

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

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

**STAFF’S STATEMENT OF POSITION**

COMES NOW the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) and for its Statement Of Position in the above-styled proceeding, respectfully states as follows:

1. On March 15, 2007, the Commission issued its Order Establishing A Procedural Schedule For On-The-Record Presentations (“Order”) in the instant case, as well as in the other four cases addressing the new standards established by the Energy Policy Act of 2005 (*i.e.*, case Nos. EO-2006-0493, EO-2006-0494, EO-2006-0495 and EO-2006-0497). The Order directed each of the parties: a) to file no later than April 6, 2007, a pleading identifying any expert witnesses (including biographical information) that the parties intend to tender during the scheduled on-the-record presentation for each of these proceedings; and 2) to file by April 13, 2007, position statements from the parties’ identified experts outlining, for each of the new federal standards, the experts’ positions on the applicability of the prior state action exemption.

2. On April 6, 2007, the Staff filed a pleading identifying James C. Watkins as its expert witness for the Time-Based Metering and Communications Standard, which is the subject of the instant case, and including a biographical statement. Attached hereto as Appendix A is Mr. Watkins’ statement of the Staff’s position on this issue, along with his supporting affidavit.

Respectfully submitted,

**/s/ Dennis L. Frey**

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#### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 13th day of April 2007.

**/s/ Dennis L. Frey**

## **Applicability of the Prior State Action Exemption to the Time-Based Metering and Communications Standard**

### James C. Watkins' statement of position on behalf of the Staff

The applicable exemption language in the Energy Policy Act of 2005 is set forth in 16 USC §2622(e), which provides:

Prior State Actions – Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 2621(d) of this title 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 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.

All Missouri Public Service Commission regulated electric utilities offer optional time-of-day rates that change by season, with higher rates in the summer and lower rates in the winter and with higher rates during on-peak periods and lower rates during off-peak periods. Each utility also offers some form of interruptible/curtailable rate that provides credits for consumers with large loads who enter into pre-established peak load reduction agreements. Some, but not all, Commission-regulated electric utilities offer real-time pricing, and one has conducted a critical peak pricing pilot for residential customers that included the use of “smart” thermostats. The Commission’s Electric Utility Resource Planning Rule (4 CSR 240-22) requires each electric utility to identify and evaluate energy-management measures (devices, technologies, rate structures, or operating procedures) that make it possible to alter the time pattern of electricity usage so as to require less generating capacity or to allow the electric power to be supplied from more fuel-efficient generating units.

Under statutory provision (1) quoted above, the prior state action exemption applies if the State has implemented for such utility the standard concerned (or a comparable standard). Each of the rates discussed above is set forth in a tariff authorized and implemented by action of the Commission. Therefore, the prior state action exemption applies in this case, and no further Commission activity is required under the federal statute.

