

**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 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-2006-0496 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 Daniel I. Beck as its expert witness for the Fossil Fuel Generation Efficiency Standard, which is the subject of the instant case, and including a biographical statement. Attached hereto as Appendix A is Mr. Beck’s statement of the Staff’s position on this issue, along with his supporting affidavit.

Respectfully submitted,

**/s/ Dennis L. Frey**

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Missouri Bar No. 44697

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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 Fossil Fuel Generation Efficiency Standard**

### Daniel I. Beck's 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(d), which provides:

Prior State Actions – Subsections (b) and (c) of this section shall not apply to the standard established by paragraphs (11) through (13) of section 2621(d) of this title in the case of any electric utility in a State if, before August 8, 2005-

- (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.

The Electric Utility Resource Planning chapter of the Commission's rules, 4 CSR 240-22, which is commonly referred to as the Integration Resource Planning (IRP) rules, sets out minimum standards for each electric utility's resource planning process. The IRP rules require a minimum of a 20-year planning horizon, which results in a more thorough analysis than described in PURPA Section 11(d)(13). The IRP rules specifically require "life extension and refurbishment at existing generation plants; enhancement of the emission controls at existing or new generation plants;" and "efficiency improvements which will reduce the utility's own use of energy." In addition, the IRP rules require analysis of new generation (including fossil fuel plants) in order to meet resource needs and to determine the manner in which this new generation affects the utility's overall fossil fuel generation efficiency. The IRP rules also address fuel choices and environmental regulations through the risk analysis portion of the rules.

Under statutory provision (1) quoted above, the prior state action exemption applies if the State has implemented for its electric utilities the standard concerned (or a comparable standard). The examination of life extension and refurbishment of existing generation plants is a critical part of the required resource planning process. In addition, the requirement of a 20-year planning horizon by the IRP rules exceeds the 10-year requirement of the Fossil Fuel Generation Efficiency standard. Therefore, the prior state action exemption applies in this case, and no further Commission activity is required under the federal statute.

**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 Generation )  
Efficiency Standard as Required by )  
Section 1251 of the Energy Policy Act of )  
2005.

Case No. EO-2006-0495

**AFFIDAVIT OF DANIEL I. BECK**

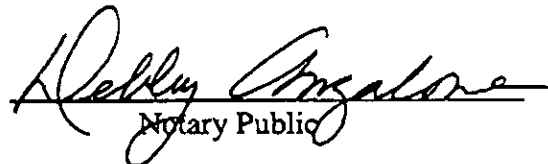
STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF COLE     )

Daniel I. Beck, of lawful age, on his oath states: that he has participated in the preparation of the attached Staff Position Statement to be presented in the above case, that the information was given by him; and that the information contained therein is true and accurate to the best of his knowledge, information and belief.



Daniel I. Beck

Subscribed and sworn to before me this 13<sup>th</sup> day of April, 2007.

  
Notary Public

My commission expires \_\_\_\_\_

