008 I had no leanings toward employment in the solar industry. I did hesitate over the statute language that described the cap on rate increases to be a 1% average. My thought then was "how could that possibly work?" and my second thought was "I am glad I don't have to be the one to figure that out". I tip my hat to all that have wrestled with its definition. My thinking remains the same, you must leave me out of this portion of the process if you want progress and clarity; it is too arcane for me to fathom. I don't understand the current rule but have some reservation if the utility's current proposal to replace it overly limits the amount of renewable resources that can be installed in Missouri. But the sky is not the limit either.

In a departure from current discussions I think there may be a way create a solution that that has proper limits on the addition of new renewables from a consumer protection point of view, increased predictability for the utilities, sets goals and incentives to produce predictable results for the renewable energy industry, and breaks the cycle of endless discussion. I believe it can be considered separately from the 1% cap definition issue. It also restores the balance between regulators and regulated.

Alternative

Before I explain, I ask that you decide if the current discussions will be sufficient to produce a solution acceptable to the Commission. If so, these comments need not make it to your agenda. Also, you may decide that my comments are completely unworkable and decide to leave them off the table for discussion. I trust your decision.

An article I found at RenewableEnergy.com started my thinking. It was published October 25, 2010 and is titled, "Federal Regulator Blasts Open Door to Differentiated Feed-in Tariffs in USA". (Copy to be attached) Much of what follows is anchored in this article. If it is inaccurate, my comments may not be useful. It is my hope that the Commission staff would be able to take the time to evaluate it in light of Missouri statute and Commission existing rules. It talks about a recent decision by the Federal Energy Regulatory Commission (FERC) reached on October 21st. The article goes on and on about Feed-In Tariffs (FITs) however, the direct quotes of the FERC's decision are all couched in language discussing "Avoided Fuel Costs". The ruling leads the way for public service commissions across the many states to set "tranches" (French for "a slice") or categories of different size and for different "fuels" that would have a discrete Avoided Fuel Cost.

Under this plan there could be a tranche for solar under 10kW, a solar tranche over 10kW, a ground mounted over 10kW tranche, a wind tranche, and like Ontario an off shore wind tranche and on and on as needs are perceived by each commission. Each tranche would have a megawatt size assigned to it representing the amount of each tranche that is wanted in the state.

I ask that you start with a visualization of a Missouri customer-generator with a solar PV array that is sized to cover all of its electric *costs,* not just its energy charge. Sizing should include Customer Charge, Facilities Charges, Demand Charges, and Taxes, Fuel Adjustment Costs and Fees all within the context that there will be weak solar years that would require a larger system to cover the customer's power use and cost. When on those limited occasions when the system creates Net Excess Generation (NEG) the system owner would receive a price for the NEG that represents its Avoided Fuel Cost tranche. Note that this concept is similar, but not directly linked to valuing S-RECs. In my vision I am talking about valuing only the NEG at the specific Avoided Fuel Cost. To

apply the tranche to all power produced by the customer-generator would, in effect, create a Feed-In Tariff. I fear that used in this way, the Commission would trigger the need for additional legislation. If the full legislature is anything like JCAR then it is a bear best not faced, but walked around. I am generally in favor of a Feed-In Tariff but it may quickly consume the available dollars under the 1% cap (however it is finally defined). By focusing only on the NEG the dollars stretch yet new renewable power is attracted to Missouri. The investment value of a customer-generator system then depends on utility rebate, the current cost of electricity and the Avoided Fuel Cost. The value of the S-RECs is not necessarily considered. The bundled/unbundled geographical question on S-RECs becomes moot for the customer-generator. Utilities could continue to purchase, or not, the customer's S-RECs as they wish, as they can now.

The Commission sets the tranche. The Commission sets its price. The Commission sets the goal. If the tranche is too high or too large, the Commission controls the price/goal to bring it into line. The utilities have low risk; they still have access to cheap, out of state, unbundled S-RECs; should the goals not be achieved and assuming JCAR's terrible error is re-confirmed. This achieves a solution specific for the customer-generator market, which was requested by some in the renewable energy industry. It won't take long for the utilities to reasonably predict how much customer-generated solar will be added and they can plan to fill in with purchased S-RECs if needed. Note that all RECs have a three-year life so the real risk to the utility is not the value of the REC, but the time value of the cost of the REC purchased too early and reserved for a future year.

In a word search of Missouri statutes I found "Avoided Fuel Cost" referenced only in the net metering statute and its definition in the companion Commission rules for net metering. It appears to me that no new legislation would be required to set differentiated Avoided Fuel Cost tariffs or tranches. The statute appears to say that "Avoided Fuel Cost" is whatever the Commission says it is. The Commission's own rules defining Avoided Fuel Cost would need to be updated to incorporate FERC's new ruling.

How this could be expanded to the non-net metered sources of electricity (Independent Power Producer, IPP) is something I do not know. Ideally the Commission could set

goals and prices for needed, in state, facilities for wind and biofuel as the need is perceived by the Commission in sizes larger than net metering allows. If legislation is needed to allow this, then this is the legislation that should be proffered to the legislature. Note that with these IPPs the Avoided Fuel Costs and RECs are not by definition linked but in practical application they would be one and the same.

Important Further Needs

There is another aspect to the customer-generator scenario that has not been correctly addressed to date. In a discussion with a utility representative the thought was expressed that we should be careful, if not hesitant, in providing generous dollar incentives for customer-generators. This is a valid point. The typical customer-generators we see now as we begin bringing solar into Missouri have a good solar resource and sufficient financial resources to purchase a solar system. The many subsidizing the few. The implementation of differentiated Avoided Fuel Cost tranches can be the basis of a better solution. It is conceivable that with the right Avoided Fuel Cost, utility incentives, and the PACE program (once a solution is found for the Fanny Mae/Freddie Mac logjam), any homeowner or long-term leaseholder with a proper solar resource could have a system that generated a small savings each month in excess of monthly amortization costs. In this situation a much larger number of ratepayers could take advantage of the benefits of Prop C.

But more to the point, the Commission could set a tranche just for Community Solar projects that would allow **ANY** Missouri citizen/ratepayer to participate in the benefits of Prop C. Imagine an apartment renter, a strip shopping center business owner, a homeowner on a tree-shaded street who could buy, as they are able and willing, a share of a community solar project that could offset some or all of their electrical costs. This would spread the benefits of Prop C across the widest possible number of Missouri citizens within the existing framework of our statutes and rules and in a manner that the citizen/ratepayer could decide what was right for them; not decided by the utilities, not decided by the renewable energy industry, and with the Commission as facilitator of consumer choice.

Reading between the lines one could come to the conclusion that I feel the utilities are the rock in road. Yes, a little. But all would be forgiven with their ardent embrace of

Community Solar. Instead of hearing from the utilities, "how do we protect the consumer from a price increase from renewables" (don't bother mentioning huge, repetitive rate increases from coal/oil/gas of late), we hear, "how do we involve as many customers in Community Solar as possible?" They have declared that they are foursquare for Prop C, but are they as supportive of the customer-generation aspect of Prop C? Community Solar could be that litmus test. Community Solar needs a champion and all of the Investor Owned Utilities could be, should be that champion in formulating modifications to the Commission's rules to make it work to the advantage of the citizen/ratepayer.

Setting up tiers or tranches with differentiated Avoided Fuel Costs by technology and setting goals for each category will require a large amount of work by the Commission and the staff. I am sure they can call upon any of the Roundtable participants soliciting their advice and unending support. I suggest that many others may offer their unsolicited advice as well. This time invested and distraction received may be the cost to restore balance and commonsense to the rules lost to us all in August.

With your approval and guidance, Commissioner, we should get started.

Thank you,

Kirby Bell, CPM
Citizen/Ratepayer