

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Workshop File to Explore)
Legislative and Regulatory Means to Improve)
and Clarify Missouri's Renewable Energy)
Standard Law, Mo. Rev. Stat. §§ 393.1020 to)
393.1030.)

File No. EW-2011-0031

ORDER OPENING A WORKSHOP FILE TO EXPLORE LEGISLATIVE AND REGULATORY MEANS TO IMPROVE AND CLARIFY MISSOURI'S RENEWABLE ENERGY STANDARD LAW, MO. REV. STAT. §§ 393.1020 TO 393.1030

Issue Date: August 5, 2010

Effective Date: August 5, 2010

In November 2008, the people of Missouri voted for Proposition C, (the "Renewable Energy Standard" law or the "RES"). The RES establishes percentages of renewable energy that must comprise investor-owned utilities' energy portfolio. The meaning to ascribe to the RES is unclear as to the source of renewable energy that may be counted toward compliance with the RES.

The Staff of the Missouri Public Service Commission and various stakeholders worked diligently to implement the mandates of the statute while simultaneously accommodating multiple competing interests. Despite the best efforts of the stakeholders no agreement on the meaning or potential impact of the statutory language was reached.

The Commission, by a 3-2 vote, issued a final rule with the following language:

(A) Electric energy or RECs associated with electric energy are eligible to be counted towards the RES requirements only if the generation facility for the renewable energy resource is either located in Missouri or, if located outside of Missouri, the renewable energy resource is sold to Missouri electric energy retail customers. For renewable energy resources generated at facilities located outside Missouri, an electric utility shall provide proof that the electric energy was sold to Missouri customers.

(B) The amount of renewable energy resources or RECs associated with renewable energy resources that can be counted towards meeting the RES requirements are as follows:

2. If the facility generating the renewable energy resources is located outside Missouri, the allowed amount is the amount of megawatt-hours generated by the applicable generating facility that is sold to Missouri customers. For the purposes of subsections (A) and (B) of this section, Missouri electric energy retail customers shall include retail customers of regulated Missouri utilities as well as customers of Missouri municipal utilities and Missouri rural electric cooperatives.

4 CSR 240-20.100(2)(A) and (B)2.

This provision of the rule, commonly known as “geographic sourcing,” was predicated on the desire for the RES to spur and incent economic development in the state of Missouri.

The Joint Committee on Administrative Rules (JCAR), pursuant to Section 536.014, disallowed 4 CSR 240-20.100(2)(A) and (B)2; therefore, uncertainty regarding geographic sourcing requirements remains. What is certain is that litigation will ensue. Litigation and uncertainty will likely delay proper and complete implementation of the RES. For this reason, clarity regarding geographic sourcing is necessary.

A legislative clarification of the RES, as well as regulatory clarification of 4 CSR 240-20.100(2)(A) and (B)2 will add certainty and, hopefully, minimize costly litigation. The Commission asks stakeholders to resume discussions in order to resolve the issue of geographic sourcing through developing legislative proposals and regulatory options that will promote the development of renewable energy in the state of Missouri while protecting retail customers.

THE COMMISSION ORDERS THAT:

1. This file is established to gather information and explore legislative proposals to clarify the RES.

2. This file is established to gather information and explore regulatory proposals and to clarify and/or revise 4 CSR 240-20.100(2)(A) and (B)2.

3. This file is established to gather information and explore legislative and regulatory options and proposals designed to clarify other areas of uncertainty that directly impact 4 CSR 240-20.100(2)(A) and (B)2.

4. The stakeholders and interested parties shall file written position statements no later than October 1, 2010. The written position statements should address, at a minimum, the following questions:

- A. What are the legal, economic and public policy consequences and implications of requiring electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located in Missouri?
- B. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located outside of Missouri, only if the energy for compliance with the RES is sold to Missouri customers?
- C. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located outside of Missouri, only if the energy for compliance with the RES is sold to retail customers located within the Regional Transmission Organization or Independent Transmission System Operator in which Missouri is located?
- D. What are the legal, economic and public policy consequences and implications of allowing electric energy or RECs associated with electric energy for compliance with the RES to come from a generation facility located anywhere outside of Missouri irrespective of the location of the delivery of the energy.
- E. Which of the above potential scenarios (as set forth in A, B, C, or D above) are legally permissible and/or supportable under the current statute?

- F. In answering the questions set forth in A-D, stakeholders should also discuss the operation of the 1% retail rate impact under each of the scenarios.

5. The Commission invites the stakeholders and interested parties to file suggested statutory and/or regulatory language regarding geographic sourcing.

6. The Commission invites the members of the general public, interested parties and stakeholders to submit initial written comments by October 1, 2010.

7. A copy of this notice shall be sent by U.S. mail or electronic mail to those potentially interested people or organizations who participated in the previous workshop, EW-2009-0324, and in the rulemaking, EX-2010-0169.

8. The Commission's Public Information Office shall make this notice available to the news media of this state and to the members of the General Assembly.

9. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Nancy Dippell, Deputy Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 5th day of August, 2010.