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June 14, 2007

The Honorable John D. Dingell  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Rick Boucher  
Chairman  
Subcommittee on Energy and Air Quality  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairmen Dingell and Boucher:

Missouri River Energy Services (MRES) is a not-for-profit, wholesale power supplier to member municipal utilities in Iowa, Minnesota, North Dakota and South Dakota. We are committed to supplying our 60 member communities with reliable and affordable electricity, and ensuring that we do so in an environmentally sensitive manner.

On average, each of MRES' members meet over 45 percent of their power supply with electricity generated at the federal dams on the Missouri River. MRES supplies the balance of their electricity needs, as well as future load growth. Our primary power supply is our 16 percent ownership share in the coal-fired Laramie River Station (LRS) in Wheatland, Wyoming. In addition, MRES owns natural gas-fired peaking plants and wind resources. Our Integrated Resource Plan (IRP) calls for acquisition of an additional 125 megawatts of base-load coal generation (which we intend to meet through an ownership stake in the Big Stone II coal-fired power plant project under development in South Dakota), 30 megawatts of additional natural gas capacity and 125 megawatts of capacity to be met through a combination of additional investments in wind, load management and energy efficiency. Since adoption of our IRP, the State of Minnesota adopted a renewable portfolio standard. As a result, we are on a path to comply with our new obligation to meet a 25 percent renewable requirement by the year 2025 for our in-state load, which will result in investments in wind resources beyond that which was originally envisioned in our IRP. Consequently, we will now have approximately 220 megawatts of wind resources by 2025. As part of that effort, we plan to have an additional 40 megawatts of wind generation by year end.

MRES Responses - Questions on Federal Portfolio Standard

MRES supports a 10 percent federal renewable portfolio standard. We believe a federal program is needed to further promote development of these clean, domestic resources and provide the broad liquid market needed for the efficient trading of renewable energy credits.

MRES has assembled a diverse power supply for its members in order to reduce risk, promote reliability and provide cost-effective service. A federal renewable portfolio standard helps promote those objectives.

Following are the responses of MRES to your specific questions.

### ***1. Purpose of Portfolio Standards Proposal***

- a. Do you believe that adopting one or more Federal “portfolio-standard” requirements applied to sources of retail electricity, mandating that a given percentage of the power sold at retail come from particular sources, is an advisable Federal policy? Why or why not?*

MRES supports the establishment of a federal portfolio standard. MRES believes such a policy is advisable because it would provide (a) a greater trading market for renewable energy credits than exists under single-state programs, (b) the market signals needed for equipment manufacturers to produce the necessary inventory so that current equipment shortages and price escalations are avoided, (c) the necessary encouragement for a balanced national energy portfolio that promotes energy independence and reduces greenhouse gas emissions, (d) fuel diversity and decreased US dependence on imported natural gas, and (e) environmental benefits and reductions in nitrogen oxide, sulfur dioxide, mercury and greenhouse gas emissions.

- b. Is it appropriate for Government to impose generation-source conditions or energy savings requirement on load-serving utilities in order to serve public-policy purposes such as promotion of renewable energy production, energy efficiency, and reduction of carbon emissions? Why or why not?*

While Congress should be judicious in its encroachment on the provision of retail electric service – which is traditionally the purview of state and local regulators – there are times when such intervention is appropriate.

The electric utility industry provides a service imbued with the public interest. Electricity is an essential service that affects the physical and economic health and well-being of our country. Recognizing this fact, the federal government has long played a role in shaping the resource decisions of the utility industry: providing not-for-profit consumer-owned utilities with a preference for power generated at federal dams; using the tax code and other tools to promote specific technologies; requiring open-access transmission; and, under PURPA, promoting both specific resources and encouraging consideration of various retail electric service policies.

Congress has already chosen to promote both renewable energy and energy efficiency through the federal tax code. Production of renewable energy is encouraged through both the Production Tax Credit (PTC) and the Clean Renewable Energy Bonds (CREBs) and homeowners and businesses can receive tax credits and deductions for certain investments in energy efficiency. Establishment of a federal renewable portfolio standard is a natural extension of those policies.

*c. If you favor such a policy, how would you define its specific purpose?*

The primary purpose of any federal portfolio standard would be to establish a national policy to promote specific resource decisions and the liquid market needed to accomplish that goal on a consistent and rational basis. A state by state approach will not result in the formation of a viable and vibrant market for the sale of renewable energy credits.

*d. If Congress were to adopt an economy-wide policy mandating reductions in emissions of greenhouse gases, including the electricity industry, would such a portfolio standard policy remain necessary or advisable?*

Establishment of a federal renewable portfolio standard is a complimentary policy to enactment of an economy-wide policy to reduce greenhouse gases. Moreover, MRES believes that these two policy initiatives must be properly synched so that their purpose and operation are complimentary and interrelated.

A climate change program will not negate the need for a federal renewable portfolio standard. While enactment of climate change legislation will certainly promote consideration and deployment of renewable resources, such resource decisions are only one option available to utilities under a cap-and-trade program. Complimentary enactment of a portfolio standard will provide a needed policy boost for renewable resources.

But the best market signals will be sent if these two policy initiatives are designed in a complimentary manner. As MRES has previously outlined in response to your earlier questions on climate change, we believe an output-based system for allocating carbon allowances is the most fair and equitable and will promote greater resource diversity and allowance market liquidity. Pairing an output-based allocation system with a federal portfolio standard will send complimentary signals, further encourage investments in non-carbon emitting resources and provide the financial incentives needed for these clean technologies to reach their market potential.

*e. What analysis has been done of any portfolio standards requirement you endorse.*

MRES has not conducted any specific analysis to answer your details questions on consumer costs, greenhouse gas reductions, industry reliability and grid management, and economic development. We are aware that others have conducted studies that have drawn varying

conclusions. In our mind, this argues for careful consideration of the proper design of any portfolio standard, including the targets, resource inclusion, trading “rights” and price caps.

## **2. Portfolio Inclusions and Exclusions**

- a. *What is the principle that should determine inclusion or exclusion of any energy source from an adopted portfolio standard? (i.e., excludes all fossil-fired generation, includes all generation that emits no GHG, excludes all generation below given energy-conversion efficiency, etc.)*

As noted above, MRES believes a federal portfolio standard should address a number of public policy goals, including energy independence, climate change and promotion of newer and more costly resources. The inclusion or exclusion of specific energy sources is an outgrowth of the policy objective that is pursued. Given the stated purposes outlined above, MRES believes only renewable energy sources should be included in a federal portfolio standard.

- b. *What generation sources for retail electricity supplies (including efficiency offsets) should be included and should be excluded from any mandatory portfolio requirement that is adopted? Please provide your reasons for excluding any sources.*

As noted in response to Question 2a, MRES believes only renewable energy generation sources should be included in a mandatory federal portfolio requirement.

At the most basic level, traditional fossil-fired generation sources should be excluded. While other generating sources are important for ensuring energy security, affordable electricity, system reliability and resource diversity -- and MRES opposes any federal or state policy that explicitly precludes development of traditional fossil-fired generation -- the purpose of a portfolio standard is to promote certain technologies to boost the percentage of the national energy mix that they would otherwise provide. Including all sources renders a portfolio requirement meaningless.

It is also apparent to MRES that the more resources are included, the higher the percentage requirement will become. While including more resources may account for varying regional availability, an ever higher percentage requirement may have the perverse effect of raising compliance costs.

- c. *To the extent that multiple energy sources and efficiency or other sources are eligible for inclusion, should any tiers among them or separate sub-requirements be adopted?*

MRES would prefer that including resources are not tiered: all technologies deemed eligible for inclusion should be treated the same. We are troubled that some state RPS programs provide

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“extra credit” for particular renewable resources. While we recognize that some generation sources are more expensive than others, we believe that this resource tiering skews the market and adds an unneeded layer of complexity.

Even though hydropower is a “renewable,” we do not believe it needs to receive a credit under any federal portfolio standard, given its technological maturity and dominance of the existing renewable resource pool. However, we do believe that hydropower resources should be “backed out” of the calculation in determining the base upon which a retail energy supplier needs to meet the designated percentage portfolio requirement. Given hydropower’s renewable characteristics, it would be inappropriate to require renewable credits for a percentage of a utility’s hydro resources.

- d. Should there be any distinction between existing and new sources of generation eligible for inclusion in the portfolio? If so, what would be the threshold date for eligibility?*

MRES opposes any arbitrary exclusion of otherwise eligible resources based on the projects in-service date. The net result of such “vintaging,” as contained in the draft RPS advanced by Senator Bingaman, is to drive up the target percentage in the legislation. If certain existing renewable resources receive “non-tradable” credits – in which the output can be used to meet a utility’s own portfolio standard but not traded to meet a third-party’s obligation -- then the market for credits will be restrained and a greater percentage of new resources will need to be built on a national level to meet the portfolio standard. If a higher standard is the desired goal, than this should be done explicitly and not achieved through a backdoor restriction on the eligibility of resources based on their in-service date.

- e. Would the electricity credit of useful thermal energy from eligible sources be credited against the requirement? Why or why not?*

As noted above, MRES believes only electricity generated by renewable energy sources should be eligible for credits under any federal portfolio standard.

- f. To the extent energy efficiency is included:*

- i. How would the required savings be measured and verified?*

MRES strongly supports efforts to promote energy conservation and efficiency. However, we do not believe that energy efficiency should be included within a federal portfolio standard.

- ii. Against what base consumption period (historic or projected)?*

This question similarly highlights the design challenges associated with inclusion of energy efficiency in any portfolio standard. For instance, did reductions in energy usage from a given

base period result from energy efficiency improvements or from a reduction in load (perhaps resulting from the loss of a large industrial customer)? Similarly, energy usage could spike as the result of load growth – but be at a rate higher than would have otherwise occurred because of aggressive energy conservation investments.

MRES would like to see energy efficiency included in any portfolio standard and stands ready to work with the Committee to tackle these difficult design questions.

### ***3. Percentage Requirement and Timing***

- a. What target percentage of total retail power deliveries should be achieved by the required portfolio?*

MRES supports a 10% federal portfolio requirement.

- b. What is the target year for reaching the ultimate mandated portfolio percentage?*

MRES believes that 2020 is an appropriate and achievable target. It is worth noting that the lack of transmission from areas of potential wind generation to load centers is one major impediment to achievement of more aggressive targets.

- c. Should there be a straight-line, accelerating, or other form of “ramp-up” to the ultimate target percentage?*

MRES believes any federal portfolio standard should include increasing requirements every five years until the final percentage requirement is met by the established target date.

- d. Should there be any “off-ramps” or other built-in automatic changes in requirements as a function of contingencies? If so, what should they be? (e.g., price or cost thresholds, contingencies for natural or climate conditions, lack of adequate transmission, etc.).*

MRES believes that a 10 percent portfolio standard is achievable and does not believe that elaborate off-ramps are needed. Moreover, the approval process is likely to be slow and the regulatory process costly. Nonetheless, the legislation should recognize the limited circumstances in which uncontrollable events prevent an entity from meeting its obligations. For instance, a renewable power supplier could default on its contract, or contracted turbines and other equipment could become unavailable.

### ***4. Relationship to State Portfolio Standards and Utility Regulation***

- a. Should an adopted Federal portfolio standard set:*

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As a general policy, a federal portfolio standard should bar any state standard that requires that a state resource portfolio requirement only be met through in-state resources. Such a requirement ignores the economics of plant siting, inhibits an effective trading market and unnecessarily raises compliance costs.

*i. A minimum standard, allowing States to set or maintain higher targets?*

Yes. We recognize that individual states have set a variety of standards – with different eligible resources and targets. We realize and agree that any federal standard is likely to be a floor, with individual states allowed to set higher targets.

*ii. A preemptive standard, prohibiting States to set higher or different targets?*

No. The plethora of state standards makes such preemption unlikely – or the establishment of an unreasonably high national standard.

*iii. Merely a mandate for a standard, allowing states to set their own targets at any level?*

No. Such an approach would be a federal program in name only, losing the value of a national trading system and consistent standards. Moreover, a fractionalized system could result in individual states precluding the trading of credits with other state programs or additive requirements for entities that operate in multiple jurisdictions.

*iv. Merely a given percentage target, allowing States to elect generation or efficiency sources eligible to meet it?*

No. Again, such an approach is unlikely to result in a workable national trading system for credits, and thereby increase compliance costs and create administrative problems.

*v. A standard applying only to States without prior portfolio requirements, grandfathering all prior standard programs?*

No. This approach would cause compliance challenges for entities that operate in multiple jurisdictions, some with and some without pre-existing portfolio requirements. , It is unclear if credits generated to meet requirements in a grandfathered state would be eligible to meet requirements in a non grandfathered state.

## **5. Utility Coverage**

*a. Should any retail sellers of electricity be exempt from the portfolio requirement? (e.g., municipal utilities, rural cooperatives, utilities selling less than a minimum*

*volume of power, unregulated marketers in States with competitive retail markets, etc.).*

MRES supports applying the federal portfolio standard to everyone. If an exclusion is included in any federal portfolio requirement, MRES supports the ability of those exempt entities to “opt in” to the federal requirement. In addition, we believe that entities should be able to aggregate their portfolio requirement and assign their compliance responsibility to another entity. For instance, MRES member utilities might assign to MRES their compliance responsibility.

*b. Should any standard apply to wholesale power markets or sales?*

MRES does not believe it is practical to apply a standard at the wholesale level, given the prevalence of short-term and system purchases – especially in organized markets such as those run by Regional Transmission Organizations.

*c. Should there be any basis for discretionary exemptions of certain States or utilities?*

While there are states with fewer opportunities for renewable resource development, that is the reason that the proposed portfolio standard allows for the trading of credits. MRES does not believe any discretionary exemption authority is needed.

## **6. Administration and Enforcement**

*a. Should a Federal Government entity enforce the requirement and decide on any exemptions?*

MRES believes the Department of Energy is the appropriate agency to administer the program.

*b. How should Federal and State enforcement be coordinated in States with their own portfolio requirements?*

It is imperative that any actions taken to comply with state and federal standards be coordinated. For instance, a state should not be allowed to prevent the trading of a credit on the national market that was generated from a resource undertaken to comply with a federal or state standard.

*c. What penalties should apply for failure of utilities to meet the percentage mandate?*

If (a) waivers are allowed for a limited set of uncontrollable circumstances as suggested in response to Question 3d, and (b) the federal government is established as the “provider of last resort” for credits (in the case of credits not being available in the market or exceeding a specific price), then there should be no reason for application of penalties.

## 7. Credits and Trading

- a. *Should tradable credits for qualifying generation be utilized as the mechanism for establishing compliance?*

Yes, given the uneven distribution of renewable resource development potential, a tradable credit is the only realistic mechanism for national compliance.

- b. *Should credit trading be permitted or required on a national basis to achieve least-cost compliance with the portfolio standard?*

Yes.

- c. *Should there be a cap on credit values to limit costs?*

As noted above with respect to penalties for noncompliance, great care must be used in setting caps on credit values. While we understand and support the notion of limiting costs, there is already an existing market for renewable energy credits, and a cost cap set below current market prices would devalue those credits and affect the investment decisions that have already been made.

- d. *As between a utility purchaser and a qualifying power generator, to whom should the portfolio standard credits be initially allocated?*

The credit should be allocated to the party owning the qualifying power generator. However, existing contracts that already provide the transfer of the environmental attributes or credits to the utility purchaser must be respected. Future power supply contracts are likely to stipulate which party receives the renewable energy credit.

- e. *What relationship, if any, should portfolio standard credits have to other State and Federal credit trading programs for SO<sub>2</sub>, greenhouse gases, or biofuels?*

There should be no direct relationship. However, as noted above, MRES believes that a federal greenhouse gas program that allocates allowances based on generation output is a natural complement to establishment of a federal portfolio standard.

*What requirements, if any, would there be concerning the length of contracts for qualifying generation and ownership of credit rights?*

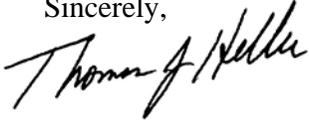
MRES believes that credits should be for a unit of output. These credits should be indefinite and durable – bankable for use in future years and not extinguish at the end of a given year. MRES also believes that parties should be able to contract for multi-year strips of credits.

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MRES Responses - Questions on Federal Portfolio Standard

Thank you for this opportunity to share the views of MRES with the Committee. We look forward to working with you toward the development of an appropriate and effective federal renewable portfolio standard.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Heller". The signature is written in a cursive, flowing style.

Thomas J. Heller, PE MBA  
Chief Executive Officer