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December 5, 2002

OPINION LETTER NO. 164-2002

The Honorable Matt Blunt
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

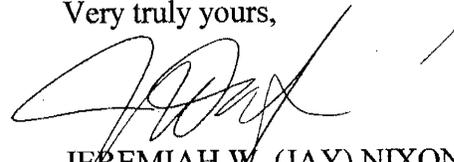
Dear Secretary Blunt:

This opinion letter is in response to your request for our review under Section 116.332, RSMo, of the sufficiency as to form of an initiative petition relating to amending Chapter 640, RSMo, by adding one new section to be known as Section 640.887, the Consumer Clean Energy Act. A copy of the initiative petition that you submitted to this office on November 25, 2002, is attached for reference.

We approve the petition as to form. However, since the Secretary of State has been given final approval or rejection authority under Section 116.332, our approval of the form of the petition does not preclude you from rejecting the petition.

Inasmuch as our review is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, since our review is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view respecting the adequacy or inadequacy of the petition generally or of the objectives of its proponents.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

Enclosure

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such a person knows he or she is not a registered voter.

INITIATIVE PETITION

To the Honorable _____, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or city of St. Louis), respectfully order that the following proposed law shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 2nd day of November, 2004 and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or city of St. Louis); my registered voting address and the name of the city, town or village in which I live are correctly written after my name.

CIRCULATOR'S AFFIDAVIT STATE OF MISSOURI, COUNTY OF _____
I, _____, being first duly sworn, say (print or type name of signers)

NAME (Signature)	DATE SIGNED	REGISTERED VOTING ADDRESS (Street) (City, Town or Village)	ZIP CODE	CONGR. DIST.	NAME (Printed or Typed)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

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Missouri
SECRETARY OF STATE

Signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant _____ Address of Affiant _____
(Person obtaining signatures)

Subscribed and sworn to before me this _____ day of _____ A.D.

Notary Public (Seal)
My commission expires _____

Signature of Notary

Address of Notary

PROPOSED MEASURE

BE IT ENACTED BY THE PEOPLE OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Chapter 640, RSMo, is amended by adding thereto one new section to be know as section 640.887, to read as follows:

640.887 1. This section shall be known and may be cited as the "Consumer Clean Energy Act."

2. Any customer of the public utility as the term 'public utility' is defined in 386.020 (42) RSMo, may generate electricity, introduce excess electricity to the public utility's electrical distribution network, and receive the benefits of Net Metering from the public utility if the following conditions are met:

- A. The customer generates electricity from a hydrogen fuel cell, from solar cells, from wind power generators, or from biomass generating or any combination of the foregoing methods of generating electricity.
- B. The maximum capacity of the customer's generating system is less than 100 kilowatts.
- C. The customer's generating systems are located on property owned, leased or otherwise controlled by the customer.
- D. The customer's electrical generating systems and their connection to the public utility's system meet the requirements and applicable standards of the Institute of Electrical and Electronics Engineers, Underwriters Laboratory, and those reasonable requirements established by the Missouri Public Service Commission.

3. Net Metering shall mean that the public utility shall, for each customer with an electrical generation system which satisfies the requirements of subsection 2 of this section and who has informed the public utility of his electrical generation system:

- A. make available, at the public utilities expenses, a net metering unit or units, which measure the electricity provided the customer and the electricity which the customer has provided the utility;
- B. bill the customer for the amount of electricity used by the customer in each regular billing cycle and give the customer credit for the electricity provided by the customer at the same rate the customer is paying the public utility;
- C. make any payments due the customer within 35 days, at the end of the regular billing period.
- D. The public utility shall not require any customer with an electrical generating system, satisfying the requirements of subsection 2 of this section, to install additional controls, pay any fees, or conduct any tests.
- E. The public utility shall, within 30 days of an application by a customer with an electrical generating system, in conformity with the requirements of subsection 2, give written permission for the customer to interconnect with the public utility's electrical generation and distribution system and shall satisfy the requirement of this section.

4. The Missouri Public Service Commission, with the necessary approval of the Missouri Department of Natural Resources, may promulgate regulations in accordance with the provisions of this section.