

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

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

**STAFF’S SUGGESTIONS REGARDING FUTURE PROCEEDINGS**

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and for its Second Proposed Procedural Schedule, respectfully states as follows:

1. This case was opened for the purpose of establishing a record of the Commission’s consideration and determination whether to adopt the Fossil Fuel Generation Efficiency Standard established by §1251 of the Energy Policy Act of 2005 (“EPAAct 2005”).

2. On August 17, 2006, the Commission issued an Order directing the parties to file a proposed procedural schedule by September 29, 2006. In addition, the Order scheduled a technical conference for September 22, 2006, and directed the parties to file pleadings offering their responses to three items of inquiry, essentially dealing with how to proceed with this matter. Analogous orders were issued also on August 17 in four other cases (Case Nos. EO - 2006-0493, ER-2006-0494, ER-2006-0496 and ER-2006-0497) addressing the other new standards established by EPAAct 2005. The Staff and the other parties filed their responses prior to the September 22, 2006 technical conference, which was held for the purpose of determining whether a consensus could be reached concerning a recommendation to the Commission as to how the Commission should rule in this matter, and in any event, how this case should be treated procedurally.

3. The technical conference revealed that it is not yet possible for the parties to develop a detailed procedural schedule in this case (or in any of the other companion cases

mentioned above). It was decided, therefore, that the Staff should file a pleading setting out its view as to how to proceed from this point, and reflecting to the extent possible, the views of the other parties. The other parties should then be allowed a period of time in which to respond to the Staff's pleading.

4. The threshold question to be answered is whether this case may be closed based on "prior state actions" as provided in Section 1251 (b)(3) of the Act [16 U.S.C. 2622(d)]<sup>1</sup>. The Some parties take the position that the Commission's Chapter 22 Integrated Resource Planning rules are adequate to constitute prior state actions on the Fuel Sources Standard and that this case may therefore be closed. Staff's position is that no prior state actions serve to exempt the Commission from considering and determining whether to adopt the Fossil Fuel Generation Efficiency Standard, which is the subject of this proceeding.

5. In its September 15, 2006 Response to the aforementioned August 17, 2006 Commission Order, the Staff expressed its view that this case should be consolidated with case No. EO-2006-0494, which addresses the new Fuel Sources Standard. Following the discussion at the technical conference, the Staff is now of the opinion that consolidation at this time is not necessary; rather, both standards should be considered in the context of an overall rulemaking to

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<sup>1</sup> 16 USC §2622(d) provides: "Prior State Actions- Subsection (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

(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; or

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

address Chapter 22 Integrated Resource Planning rules. The Staff suggests, therefore, that an EX docket be opened for this purpose by January 1, 2007. The instant case should remain open for a Commission determination regarding the adoption of the Fossil Fuel Generation Efficiency Standard pending the results from this additional docket.

6. The other parties to this proceeding should be permitted until October 13, 2006 to file pleadings in response to this Staff pleading.

WHEREFORE, the Staff respectfully submits its Suggestions Regarding Future Proceedings, and requests that any party wishing to respond to this pleading be given until October 13, 2006 to do so.

Respectfully submitted,

**/s/ Dennis L. Frey**

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed by first-class mail, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 29<sup>th</sup> day of September 2006.

**/s/ Dennis L. Frey**