



Rules of
Department of Economic
Development
Division 240—Public Service Commission
Chapter 20—Electric Utilities

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service
Commission
Chapter 20—Electric Utilities**

4 CSR 240-20.010 Rate Schedules
(Rescinded April 30, 2003)

AUTHORITY: section 393.140, RSMo 1986. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 16, 1977, effective Dec. 11, 1977. Rescinded: Filed Aug. 16, 2002, effective April 30, 2003.

4 CSR 240-20.015 Affiliate Transactions

PURPOSE: This rule is intended to prevent regulated utilities from subsidizing their non-regulated operations. In order to accomplish this objective, the rule sets forth financial standards, evidentiary standards and record-keeping requirements applicable to any Missouri Public Service Commission (commission) regulated electrical corporation whenever such corporation participates in transactions with any affiliated entity (except with regard to HVAC services as defined in section 386.754, RSMo Supp. 1998, by the General Assembly of Missouri). The rule and its effective enforcement will provide the public the assurance that their rates are not adversely impacted by the utilities' nonregulated activities.

(1) Definitions.

(A) Affiliated entity means any person, including an individual, corporation, service company, corporate subsidiary, firm, partnership, incorporated or unincorporated association, political subdivision including a public utility district, city, town, county, or a combination of political subdivisions, which directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with the regulated electrical corporation.

(B) Affiliate transaction means any transaction for the provision, purchase or sale of any information, asset, product or service, or portion of any product or service, between a regulated electrical corporation and an affiliated entity, and shall include all transactions carried out between any unregulated business operation of a regulated electrical corporation and the regulated business operations of a electrical corporation. An affiliate transaction for the purposes of this rule excludes heating, ventilating and air conditioning (HVAC) services as defined in section 386.754 by the General Assembly of Missouri.

(C) Control (including the terms “controlling,” “controlled by,” and “common control”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated electrical corporation from rebutting the presumption that its ownership interest in an entity confers control.

(D) Corporate support means joint corporate oversight, governance, support systems and personnel, involving payroll, shareholder services, financial reporting, human resources, employee records, pension management, legal services, and research and development activities.

(E) Derivatives means a financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., “derived from”) the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed-upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). Derivatives involve the trading of rights or obligations based on the underlying product, but do not directly transfer property. They are used to hedge risk or to exchange a floating rate of return for a fixed rate of return.

(F) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

(G) Information means any data obtained by a regulated electrical corporation that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(H) Preferential service means information or treatment or actions by the regulated electrical corporation which places the affiliated entity at an unfair advantage over its competitors.

(I) Regulated electrical corporation means every electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(J) Unfair advantage means an advantage that cannot be obtained by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(K) Variance means an exemption granted by the commission from any applicable standard required pursuant to this rule.

(2) Standards.

(A) A regulated electrical corporation shall not provide a financial advantage to an affiliated entity. For the purposes of this rule, a regulated electrical corporation shall be deemed to provide a financial advantage to an affiliated entity if—

1. It compensates an affiliated entity for goods or services above the lesser of—

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation to provide the goods or services for itself; or

2. It transfers information, assets, goods or services of any kind to an affiliated entity below the greater of—

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation.

(B) Except as necessary to provide corporate support functions, the regulated electrical corporation shall conduct its business in such a way as not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.

(C) Specific customer information shall be made available to affiliated or unaffiliated entities only upon consent of the customer or as otherwise provided by law or commission rules or orders. General or aggregated customer information shall be made available to affiliated or unaffiliated entities upon similar terms and conditions. The regulated electrical corporation may set reasonable charges for costs incurred in producing customer information. Customer information includes information provided to the regulated utility by affiliated or unaffiliated entities.



(D) The regulated electrical corporation shall not participate in any affiliated transactions which are not in compliance with this rule, except as otherwise provided in section (10) of this rule.

(E) If a customer requests information from the regulated electrical corporation about goods or services provided by an affiliated entity, the regulated electrical corporation may provide information about its affiliate but must inform the customer that regulated services are not tied to the use of an affiliate provider and that other service providers may be available. The regulated electrical corporation may provide reference to other service providers or to commercial listings, but is not required to do so. The regulated electrical corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines and procedures it will follow to be in compliance with this rule.

(F) Marketing materials, information or advertisements by an affiliate entity that share an exact or similar name, logo or trademark of the regulated utility shall clearly display or announce that the affiliate entity is not regulated by the Missouri Public Service Commission.

(3) Evidentiary Standards for Affiliate Transactions.

(A) When a regulated electrical corporation purchases information, assets, goods or services from an affiliated entity, the regulated electrical corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.

(B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated electrical corporation from an affiliated entity, the regulated electrical corporation shall document both the fair market price of such information, assets, goods and services and the FDC to the regulated electrical corporation to produce the information, assets, goods or services for itself.

(C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated electrical corporation must demonstrate that it—

1. Considered all costs incurred to complete the transaction;
2. Calculated the costs at times relevant to the transaction;
3. Allocated all joint and common costs appropriately; and
4. Adequately determined the fair market price of the information, assets, goods or services.

(D) In transactions involving the purchase of goods or services by the regulated electrical corporation from an affiliated entity, the regulated electrical corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

(4) Record Keeping Requirements.

(A) A regulated electrical corporation shall maintain books, accounts and records separate from those of its affiliates.

(B) Each regulated electrical corporation shall maintain the following information in a mutually agreed-to electronic format (i.e., agreement between the staff, Office of the Public Counsel and the regulated electrical corporation) regarding affiliate transactions on a calendar year basis and shall provide such information to the commission staff and the Office of the Public Counsel on, or before, March 15 of the succeeding year:

1. A full and complete list of all affiliated entities as defined by this rule;
2. A full and complete list of all goods and services provided to or received from affiliated entities;
3. A full and complete list of all contracts entered with affiliated entities;
4. A full and complete list of all affiliate transactions undertaken with affiliated entities without a written contract together with a brief explanation of why there was no contract;
5. The amount of all affiliate transactions by affiliated entity and account charged; and
6. The basis used (e.g., fair market price, FDC, etc.) to record each type of affiliate transaction.

(C) In addition, each regulated electrical corporation shall maintain the following information regarding affiliate transactions on a calendar year basis:

1. Records identifying the basis used (e.g., fair market price, FDC, etc.) to record all affiliate transactions; and
2. Books of accounts and supporting records in sufficient detail to permit verification of compliance with this rule.

(5) Records of Affiliated Entities.

(A) Each regulated electrical corporation shall ensure that its parent and any other affiliated entities maintain books and records that include, at a minimum, the following information regarding affiliate transactions:

1. Documentation of the costs associated with affiliate transactions that are incurred

by the parent or affiliated entity and charged to the regulated electrical corporation;

2. Documentation of the methods used to allocate and/or share costs between affiliated entities including other jurisdictions and/or corporate divisions;

3. Description of costs that are not subject to allocation to affiliate transactions and documentation supporting the nonassignment of these costs to affiliate transactions;

4. Descriptions of the types of services that corporate divisions and/or other centralized functions provided to any affiliated entity or division accessing the regulated electrical corporation's contracted services or facilities;

5. Names and job descriptions of the employees from the regulated electrical corporation that transferred to a nonregulated affiliated entity;

6. Evaluations of the effect on the reliability of services provided by the regulated electrical corporation resulting from the access to regulated contracts and/or facilities by affiliated entities;

7. Policies regarding the availability of customer information and the access to services available to nonregulated affiliated entities desiring use of the regulated electrical corporation's contracts and facilities; and

8. Descriptions of and supporting documentation related to any use of derivatives that may be related to the regulated electrical corporation's operation even though obtained by the parent or affiliated entity.

(6) Access to Records of Affiliated Entities.

(A) To the extent permitted by applicable law and pursuant to established commission discovery procedures, a regulated electrical corporation shall make available the books and records of its parent and any other affiliated entities when required in the application of this rule.

(B) The commission shall have the authority to—

1. Review, inspect and audit books, accounts and other records kept by a regulated electrical corporation or affiliated entity for the sole purpose of ensuring compliance with this rule and making findings available to the commission; and

2. Investigate the operations of a regulated electrical corporation or affiliated entity and their relationship to each other for the sole purpose of ensuring compliance with this rule.

(C) This rule does not modify existing legal standards regarding which party has the burden of proof in commission proceedings.



(7) Record Retention.

(A) Records required under this rule shall be maintained by each regulated electrical corporation for a period of not less than six (6) years.

(8) Enforcement.

(A) When enforcing these standards, or any order of the commission regarding these standards, the commission may apply any remedy available to the commission.

(9) The regulated electrical corporation shall train and advise its personnel as to the requirements and provisions of this rule as appropriate to ensure compliance.

(10) Variances.

(A) A variance from the standards in this rule may be obtained by compliance with paragraphs (10)(A)1. or (10)(A)2. The granting of a variance to one regulated electrical corporation does not constitute a waiver respecting or otherwise affect the required compliance of any other regulated electrical corporation to comply with the standards. The scope of a variance will be determined based on the facts and circumstances found in support of the application.

1. The regulated electrical corporation shall request a variance upon written application in accordance with commission procedures set out in 4 CSR 240-2.060(11); or

2. A regulated electrical corporation may engage in an affiliate transaction not in compliance with the standards set out in subsection (2)(A) of this rule, when to its best knowledge and belief, compliance with the standards would not be in the best interests of its regulated customers and it complies with the procedures required by subparagraphs (10)(A)2.A. and (10)(A)2.B. of this rule—

A. All reports and record retention requirements for each affiliate transaction must be complied with; and

B. Notice of the noncomplying affiliate transaction shall be filed with the secretary of the commission and the Office of the Public Counsel within ten (10) days of the occurrence of the non-complying affiliate transaction. The notice shall provide a detailed explanation of why the affiliate transaction should be exempted from the requirements of subsection (2)(A), and shall provide a detailed explanation of how the affiliate transaction was in the best interests of the regulated customers. Within thirty (30) days of the notice of the noncomplying affiliate transaction, any party shall have the right to request a hearing regarding the noncomplying affiliate transaction. The commission may grant or deny the request for hearing at that

time. If the commission denies a request for hearing, the denial shall not in any way prejudice a party's ability to challenge the affiliate transaction at the time of the annual CAM filing. At the time of the filing of the regulated electrical corporation's annual CAM filing the regulated electrical corporation shall provide to the secretary of the commission a listing of all non-complying affiliate transactions which occurred between the period of the last filing and the current filing. Any affiliate transaction submitted pursuant to this section shall remain interim, subject to disallowance, pending final commission determination on whether the noncomplying affiliate transaction resulted in the best interests of the regulated customers.

(11) Nothing contained in this rule and no action by the commission under this rule shall be construed to approve or exempt any activity or arrangement that would violate the antitrust laws of the state of Missouri or of the United States or to limit the rights of any person or entity under those laws.

AUTHORITY: sections 386.250, RSMo Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original authority: 386.250, RSMo 1963, amended 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-20.017 HVAC Services Affiliate Transactions

PURPOSE: This rule prescribes the requirements for HVAC services affiliated entities and regulated electric corporations when such electric corporations participate in affiliated transactions with an HVAC affiliated entity as set forth in sections 386.754, 386.756, 386.760, 386.762 and 386.764, RSMo by the General Assembly of the State of Missouri.

(1) Definitions.

(A) Affiliated entity means any entity not regulated by the Public Service Commission which is owned, controlled by or under common control with a utility and is engaged in HVAC services.

(B) Control (including the terms "controlling," "controlled by," and "common control") means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through (1) one or more intermediary entities, or alone, or in conjunction with, or pur-

suant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of more than ten percent (10%) of voting securities or partnership interest of an entity confers control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated electric corporation from rebutting the presumption that its ownership interest in an entity confers control.

(C) Fully distributed cost means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. Fully distributed cost requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g. general and administrative) must also be included in the fully distributed cost calculation through a general allocation.

(D) HVAC services means the warranty, sale, lease, rental, installation, construction, modernization, retrofit, maintenance or repair of heating, ventilating and air conditioning (HVAC) equipment.

(E) Regulated electric corporation means an electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(F) Utility contractor means a person, including an individual, corporation, firm, incorporated or unincorporated association or other business or legal entity, that contracts, whether in writing or not in writing, with a regulated electric corporation to engage in or assist any entity in engaging in HVAC services, but does not include employees of a regulated electric corporation.

(2) A regulated electric corporation may not engage in HVAC services, except by an affiliated entity, or as provided in section (8) or (9) of this rule.

(3) No affiliated entity or utility contractor may use any vehicles, service tools, instruments, employees, or any other regulated electric corporation assets, the cost of which are recoverable in the regulated rates for regulated electric corporation service, to engage in HVAC services unless the regulated electric corporation is compensated for the use of such assets at the fully distributed cost to the regulated electric corporation.

(A) The determination of a regulated electric corporation's cost in this section is defined in subsection (1)(D) of this rule.

(4) A regulated electric corporation may not use or allow any affiliated entity or utility contractor to use the name of such regulated electric corporation to engage in HVAC services unless the regulated electric corporation, affiliated entity or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the commission.

(5) A regulated electric corporation may not engage in or assist any affiliated entity or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such regulated electric corporation, affiliated entity or utility contractor to the extent of changing the rates or charges for the regulated electric corporation's services above or below the rates or charges that would be in effect if the regulated electric corporation were not engaged in or assisting any affiliated entity or utility contractor in engaging in such activities.

(6) Any affiliated entities or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the regulated electric corporation.

(7) The provisions of this rule shall apply to any affiliated entity or utility contractor engaged in HVAC services that is owned, controlled or under common control with a regulated electric corporation providing regulated services in the state of Missouri or any other state.

(8) A regulated electric corporation engaging in HVAC services in the state of Missouri five (5) years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the regulated electric corporation five (5) years prior to August 28, 1998.

(A) To qualify for this exemption, the regulated electric corporation shall file a pleading before the commission for approval.

1. The commission may establish a case to determine if the regulated electric corporation qualifies for an exemption under this rule.

(9) The provisions of this section shall not be construed to prohibit a regulated electric corporation from providing emergency service,

providing any service required by law or providing a program pursuant to an existing tariff, rule or order of the commission.

AUTHORITY: sections 386.760.1, RSMo Supp. 1998 and 393.140, RSMo 1994. Original rule filed Dec. 17, 1998, effective Aug. 30, 1999.*

**Original authority: 386.760.1, RSMo 1998 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-20.020 Residential Electric Underground Distribution Systems
(Rescinded August 15, 1983)

AUTHORITY: section 386.310, RSMo 1978. Original rule filed June 28, 1971, effective July 14, 1971. Amended: Filed Oct. 26, 1971, effective Nov. 4, 1971. Amended: Filed May 27, 1975, effective June 6, 1975. Rescinded: Filed Jan. 12, 1983, effective Aug. 15, 1983.

4 CSR 240-20.030 Uniform System of Accounts—Electrical Corporations

PURPOSE: This rule directs electrical corporations within the commission's jurisdiction to use the uniform system of accounts prescribed by the Federal Energy Regulatory Commission for major electric utilities and licensees, as modified herein. Requirements regarding the submission of depreciation studies, databases and property unit catalogs are found at 4 CSR 240-3.160 and 4 CSR 240-3.175.

(1) Beginning January 1, 1994, every electrical corporation subject to the commission's jurisdiction shall keep all accounts in conformity with the Uniform System of Accounts Prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act, as prescribed by the Federal Energy Regulatory Commission (FERC) and published at 18 CFR Part 101 (1992) and 1 FERC Stat. & Regs. paragraph 15,001 and following (1992), except as otherwise provided in this rule. This uniform system of accounts provides instruction for recording financial information about electric utilities. It contains definitions, general instructions, electric plant instructions, operating expense instructions, and accounts that comprise the balance sheet, electric plant, income, operating revenues, and operation and maintenance expenses.

(2) When implementing section (1), each electrical corporation subject to the commission's jurisdiction shall—

(A) Keep its accounts in the manner and detail specified for electric utilities and licensees classified as major at Part 101 General Instructions 1.A. and paragraph 15,011.1.A.; and

(B) Assemble by July 1, 1996, and maintain after that, a property unit catalog which contains for each designated property unit, in addition to the provisions of Part 101 General Instructions 6. and paragraph 15,016—

1. A description of each unit;
2. An item list; and
3. Accounting instructions, including instructions for distinguishing between operations expense, maintenance expense and capitalized plant improvements.

(3) Regarding plant acquired or placed in service after 1993, when implementing section (1), each electrical corporation subject to the commission's jurisdiction shall—

(A) Maintain plant records of the year of each unit's retirement as part of the "continuing plant inventory records," as the term is otherwise defined at Part 101 Definitions 8. and paragraph 15,001.8.;

(B) State the detailed electric plant accounts (301 to 399, inclusive) on the basis of original cost, estimated if not known, when implementing the provisions of Part 101 Electric Plant Instructions 1.C. and paragraph 15,051.1.C.;

(C) Record electrical plant acquired as an operating unit or system at original cost, estimated if not known, except as otherwise provided by the text of the intangible plant accounts, when implementing the provisions of Part 101 Electric Plant Instructions 2.A. and paragraph 15,052.2.A.;

(D) Account for the cost of items not classified as units of property as it would account for the cost of individual items of equipment of small value or of short life, as provided in Part 101 Electric Plant Instructions 3.A.(3) and paragraph 15,053.3.A.(3);

(E) Include in equipment accounts any hand or other portable tools which are specifically designated as units of property, when implementing the provisions of Part 101 Electric Plant Instructions 9.B. and paragraph 15,059.9.B.;

(F) Use the list of retirement units contained in its property unit catalog when implementing the provisions of Part 101 Electric Plant Instructions 10.A. and paragraph 15,060.10.A.;

(G) Estimate original cost with an appropriate average of the original cost of the units by vintage year, with due allowance for any

difference in size and character, when it is impracticable to determine the original cost of each unit, when implementing the provisions of Part 101 Electric Plant Instructions 10.D. and paragraph 15,060.10.D.;

(H) Charge original cost less net salvage to account 108., when implementing the provisions of Part 101 Electric Plant Instructions 10.F. and paragraph 15,060.10.F.;

(I) Keep its work order system so as to show the nature of each addition to or retirement of electric plant by vintage year, in addition to the other requirements of Part 101 Electric Plant Instructions 11.B. and paragraph 15,061.11.B.;

(J) Maintain records which classify, for each plant account, the amounts of the annual additions and retirements so as to show the number and cost of the various record units or retirement units by vintage year, when implementing the provisions of Part 101 Electric Plant Instructions 11.C. and paragraph 15,061.11.C.;

(K) Maintain subsidiary records which separate account 108. according to primary plant accounts or subaccounts when implementing the provisions of Part 101 Balance Sheet Account 108.C. and paragraph 15,110.108.C.;

(L) Maintain subsidiary records which separate account 111. according to primary plant accounts or subaccounts when implementing the provisions of Part 101 Balance Sheet Accounts 111.C. and paragraph 15,113.111.C.; and

(M) Keep mortality records of property and property retirements as will reflect the average life of property which has been retired and will aid in estimating probable service life by actuarial analysis of annual additions and aged retirements when implementing the provisions of Part 101 Income Accounts 403.B. and paragraph 15,404.403.B.

(4) In prescribing this system of accounts, the commission does not commit itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining other matters before the commission. This rule shall not be construed as waiving any recordkeeping requirement in effect prior to 1994.

(5) The commission may waive or grant a variance from the provisions of this rule, in whole or in part, for good cause shown, upon a utility's written application.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended:*

Filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Amended: Filed March 19, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 16, 2002, effective April 30, 2003.

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, 1939, amended 1949, 1967.*

4 CSR 240-20.040 Minimum Filing Requirements

(Rescinded October 10, 1993)

AUTHORITY: section 393.140, RSMo 1986. Original rule filed Dec. 10, 1979, effective Sept. 1, 1980. Rescinded: Filed Feb. 4, 1993, effective Oct. 10, 1993.

4 CSR 240-20.050 Individual Electric Meters—When Required

PURPOSE: This rule prescribes individual metering for new multiple occupancy buildings and new mobile home parks for all electric corporations under the jurisdiction of the Public Service Commission. This rule is aimed at compliance with Sections 113(b)(1) and 115(d) of Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), PL 95-617, 16 USC 2601.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) For the purposes of this rule—

(A) A building is defined as a single structure, roofed and enclosed within exterior walls, built for permanent use, erected, framed of component structural parts and unified in its entirety both physically and in operation for residential or commercial occupancy;

(B) Commercial adjacent buildings are defined as buildings on a contiguous plot of land owned by one (1) person, which buildings are occupied and used by one (1) person

for single type of commercial operation. A person for the purpose of this definition includes any type of business entity;

(C) A commercial unit is defined as that portion of a building or premises which by appearance, design or arrangement is normally used for commercial purposes, whether or not actually so used;

(D) Construction begins when the footings are poured;

(E) A mobile home park is defined as a contiguous parcel of land which is used for the accommodation of occupied mobile homes;

(F) A multiple-occupancy building is defined as a building or premises which is designed to house more than one (1) residential or commercial unit; and

(G) A residential unit is defined as one (1) or more rooms for the use of one (1) or more persons as a housekeeping unit with space for eating, living and sleeping, and permanent provisions for cooking and sanitation.

(2) Each residential and commercial unit in a multiple-occupancy building construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each residential or commercial unit.

(3) Each mobile home unit in a mobile home park, construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each mobile home unit.

(4) For the purposes of carrying out the provisions of sections (2) and (3), the following exceptions apply and separate metering will not be required:

(A) For transient multiple-occupancy buildings and transient mobile home parks—for example, hotels, motels, dormitories, rooming houses, hospitals, nursing homes, fraternities, sororities, campgrounds and mobile home parks which set aside, on a permanent basis, at least eighty percent (80%) of their mobile home pads or comparable space for use by travel trailers;

(B) Where commercial unit space is subject to alteration with change in tenants as evidenced by temporary versus permanent type of wall construction separating the commercial unit space—for example, space at a trade fair;

(C) For commercial adjacent buildings;

(D) For that portion of electricity used in central space heating, central hot water heating, central ventilating and central air-conditioning systems;

(E) For buildings or mobile home parks where alternative renewable energy resources are utilized in connection with central space



heating, central hot water heating, central ventilating and central air-conditioning systems; or

(F) For all portions of electricity in commercial units in buildings with central space heating, ventilating and air-conditioning systems.

(5) Any person or entity affected by this rule may file an application with the commission seeking a variance from all or parts of this rule (4 CSR 240-20.050) and for good cause shown, variances may be granted as follows:

(A) The variance request shall be filed in writing and directed to the secretary of the commission;

(B) If the commission deems it in the public interest, a hearing may be held by the commission as in complaint hearings before the commission; and

(C) A variance committee consisting of two (2) members of the commission's utility division staff and a member of the commission's general counsel's office shall be established by the commission within thirty (30) days from September 28, 1981. The public counsel shall be an *ex officio* member of this committee.

1. The variance committee shall consider all variance applications filed by utilities and shall make a written recommendation of its findings to the commission for its approval.

2. Each applicant for a variance shall have ten (10) days from the date of the variance committee's findings to either accede or request a formal hearing before the commission.

3. If applicant accedes, the commission may adopt the variance committee's findings or set the matter for formal hearing upon the application of any interested person or upon the commission's own motion.

(6) The commission, in its discretion, may approve tariffs filed by an electric corporation which are more restrictive of master metering than the provisions of this rule.

AUTHORITY: section 386.250, RSMo Supp. 1991. Original rule filed March 13, 1980, effective Dec. 15, 1980. Emergency amendment filed May 13, 1981, effective May 31, 1981, expired Sept. 28, 1981. Amended: Filed May 13, 1981, effective Sept. 28, 1981.*

*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991.

4 CSR 240-20.060 Cogeneration

PURPOSE: This rule implements Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 with regard to small power production and cogeneration. The objective of Sections 201 and 210 of Public Utility Regulatory Policies Act is to provide a mechanism to set up a cogeneration program for Missouri for regulated utilities. Additional requirements regarding this subject matter are also found at 4 CSR 240-3.155.

(1) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this rule as they have under PURPA, unless further defined in this rule.

(A) Avoided costs means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, that utility would generate itself or purchase from another source.

(B) Back-up power means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

(C) Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(D) Interruptible power means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

(E) Maintenance power means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(F) Purchase means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(G) Qualifying facility means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of Part 292 of the Federal Energy

Regulatory Commission's (FERC) regulations.

(H) Rate means any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity or any rule or practice respecting any such rate, charge or classification and any contract pertaining to the sale or purchase of electric energy or capacity.

(I) Sale means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

(J) Supplementary power means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(K) System emergency means a condition on a utility's system which is likely to result in imminent significant disruption of service to consumers or is imminently likely to endanger life or property.

(2) Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities Under Section 210 of the Public Utility Regulatory Policies Act of 1978.

(A) Applicability. This section applies to the regulation of sales and purchases between qualifying facilities and electric utilities.

(B) Negotiated Rates or Terms. Nothing in this section—

1. Limits the authority of any electric utility or any qualifying facility to agree to a rate for any purchase or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this rule; or

2. Affects the validity of any contract entered into between a qualifying facility and an electric utility for any purchase.

(C) Every regulated utility which provides retail electric service in this state shall enter into a contract for parallel generation service with any customer which is a qualifying facility, upon that customer's request, where that customer may connect a device to the utility's delivery and metering service to transmit electrical power produced by that customer's energy generating system into the utility's system.

1. The utility shall supply, install, own and maintain all necessary meters and associated equipment used for billing. The costs of any such meters and associated equipment which are beyond those required for service to a customer which is not a qualifying facility shall be borne by the customer. The utility may install and maintain, at its expense,



load research metering for monitoring the customer's energy generation and usage.

2. The customer shall supply, install, operate and maintain, in good repair and without cost to the utility, the relays, locks and seals, breakers, automatic synchronizer, a disconnecting device and other control and protective devices required by the utility to operate the customer's generating system parallel to the utility's system. The customer also shall supply, without cost to the utility, a suitable location for meters and associated equipment used for billing, load research and disconnection.

3. The customer shall be required to reimburse the utility for the cost of any equipment or facilities required as a result of connecting the customer's generating system with the utility's system.

4. The customer shall notify the utility prior to the initial testing of the customer's generating system and the utility shall have the right to have a representative present during the testing.

5. Meters and associated equipment used for billing, load research and connection and disconnection shall be accessible at all times to utility personnel.

6. A manual disconnect switch for the qualifying facility must be provided by the customer which will be under the exclusive control of the utility dispatcher. This manual switch must have the capability to be locked out of service by the utility-authorized switchmen as a part of the utility's workman's protection assurance procedures. The customer must also provide an isolating device which the customer has access to and which will serve as a means of isolation for the customer's equipment during any qualifying facility maintenance activities, routine outages or emergencies. The utility shall give notice to the customer before a manual switch is locked or an isolating device used, if possible; and otherwise shall give notice as soon as practicable after locking or use.

(D) No customer's generating system or connecting device shall damage the utility's system or equipment or present an undue hazard to utility personnel.

(E) If harmonics, voltage fluctuations or other disruptive problems on the utility's system are directly attributable to the operation of the customer, these problems will be corrected at the customer's expense.

(F) Every contract shall provide fair compensation for the electrical power supplied to the utility by the customer. If the utility and the customer cannot agree to the terms and conditions of the contract, the Public Service Commission (PSC) shall establish the terms and conditions upon the request of the utility

or the customer. Those terms and conditions will be established in accordance with Section 210 of the Public Utility Regulatory Policies Act of 1978 and the provisions of this rule.

(3) Electric Utility Obligations Under This Rule.

(A) Obligation to Purchase From Qualifying Facilities. Each electric utility shall purchase, in accordance with section (4), any energy and capacity which is made available from a qualifying facility—

1. Directly to the electric utility; or

2. Indirectly to the electric utility in accordance with subsection (3)(D) of this rule.

(B) Obligation to Sell to Qualifying Facilities. Each electric utility shall sell to any qualifying facility, in accordance with section (5) of this rule, any energy and capacity requested by the qualifying facility.

(C) Obligation to Interconnect.

1. Subject to paragraph (3)(C)2. of this rule, any electric utility shall make interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this rule. The obligation to pay for any interconnection costs shall be determined in accordance with section (6) of this rule.

2. No electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

(D) Transmission to Other Electric Utilities. If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from a qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which energy or capacity is transmitted shall purchase energy or capacity under this subsection (3)(D) as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect line losses pursuant to paragraph (4)(E)4. of this rule and shall not include any charges for transmission.

(E) Parallel Operation. Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with section (8) of this rule.

(4) Rates for Purchases.

(A) Rates for purchases shall be just and reasonable to the electric consumer of the electric utility and in the public interest and shall not discriminate against qualifying cogeneration and small power production facilities. Nothing in this rule requires any electric utility to pay more than the avoided costs for purchases.

(B) Relationship to Avoided Costs.

1. For purposes of this section, new capacity means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

2. Subject to paragraph (4)(B)3. of this rule, a rate for purchases satisfies the requirements of subsection (4)(A) of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subsection (4)(E) of this rule.

3. A rate for purchases (other than from new capacity) may be less than the avoided cost if the PSC determines that a lower rate is consistent with subsection (4)(A) of this rule and is sufficient to encourage cogeneration and small power production.

4. Rates for purchases from new capacity shall be in accordance with paragraph (4)(B)2. of this rule, regardless of whether the electric utility making the purchases is simultaneously making sales to the qualifying facility.

5. In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for the purchases do not violate this paragraph if the rates for the purchases differ from avoided costs at the time of delivery.

(C) Standard Rates for Purchases.

1. There shall be put into effect (with respect to each electric utility) standard rates for purchases from qualifying facilities with a design capacity of one hundred (100) kilowatts or less.

2. There may be put into effect standard rates for purchases from qualifying facilities with a design capacity of more than one hundred (100) kilowatts.

3. The standard rates for purchases under this subsection shall be consistent with subsections (4)(A) and (E) of this rule, and may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.

(D) Purchases as Available or Pursuant to a Legally Enforceable Obligation. Each qualifying facility shall have the option either—

1. To provide energy as the qualifying facility determines this energy to be available for the purchases, in which case the rates for

the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

2. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases, at the option of the qualifying facility exercised prior to the beginning of the specified term, shall be based on either the avoided costs calculated at the time of delivery or the avoided costs calculated at the time the obligation is incurred.

(E) Factors Affecting Rates for Purchases. In determining avoided costs, the following factors, to the extent practicable, shall be taken into account:

1. The data provided pursuant to 4 CSR 240-3.155, including PSC review of any such data;

2. The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

A. The ability of the utility to dispatch the qualifying facility;

B. The expected or demonstrated reliability of the qualifying facility;

C. The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

D. The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

E. The usefulness of energy and the capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

F. The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

G. The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities;

3. The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (4)(E)2. of this rule, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of oil use; and

4. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

(F) Periods During Which Purchases not Required.

1. Any electric utility which gives notice pursuant to paragraph (4)(F)2. of this rule will not be required to purchase electric energy or capacity during any period which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself.

2. Any electric utility seeking to invoke paragraph (4)(F)1. of this rule must notify, in accordance with applicable state law or rule, each affected qualifying facility in time for the qualifying facility to cease the delivery of energy or capacity to the electric utility.

3. Any electric utility which fails to comply with the provisions of paragraph (4)(F)2. of this rule will be required to pay the same rate for the purchase of energy or capacity as would be required had the period described in paragraph (4)(F)1. of this rule not occurred.

4. A claim by an electric utility that this period has occurred or will occur is subject to verification by the PSC as the PSC determines necessary or appropriate, either before or after the occurrence.

(5) Rates for Sales.

(A) Rates for sales shall be just and reasonable and in the public interest and shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for sales which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that those rates apply to the utility's other customers with similar load or other cost-related characteristics.

(B) Additional Services to be Provided to Qualifying Facilities.

1. Upon request of a qualifying facility, each electric utility shall provide supplementary power, back-up power, maintenance power and interruptible power.

2. The PSC may waive any requirement of paragraph (5)(B)1. of this rule if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the PSC finds that compliance with that requirement will impair the electric utility's ability to render adequate service to its customers or place an undue burden on the electric utility.

(C) Rates for Sale of Back-Up and Maintenance Power. The rate for sales of back-up power or maintenance power—

1. Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric

output by all qualifying facilities on an electric utility's system will occur simultaneously or during the system peak or both; and

2. Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

(6) Interconnection Costs.

(A) If the utility and the qualifying facility cannot reach agreement as to the amount or the manner of payment of the interconnection costs to be paid by the qualifying facility, the PSC, after hearing, shall assess against the qualifying facility those interconnection costs to be paid to the utility, on a nondiscriminatory basis with respect to other customers with similar load characteristics or shall determine the manner of payments of the interconnection costs, which may include reimbursement over a reasonable period of time, or both. In determining the terms of any reimbursement over a period of time, the commission shall provide for adequate carrying charges associated with the utility's investment and security to insure total reimbursement of the utility's incurred costs, if it deems necessary.

(7) System Emergencies.

(A) Qualifying Facility Obligation to Provide Power During System Emergencies. A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent provided by agreement between the qualifying facility and electric utility or ordered under section 202(c) of the Federal Power Act.

(B) Discontinuance of Purchases and Sales During System Emergencies. During any system emergency, an electric utility may discontinue purchases from a qualifying facility if those purchases would contribute to the emergency and sales to a qualifying facility, provided that discontinuance is on a nondiscriminatory basis.

(8) Standards for Operating Reliability. The PSC may establish reasonable standards to ensure system safety and reliability of interconnected operations. Those standards may be recommended by any electric utility, any qualifying facility or any other person. If the PSC establishes standards, it shall specify the need for the standards on the basis of system safety and reliability.

(9) Exemption to Qualifying Facilities From the Public Utility Holding Company Act and Certain State Law and Rules.



(A) Applicability. This section applies to qualifying cogeneration facilities and qualifying small power production facilities which have a power production capacity which does not exceed thirty (30) megawatts and to any qualifying small power production facility with a power production capacity over thirty (30) megawatts if that facility produces electric energy solely by the use of biomass as a primary energy source.

(B) A qualifying facility described in subsection (1)(A) shall not be considered to be an electric utility company as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79b(a)(3).

(C) Any qualifying facility shall be exempted (except as otherwise provided) from Missouri PSC law or rule respecting the rates of electric utilities and the financial and organizational regulation of electric utilities. A qualifying facility may not be exempted from Missouri PSC law and rule implementing subpart C of PURPA.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Oct. 14, 1980, effective May 15, 1981. Amended: Filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-20.065 Net Metering

PURPOSE: This rule implements the Net Metering and Easy Connection Act (section 386.890, RSMo Supp. 2008) and establishes standards for interconnection of qualified net metering units (generating capacity of one hundred kilowatts (100 kW) or less) with distribution systems of electric utilities.

(1) Definitions.

(A) Avoided fuel cost means the current annual average cost of fuel for the electric utility as calculated from information contained in the most recent annual report submitted to the commission pursuant to 4 CSR 240-3.165. Annual average cost of fuel will be calculated from information on the Steam-Electric Generating Plant Statistics Sheets of the annual report. This annual average cost of fuel shall be identified in the net metering tariffs on file with the commission and shall be updated annually within thirty (30) days after the electric utility's annual report is submitted.

(B) Commission means the Public Service Commission of the state of Missouri.

(C) Customer-generator means the owner

or operator of a qualified electric energy generation unit that meets all of the following criteria:

1. Is powered by a renewable energy resource;

2. Is an electrical generating system with a capacity of not more than one hundred kilowatts (100 kW);

3. Is located on premises that are owned, operated, leased, or otherwise controlled by the customer-generator;

4. Is interconnected and operates in parallel phase and synchronization with an electric utility and has been approved for interconnection by said electric utility;

5. Is intended primarily to offset part or all of the customer-generator's own electrical energy requirements;

6. Meets all applicable safety, performance, interconnection, and reliability standards established by the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities; and

7. Contains a mechanism that automatically disables the unit and interrupts the flow of electricity onto the electric utility's electrical lines whenever the flow of electricity to the customer-generator is interrupted.

(D) Distribution system means facilities for the distribution of electric energy to the ultimate consumer thereof.

(E) Electric utility means every electrical corporation as defined in section 386.020(15), RSMo 2000, subject to commission regulation pursuant to Chapter 393, RSMo 2000.

(F) Net metering means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer-generator by an electric utility and the electrical energy supplied by the customer-generator to the electric utility over the applicable billing period.

(G) Renewable energy resources means electrical energy produced from wind, solar thermal sources, hydroelectric sources, photovoltaic cells and panels, fuel cells using hydrogen produced by one (1) of the above-named electrical energy sources, and other sources of energy that become available after August 28, 2007, and are certified as renewable by the Missouri Department of Natural Resources.

(2) Applicability. This rule applies to electric utilities and customer-generators.

(3) Electric Utility Obligations.

(A) Net metering shall be available to customer-generators on a first-come, first-served basis until the total rated generating capacity

of net metering systems equals five percent (5%) of the electric utility's Missouri jurisdictional single-hour peak load during the previous year. The commission may increase the total rated generating capacity of net metering systems to an amount above five percent (5%). However, in a given calendar year, no electric utility shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said electric utility in said calendar year equals or exceeds one percent (1%) of said electric utility's single-hour peak load for the previous calendar year.

(B) A tariff or contract shall be offered that is identical in electrical energy rates, rate structure, and monthly charges to the contract or tariff that the customer would be assigned if the customer were not an eligible customer-generator but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator.

(C) The availability of the net metering program shall be disclosed annually to each of its customers with the method and manner of disclosure being at the discretion of the electric utility.

(D) For any cause of action relating to any damages to property or person caused by the generation unit of a customer-generator or the interconnection thereof, the electric utility shall have no liability absent clear and convincing evidence of fault on the part of the supplier.

(E) Any costs incurred under this rule by an electric utility not recovered directly from the customer-generator, as identified in (5)(F), shall be recoverable in that electric utility's rate structure.

(F) No fee, charge, or other requirement not specifically identified in this rule shall be imposed unless the fee, charge, or other requirement would apply to similarly situated customers who are not customer-generators.

(4) Customer-Generator Liability Insurance Obligation.

(A) Customer-generator systems greater than ten kilowatts (10 kW) shall carry no less than one hundred thousand dollars (\$100,000) of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation of the net metering unit. Insurance may be in the form of an existing policy or an endorsement on an existing policy.

(B) Customer-generator systems ten kilowatts (10 kW) or less shall not be required to carry liability insurance; however, any tariff



or contract offered by a utility to customer-generators shall contain language stating that absent clear and convincing evidence of fault on the part of the retail electric supplier, those retail electric suppliers cannot be held liable for any action or cause of action relating to any damages to property or persons caused by the generation unit of a customer-generator or the interconnection thereof pursuant to section 386.890.11, RSMo Supp. 2008. Further, any tariff or contract offered by utilities to customer-generators shall state that customer-generators may have legal liabilities not covered under their existing insurance policy in the event the customer-generator's negligence or other wrongful conduct causes personal injury (including death), damage to property, or other actions and claims.

(5) Qualified Electric Customer-Generator Obligations.

(A) Each qualified electric energy generation unit used by a customer-generator shall meet all applicable safety, performance, interconnection, and reliability standards established by any local code authorities, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers (IEEE), and Underwriters Laboratories (UL) for distributed generation; including, but not limited to IEEE 1547 and UL 1741.

(B) The electric utility may require that a customer-generator's system contain a switch, circuit breaker, fuse, or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow an electric utility worker the ability to manually and instantly disconnect the unit from the electric utility's distribution system.

(C) No consumer shall connect or operate an electric generation unit in parallel phase and synchronization with any electric utility without written approval by said electric utility that all of the requirements under subsection (7)(B) of this rule have been met. For a customer-generator who violates this provision, an electric utility may immediately and without notice disconnect the electric facilities of said customer-generator and terminate said customer-generator's electric service.

(D) A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced and consumed by the customer-generator. If the customer-generator's existing meter equipment does not meet these requirements or if it is necessary for the electric utility to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse the electric utility for

the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by the electric utility, and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve (12) billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

(E) Each customer-generator shall, at least once every year, conduct a test to confirm that the net metering unit automatically ceases to energize the output (interconnection equipment output voltage goes to zero (0)) within two (2) seconds of being disconnected from the electric utility's system. Disconnecting the net metering unit from the electric utility's electric system at the visible disconnect switch and measuring the time required for the unit to cease to energize the output shall satisfy this test.

(F) The customer-generator shall maintain a record of the results of these tests and, upon request, shall provide a copy of the test results to the electric utility.

1. If the customer-generator is unable to provide a copy of the test results upon request, the electric utility shall notify the customer-generator by mail that the customer-generator has thirty (30) days from the date the customer-generator receives the request to provide the results of a test to the electric utility;

2. If the customer-generator's equipment ever fails this test, the customer-generator shall immediately disconnect the net metering unit;

3. If the customer-generator does not provide the results of a test to the electric utility within thirty (30) days of receiving a request from the electric utility or the results of the test provided to the electric utility show that the unit is not functioning correctly, the electric utility may immediately disconnect the net metering unit; and

4. The net metering unit shall not be reconnected to the electric utility's electrical system by the customer-generator until the net metering unit is repaired and operating in a normal and safe manner.

(6) Determination of Net Electrical Energy. Net electrical energy measurement shall be calculated in the following manner:

(A) For a customer-generator, an electric utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical

energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(B) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(C) If the electricity generated by the customer-generator exceeds the electricity supplied by the electric utility during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period in accordance with section (3) of this rule and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period.

(D) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve (12) months after their issuance, or when the customer-generator disconnects service or terminates the net metering relationship with the electric utility.

(7) Interconnection Agreement.

(A) Each customer-generator and electric utility shall enter into the interconnection agreement included herein.

(B) Applications by a customer-generator for interconnection of a qualified electric energy generation unit to the distribution system shall be accompanied by the plan for the customer-generator's electrical generating system including, but not limited to, a wiring diagram and specifications for the generating unit, and shall be reviewed and responded to by the electric utility within thirty (30) days of receipt for systems ten kilowatts (10 kW) or less and within ninety (90) days of receipt for all other systems. Prior to the interconnection of the qualified generation unit to the electric utility's system, the customer-generator will furnish the electric utility a certification from a qualified professional electrician or engineer that the installation meets the requirements of subsections (5)(A) and (5)(B). If the application for interconnection is approved by the electric utility and the customer-generator does not complete the interconnection within one (1) year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

(C) Upon the change in ownership of a qualified electric energy generation unit, the new customer-generator shall be responsible for filing a new application.



(8) Electric Utility Reporting Requirements. Each year prior to April 15, every electric utility shall:

(A) Submit an annual net metering report to the commission and make said report available to a consumer of the electric utility upon request, including the following information for the previous calendar year:

1. The total number of customer-generator facilities connected to its distribution system;

2. The total estimated generating capacity of customer-generators that are connected to its distribution system; and

3. The total estimated net kilowatt-hours received from customer-generators; and

(B) Supply to the manager of the energy department of the commission a copy of the standard information regarding net metering and interconnection requirements provided to customers or posted on the electric utility's website.



**INTERCONNECTION APPLICATION/AGREEMENT FOR NET METERING
SYSTEMS WITH CAPACITY OF ONE HUNDRED
KILOWATTS (100 kW) OR LESS**

For Customers Applying for Interconnection:

If you are interested in applying for interconnection to [Utility Name]’s electrical system, you should first contact [Utility Name] and ask for information related to interconnection of parallel generation equipment to [Utility Name]’s system and you should understand this information before proceeding with this Application.

If you wish to apply for interconnection to [Utility Name]’s electrical system, please complete sections A, B, C, and D, and attach the plans and specifications, including, but not limited to, describing the net metering, parallel generation, and interconnection facilities (hereinafter collectively referred to as the “Customer-Generator’s System”) and submit them to [Utility Name] at:

[Utility Mailing Address]

The company will provide notice of approval or denial within thirty (30) days of receipt by [Utility Name] for Customer-Generators of ten kilowatts (10 kW) or less and within ninety (90) days of receipt by [Utility Name] for Customer-Generators of greater than ten kilowatts (10 kW). If this Application is denied, you will be provided with the reason(s) for the denial. If this Application is approved and signed by both you and [Utility Name], it shall become a binding contract and shall govern your relationship with [Utility Name].

**For Customers Who Have Received Approval of
Customer-Generator System Plans and Specifications:**

After receiving approval of your Application, it will be necessary to construct the Customer-Generator System in compliance with the plans and specifications described in the Application, complete sections E and F of this Application, and forward this Application to [Utility Name] for review and completion of section G at:

[Utility Mailing Address]

Prior to the interconnection of the qualified generation unit to [Utility Name] system, the customer-generator will furnish [Utility name] a certification from a qualified professional electrician or engineer that the installation meets the plans and specification described in the application. If the application for interconnection is approved by [Utility Name] and the customer-generator does not complete the interconnection within one (1) year after receipt of notice of the approval, the approval shall expire and the customer-generator shall be responsible for filing a new application.

[Utility Name] will complete the utility portion of section G and, upon receipt of a completed Application/Agreement form and payment of any applicable fees, schedule a date for interconnection of the Customer-Generator System to [Utility Name]’s electrical system within fifteen (15) days of receipt by [Utility Name] if electric service already exists to the premises, unless the Customer-Generator and [Utility Name] agree to a later date. Similarly, upon receipt of a completed Application/Agreement form and payment of any applicable fees, if electric service does not exist to the premises, [Utility Name] will schedule a date for interconnection of the Customer-Generator System to [Utility Name]’s electrical system no later than fifteen (15) days after service is established to the premises, unless the Customer-Generator and [Utility Name] agree to a later date.



For Customers Who Are Assuming Ownership or Operational Control of an Existing Customer-Generator System:

If no changes are being made to the existing Customer-Generator System, complete sections A, D, and F of this Application/Agreement and forward to [Utility Name] at:

[Utility Mailing Address]

[Utility Name] will review the new Application/Agreement and shall approve such, within fifteen (15) days of receipt by [Utility Name] if the new Customer-Generator has satisfactorily completed Application/Agreement, and no changes are being proposed to the existing Customer-Generator System. There are no fees or charges for the Customer-Generator who is assuming ownership or operational control of an existing Customer-Generator System if no modifications are being proposed to that System.

A. Customer-Generator's Information

Name: _____
 Mailing Address: _____
 City: _____ State: _____ Zip Code: _____
 Service/Street Address (if different from above): _____
 City: _____ State: _____ Zip Code: _____
 Daytime Phone: _____ Fax: _____ Email: _____
 Emergency Contact Phone: _____
 [Utility Name] Account No. (from Utility Bill): _____

B. Customer-Generator's System Information

Manufacturer Name Plate (if applicable) AC Power Rating: _____ kW Voltage: _____ Volts
 System Type: Solar/Thermal Wind Fuel Cell Thermal Photovoltaic Hydroelectric Other
 (describe) _____
 Service/Street Address: _____
 Inverter/Interconnection Equipment Manufacturer: _____
 Inverter/Interconnection Equipment Model No.: _____
 Are required System Plans, Specifications, & Writing Diagram attached? Yes No
 Inverter/Interconnection Equipment Location (describe): _____

 Outdoor Manual/Utility Accessible & Lockable Disconnect Switch Location (describe): _____

Existing Electrical Service Capacity: _____ Amperes Voltage: _____ Volts
 Service Character: Single Phase Three Phase

C. Installation Information/Hardware and Installation Compliance

Person or Company Installing: _____
 Contractor's License No. (if applicable): _____
 Approximate Installation Date: _____
 Mailing Address: _____
 City: _____ State: _____ Zip Code: _____
 Daytime Phone: _____ Fax: _____ Email: _____
 Person or Agency Who Will Inspect/Certify Installation: _____



The Customer-Generator’s proposed System hardware complies with all applicable National Electrical Safety Code (NESC), National Electrical Code (NEC), Institute of Electrical and Electronics Engineers (IEEE) and Underwriters Laboratories (UL) requirements for electrical equipment and their installation. As applicable to System type, these requirements include, but are not limited to, UL 1741 and IEEE 1547. The proposed installation complies with all applicable local electrical codes and all reasonable safety requirements of [Utility Name]. The proposed System has a lockable, visible disconnect device, accessible at all times to [Utility Name] personnel. The System is only required to include one lockable, visible disconnect device, accessible to [Utility Name]. If the interconnection equipment is equipped with a visible, lockable, and accessible disconnect, no redundant device is needed to meet this requirement. The Customer-Generator’s proposed System has functioning controls to prevent voltage flicker, DC injection, overvoltage, undervoltage, overfrequency, underfrequency, and overcurrent, and to provide for System synchronization to [Utility Name]’s electrical system. The proposed System does have an anti-islanding function that prevents the generator from continuing to supply power when [Utility Name]’s electric system is not energized or operating normally. If the proposed System is designed to provide uninterruptible power to critical loads, either through energy storage or back-up generation, the proposed System includes a parallel blocking scheme for this backup source that prevents any backflow of power to [Utility Name]’s electrical system when the electrical system is not energized or not operating normally.

Signed (Installer): _____ Date: _____

Name (Print): _____

D. Additional Terms and Conditions

In addition to abiding by [Utility Name]’s other applicable rules and regulations, the Customer-Generator understands and agrees to the following specific terms and conditions:

1) Operation/Disconnection

If it appears to [Utility Name], at any time, in the reasonable exercise of its judgment, that operation of the Customer-Generator’s System is adversely affecting safety, power quality, or reliability of [Utility Name]’s electrical system, [Utility Name] may immediately disconnect and lock-out the Customer-Generator’s System from [Utility Name]’s electrical system. The Customer-Generator shall permit [Utility Name]’s employees and inspectors reasonable access to inspect, test, and examine the Customer-Generator’s System.

2) Liability

Liability insurance is not required for Customer-Generators of ten kilowatts (10 kW) or less. For generators greater than ten kilowatts (10kW), the Customer-Generator agrees to carry no less than one hundred thousand dollars (\$100,000) of liability insurance that provides for coverage of all risk of liability for personal injuries (including death) and damage to property arising out of or caused by the operation of the Customer-Generator’s System. Insurance may be in the form of an existing policy or an endorsement on an existing policy. Customer-generators, including those whose systems are ten kilowatts (10 kW) or less, may have legal liabilities not covered under their existing insurance policy in the event the customer-generator’s negligence or other wrongful conduct causes personal injury (including death), damage to property, or other actions and claims.

3) Metering and Distribution Costs

A customer-generator’s facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer-generator. If the customer-generator’s existing meter equipment does not meet these requirements or if it is necessary for [Utility Name]



to install additional distribution equipment to accommodate the customer-generator's facility, the customer-generator shall reimburse [Utility Name] for the costs to purchase and install the necessary additional equipment. At the request of the customer-generator, such costs may be initially paid for by [Utility Name], and any amount up to the total costs and a reasonable interest charge may be recovered from the customer-generator over the course of up to twelve (12) billing cycles. Any subsequent meter testing, maintenance or meter equipment change necessitated by the customer-generator shall be paid for by the customer-generator.

4) Energy Pricing and Billing

The net electric energy delivered to the Customer-Generator shall be billed in accordance with rate schedule(s) [Utility's Applicable Rate Schedules]. The value of the electric energy delivered by the Customer-Generator to [Utility Name] shall be credited in accordance with rate schedule(s) [Utility's Applicable Rate Schedules].

Net electrical energy measurement shall be calculated in the following manner:

(a) For a customer-generator, a retail electric supplier shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer-generator's consumption and production of electricity;

(b) If the electricity supplied by the supplier exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the supplier in accordance with normal practices for customers in the same rate class;

(c) If the electricity generated by the customer-generator exceeds the electricity supplied by the supplier during a billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period and shall be credited an amount at least equal to the avoided fuel cost of the excess kilowatt-hours generated during the billing period, with this credit applied to the following billing period.

(d) Any credits granted by this subsection shall expire without any compensation at the earlier of either twelve (12) months after their issuance, or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

5) Terms and Termination Rights

This Agreement becomes effective when signed by both the Customer-Generator and [Utility Name], and shall continue in effect until terminated. After fulfillment of any applicable initial tariff or rate schedule term, the Customer-Generator may terminate this Agreement at any time by giving [Utility Name] at least thirty (30) days prior written notice. In such event, the Customer-Generator shall, no later than the date of termination of Agreement, completely disconnect the Customer-Generator's System from parallel operation with [Utility Name]'s system. Either party may terminate this Agreement by giving the other party at least thirty (30) days prior written notice that the other party is in default of any of the terms and conditions of this Agreement, so long as the notice specifies the basis for termination, and there is an opportunity to cure the default. This Agreement may also be terminated at any time by mutual agreement of the Customer-Generator and [Utility Name]. This agreement may also be terminated, by approval of the Commission, if there is a change in statute that is determined to be applicable to this contract and necessitates its termination.

6) Transfer of Ownership

If operational control of the Customer-Generator's System transfers to any other party than the Customer-Generator, a new Application/Agreement must be completed by the person or persons taking over operational control of the existing Customer-Generator System. [Utility Name] shall be notified no less than



thirty (30) days before the Customer-Generator anticipates transfer of operational control of the Customer-Generator's System. The person or persons taking over operational control of Customer-Generator's System must file a new Application/Agreement, and must receive authorization from [Utility Name], before the existing Customer-Generator System can remain interconnected with [Utility Name]'s electrical system. The new Application/Agreement will only need to be completed to the extent necessary to affirm that the new person or persons having operational control of the existing Customer-Generator System completely understand the provisions of this Application/Agreement and agree to them. If no changes are being made to the Customer-Generator's System, completing sections A, D, and F of this Application/Agreement will satisfy this requirement. If no changes are being proposed to the Customer-Generator System, [Utility Name] will assess no charges or fees for this transfer. [Utility Name] will review the new Application/Agreement and shall approve such, within fifteen (15) days if the new Customer-Generator has satisfactorily completed the Application/Agreement, and no changes are being proposed to the existing Customer-Generator System. [Utility Name] will then complete section G and forward a copy of the completed Application/Agreement back to the new Customer-Generator, thereby notifying the new Customer-Generator that the new Customer-Generator is authorized to operate the existing Customer-Generator System in parallel with [Utility Name]'s electrical system. If any changes are planned to be made to the existing Customer-Generator System that in any way may degrade or significantly alter that System's output characteristics, then the Customer-Generator shall submit to [Utility Name] a new Application/Agreement for the entire Customer-Generator System and all portions of the Application/Agreement must be completed.

7) Dispute Resolution

If any disagreements between the Customer-Generator and [Utility Name] arise that cannot be resolved through normal negotiations between them, the disagreements may be brought to the Missouri Public Service Commission by either party, through an informal or formal complaint. Procedures for filing and processing these complaints are described in 4 CSR 240-2.070. The complaint procedures described in 4 CSR 240-2.070 apply only to retail electric power suppliers to the extent that they are regulated by the Missouri Public Service Commission.

8) Testing Requirement

IEEE 1547 requires periodic testing of all interconnection related protective functions. The Customer-Generator must, at least once every year, conduct a test to confirm that the Customer-Generator's net metering unit automatically ceases to energize the output (interconnection equipment output voltage goes to zero) within two (2) seconds of being disconnected from [Utility Name]'s electrical system. Disconnecting the net metering unit from [Utility Name]'s electrical system at the visible disconnect switch and measuring the time required for the unit to cease to energize the output shall satisfy this test. The Customer-Generator shall maintain a record of the results of these tests and, upon request by [Utility Name], shall provide a copy of the test results to [Utility Name]. If the Customer-Generator is unable to provide a copy of the test results upon request, [Utility Name] shall notify the Customer-Generator by mail that Customer-Generator has thirty (30) days from the date the Customer-Generator receives the request to provide to [Utility Name], the results of a test. If the Customer-Generator's equipment ever fails this test, the Customer-Generator shall immediately disconnect the Customer-Generator's System from [Utility Name]'s system. If the Customer-Generator does not provide results of a test to [Utility Name] within thirty (30) days of receiving a request from [Utility Name] or the results of the test provided to [Utility Name] show that the Customer-Generator's net metering unit is not functioning correctly, [Utility Name] may immediately disconnect the Customer-Generator's System from [Utility Name]'s system. The Customer-Generator's System shall not be reconnected to [Utility Name]'s electrical system by the Customer-Generator until the Customer-Generator's System is repaired and operating in a normal and safe manner.



I have read, understand, and accept the provisions of Section D, subsections 1 through 8 of this Application/Agreement.

Signed (Customer-Generator): _____ Date: _____

E. Electrical Inspection

The Customer-Generator System referenced above satisfies all requirements noted in Section C.

Inspector Name (print): _____

Inspector Certification: Licensed Engineer in Missouri ___ Licensed Electrician in Missouri ___ License No. _____

Signed (Inspector): _____ Date: _____

F. Customer-Generator Acknowledgement

I am aware of the Customer-Generator System installed on my premises and I have been given warranty information and/or an operational manual for that system. Also, I have been provided with a copy of [Utility Name]'s parallel generation tariff or rate schedule (as applicable) and interconnection requirements. I am familiar with the operation of the Customer-Generator System.

I agree to abide by the terms of this Application/Agreement and I agree to operate and maintain the Customer-Generator System in accordance with the manufacturer's recommended practices as well as [Utility Name]'s interconnection standards. If, at any time and for any reason, I believe that the Customer-Generator System is operating in an unusual manner that may result in any disturbances on [Utility Name]'s electrical system, I shall disconnect the Customer-Generator System and not reconnect it to [Utility Name]'s electrical system until the Customer-Generator System is operating normally after repair or inspection. Further, I agree to notify [Utility Name] no less than thirty (30) days prior to modification of the components or design of the Customer-Generator System that in any way may degrade or significantly alter that System's output characteristics. I acknowledge that any such modifications will require submission of a new Application/Agreement to [Utility Name].

I agree not to operate the Customer-Generator System in parallel with [Utility Name]'s electrical system until this Application/Agreement has been approved by [Utility Name].

Signed (Customer-Generator): _____ Date: _____

G. Utility Application Approval (completed by [Utility Name])

[Utility Name] does not, by approval of this Application/Agreement, assume any responsibility or liability for damage to property or physical injury to persons due to malfunction of the Customer-Generator's System or the Customer-Generator's negligence.

This Application is approved by [Utility Name] on this _____ day of _____ (month), _____ (year).

[Utility Name] Representative Name (print): _____

Signed [Utility Name] Representative: _____



AUTHORITY: section 386.250, RSMo 2000. Original rule filed March 11, 2003, effective Aug. 30, 2003. Amended: Filed June 17, 2008, effective Feb. 28, 2009. Amended: Filed Feb. 20, 2009, effective Oct. 30, 2009.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-20.070 Decommissioning Trust Funds

PURPOSE: This rule is promulgated pursuant to section 393.292, RSMo to—1) govern the review and authorization of changes to the rates and charges contained in the tariff(s) of an electric corporation as a result of a change in the level or annual accrual of funding necessary for its nuclear power plant decommissioning trust fund, 2) govern the procedure for the submission, examination, hearing and approval for the tariff changes and 3) ensure that the amounts collected from ratepayers and paid into the trust funds will be neither greater nor lesser than the amounts necessary to carry out the purposes of the trust. Additional requirements pertaining to this subject matter are also found at 4 CSR 240-3.185.

(1) As used in this rule, decommissioning means those activities undertaken in connection with a nuclear generating unit's retirement from service to ensure that the final removal, disposal, entombment or other disposition of the unit and of any radioactive components and materials associated with the unit, are accomplished in compliance with all applicable laws, and to ensure that the final disposition does not pose any undue threat to the public health and safety. Decommissioning includes the removal and disposal of the structures, systems and components of a nuclear generating unit at the time of decommissioning.

(2) As used in this rule, decommissioning costs means all reasonable costs and expenses incurred in connection with decommissioning, including all expenses to be incurred in connection with the preparation for decommissioning, including, but not limited to, engineering and other planning expenses; and to be incurred after the actual decommissioning occurs, including, but not limited to, physical security and radiation monitoring expenses, less proceeds of insurance, salvage or resale of machinery, construction equipment or apparatus the cost of which was charged as a decommissioning expense.

(3) As used in this rule, utility(ies) means all electrical corporations subject to the jurisdiction of the Missouri Public Service Commission (commission) that own, in whole or in part, or operate nuclear generating units in Missouri or elsewhere and that have costs of these units reflected in the rates charged to Missouri ratepayers.

(4) Each utility shall establish a tax-qualified externally managed trust fund for the purpose of collecting funds to pay for decommissioning costs. The tax-qualified trust shall be established and maintained in accordance with the provisions of the *Internal Revenue Code*. If the utility has collected funds in excess of the Internal Revenue Service's (IRS) tax-qualified amount, a nontax-qualified externally managed trust fund shall be established and maintained for all these funds. These trust funds shall be administered pursuant to the following requirements:

(A) Each utility shall submit a copy of the decommissioning trust agreement and any other agreement entered into between the utility, trustee and investment manager(s) for approval by the commission. The listing of trustee fees shall be contained in or attached to the trust agreement itself. Any change in the trust agreement, trustee or investment manager(s) also shall be submitted to the commission for approval;

(B) The commission shall have the authority to require each utility to change the trustee or investment manager(s) of a decommissioning trust for good cause shown. The commission shall be informed of any significant disputes between the utility, the trustee or investment manager(s);

(C) Each utility shall maintain separate tax qualified trusts for each nuclear generating unit. All decommissioning trusts shall be maintained to show the amounts contributed annually by Missouri jurisdictional customers. Amounts to be contributed annually for Missouri jurisdictional customers shall be computed based on the jurisdictional allocator used in the company's last general rate proceeding unless otherwise ordered by the commission;

(D) The decommissioning trust shall be funded through no less than quarterly payments by the utility. The tax-qualified trust shall be funded with the lesser of the utility's decommissioning costs reflected in its cost of service or the maximum amount allowable by the IRS. All funds in excess of the IRS's ruling amount shall be placed in a nonqualified trust;

(E) The trustee or investment manager(s) shall invest the tax-qualified trust assets and nontax-qualified trust assets only in assets

that are prudent investments for assets held in trust and in a manner designed to maximize the after-tax return on funds invested, consistent with the conservation of the principal, subject to the limitations specified as follows:

1. The trustee and investment manager(s) shall not invest any portion of the tax-qualified or nontax-qualified trust's funds in the securities or assets of the following:

A. Any owner or operator of a nuclear power plant;

B. Any index fund, mutual fund or pooled fund in which more than fifteen percent (15%) of the assets are issued by owners or operators of nuclear power plants;

C. Any affiliated company of the utility; or

D. The trustee or investment manager's(s') company or affiliated companies (This limitation does not include time or demand deposits offered through the trustee or investment manager's(s') affiliated banking operations.);

2. The nontax-qualified trust shall be subject to the prohibitions against self-dealing applicable to the tax qualified trust as specified in the *Internal Revenue Code*; and

3. A utility's total book value of investments in equity securities in all of its decommissioning trusts shall not exceed sixty-five percent (65%) of the trust funds' book value; and

(F) All income earned by a trust's funds shall become a part of that trust's funds.

(5) The utility shall take every reasonable action to provide reasonable assurance that adequate funds are available at the nuclear generating unit's termination of operation, so that decommissioning can be carried out in a safe and timely manner and that lack of funds does not result in delays that may cause undue health and safety hazards.

(6) The utility shall maintain its nuclear generating unit(s) in a manner calculated to minimize the utility's total cost of maintenance and decommissioning, consistent with the prudent operation of the unit.

(7) Upon the filing of the appropriate tariff(s) as set in 4 CSR 240-3.180, the commission shall establish a schedule of proceedings which shall be limited in scope to the following issues:

(A) The extent of any change in the level or annual accrual of funding necessary for the utility's decommissioning trust fund; and

(B) The changes in rates which would reflect any change in the funding level or accrual rate.



(8) For a fund intended to be tax qualified, after receipt of any commission order modifying the annual decommissioning funding requirements, the affected utility shall apply for an adjusted IRS ruling in a timely manner, seeking deductibility of the new annual decommissioning cost accruals consistent with the effective dates given in the order. Pending final IRS approval, the utility shall be authorized to continue funding at the level which existed prior to the commission order provided that the utility will take all appropriate action to preserve the tax deduction of the amounts subsequently approved in the IRS ruling.

(9) Distributions may be made from a nuclear decommissioning trust fund only to satisfy the liabilities of the utility for nuclear decommissioning costs relating to the nuclear generating unit for which the decommissioning fund was established and to pay administrative costs, income taxes and other incidental expenses of the trust fund. The utility shall not use proceeds of the trust for the purpose of filing for an updated tax ruling or to qualify the trust.

(10) Each utility shall file with the commission the detailed plan required by the Nuclear Regulatory Commission (NRC) for the decommissioning of its nuclear generating unit when that plan is filed with the NRC. Before any distribution of decommissioning trust funds are made for the decommissioning of its nuclear generating unit, the utility must notify and obtain commission approval of its intent to make this distribution.

(11) The utility shall conduct the decommissioning of its nuclear generating unit in accordance with NRC requirements and must not knowingly allow any procedure that would unreasonably endanger human life or the environment.

(12) Upon termination of the trust, the utility shall file with the commission the appropriate tariff(s) to reflect the termination of payments into the decommissioning trust fund, as well as refund or credit any over collection of these funds.

(13) Upon proper application and after due notice and hearing, the commission may waive any provision of this rule for good cause shown.

(14) The commission may adopt further amendments as it deems necessary for the sound management of the trust fund(s), consistent with the purpose of this rule.

AUTHORITY: sections 386.250 and 393.292, RSMo 2000. Original rule filed Nov. 27, 1989, effective March 26, 1990. Amended: Filed May 4, 1993, effective Dec. 9, 1993. Amended: Filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.292, RSMo 1989.*

4 CSR 240-20.080 Electrical Corporation Reporting Requirements for Certain Events

(Rescinded April 30, 2003)

AUTHORITY: section 393.140, RSMo 1986. Original rule filed March 1, 1991, effective Sept. 30, 1991. Rescinded: Filed Aug. 16, 2002, effective April 30, 2003.

4 CSR 240-20.090 Electric Utility Fuel and Purchased Power Cost Recovery Mechanisms

PURPOSE: This rule sets forth the definitions, structure, operation, and procedures relevant to the filing and processing of applications to reflect prudently incurred fuel and purchased power costs through an interim energy charge or a fuel adjustment clause which allows periodic rate adjustments outside general rate proceedings.

(1) Definitions. As used in this rule, the following terms mean as follows:

(A) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(B) Fuel and purchased power costs means prudently incurred and used fuel and purchased power costs, including transportation costs. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility. If not inconsistent with a commission approved incentive plan, fuel and purchased power costs also include prudently incurred actual costs of net cash payments or receipts associated with hedging instruments tied to specific volumes of fuel and associated transportation costs.

1. If off-system sales revenues are not reflected in the rate adjustment mechanism (RAM), fuel and purchased power costs only reflect the prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers.

2. If off-system sales revenues are reflected in the RAM, fuel and purchased power costs reflect both:

A. The prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers; and

B. The prudently incurred fuel and purchased power costs associated with the electric utility's off-system sales;

(C) Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect increases and decreases in an electric utility's prudently incurred fuel and purchased power costs. The FAC may or may not include off-system sales revenues and associated costs. The commission shall determine whether or not to reflect off-system sales revenues and associated costs in a FAC in the general rate proceeding that establishes, continues or modifies the FAC;

(D) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;

(E) Initial RAM rules means the rules first adopted by the commission to implement Senate Bill 179 of the Laws of Missouri 2005;

(F) Interim energy charge (IEC) means a refundable fixed charge, established in a general rate proceeding, that permits an electric utility to recover some or all of its fuel and purchased power costs separate from its base rates. An IEC may or may not include off-system sales and revenues and associated costs. The commission shall determine whether or not to reflect off-system sales revenues and associated costs in an IEC in the general rate proceeding that establishes, continues or modifies the IEC;

(G) Rate adjustment mechanism (RAM) refers to either a fuel adjustment clause or interim energy charge;

(H) Staff means the staff of the Public Service Commission; and

(I) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the



last day of the twelfth calendar month following the effective date of the commission order establishing the RAM. Subsequent true-up years shall be the succeeding twelve (12)-month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months.

(2) Applications to Establish, Continue or Modify a RAM. Pursuant to the provisions of this rule, 4 CSR 240-2.060 and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue or modify a RAM by filing tariff schedules. Any party in a general rate proceeding in which a RAM is effective or proposed may seek to continue, modify or oppose the RAM. The commission shall approve, modify or reject such applications to establish a RAM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The commission may approve the establishment, continuation or modification of a RAM and associated rate schedules provided that it finds that the RAM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity and so long as the rate schedules that implement the RAM conform to the RAM approved by the commission.

(B) The commission may take into account any change in business risk to the utility resulting from establishment, continuation or modification of the RAM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) In determining which cost components to include in a RAM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the volatility of the cost component and the incentive provided to the utility as a result of the inclusion or exclusion of the cost component. The commission may, in its discretion, determine what portion of prudently incurred fuel and purchased power costs may be recovered in a RAM and what portion shall be recovered in base rates.

(D) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how the costs passed through

the proposed RAM requested shall be applied to monthly bills.

(E) Any party to the general rate proceeding may oppose the establishment, continuation or modification of a RAM and/or may propose alternative RAMs for the commission's consideration including but not limited to modifications to the electric utility's proposed RAM.

(F) The RAM and periodic adjustments thereto shall be based on historical fuel and purchased power costs.

(G) The electric utility shall meet the filing requirements in 4 CSR 240-3.161(2) in conjunction with an application to establish a RAM and 4 CSR 240-3.161(3) in conjunction with an application to continue or modify a RAM.

(H) Any party to the general rate proceeding may propose a cap on the change in the FAC, reasonably designed to mitigate volatility in rates, provided it proposes a method for the utility to recover all of the costs it would be entitled to recover in the FAC, together with interest thereon.

(3) Application for Discontinuation of a RAM. The commission shall allow or require the rate schedules that define and implement a RAM to be discontinued and withdrawn only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of a RAM on the grounds that the utility is opportunistically discontinuing the RAM due to declining fuel or purchased power costs and/or increasing off-system sales revenues. If the commission finds that the utility is opportunistically seeking to discontinue the RAM for any of these reasons, the commission shall not allow the RAM to be discontinued, and shall order its continuation or modification. To continue or modify the RAM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity and the rate schedules filed to implement the RAM must conform to the RAM approved by the commission. Any RAM and periodic adjustments thereto shall be based on historical fuel and purchased power costs.

(B) The commission may take into account any change in business risk to the corporation resulting from discontinuance of the RAM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) The electric utility shall include in its initial notice to customers, regarding the general rate case, a commission approved description of why it believes the RAM should be discontinued.

(D) Subsections (2)(A) through (C), (F) and (G) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.161(4).

(4) Periodic Adjustments of FACs. If an electric utility files proposed rate schedules to adjust its FAC rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.161 and additional information obtained through discovery, if any, to determine if the proposed adjustment to the FAC is in accordance with the provisions of this rule, section 386.266, RSMo and the FAC mechanism established in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its FAC rates. If the FAC rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the FAC rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the FAC mechanism established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).

(A) An electric utility with a FAC shall file one (1) mandatory adjustment to its FAC in each true-up year coinciding with the true-up of its FAC. It may also file up to three (3) additional adjustments to its FAC within a true-up year with the timing and number of such additional filings to be determined in the general rate proceeding establishing the FAC and in general rate proceedings thereafter.

(B) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its monthly reporting requirements as required



by 4 CSR 240-3.161(5) in order for the commission to process the electric utility's requested FAC adjustment increasing rates.

(C) If the staff, Office of the Public Counsel (OPC) or other party which receives, pursuant to a protective order, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the FAC rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.161, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase FAC rates shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing timeline for the adjustment to increase FAC rates. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.161 in a request to decrease FAC rates shall not alter the processing timeline.

(5) True-Ups of RAMs. An electric utility that files for a RAM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups on at least an annual basis which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.

(A) The subsequent true-up rate adjustments or refunds shall include interest at the electric utility's short-term borrowing rate.

(B) The true-up adjustment shall be the difference between the historical fuel and purchased power costs intended for collection during the true-up period and billed revenues associated with the RAM during the true-up period.

(C) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its

monthly reporting requirements as required by 4 CSR 240-3.161(5) at the time that it files its application for a true-up of its RAM in order for the commission to process the electric utility's requested annual true-up of any under-collection.

(D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.161 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo and the RAM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect by operation of law sixty (60) days after the utility's filing.

1. If the staff, OPC or other party which receives, pursuant to a protective order, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline for the adjustment to the FAC rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that

the adjustment shall result in a reduction in the FAC rates, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the RAM shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

(6) Duration of RAMs and Requirement for General Rate Case. Once a RAM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the RAM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its FAC rates between general rate proceedings.

(A) If the commission approves a RAM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the RAM, assuming the maximum statutory suspension of the rates so filed.

1. The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the adjustment mechanism, or any period for which charges collected under the adjustment mechanism must be fully refunded. In the event a court determines that the adjustment mechanism is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in fuel or purchased power costs or prudence adjustments.

(7) Prudence Reviews Respecting RAMs. A prudence review of the costs subject to the RAM shall be conducted no less frequently than at eighteen (18)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for each RAM shall be established in the general rate proceeding in which the RAM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence



audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, OPC or other party auditing the RAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

(8) Disclosure on Customers' Bills. Any amounts charged under a RAM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.

(9) Rate Design of the RAM. The design of the RAM rates shall reflect differences in losses incurred in the delivery of electricity at different voltage levels for the electric utility's different rate classes. Therefore, the electric utility shall conduct a Missouri jurisdictional system loss study within twenty-four (24) months prior to the general rate proceeding in which it requests its initial RAM. The electric utility shall conduct a Missouri jurisdictional loss study no less often than every four (4) years thereafter, on a schedule that permits the study to be used in the general rate proceeding necessary for the electric utility to continue to utilize a RAM.

(10) Submission of Surveillance Monitoring Reports. Each electric utility with an approved RAM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form

and having the content provided for by 4 CSR 240-3.161(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the RAM.

(B) If the electric utility also has an approved environmental cost recovery mechanism, the electric utility must submit a single Surveillance Monitoring Report for both the environmental cost recovery mechanism and the RAM.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.161(6), after notice and an opportunity for a hearing, the commission may suspend a fuel adjustment mechanism or order other appropriate remedies as provided by law.

(11) Incentive Mechanism or Performance-Based Program. During a general rate proceeding in which an electric utility has proposed establishment or modification of a RAM, or in which a RAM may be allowed to continue in effect, any party may propose for the commission's consideration incentive mechanisms or performance-based programs to improve the efficiency and cost effectiveness of the electric utility's fuel and purchased power procurement activities.

(A) The incentive mechanisms or performance-based programs may or may not include some or all components of fuel and purchased power costs, designed to provide the electric utility with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased power procurement activities.

(B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders. The anticipated benefits to the electric utility's customers from the incentive or performance-based program shall equal or exceed the anticipated costs of the mechanism or program to the electric utility's customers. For this purpose, the cost of an incentive mechanism or performance-based program shall include any increase in expense or reduction in revenue credit that increases rates to customers in any time period above what they would be without the incentive mechanism or performance-based program.

(C) If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the commission for the entire term of the incentive mechanism or performance-based program. If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the electric utility for the entire term of the incentive mechanism or performance-based program unless otherwise ordered or conditioned by the commission.

(12) Pre-Existing Adjustment Mechanisms, Tariffs and Regulatory Plans. The provisions of this rule shall not affect:

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(13) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that a utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existences of its RAM as a defense to a complaint case based upon an allegation that it is earning more than a fair return on equity. If a complaint is filed on the grounds that a utility is earning more than a fair return on equity, the commission shall issue a procedural schedule that includes a clear delineation of the case timeline no later than sixty (60) days from the date the complaint is filed.

(14) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2010, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

(15) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 386.266, RSMo Supp. 2005. Original rule filed June 15, 2006, effective Jan. 30, 2007.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.266, RSMo 2005; and 393.140, RSMo 1939, amended 1949, 1967.*



4 CSR 240-20.091 Electric Utility Environmental Cost Recovery Mechanisms

PURPOSE: This rule allows the establishment of an Environmental Cost Recovery Mechanism, which allows periodic rate adjustments to reflect net increases or decreases in an electric utility's prudently incurred costs directly related to compliance with any federal, state, or local environmental law, regulation, or rule.

(1) Definitions. As used in this rule, the following terms mean as follows:

(A) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(B) Environmental Cost Recovery Mechanism (ECRM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in an electric utility's incurred environmental costs;

(C) Environmental costs means prudently incurred costs, both capital and expense, directly related to compliance with any federal, state, or local environmental law, regulation, or rule.

1. Environmental costs do not include fuel and purchased power costs as defined in 4 CSR 240-20.090(1)(B).

2. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility;

(D) The environmental revenue requirement shall be comprised of the following:

1. All expensed environmental costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs (i.e., the return, taxes, and depreciation) of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established;

(E) General rate proceeding means a gen-

eral rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges, of the electric utility are considered by the commission;

(F) Rate class is a customer class as defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service, and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class;

(G) Staff means the staff of the Public Service Commission; and

(H) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving an ECRM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the ECRM. Subsequent true-up years shall be the succeeding twelve (12)-month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months. If the commission approves both a fuel adjustment clause mechanism and an ECRM for the electric utility, the true-up year will be the same for both.

(2) Applications to Establish, Continue, or Modify an ECRM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue, or modify an ECRM by filing tariff schedules. Any party in a general rate proceeding in which an ECRM is in effect or proposed may seek to continue, modify, or oppose the ECRM. The commission shall approve, modify, or reject such applications to establish an ECRM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is reasonably designed to provide the electric utility with a sufficient

opportunity to earn a fair return on equity. Any rate schedule approved to implement an ECRM must conform to the ECRM approved by the commission.

(B) The commission may take into account any change in business risk to the utility resulting from establishment, continuation, or modification of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) In determining which environmental cost components to include in an ECRM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the incentive provided to the utility as a result of the inclusion or exclusion of the cost, and the extent to which the cost is related to environmental compliance.

(D) The commission may, in its discretion, determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates.

(E) Any party to the general rate proceeding may oppose the establishment, continuation, or modification of an ECRM and/or may propose alternative ECRMs for the commission's consideration, including but not limited to modifications to the electric utility's proposed ECRM.

(F) The ECRM shall be based on known and measurable environmental costs that have been incurred by the electric utility.

(G) If an ECRM is approved, the commission shall determine the base environmental revenue requirement.

(H) If costs are requested to be recovered through the ECRM and the revenue to be collected in the ECRM rate schedules exceeds two and one-half percent (2.5%) of the electric utility's Missouri annual gross jurisdictional revenues, the electric utility cannot subsequently request that any cost identified as an environmental cost be recovered through a fuel rate adjustment mechanism.

(I) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how the costs passed through the proposed ECRM requested shall be applied to monthly bills.

(J) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(2), in conjunction with an application to establish an ECRM, and 4 CSR 240-3.162(3), in conjunction with an application to continue or modify an ECRM.



(3) Application for Discontinuation of an ECRM. The commission shall allow or require the rate schedules that define and implement an ECRM to be discontinued and withdrawn only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of an ECRM on the grounds that the electric utility is currently experiencing, or in the next four (4) years is likely to experience, declining costs or on any other grounds that would result in a detriment to the public interest. If the commission finds that the electric utility is seeking to discontinue the ECRM under these circumstances, the commission shall not permit the ECRM to be discontinued, and shall order its continuation or modification. To continue or modify the ECRM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity.

(B) The commission may take into account any change in business risk to the corporation resulting from discontinuance of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) The electric utility shall include, in its initial notice to customers regarding the general rate case, a commission approved description of why it believes the ECRM should be discontinued.

(D) Subsections (2)(C) through (2)(H) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(4).

(4) Periodic Adjustments of ECRMs. If an electric utility files proposed rate schedules to adjust its ECRM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.162 and additional information obtained through discovery, if any, to determine if the proposed adjustment to the ECRM is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its ECRM rates. If the ECRM

rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the ECRM rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the ECRM rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the ECRM established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).

(A) The periodic adjustments shall be limited to the expense items and the capital projects that are used to determine the environmental revenue requirement in the previous general rate proceeding and those investments or expenses necessary to comply with the electric utility's Environmental Compliance Plan for the period the ECRM is in effect.

1. The costs for capital projects will be eligible for recovery via a periodic adjustment so long as the capital cost of the item when it is placed into service is greater than or equal to the original cost (as of the time that such least costly capital item was placed into service) of the least costly capital item that was included in the environmental revenue requirement (to be determined as provided in 4 CSR 240-20.091(1)(D)); and

2. Waivers from the limitations in this subsection (4)(A) may be sought for capital projects placed into service that could not have been anticipated in the previous general rate proceeding or that do not meet the threshold provided for in the immediately preceding sentence.

(B) The periodic adjustment shall reflect a comprehensive measurement of both increases and decreases to the environmental revenue requirement established in the prior general rate proceeding plus the additional environmental costs incurred since the prior rate proceeding.

(C) Any periodic adjustment made to ECRM rate schedules shall not generate an annual amount of general revenue that exceeds two and one-half percent (2.5%) of the electric utility's Missouri gross jurisdictional revenues established in the electric utility's most recent general rate proceeding.

1. Missouri gross jurisdictional revenues shall be the amount established in the electric utility's most recent general rate proceeding

and exclude gross receipts tax, sales tax, and other similar pass-through taxes not included in tariffed rates for regulated services;

2. The electric utility shall be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-through taxes, and such taxes shall not be counted against the two and one-half percent (2.5%) rate adjustment cap; and

3. Any environmental costs, to the extent addressed by the ECRM, not recovered as a result of the two and one-half percent (2.5%) limitation on rate adjustments may be deferred, at a carrying cost each month equal to the utility's net of tax cost of capital, for recovery in a subsequent year or in the utility's next general rate proceeding.

(D) An electric utility with an ECRM shall file one (1) mandatory adjustment to its ECRM in each true-up year coinciding with the true-up of its ECRM. It may also file one (1) additional adjustment to its ECRM within a true-up year with the timing and number of such additional filings to be determined in the general rate proceeding establishing the ECRM and in general rate proceedings thereafter.

(E) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) in order for the commission to process the electric utility's requested ECRM adjustment increasing rates.

(F) If the staff, Office of the Public Counsel (OPC), or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the ECRM rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.162, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing time line for the adjustment to increase ECRM rates shall be suspended. If the commission then issues an order requiring the information be



provided, the time necessary for the information to be provided shall further extend the processing time line for the adjustment to increase ECRM rates. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.162 in a request to decrease ECRM rates shall not alter the processing timeline.

(5) True-ups of an ECRM. An electric utility that files for an ECRM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups on at least an annual basis which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.

(A) The subsequent true-up rate adjustments or refunds shall include interest at the electric utility's short-term borrowing rate. The interest rate on accumulated ECRM under-collections or over-collections shall be calculated on a monthly basis for each month the ECRM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative ECRM over-collection or under-collection balance. Each month's accumulated interest shall be included in the ECRM over-collection or under-collection balances on an ongoing basis.

(B) The true-up adjustment shall be the difference between the revenue collected and the revenue authorized for collection during the true-up period and billed revenues associated with the ECRM during the true-up period.

(C) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) at the time that it files its application for a true-up of its ECRM in order for the commission to process the electric utility's requested annual true-up of any under-collection.

(D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.162 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thir-

ty (30) days after the electric utility files its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed, or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect by operation of law sixty (60) days after the electric utility's filing.

1. If the staff, OPC, or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and, as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline for the adjustment to the ECRM rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that the adjustment shall result in a reduction in the ECRM rates, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the ECRM shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

(6) Duration of ECRMs and Requirement for General Rate Case. Once an ECRM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the ECRM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement

periodic adjustments to its ECRM rates between general rate proceedings.

(A) If the commission approves an ECRM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the ECRM, assuming the maximum statutory suspension of the rates so filed.

(B) The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the adjustment mechanism, or any period for which charges collected under the ECRM must be fully refunded. In the event a court determines that the ECRM is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in net environmental compliance costs or prudence adjustments.

(7) Prudence Reviews Respecting an ECRM. A prudence review of the costs subject to the ECRM shall be conducted no less frequently than at eighteen (18)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for each ECRM shall be established in the general rate proceeding in which the ECRM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, OPC, or other party auditing the ECRM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's ECRM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely



file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery, and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(8) Disclosure on Customers' Bills. Any amounts charged under an ECRM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved ECRM shall submit to staff, OPC, and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.162(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the ECRM.

(B) If the electric utility also has an approved fuel rate adjustment mechanism, the electric utility must submit a single Surveillance Monitoring Report for both the ECRM and the fuel rate adjustment mechanism. However, for the Surveillance Monitoring Report to be complete for the ECRM, it must include a list of all settlements in regards to environmental compliance causing the electric utility to incur expenses or make investments in excess of one hundred thousand dollars (\$100,000) or fines against the electric utility in regards to environmental compliance greater than one hundred thousand dollars (\$100,000) as required in 4 CSR 240-3.162(6)(A)5.G.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false

or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.162(6), after notice and an opportunity for a hearing, the commission may suspend an ECRM or order other appropriate remedies as provided by law.

(10) Pre-Existing Adjustment Mechanisms, Tariffs, and Regulatory Plans. The provisions of this rule shall not affect the following:

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(11) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that a utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existence of its ECRM as a defense to a complaint case based upon an allegation that it is earning more than a fair return on equity. If a complaint is filed on the grounds that a utility is earning more than a fair return on equity, the commission shall issue a procedural schedule that includes a clear delineation of the case timeline no later than sixty (60) days from the date the complaint is filed.

(12) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2011, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

(13) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and section 386.266, RSMo Supp. 2008. Original rule filed Oct. 31, 2007, effective June 30, 2008, terminated Jan. 4, 2009. Refiled: Dec. 31, 2008, effective Aug. 30, 2009.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.266, RSMo 2005; and 393.140, RSMo 1939, amended 1949, 1967.*

Rule Action Notice: On December 4, 2008, the circuit court granted the moving parties' (Office of Public Counsel and Missouri Industrial Energy Consumers) motion for reversal and entered a judgment reversing the Public Service Commission's Final Order of

Rulemaking. The circuit court's judgment reversing the commission's Final Order of Rulemaking became final on January 4, 2009. After January 4, 2009, 4 CSR 240-20.091 shall be terminated and of no further force and effect.

4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms

PURPOSE: This rule allows the establishment and operation of Demand-Side Programs Investment Mechanisms (DSIM), which allow periodic rate adjustments related to recovery of costs and utility incentives for investments in demand-side programs.

(1) As used in this rule, the following terms mean:

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical resource manual on an annual basis;

(D) Annual report means a report of information concerning a utility's demand-side programs having the content described in 4 CSR 240-3.163(5);

(E) Approved demand-side program means a demand-side program or demand-side program pilot which is approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs;

(F) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and



new supply-side resources. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(G) Baseline demand forecast means a reference forecast of summer and winter demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(H) Baseline energy forecast means a reference forecast of energy at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(I) Cost recovery component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of costs of approved demand-side programs with interest;

(J) Demand means the rate of electric power use over an hour measured in kilowatts (kW);

(K) Demand response means measures that decrease peak demand or shift demand to off-peak periods;

(L) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(M) Demand-side programs investment mechanism, or DSIM, means a mechanism approved by the commission in a utility's filing for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;
2. Cost recovery of demand-side program costs through a demand-side program cost tracker;
3. Accelerated depreciation on demand-side investments;
4. Recovery of lost revenues; and
5. Utility incentive based on the

achieved performance level of approved demand-side programs;

(N) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval or a semi-annual DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

(O) DSIM rate means the charge on customers' bills for the portion of the DSIM revenue requirement assigned by the commission to a rate class;

(P) DSIM revenue requirement means the sum of the DSIM cost recovery revenue requirement, DSIM utility lost revenue requirement, and DSIM utility incentive revenue requirement;

(Q) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission to provide the utility with a portion of annual net shared benefits based on the approved utility incentive component of a DSIM;

(R) DSIM utility lost revenue requirement means the revenue requirement explicitly approved (if any) by the commission to provide the utility with recovery of lost revenue based on the approved utility lost revenue component of a DSIM;

(S) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(T) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh);

(U) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(V) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(W) Filing for demand-side program approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(X) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;

(Y) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(Z) Probable environmental compliance cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, may be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;

(AA) Program pilot means a demand-side program designed to operate on a limited basis for evaluation purposes before full implementation;

(BB) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(CC) Statewide technical resource manual means a document that is used by electric utilities to assess energy savings and demand savings attributable to energy efficiency and demand response;

(DD) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program;

(EE) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports;

(FF) Utility lost revenue component of a



DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of lost revenue; and

(GG) Utility market potential study means an evaluation and report by an independent third party of the energy savings and demand savings available in a utility's service territory broken down by customer class and major end-uses within each customer class.

(2) Applications to establish, continue, or modify a DSIM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission to establish, continue, or modify a DSIM in a utility's filing for demand-side program approval.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(2) in conjunction with an application to establish a DSIM and 4 CSR 240-3.163(3) in conjunction with an application to continue or modify a DSIM.

(B) Any party to the application for a utility's filing for demand-side program approval may support or oppose the establishment, continuation, or modification of a DSIM and/or may propose an alternative DSIM for the commission's consideration including, but not limited to, modifications to any electric utility's proposed DSIM. Both the utility and the commission retain the authority to approve, accept, or reject any proposed establishment, continuation, or modification of a DSIM or any proposed alternative DSIM.

(C) The commission shall approve the establishment, continuation, or modification of a DSIM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in energy and demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo, to—

1. Provide the electric utility with timely recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs;

2. Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and

3. Provide timely earnings opportunities associated with cost-effective measurable and/or verifiable energy and demand savings.

(D) In addition to any other changes in business risk experienced by the electric util-

ity, the commission shall consider changes in the utility's business risk resulting from establishment, continuation, or modification of the DSIM in setting the electric utility's allowed return on equity in general rate proceedings.

(E) In determining to approve, modify, or continue a DSIM, the commission may consider, but is not limited to only considering, the expected magnitude of the impact of the utility's approved demand-side programs on the utility's costs, revenues, and earnings, the ability of the utility to manage all aspects of the approved demand-side programs, the ability to measure and verify the approved program's impacts, any interaction among the various components of the DSIM that the utility may propose, and the incentives or disincentives provided to the utility as a result of the inclusion or exclusion of cost recovery component, utility lost revenue component, and/or utility incentive component in the DSIM. In this context the word "disincentives" means any barrier to the implementation of a DSIM. There is no penalty authorized in this section.

(F) Any cost recovery component of a DSIM shall be based on costs of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs. Indirect costs associated with demand-side programs, including but not limited to costs of utility market potential study and/or utility's portion of statewide technical resource manual, shall be allocated to demand-side programs and thus shall be eligible for recovery through an approved DSIM. The commission shall approve any cost recovery component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

(G) Any utility lost revenue component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V.

1. A utility cannot recover revenues lost due to utility demand-side programs unless it does not recover the fixed cost as set in the last general rate case, i.e., actual annual billed system kWh is less than the system kWh used to calculate rates to recover revenues as ordered by the commission in the utility's last general rate case.

2. The commission shall order any utility lost revenue component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

3. In a utility's filing for demand-side program approval in which a utility lost revenue component of a DSIM is considered, there is no requirement for any implicit or explicit utility lost revenue component of a DSIM or for a particular form of a lost revenue component of a DSIM.

4. The commission may address lost revenues solely or in part, directly or indirectly, with a performance incentive mechanism through a utility incentive component of DSIM.

5. Any explicit utility lost revenue component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings to determine a DSIM utility lost revenue requirement must be measured and verified through EM&V prior to recovery.

(H) Any utility incentive component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and annual demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets.

1. Annual energy and demand savings targets approved by the commission for use in the utility incentive component of a DSIM are not necessarily the same as the incremental annual energy and demand savings goals and cumulative annual energy and demand savings goals specified in 4 CSR 240-20.094(2).

2. The commission shall order any utility incentive component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

3. Any utility incentive component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM utility incentive revenue requirement must be measured and verified through EM&V.

(I) If the DSIM proposed by the utility includes adjustments to DSIM rates between general rate proceedings, the DSIM shall include a provision to adjust the DSIM rates every six (6) months to include a true-up for



over- and under-collection of the DSIM revenue requirement as well as the impact on the DSIM cost recovery revenue requirement as a result of approved new, modified, or deleted demand-side programs.

(J) If the commission approves utility incentive component of a DSIM, such utility incentive component shall be binding on the commission for the entire term of the DSIM, and such DSIM shall be binding on the electric utility for the entire term of the DSIM, unless otherwise ordered or conditioned by the commission when approved.

(K) The commission shall apportion the DSIM revenue requirement to each customer class.

(3) Application for Discontinuation of a DSIM. The commission shall allow or require a DSIM to be discontinued or any component of a DSIM to be discontinued only after providing the opportunity for a hearing.

(A) The electric utility shall meet the filing requirements in 4 CSR 240-3.163(4).

(B) Any party to the utility's filing for demand-side program approval may oppose the discontinuation of a DSIM or any component of a DSIM.

(C) In addition to any other changes in business risk experienced by the electric utility, the commission may take into account any change in business risk to the electric utility resulting from discontinuance of the DSIM in setting the electric utility's allowed return on equity in a general rate proceeding.

(D) If the utility requests that cost recovery be discontinued, in its notice to customers, the electric utility shall include a commission-approved description of why it believes the cost recovery component of the DSIM should be discontinued.

(4) Requirements for Semi-Annual Adjustments of DSIM Rates, if the Commission Approves Adjustments of DSIM Rates Between General Rate Proceedings. Semi-annual adjustments to DSIM rates between general rate proceedings shall only include adjustments to the DSIM cost recovery revenue requirement and shall not include any adjustments to the DSIM utility lost revenue requirement or the DSIM utility incentive revenue requirement. Adjustments to the DSIM cost recovery revenue requirement may reflect new and approved demand-side programs, approved program modifications, and/or approved program discontinuations. When an electric utility files tariff sheets to adjust its DSIM rates between general rate proceedings, the staff shall examine and analyze the information filed by the electric util-

ity in accordance with 4 CSR 240-3.163(8) and additional information obtained through discovery, if any, to determine if the proposed adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff sheets to adjust its DSIM rates. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall issue an interim rate adjustment order approving the tariff sheets and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. If the adjustments to the DSIM cost recovery revenue requirement and DSIM rates are not in accordance with the provisions of this rule, section 393.1075, RSMo, or the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order the filing of interim tariff sheets that implement its decision and approval.

(A) An electric utility with a DSIM shall file to adjust its DSIM rates once every six (6) months.

(B) The semi-annual adjustments to the DSIM rates shall reflect a comprehensive measurement of both increases and decreases to the DSIM cost recovery revenue requirement established in the most recent demand-side program approval or semi-annual DSIM rate adjustment case plus the change in DSIM cost recovery revenue requirement which occurred since the most recent demand-side program approval or semi-annual DSIM rate adjustment case.

(C) The electric utility shall be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its annual reports as required in section (8) in order to increase the DSIM rates.

(D) If the staff, public counsel, or other party receives information which has not been submitted in compliance with 4 CSR 240-3.163(8), it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff sheets to adjust DSIM rates and identify the informa-

tion required. The electric utility shall submit the information identified by the party, or shall notify the party that it believes the information submitted was in compliance with the requirements of 4 CSR 240-3.163(8), within ten (10) days of the request. A party who notifies the electric utility it believes the electric utility has not submitted all the information required by 4 CSR 240-3.163(8) and as ordered by the commission in a previous proceeding and receives notice from the electric utility that the electric utility believes it has submitted all required information may file a motion with the commission for an order directing the electric utility to produce that information, i.e., a motion to compel. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase DSIM rates shall be suspended. If the commission then issues an order requiring the information be submitted, the time necessary for the information to be submitted shall further extend the processing timeline for the adjustment to increase DSIM rates. For good cause shown, the commission may further suspend this timeline. Any delay in submitting sufficient information in compliance with 4 CSR 240-3.163(8) or a commission order in a previous proceeding in a request to decrease DSIM rates shall not alter the processing timeline.

(5) Implementation of DSIM. Once a DSIM is approved, modified, or discontinued by the commission, the utility may request deferral accounting using the utility's latest approved weighted average cost of capital until the utility's next general rate proceeding. At the time of filing the general rate proceeding subsequent to DSIM approval, modification, or discontinuance, the commission shall use an interim rate adjustment order to implement the approved, modified, or discontinued DSIM.

(A) Duration of DSIM. Once a DSIM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification or discontinuance of the DSIM, although an electric utility shall submit proposed tariff sheets to implement interim semi-annual adjustments to its DSIM rates between general rate proceedings.

(B) If the utility has an implemented DSIM, the electric utility shall file a general rate proceeding within four (4) years after the effective date of the commission order implementing the DSIM, assuming the maximum statutory suspension of the rates so filed.

(6) Disclosure on Customers' Bills. Regardless of whether or not the utility requests



adjustments of its DSIM rates between general rate proceedings, any amounts charged under a DSIM approved by the commission, including any utility incentives allowed by the commission, shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to and approved by the commission before it appears on customers' bills.

(7) Evaluation, Measurement, and Verification (EM&V) of the Process and Impact of Demand-Side Programs. Each electric utility shall hire an independent contractor to perform and report EM&V of each commission-approved demand-side program in accordance with 4 CSR 240-20.094 Demand-Side Programs. The commission shall hire an independent contractor to audit and report on the work of each utility's independent EM&V contractor.

(A) Each utility's EM&V budget shall not exceed five percent (5%) of the utility's total budget for all approved demand-side program costs.

(B) The cost of the commission's EM&V contractor shall—

1. Not be a part of the utility's budget for demand-side programs; and

2. Be included in the Missouri Public Service Commission Assessment for each utility.

(C) EM&V draft reports from the utility's contractor for each approved demand-side program shall be delivered simultaneously to the utility and to parties of the case in which the demand-side program was approved.

(D) EM&V final reports from the utility's contractor of each approved demand-side program shall—

1. Be completed by the EM&V contractor on a schedule approved by the commission at the time of demand-side program approval in accordance with 4 CSR 240-20.094(3); and

2. Be filed with the commission and delivered simultaneously to the utility and the parties of the case in which the demand-side program was approved.

(E) Electric utility's EM&V contractors shall use, if available, a commission-approved statewide technical resource manual when performing EM&V work.

(8) Demand-Side Program Annual Report. Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than sixty (60) days after the end of each calendar year in the form and having the content provided for by 4 CSR 240-3.163(5) and serve a copy on each party to the case in which the programs

were last established, modified, or continued. Interested parties may file comments with the commission concerning the content of the utility's annual report within sixty (60) days of its filing.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved DSIM shall submit to staff, public counsel, and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.163(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the DSIM.

(B) If the electric utility also has an approved environmental cost recovery mechanism or a fuel cost adjustment mechanism, the electric utility shall submit a single Surveillance Monitoring Report for all mechanisms.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.163(6), after notice and an opportunity for a hearing, the commission may suspend a DSIM or order other appropriate remedies as provided by law.

(10) Prudence Reviews. A prudence review of the costs subject to the DSIM shall be conducted no less frequently than at twenty-four (24)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred fifty (150) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for DSIM shall be established in the utility's filing for demand-side program approval in which the DSIM is established. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred sixty (160) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, public counsel, or other party auditing the DSIM believes that insuffi-

cient information has been supplied to make a recommendation regarding the prudence of the electric utility's DSIM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

(11) Tariffs and Regulatory Plans. The provisions of this rule shall not affect—

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(12) Nothing in this rule shall preclude a complaint case from being filed, as provided by law.

(13) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(14) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: section 393.1075.11, RSMo Supp. 2010. Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*

4 CSR 240-20.094 Demand-Side Programs

PURPOSE: This rule sets forth the definitions, requirements, and procedures for filing and processing applications for approval,



modification, and discontinuance of electric utility demand-side programs. This rule also sets forth requirements and procedures related to customer opt-out, tax credits, monitoring customer incentives, and collaborative guidelines for demand-side programs.

(1) As used in this rule, the following terms mean:

(A) Annual demand savings target means the annual demand savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual demand-side savings targets are the baseline for determining the utility's demand-side programs' annual demand savings performance levels in the methodology for the utility incentive component of a demand-side programs investment mechanism (DSIM);

(B) Annual energy savings target means the annual energy savings level approved by the commission at the time of each demand-side program's approval in accordance with 4 CSR 240-20.094(3)(A). Annual energy savings targets are the baseline for determining the utility's demand-side programs' annual energy savings performance levels in the methodology for the utility incentive component of a DSIM;

(C) Annual net shared benefits means the utility's avoided costs measured and documented through evaluation, measurement, and verification (EM&V) reports for approved demand-side programs less the sum of the programs' costs including design, administration, delivery, end-use measures, incentives, EM&V, utility market potential studies, and technical resource manual on an annual basis;

(D) Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. The utility shall use the same methodology used in its most recently-adopted preferred resource plan to calculate its avoided costs;

(E) Baseline demand forecast means a reference forecast of annual summer and winter peak demand at the class level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(F) Baseline energy forecast means a reference forecast of annual energy at the class

level in the absence of any new demand-side programs but including the effects of naturally-occurring energy efficiency and any codes and standards that were in place and known to be enacted at the time the forecast is completed;

(G) Customer class means major customer rate groupings such as residential, small general service, large general service, and large power service;

(H) Demand means the rate of electric power use over an hour measured in kilowatts (kW);

(I) Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load;

(J) Demand-side programs investment mechanism, or DSIM, means a mechanism approved by the commission in a utility's filing for demand-side program approval to encourage investments in demand-side programs. The DSIM may include, in combination and without limitation:

1. Cost recovery of demand-side program costs through capitalization of investments in demand-side programs;

2. Cost recovery of demand-side program costs through a demand-side program cost tracker;

3. Accelerated depreciation on demand-side investments;

4. Recovery of lost revenues; and

5. Utility incentive based on the achieved performance level of approved demand-side programs;

(K) Demand-side program plan means a particular combination of demand-side programs to be delivered according to a specified implementation schedule and budget;

(L) DSIM cost recovery revenue requirement means the revenue requirement approved by the commission in a utility's filing for demand-side program approval or a semi-annual DSIM rate adjustment case to provide the utility with cost recovery of demand-side program costs based on the approved cost recovery component of a DSIM;

(M) DSIM utility incentive revenue requirement means the revenue requirement approved by the commission to provide the utility with a portion of annual net shared benefits based on the approved utility incentive component of a DSIM;

(N) DSIM utility lost revenue requirement means the revenue requirement explicitly approved (if any) by the commission to provide the utility with recovery of lost revenue

based on the approved utility lost revenue component of a DSIM;

(O) Electric utility or utility means any electric corporation as defined in section 386.020, RSMo;

(P) Energy means the total amount of electric power that is used over a specified interval of time measured in kilowatt-hours (kWh);

(Q) Energy efficiency means measures that reduce the amount of electricity required to achieve a given end-use;

(R) Evaluation, measurement, and verification, or EM&V, means the performance of studies and activities intended to evaluate the process of the utility's program delivery and oversight and to estimate and/or verify the estimated actual energy and demand savings, utility lost revenue, cost effectiveness, and other effects from demand-side programs;

(S) Filing for demand-side program approval means a utility's filing for approval, modification, or discontinuance of demand-side program(s) which may also include a simultaneous request for the establishment, modification, or discontinuance of a DSIM;

(T) Interruptible or curtailable rate means a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions;

(U) Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement, that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V;

(V) Preferred resource plan means the utility's resource plan that is contained in the resource acquisition strategy most recently adopted by the utility's decision-makers in accordance with 4 CSR 240-22;

(W) Probable environmental compliance cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, may be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;



(X) Staff means all personnel employed by the commission, whether on a permanent or contract basis, except: commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission's staff;

(Y) Total resource cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program; and

(Z) Utility incentive component of a DSIM means the methodology approved by the commission in a utility's demand-side program approval proceeding to allow the utility to receive a portion of annual net shared benefits achieved and documented through EM&V reports.

(2) Guideline to Review Progress Toward an Expectation that the Electric Utility's Demand-Side Programs Can Achieve a Goal of All Cost-Effective Demand-Side Savings. The goals established in this section are not mandatory and no penalty or adverse consequence will accrue to a utility that is unable to achieve the listed annual energy and demand savings goals.

(A) The commission shall use the greater of the annual realistic achievable energy savings and demand savings as determined through the utility's market potential study or the following incremental annual demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;

2. For 2013: five-tenths percent (0.5%) of total annual energy and one percent (1.0%) of annual peak demand;

3. For 2014: seven-tenths percent (0.7%) of total annual energy and one percent (1.0%) of annual peak demand;

4. For 2015: nine-tenths percent (0.9%) of total annual energy and one percent (1.0%) of annual peak demand;

5. For 2016: one-and-one-tenth percent (1.1%) of total annual energy and one percent (1.0%) of annual peak demand;

6. For 2017: one-and-three-tenths per-

cent (1.3%) of total annual energy and one percent (1.0%) of annual peak demand;

7. For 2018: one-and-five-tenths percent (1.5%) of total annual energy and one percent (1.0%) of annual peak demand;

8. For 2019: one-and-seven-tenths percent (1.7%) of total annual energy and one percent (1.0%) of annual peak demand; and

9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: one-and-nine-tenths percent (1.9%) of total annual energy and one percent (1.0%) of annual peak demand each year.

(B) The commission shall also use the greater of the cumulative realistic achievable energy savings and demand savings as determined through the utility's market potential study or the following cumulative demand-side savings goals as a guideline to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings:

1. For 2012: three-tenths percent (0.3%) of total annual energy and one percent (1.0%) of annual peak demand;

2. For 2013: eight-tenths percent (0.8%) of total annual energy and two percent (2.0%) of annual peak demand;

3. For 2014: one-and-five-tenths percent (1.5%) of total annual energy and three percent (3.0%) of annual peak demand;

4. For 2015: two-and-four-tenths percent (2.4%) of total annual energy and four percent (4.0%) of annual peak demand;

5. For 2016: three-and-five-tenths percent (3.5%) of total annual energy and five percent (5.0%) of annual peak demand;

6. For 2017: four-and-eight-tenths percent (4.8%) of total annual energy and six percent (6.0%) of annual peak demand;

7. For 2018: six-and-three-tenths percent (6.3%) of total annual energy and seven percent (7.0%) of annual peak demand;

8. For 2019: eight percent (8.0%) of total annual energy and eight percent (8.0%) of annual peak demand; and

9. For 2020 and for subsequent years, unless additional energy savings and demand savings goals are established by the commission: nine-and-nine-tenths percent (9.9%) of total annual energy and nine percent (9.0%) of annual peak demand for 2020, and then increasing by one-and-nine-tenths percent (1.9%) of total annual energy and by one percent (1.0%) of annual peak demand each year after 2020.

(3) Applications for Approval of Electric Utility Demand-Side Programs or Program Plans. Pursuant to the provisions of this rule,

4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission for approval of demand-side programs or program plans by filing information and documentation required by 4 CSR 240-3.164(2). Any existing demand-side program with tariff sheets in effect prior to the effective date of this rule shall be included in the initial application for approval of demand-side programs if the utility intends for unrecovered and/or new costs related to the existing demand-side program be included in the DSIM cost recovery revenue requirement and/or if the utility intends to establish a utility lost revenue component of a DSIM or a utility incentive component of a DSIM for the existing demand-side program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (120) days of the filing of an application under this section only after providing the opportunity for a hearing. In the case of a utility filing an application for approval of an individual demand-side program, the commission shall approve, approve with modification acceptable to the electric utility, or reject applications within sixty (60) days of the filing of an application under this section only after providing the opportunity for a hearing.

(A) For demand-side programs and program plans that have a total resource cost test ratio greater than one (1), the commission shall approve demand-side programs or program plans, and annual demand and energy savings targets for each demand-side program it approves, provided it finds that the utility has met the filing and submission requirements of 4 CSR 240-3.164(2) and the demand-side programs and program plans—

1. Are consistent with a goal of achieving all cost-effective demand-side savings;

2. Have reliable evaluation, measurement, and verification plans; and

3. Are included in the electric utility's preferred plan or have been analyzed through the integration process required by 4 CSR 240-22.060 to determine the impact of the demand-side programs and program plans on the net present value of revenue requirements of the electric utility.

(B) The commission shall approve demand-side programs having a total resource cost test ratio less than one (1) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that the utility has met the filing and submission requirements of 4 CSR 240-3.164(2), the program or program plan is in the public



interest, and meets the requirements stated in paragraphs (3)(A)2. and 3.

1. If a program is targeted to low-income customers, the electric utility must also state how the electric utility will assess the expected and actual effect of the program on the utility's bad debt expenses, customer arrearages, and disconnections.

(C) The commission shall approve demand-side programs which have a total resource cost test ratio less than one (1), if the commission finds the utility has met the filing and submission requirements of 4 CSR 240-3.164(2) and the costs of such programs above the level determined to be cost-effective are funded by the customers participating in the programs or through tax or other governmental credits or incentives specifically designed for that purpose and meet the requirements as stated in paragraphs (3)(A)2. and 3.

(D) Utilities shall file and receive approval of associated tariff sheets prior to implementation of approved demand-side programs.

(E) The commission shall simultaneously approve, approve with modification acceptable to the utility, or reject the utility's DSIM proposed pursuant to 4 CSR 240-20.093.

(4) Applications for Approval of Modifications to Electric Utility Demand-Side Programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility shall file an application with the commission for modification of demand-side programs by filing information and documentation required by 4 CSR 240-3.164(4) when there is a variance of twenty percent (20%) or more in the approved demand-side plan three (3)-year budget and/or any program design modification which is no longer covered by the approved tariff sheets for the program. The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of modification of demand-side programs within thirty (30) days of the filing of an application under this section, subject to the same guidelines as established in subsections (3)(A) through (C), only after providing the opportunity for a hearing.

(A) For any program design modifications approved by the commission, the utility shall file for and receive approval of associated tariff sheets prior to implementation of approved modifications.

(5) Applications for Approval to Discontinue Electric Utility Demand-Side Programs. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an

electric utility may file an application with the commission to discontinue demand-side programs by filing information and documentation required by 4 CSR 240-3.164(5). The commission shall approve or reject such applications for discontinuation of utility demand-side programs within thirty (30) days of the filing of an application under this section only after providing an opportunity for a hearing.

(6) Provisions for Customers to Opt-Out of Participation in Utility Demand-Side Programs.

(A) Any customer meeting one (1) or more of the following criteria shall be eligible to opt-out of participation in utility-offered demand-side programs:

1. The customer has one (1) or more accounts within the service territory of the electric utility that has a demand of the individual accounts of five thousand (5,000) kW or more in the previous twelve (12) months;

2. The customer operates an interstate pipeline pumping station, regardless of size; or

3. The customer has accounts within the service territory of the electric utility that have, in aggregate across its accounts, a coincident demand of two thousand five hundred (2,500) kW or more in the previous twelve (12) months, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to those expected from utility-provided programs.

A. For utilities with automated meter reading and/or advanced metering infrastructure capability, the measure of demand is the customer coincident highest billing demand of the individual accounts during the twelve (12) months preceding the opt-out notification.

(B) Written notification of opt-out from customers meeting the criteria under paragraph (6)(A)1. or 2. shall be sent to the utility serving the customer. Written notification of opt-out from customers meeting the criteria under paragraph (6)(A)3. shall be sent to the utility serving the customer and the manager of the energy resource analysis section of the commission or submitted through the commission's electronic filing and information system (EFIS) as a non-case-related filing. In instances where only the utility is provided notification of opt-out from customers meeting the criteria under paragraph (6)(A)3., the utility shall forward a copy of the written notification to the manager of the energy resource analysis section of the commission and submit the notice of opt-out through EFIS as a non-case-related filing.

(C) Written notification of opt-out from customer shall include at a minimum:

1. Customer's legal name;

2. Identification of location(s) and utility account number(s) of accounts for which the customer is requesting to opt-out from demand-side program's benefits and costs; and

3. Demonstration that the customer qualifies for opt-out.

(D) For customers filing notification of opt-out under paragraph (6)(A)1. or 2., notification of the utility's acknowledgement or plan to dispute a customer's notification to opt-out of participation in demand-side programs shall be delivered in writing to the customer and to the staff within thirty (30) days of when the utility received the written notification of opt-out from the customer.

(E) For customers filing notification of opt-out under paragraph (6)(A)3., the staff will make the determination of whether the customer meets the criteria of paragraph (6)(A)3. Notification of the staff's acknowledgement or disagreement with customer's qualification to opt-out of participation in demand-side programs shall be delivered to the customer and to the utility within thirty (30) days of when the staff received the written notification of opt-out.

(F) Timing and Effect of Opt-Out Provisions. A customer notice shall be received by the utility no earlier than September 1 and not later than October 30 to be effective for the following calendar year. For that calendar year and each successive calendar year until the customer revokes the notice pursuant to subsection (6)(H), none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093, 4 CSR 240-20.094, 4 CSR 240-3.163, and 4 CSR 240-3.164 or by other authority and no other charges implemented in accordance with section 393.1075, RSMo, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer's written notification of opt-out.

(G) Dispute Notices. If the utility or staff provides notice that a customer does not meet the opt-out criteria to qualify for opt-out, the customer may file a complaint with the commission. The commission shall provide notice and an opportunity for a hearing to resolve any dispute.

(H) Revocation. A customer may revoke an opt-out by providing written notice to the utility and commission two to four (2-4) months in advance of the calendar year for which it will become eligible for the utility's demand-side program's costs and benefits. Any customer revoking an opt-out to participate in a



program will be required to remain in the program for the number of years over which the cost of that program is being recovered, or until the cost of their participation in that program has been recovered.

(I) A customer who participates in demand-side programs initiated after August 1, 2009, shall be required to participate in program funding for a period of three (3) years following the last date when the customer received a demand-side incentive or a service.

(J) A customer electing not to participate in an electric utility's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric utility.

(7) Tax Credits and Monetary Incentives.

(A) Any customer of an electric utility who has received a state tax credit under sections 135.350 through 135.362, RSMo, or under sections 253.545 through 253.561, RSMo, shall not be eligible for participation in any demand-side program offered by a utility if such program offers the customer a monetary incentive to participate.

(B) As a condition of participation in any demand-side program offered by an electric utility under this section, when such program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (7)(A) and acknowledge that the penalty for a customer who provides false documentation is a class A misdemeanor. The electric utility shall maintain documentation of customer attestation and acknowledgement for the term of the demand-side program and three (3) years beyond.

(C) The electric utility shall maintain a database of participants of all demand-side programs offered by the utility when such programs offer a monetary incentive to the customer including the following information:

1. The name of the participant, or the names of the principals if for a company;
2. The service property address; and
3. The date of and amount of the monetary incentive received.

(D) Upon request by the commission or staff, the utility shall disclose participant information in subsections (7)(B) and (C) to the commission and/or staff.

(8) Collaborative Guidelines.

(A) Utility-Specific Collaboratives. Each electric utility and its stakeholders shall form a utility-specific advisory collaborative for input on the design, implementation, and review of demand-side programs as well as

input on the preparation of market potential studies. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are encouraged to occur at least once each calendar quarter.

(B) State-Wide Collaboratives. Electric utilities and their stakeholders shall form a state-wide advisory collaborative to: 1) address the creation of a technical resource manual that includes values for deemed savings, 2) provide the opportunity for the sharing, among utilities and other stakeholders, of lessons learned from demand-side program planning and implementation, and 3) create a forum for discussing statewide policy issues. Collaborative meetings are encouraged to occur at least once each calendar year. Staff shall provide notice of the statewide collaborative meetings and interested persons may attend such meetings.

(9) Variances. Upon request and for good cause shown, the commission may grant a variance from any provision of this rule.

(10) Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

AUTHORITY: sections 393.1075.11 and 393.1075.15, RSMo Supp. 2010. Original rule filed Oct. 4, 2010, effective May 30, 2011.*

**Original authority: 393.1075, RSMo 2009.*

4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements

PURPOSE: This rule sets the definitions, structure, operation, and procedures relevant to compliance with the Renewable Energy Standard.

(1) Definitions. For the purpose of this rule—
(A) Calendar year means a period of three hundred sixty-five (365) days (or three hundred sixty-six (366) days for leap years) that includes January 1 of the year and all subsequent days through and including December 31 of the same year;

(B) Co-fire means simultaneously using multiple fuels in a single generating unit to produce electricity;

(C) Commission means the Public Service Commission of the state of Missouri;

(D) Customer-generator means the owner,

lessee, or operator of an electric energy generation unit that meets all of the following criteria:

1. Is powered by a renewable energy resource;

2. Is located on premises that are owned, operated, leased, or otherwise controlled by the party as retail account holder and which corresponds to the service address for the retail account;

3. Is interconnected and operates in parallel phase and synchronization with an electric utility and has been approved for interconnection by said electric utility; and

4. Meets all applicable safety, performance, interconnection, and reliability standards endorsed by the net metering rule, 4 CSR 240-20.065(1)(C)6. and 4 CSR 240-20.065(1)(C)7.

(E) Department means the Department of Natural Resources;

(F) Electric utility means an electrical corporation as defined in section 386.020, RSMo;

(G) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;

(H) Green pricing program means a voluntary program that provides an electric utility's retail customers an opportunity to purchase renewable energy or renewable energy credits (RECs);

(I) Rate class means a customer class defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service, and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class;

(J) REC, Renewable Energy Credit, or Renewable Energy Certificate means a tradable certificate, that is either certified by an entity approved as an acceptable authority by the commission or as validated through the commission's approved REC tracking system or a generator's attestation. Regardless of whether RECs have been certified, RECs must be validated through an attestation signed by an authorized individual of the company owning the renewable energy resource. Such attestation shall contain the name and address of the generator, the type of renewable energy resource technology, and the time and date of the generation. An REC represents that one (1) megawatt-hour of electricity has been generated from renewable energy resources. RECs include, but are not limited to, solar renewable energy credits. An



REC expires three (3) years from the date the electricity associated with that REC was generated;

(K) Renewable energy resource(s) means electric energy produced from the following:

1. Wind;
2. Solar, including solar thermal sources utilized to generate electricity, photovoltaic cells, or photovoltaic panels;
3. Dedicated crops grown for energy production;
4. Cellulosic agricultural residues;
5. Plant residues;
6. Methane from landfills or wastewater treatment;
7. Clean and untreated wood, such as pallets;
8. Hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has generator nameplate ratings of ten (10) megawatts or less;
9. Fuel cells using hydrogen produced by any of the renewable energy technologies in paragraphs 1. through 8. of this subsection; and

10. Other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the department;

(L) RES or Renewable Energy Standard means sections 393.1025 and 393.1030, RSMo;

(M) RESRAM or Renewable Energy Standard Rate Adjustment Mechanism means a mechanism that allows periodic rate adjustments to recover prudently incurred RES compliance costs and pass-through to customers the benefits of any savings achieved in meeting the requirements of the Renewable Energy Standard;

(N) RES compliance costs means prudently incurred costs, both capital and expense, directly related to compliance with the Renewable Energy Standard. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the electric utility;

(O) RES requirements mean the numeric values and other requirements established by section 393.1030.1, RSMo, and subsections (2)(C) and (2)(D) of this rule;

(P) The RES revenue requirement means the following:

1. All expensed RES compliance costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the proceeding in which the RESRAM is established, continued, modified, or discontinued; and

2. The costs (i.e., the return, taxes, and

depreciation) of any capital projects whose primary purpose is to permit the electric utility to comply with any RES requirement. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the proceeding in which the RESRAM is established, continued, modified, or discontinued;

(Q) Solar renewable energy credit or S-REC means an REC created by generation of electric energy from solar thermal sources, photovoltaic cells, and photovoltaic panels;

(R) Staff means all commission employees, except the secretary to the commission, general counsel, technical advisory staff as defined by section 386.135 RSMo, hearing officer, or administrative or regulatory law judge;

(S) Standard Test Conditions means solar incidence of one (1) kilowatt (kW) per square meter and a cell or panel temperature of twenty-five degrees centigrade (25 °C) as related to measuring the capability of solar electrical generating equipment;

(T) Total retail electric sales, or total retail electric energy usage, means the megawatt-hours of electricity delivered in a specified time period by an electric utility to its Missouri retail customers as reflected in the retail customers' monthly billing statements; and

(U) Utility renewable energy resources mean those renewable energy resources that are owned, controlled, or purchased by the electric utility.

(2) Requirements. Pursuant to the provisions of this rule and sections 393.1025 and 393.1030, RSMo, all electric utilities must generate or purchase RECs and S-RECs associated with electricity from renewable energy resources in sufficient quantity to meet both the RES requirements and RES solar energy requirements respectively on a calendar year basis. Utility renewable energy resources utilized for compliance with this rule must include the RECs or S-RECs associated with the generation. The RES requirements and the RES solar energy requirements are based on total retail electric sales of the electric utility. The requirements set forth in this rule shall not preclude an electric utility from being able to prudently invest and recover all prudently incurred costs in renewable energy resources that exceed the requirements or limits of this rule and are consistent with the prudent implementation of any resource acquisition strategy developed in compliance with 4 CSR 240-22, Electric Utility Resource Planning. RECs or S-RECs produced from these additional renewable

energy resources shall be eligible to be counted toward the RES requirements.

(A) *Reserved**

(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:

1. If the facility generating the renewable energy resources is located in Missouri, the allowed amount is the amount of megawatt-hours generated by the applicable generating facility, further subject to the additional twenty-five hundredths (0.25) credit pursuant to subsection (3)(G) of this rule; and

2. *Reserved**

3. RECs created by the operation of customer-generator facilities and acquired by the Missouri electric utility shall qualify for RES compliance if the customer-generator is a Missouri electric energy retail customer, regardless of the amount of energy the customer-generator provides to the associated retail electric provider through net metering in accordance with 4 CSR 240-20.065, Net Metering. RECs are created by the operation of the customer-generator facility, even if a significant amount or the total amount of electrical energy is consumed on-site at the location of the customer-generator.

(C) The RES requirements are—

1. No less than two percent (2%) in each calendar year 2011 through 2013;

2. No less than five percent (5%) in each calendar year 2014 through 2017;

3. No less than ten percent (10%) in each calendar year 2018 through 2020; and

4. No less than fifteen percent (15%) in each calendar year beginning in 2021.

(D) At least two percent (2%) of each RES requirement listed in subsection (C) of this section shall be derived from solar energy. The RES solar energy requirements are—

1. No less than four-hundredths percent (0.04%) in each calendar year 2011 through 2013;

2. No less than one-tenth percent (0.1%) in each calendar year 2014 through 2017;

3. No less than two-tenths percent (0.2%) in each calendar year 2018 through 2020; and

4. No less than three-tenths percent (0.3%) in each calendar year beginning in 2021.

(E) If compliance with the above RES and RES solar energy requirements would cause retail rates to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, the above requirements shall be limited to providing renewable energy in amounts that would cause retail rates to increase on average one percent (1%) as



calculated per section (5) of this rule.

(F) If an electric utility is not required to meet the RES requirements of subsection (C) of this section in a calendar year, because doing so would cause retail rates to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, then the RES solar energy requirement specified in subsection (2)(D) shall be two percent (2%) of the renewable energy that can be acquired subject to the one percent (1%) average retail rates limit as calculated per section (5) of this rule.

(G) If an electric utility intends to accept proposals for renewable energy resources to be owned by the electric utility or an affiliate of the electric utility, it shall comply with the necessary requirements of 4 CSR 240-20.015, Affiliate Transactions.

(3) Renewable Energy Credits. Subject to the requirements of section (2) of this rule, RECs and S-RECs shall be utilized to satisfy the RES requirements of this rule. S-RECs shall be utilized to comply with the RES solar energy requirements. S-RECs may also be utilized to satisfy the non-solar RES requirements.

(A) The REC or S-REC creation is linked to the associated renewable energy resource. For purposes of retaining RECs or S-RECs, the utility, person, or entity responsible for creation of the REC or S-REC must maintain verifiable records including generator attestation that prove the creation date. The electric utility shall comply with the requirement of this subsection through the registration of the REC in the commission's approved REC tracking system.

(B) An REC may only be used once to comply with this rule. RECs or S-RECs used to comply with this rule may not also be used to satisfy any similar nonfederal renewable energy standard or requirement. Electric utilities may not use RECs or S-RECs retired under a green pricing program to comply with this rule. An REC or S-REC may be used for compliance with the RES or RES solar requirements of this rule for a calendar year in which it expired so long as it was valid during some portion of that year.

(C) RECs or S-RECs associated with customer-generated net-metered renewable energy resources shall be owned by the customer-generator. All contracts between electric utilities and the owners of net-metered generation sources entered into after the effective date of these rules shall clearly specify the entity or person who shall own the RECs or S-RECs associated with the energy generated by the net-metered generation source. Electric metering associated with net-metered

sources shall meet the meter accuracy and testing requirements of 4 CSR 240-10.030, Standards of Quality. For solar electric systems utilizing the provisions of subsection (4)(H) of this rule, no meter accuracy or testing requirements are required.

(D) RECs that are generated with fuel cell energy using hydrogen derived from a renewable energy resource are eligible for compliance purposes only to the extent that the energy used to generate the hydrogen did not create RECs.

(E) If an electrical generator co-fires an eligible renewable energy fuel source with an ineligible fuel source, only the proportion of the electrical energy output associated with the eligible renewable energy fuel source shall be permitted to count toward compliance with the RES. For co-fired generation of electricity, the renewable energy resources shall be determined by multiplying the electricity output by the direct proportion of the as-fired British thermal unit (BTU) content of the fuel burned that is a source of renewable energy resources as defined in this rule to the as-fired BTU content of the total fuel burned.

(F) All electric utilities shall use a commission designated common central third-party registry for REC accounting for RES requirements, unless otherwise ordered for good cause shown.

(G) RECs that are created by the generation of electricity by a renewable energy resource physically located in the state of Missouri shall count as one and twenty-five hundredths (1.25) RECs for purposes of compliance with this rule. This additional credit shall not be tracked in the tracking systems specified in subsection (F) of this section. This additional credit of twenty-five hundredths (0.25) shall be recognized when the electric utility files its annual compliance report in accordance with section (7) of this rule.

(H) RECs that are purchased by an electric utility from a facility that subsequently fails to meet the requirements for renewable energy resources shall continue to be valid through the date of facility decertification.

(I) Electric utilities required to comply with this rule may purchase or sell RECs, either bilaterally or in any open market system, inside or outside the state, without prior commission approval.

(J) For compliance purposes, utilities shall retire RECs in sufficient quantities to meet the requirements of this rule. The RECs shall be retired during the calendar year for which compliance is being achieved. Utilities may retire RECs during the months of January, February, or March following the calendar year for which compliance is being achieved

and designate those retired RECs as counting towards the requirements of that previous calendar year. Any RECs retired in this manner shall be specifically annotated in the registry designated in accordance with subsection (F) of this section and the annual compliance report filed in accordance with section (7) of this rule. RECs retired in January, February, or March to be counted towards compliance for the previous calendar year in accordance with this subsection shall not exceed ten percent (10%) of the total RECs necessary to be retired for compliance for that calendar year.

(K) RECs may be aggregated with other RECs and utilized for compliance purposes. RECs shall be issued in whole increments. Any fractional RECs, aggregated or non-aggregated, remaining after certificate issuance will be carried forward to the next reporting period for the specific facility(ies). REC aggregation may be performed by electric utilities, customer-generators, or other parties.

(L) Fractional RECs may be aggregated with other fractional RECs and utilized for compliance purposes.

(4) Solar Rebate. Pursuant to section 393.1030, RSMo, and this rule, electric utilities shall include in their tariffs a provision regarding retail account holder rebates for solar electric systems. These rebates shall be available to Missouri electric utility retail account holders who install new or expanded solar electric systems that become operational after December 31, 2009. The minimum amount of the rebate shall be two dollars (\$2.00) per installed watt up to a maximum of twenty-five (25) kW per retail account. To qualify for the solar rebate and the Standard Offer Contract of subsection (H) of this section, the customer-owned or leased solar generating equipment shall be interconnected with the electric utility's system.

(A) The retail account holder must be an active account on the electric utility's system and in good payment standing.

(B) The solar electric system must be permanently installed on the account holder's premises. As installed, the solar electric system shall be situated in a location where a minimum of eighty-five percent (85%) of the solar resource is available to the system as verified by the customer or the customer's installer at the time of installation.

(C) The installed solar electric system must remain in place on the account holder's premises for the duration of its useful life which shall be deemed to be ten (10) years unless determined otherwise by the commission.

(D) Solar electric systems installed by



retail account holders must consist of equipment that is commercially available and factory new when installed on the original account holder's premises, and the principal system components (i.e., photovoltaic modules and inverters) shall be covered by a functional warranty from the manufacturer for a minimum period of ten (10) years, unless determined otherwise by the commission, with the exception of solar battery components. Rebuilt, used, or refurbished equipment is not eligible to receive the rebate. For any applicable retail account, rebates shall be limited to twenty-five (25) kW. Retail accounts which have been awarded rebates for an aggregate of less than twenty-five (25) kW shall qualify to apply for rebates for system expansions up to an aggregate of twenty-five (25) kW. Systems greater than twenty-five (25) kW but less than one hundred (100) kW in size shall be eligible for a solar rebate up to the twenty-five (25) kW limit of this section.

(E) The solar electric system shall meet all requirements of 4 CSR 240-20.065, Net Metering, or a tariff approved by the commission for customer-owned generation.

(F) The electric utility may inspect retail account holder owned solar electric systems for which it has paid a solar rebate pursuant to this section, at any reasonable time, with prior notice of at least three (3) business days provided to the retail account holder. Advance notice is not required if there is reason to believe the unit poses a safety risk to the retail account holder, the premises, the utility's electrical system, or the utility's personnel.

(G) For the purpose of determining the amount of solar rebate, the solar electric system wattage rating shall be established as the direct current wattage rating provided by the original manufacturer with respect to standard test conditions.

(H) Standard Offer Contracts.

1. The electric utility may at the utility's discretion, offer a standard contract for the purchase of S-RECs created by the customer's installed solar electric system.

2. If the electric utility chooses to offer a standard offer contract, the electric utility shall file tariff sheets detailing the provision of the contract no later than November 1 each year for the following compliance year. Workpapers documenting the purchase prices shall be submitted with the tariff filing.

3. No customer is required by this rule to sell any or all S-RECs to the electric utility.

(I) Electric utilities that have purchased S-RECs under a one (1)-time lump sum payment in accordance with subsection (H) of

this section may continue to account for purchased S-RECs even if the owner of the solar electric system ceases to operate the system or the system is decertified as a renewable energy resource. S-RECs originated under this subsection shall only be utilized by the original purchasing utility for compliance with this rule. S-RECs originated under this subsection shall not be sold or traded.

(J) Electric utilities that have purchased S-RECs under a one (1)-time lump sum payment shall utilize the associated S-RECs in equal annual amounts over the lifetime of the purchase agreement.

(K) The electric utility shall provide a rebate offer for solar rebates within thirty (30) days of application and shall provide the solar rebate payment to qualified retail account holders within thirty (30) days of verification that the solar electric system is fully operational. Applicants who have received a solar rebate offer shall have up to twelve (12) months from the date of receipt of a rebate offer to demonstrate full operation of their proposed solar electric system. Full operation means the purchase and installation on the retail account holder's premises of all major system components of the on-site solar electric system and production of rated electrical generation. If full operation is not achieved within six (6) months of acceptance of the Standard Offer Contract or rebate offer, in order to keep eligibility for the rebate offer and/or the Standard Offer Contract, the applicant shall file a report with the electric utility demonstrating substantial project progress and indicating continued interest in the rebate. The six (6)-month report shall include proof of purchase of the majority of the solar electric system components, partial system construction, and building permit if required by the jurisdictional authority. Customers who do not demonstrate substantial progress within six (6) months of receipt of the rebate offer, or achieve full operation within one (1) year of receipt of rebate offer, will be required to reapply for any solar rebate.

(L) If the solar rebate program for an electric utility causes the utility to meet or exceed the retail rate impact limits of section (5) of this rule, the solar rebates shall be paid on a first-come, first-served basis, as determined by the solar system operational date. Any solar rebate applications that are not honored in a particular calendar year due to the requirements of this subsection shall be the first applications considered in the following calendar year.

(5) Retail Rate Impact.

(A) The retail rate impact, as calculated in

subsection (5)(B), may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance. The retail rate impact shall be calculated on an incremental basis for each planning year that includes the addition of renewable generation directly attributable to RES compliance through procurement or development of renewable energy resources, averaged over the succeeding ten (10)-year period, and shall exclude renewable energy resources owned or under contract prior to the effective date of this rule.

(B) The RES retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio. The non-renewable generation and purchased power portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years. The RES-compliant portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio an amount of renewable resources sufficient to achieve the standard set forth in section (2) of this rule and an amount of least-cost non-renewable resources, the combination of which is sufficient to meet the utility's needs for the next ten (10) years. These renewable energy resource additions will utilize the most recent electric utility resource planning analysis. These comparisons will be conducted utilizing projections of the incremental revenue requirement for new renewable energy resources, less the avoided cost of fuel not purchased for non-renewable energy resources due to the addition of renewable energy resources. In addition, the projected impact on revenue requirements by non-renewable energy resources shall be increased by the expected value of greenhouse gas emissions compliance costs, assuming that such costs are made at the expected value of the cost per ton of greenhouse gas emissions allowances, cost per ton of a greenhouse gas emissions tax (e.g., a carbon tax), or the cost per ton of greenhouse gas emissions reductions for any greenhouse gas emission reduction technology that is applicable to the utility's generation portfolio, whichever is lower. Calculations of the expected value of costs associated with greenhouse gas emissions shall be derived by applying the probability of the occurrence of future greenhouse gas regulations to expected level(s) of costs per ton associated with those



regulations over the next ten (10) years. Any variables utilized in the modeling shall be consistent with values established in prior rate proceedings, electric utility resource planning filings, or RES compliance plans, unless specific justification is provided for deviations. The comparison of the rate impact of renewable and non-renewable energy resources shall be conducted only when the electric utility proposes to add incremental renewable energy resource generation directly attributable to RES compliance through the procurement or development of renewable energy resources.

(C) Rebates made during any calendar year in accordance with section (4) of this rule shall be included in the cost of generation from renewable energy resources.

(D) For purposes of the determination in accordance with subsection (B) of this section, if the revenue requirement including the RES-compliant resource mix, averaged over the succeeding ten (10)-year period, exceeds the revenue requirement that includes the non-renewable resource mix by more than one percent (1%), the utility shall adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not exceed one percent (1%). In making this adjustment, the solar requirement shall be in accordance with subsection (2)(F) of this rule. Prudently incurred costs to comply with the RES standard, and passing this rate impact test, may be recovered in accordance with section (6) of this rule or through a rate proceeding outside or in a general rate case.

(E) Costs or benefits attributed to compliance with a federal renewable energy standard or portfolio requirement shall be considered as part of compliance with the Missouri RES if they would otherwise qualify under the Missouri RES without regard to the federal requirements.

(6) **Cost Recovery and Pass-through of Benefits.** An electric utility outside or in a general rate proceeding may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs or pass-through of benefits received as a result of compliance with RES requirements; provided that the RES compliance retail rate impact on average retail customer rates does not exceed one percent (1%) as determined by section (5) of this rule. In all RESRAM applications, the increase in electric utility revenue requirements shall be calculated as

the amount of additional RES compliance costs incurred since the electric utility's last RESRAM application or general rate proceeding, net of any reduction in RES compliance costs included in the electric utility's prior RESRAM application or general rate case, and any new RES compliance benefits.

(A) If the actual increase in utility revenue requirements is less than two percent (2%), subsection (B) of this section shall be utilized. If the actual increase in utility revenue requirements is equal to or greater than two percent (2%), subsection (C) of this section shall be utilized. For the initial filing by the electric utility in accordance with this section, subsection (C) of this section shall be utilized, except that the staff, and individuals or entities granted intervention by the commission, may file a report or comments no later than one hundred twenty (120) days after the electric utility files its application and rate schedules to establish an RESRAM.

1. The pass-through of benefits has no single-year cap or limit.

2. Any party in a rate proceeding in which an RESRAM is in effect or proposed may seek to continue as is, modify, or oppose the RESRAM. The commission shall approve, modify, or reject such applications and rate schedules to establish an RESRAM only after providing the opportunity for an evidentiary hearing.

3. If the electric utility incurs costs in complying with the RES requirements that exceed the one percent (1%) limit determined in accordance with section (5) of this rule for any year, those excess costs may be carried forward to future years for cost recovery under this rule. Any costs carried forward shall have a carrying cost applied to them monthly equal to the electric utility's cost of short-term borrowing rate. These carried forward costs plus accrued carrying costs plus additional annual costs remain subject to the one percent (1%) limit for any subsequent years. In any calendar year that costs from a previous compliance year are carried forward, the carried forward costs will be considered for cost recovery prior to any new costs for the current calendar year.

4. For ownership investments in eligible renewable energy technologies in an RESRAM application, the electric utility shall be entitled to a rate of return equal to the electric utility's most recent authorized rate of return on rate base. Recovery of the rate of return for investment in renewable energy technologies in an RESRAM application is subject to the one percent (1%) limit specified in section (5) of this rule.

5. Upon the filing of proposed rate schedules with the commission seeking to

recover costs or pass-through benefits of RES compliance, the commission will provide general notice of the filing.

6. The electric utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with paragraph 7. of this subsection before the notices are sent to customers:

A. An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an RESRAM, explaining the utility's RES compliance and identifying the statutory authority under which it is implementing an RESRAM;

B. An annual notice to affected customers each year that an RESRAM is in effect explaining the continuation of its RESRAM and RES compliance; and

C. An RESRAM line item on all customer bills, which informs the customers of the presence and amount of the RESRAM.

7. Along with the electric utility's filing of proposed rate schedules to establish an RESRAM, the utility shall file the following items with the commission for approval or rejection, and the Office of the Public Counsel (OPC) may, within ten (10) days of the utility's filing of this information, submit comments regarding these notices to the commission:

A. An example of the notice required by subparagraph (A)6.A. of this section;

B. An example of the notice required by subparagraph (A)6.B. of this section; and

C. An example customer bill showing how the RESRAM will be described on affected customers' bills in accordance with subparagraph (A)6.C. of this section.

8. An electric utility may effectuate a change in RESRAM no more often than one (1) time during any calendar year, not including changes as a result of paragraph 11. of this subsection.

9. **Submission of Surveillance Monitoring Reports.** Each electric utility with an approved RESRAM shall submit to staff, OPC, and parties approved by the commission a Surveillance Monitoring Report. The form of the Surveillance Monitoring Report is included herein.

A. The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the RESRAM.



B. If the electric utility also has an approved fuel rate adjustment mechanism or environmental cost recovery mechanism (ECRM), the electric utility shall submit a single Surveillance Monitoring Report for the RESRAM, ECRM, the fuel rate adjustment mechanism, or any combination of the three (3). The electric utility shall designate on the single Surveillance Monitoring Report whether the submission is for RESRAM, ECRM, fuel rate adjustment mechanism, or any combination of the three (3).

C. Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in this paragraph, after notice and an opportunity for a hearing, the commission may suspend an RESRAM or order other appropriate remedies as provided by law.

10. The RESRAM will be calculated as a percentage of the customer's energy charge for the applicable billing period.

11. Commission approval of proposed rate schedules, to establish or modify an RESRAM, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to RES compliance costs during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of RES compliance costs previously in an RESRAM, or pass-through of benefits previously in an RESRAM, the electric utility shall offset its RESRAM in the future as necessary to recognize and account for any such costs or benefits. The offset amount shall include a calculation of interest at the electric utility's short-term borrowing rate as calculated in subparagraph (A)26.A. of this section. The RESRAM offset will be designed to reconcile such disallowed costs or benefits within the six (6)-month period immediately subsequent to any commission order regarding such disallowance.

12. At the end of each twelve (12)-month period that an RESRAM is in effect, the electric utility shall reconcile the differences between the revenues resulting from the RESRAM and the pretax revenues as found by the commission for that period and shall submit the reconciliation to the commission with its next sequential proposed rate schedules for RESRAM continuation or modification.

13. An electric utility that has implemented an RESRAM shall file revised RESRAM rate schedules to reset the RESRAM to zero (0) when new base rates and charges become effective following a

commission report and order establishing customer rates in a general rate proceeding that incorporates RES compliance costs or benefits previously reflected in an RESRAM in the utility's base rates. If an over- or under-recovery of RESRAM revenues or over- or under-pass-through of RESRAM benefits exists after the RESRAM has been reset to zero (0), that amount of over- or under-recovery, or over- or under-pass-through, shall be tracked in an account and considered in the next RESRAM filing of the electric utility.

14. Upon the inclusion of RES compliance cost or benefit pass-through previously reflected in an RESRAM into an electric utility's base rates, the utility shall immediately thereafter reconcile any previously unreconciled RESRAM revenues or RESRAM benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RESRAM match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

15. In addition to the information required by subsection (B) or (C) of this section, the electric utility shall also provide the following information when it files proposed rate schedules with the commission seeking to establish, modify, or reconcile an RESRAM:

A. A description of all information posted on the utility's website regarding the RESRAM; and

B. A description of all instructions provided to personnel at the utility's call center regarding how those personnel should respond to calls pertaining to the RESRAM.

16. RES compliance costs shall only be recovered through an RESRAM or as part of a general rate proceeding and shall not be considered for cost recovery through an environmental cost recovery mechanism or fuel adjustment clause or interim energy charge.

17. Pre-existing adjustment mechanisms, tariffs, and regulatory plans. The provisions of this rule shall not affect—

A. Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

B. Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

18. Each electric utility with an RESRAM shall submit, with an affidavit attesting to the veracity of the information, the following information on a monthly basis to the manager of the auditing department of the commission and the OPC. The informa-

tion may be submitted to the manager of the auditing department through the electronic filing and information system (EFIS). The following information shall be aggregated by month and supplied no later than sixty (60) days after the end of each month when the RESRAM is in effect. The first submission shall be made within sixty (60) days after the end of the first complete month after the RESRAM goes into effect. It shall contain, at a minimum—

A. The revenues billed pursuant to the RESRAM by rate class and voltage level, as applicable;

B. The revenues billed through the electric utility's base rate allowance by rate class and voltage level;

C. All significant factors that have affected the level of RESRAM revenues along with workpapers documenting these significant factors;

D. The difference, by rate class and voltage level, as applicable, between the total billed RESRAM revenues and the projected RESRAM revenues;

E. Any additional information ordered by the commission to be provided; and

F. To the extent any of the requested information outlined above is provided in response to another section, the information only needs to be provided once.

19. Information required to be filed with the commission or submitted to the manager of the auditing department of the commission and to OPC in this section shall also be, in the same format, served on or submitted to any party to the related rate proceeding in which the RESRAM was approved by the commission, periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

20. A person or entity granted intervention in a rate proceeding in which an RESRAM is approved by the commission shall be a party to any subsequent related periodic adjustment proceeding or prudence review, without the necessity of applying to the commission for intervention. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM shall be served



on or submitted to all parties from the prior related rate proceeding and on all parties from any subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing department of the commission and OPC, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

21. A person or entity not a party to the rate proceeding in which an RESRAM is approved by the commission may timely apply to the commission for intervention, pursuant to sections 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic adjustment proceeding, or prudence review, or, pursuant to sections 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, continue, or discontinue the same RESRAM. If no party to a subsequent periodic adjustment proceeding or prudence review objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless, within the above-referenced ten (10)-day period, the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

22. The results of discovery from a rate proceeding where the commission may approve, modify, reject, continue, or discontinue an RESRAM, or from any subsequent periodic adjustment proceeding or prudence review relating to the same RESRAM, may be used without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

23. If a party which submitted data requests relating to a proposed RESRAM in the rate proceeding where the RESRAM was established or in any subsequent related periodic adjustment proceeding or prudence review wants the responding party to whom the prior data requests were submitted to sup-

plement or update that responding party's prior responses for possible use in a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response from a related rate proceeding where an RESRAM was established, reviewed for prudence, modified, continued, or discontinued, if the responding party has learned or subsequently learns that the data request response is in some material respect incomplete or incorrect.

24. Each rate proceeding where commission establishment, continuation, modification, or discontinuation of an RESRAM is the sole issue shall comprise a separate case. The same procedures for handling confidential information shall apply, pursuant to 4 CSR 240-2.135, as in the immediately preceding RESRAM case for the particular electric utility, unless otherwise directed by the commission on its own motion or as requested by a party and directed by the commission.

25. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

26. Prudence reviews respecting an RESRAM. A prudence review of the costs subject to the RESRAM shall be conducted no less frequently than at intervals established in the rate proceeding in which the RESRAM is established.

A. All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis for each month the RESRAM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative RESRAM over-collection or under-collection balance. Each month's accumulated interest shall be included in the RESRAM over-collection or under-collection balances on an ongoing basis.

B. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one

hundred eighty (180) days after the staff initiates its prudence audit. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

(I) If the staff, OPC, or other party auditing the RESRAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RESRAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information shall timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing time line shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing time line. For good cause shown the commission may further suspend this time line.

(II) If the time line is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subparagraph (A)26.A. of this section.

(B) RESRAM for less than two percent (2%) actual increase in utility revenue requirements.

1. When an electric utility files proposed rate schedules pursuant to sections 393.1020 and 393.1030, RSMo, and the provisions of this rule, the commission staff shall conduct an examination of the proposed RESRAM.

2. The staff of the commission shall examine and analyze the information submitted by the electric utility to determine if the proposed RESRAM is in accordance with provisions of this rule and the statutes governing the RES and shall submit a report regarding its examination to the commission not later than sixty (60) days after the electric utility files its proposed rate schedules.

3. The commission may hold a hearing on the proposed rate schedules and shall issue an order to become effective not later than



one hundred twenty (120) days after the electric utility files the proposed rate schedules.

4. If the commission finds that the proposed rate schedules or substitute filed rate schedules comply with the applicable requirements, the commission shall enter an order authorizing the electric utility to utilize said RESRAM rate schedules with an appropriate effective date, as determined by the commission.

5. At the time an electric utility files proposed rate schedules with the commission seeking to establish, modify, or reconcile an RESRAM, it shall submit its supporting documentation regarding the calculation of the proposed RESRAM and shall serve the Office of the Public Counsel with a copy of its proposed rate schedules and its supporting documentation. The utility's supporting documentation shall include workpapers showing the calculation of the proposed RESRAM and shall include, at a minimum, the following information:

A. A complete explanation of all of the costs, both capital and expense, incurred for RES compliance that the electric utility is proposing be included in rates and the specific account used for each item;

B. The state, federal, and local income or excise tax rates used in calculating the proposed RESRAM, and an explanation of the source of and the basis for using those tax rates;

C. The regulatory capital structure used in calculating the proposed RESRAM, and an explanation of the source of and the basis for using the capital structure;

D. The cost rates for debt and preferred stock used in calculating the proposed RESRAM, and an explanation of the source of and the basis for using those rates;

E. The cost of common equity used in calculating the proposed RESRAM, and an explanation of the source of and the basis for that equity cost;

F. The depreciation rates used in calculating the proposed RESRAM, and an explanation of the source of and the basis for using those depreciation rates;

G. The rate base used in calculating the proposed RESRAM, including an updated depreciation reserve total incorporating the impact of all RES plant investments previously reflected in general rate proceedings or RESRAM application proceedings initiated following enactment of the RES rules;

H. The applicable customer class billing methodology used in calculating the proposed RESRAM, and an explanation of the source of and basis for using that methodology;

I. An explanation of how the proposed

RESRAM is allocated among affected customer classes, if applicable; and

J. For purchase of electrical energy from eligible renewable energy resources bundled with the associated RECs or for the purchase of unbundled RECs, the cost of the purchases, and an explanation of the source of the energy or RECs and the basis for making that specific purchase, including an explanation of the request for proposal (RFP) process, or the reason(s) for not using an RFP process, used to establish which entity provided the energy or RECs associated with the RESRAM.

(C) RESRAM for equal to or greater than two percent (2%) actual increase in utility revenue requirements.

1. If an electric utility files an application and rate schedules to establish, continue, modify, or discontinue an RESRAM outside of a general rate proceeding, the staff shall examine and analyze the information filed in accordance with this section and additional information obtained through discovery, if any, to determine if the proposed RESRAM is in accordance with provisions of this rule and the statutes governing the RES. The commission shall establish a procedural schedule providing for an evidentiary hearing and commission report and order regarding the electric utility's filing. The staff shall submit a report regarding its examination and analysis to the commission not later than seventy-five (75) days after the electric utility files its application and rate schedules to establish an RESRAM. An individual or entity granted intervention by the commission may file comments not later than seventy-five (75) days after the electric utility files its application and rate schedules to establish an RESRAM. The electric utility shall have no less than fifteen (15) days from the filing of the staff's report and any intervenor's comments to file a reply. The commission shall have no less than thirty (30) days from the filing of the electric utility's reply to hold a hearing and issue a report and order approving the electric utility's rate schedules subject to or not subject to conditions, rejecting the electric utility's rate schedules, or rejecting the electric utility's rate schedules and authorizing the electric utility to file substitute rate schedules subject to or not subject to conditions.

2. When an electric utility files an application and rate schedules as described in this subsection, the electric utility shall file at the same time supporting direct testimony and the following supporting information as part of, or in addition to, its supporting direct testimony:

A. Proposed RESRAM rate schedules;

B. A general description of the design and intended operation of the proposed RESRAM;

C. A complete description of how the proposed RESRAM is compatible with the requirement for prudence reviews;

D. A complete explanation of all the costs that shall be considered for recovery under the proposed RESRAM and the specific account used for each cost item on the electric utility's books and records;

E. A complete explanation of all of the costs, both capital and expense, incurred for RES compliance that the electric utility is proposing be included in rates and the specific account used for each cost item on the electric utility's books and records.

F. A complete explanation of all of the costs, both capital and expense, incurred for RES compliance that the electric utility is proposing be included in base rates and the specific account used for each cost item on the electric utility's books and records;

G. A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed RESRAM and the specific account where each such revenue item is recorded on the electric utility's books and records;

H. A complete explanation of any feature designed into the proposed RESRAM or any existing electric utility policy, procedure, or practice that can be relied upon to ensure that only prudent costs shall be eligible for recovery under the proposed RESRAM;

I. For each of the major categories of costs, that the electric utility seeks to recover through its proposed RESRAM, a complete explanation of the specific rate class cost allocations and rate design used to calculate the proposed RES compliance revenue requirement and any subsequent RESRAM rate adjustments during the term of the proposed RESRAM; and

J. Any additional information that may have been ordered by the commission in a prior rate proceeding to be provided.

3. When an electric utility files rate schedules as described in this subsection, and serves upon parties as provided in paragraph (A)20. of this section, the rate schedules must be accompanied by supporting direct testimony, and at least the following supporting information:

A. The following information shall be included with the filing:

(I) For the period from which historical costs are used to adjust the RESRAM rate:

(a) REC costs differentiated by purchases, swaps, and loans;



(b) Net revenues from REC sales, swaps, and loans;

(c) Extraordinary costs not to be passed through, if any, due to such costs being an insured loss, or subject to reduction due to litigation, or for any other reason;

(d) Base rate component of RES compliance costs and revenues;

(e) Identification of capital projects placed in service that were not anticipated in the previous general rate proceeding; and

(f) Any additional requirements ordered by the commission in the prior rate proceeding;

(II) The levels of RES compliance capital costs and expenses in the base rate revenue requirement from the prior general rate proceeding;

(III) The levels of RES compliance capital cost in the base rate revenue requirement from the prior general rate proceeding as adjusted for the proposed date of the periodic adjustment;

(IV) The capital structure as determined in the prior rate proceeding;

(V) The cost rates for the electric utility's debt and preferred stock as determined in the prior rate proceeding;

(VI) The electric utility's cost of common equity as determined in the prior rate proceeding;

(VII) The rate base used in calculating the proposed RESRAM, including an updated depreciation reserve total incorporating the impact of all RES plant investments previously reflected in general rate proceedings or RESRAM application proceedings initiated following enactment of the RES rules; and

(VIII) Calculation of the proposed RESRAM collection rates; and

B. Work papers supporting all items in subparagraph (C)3.A. of this section shall be submitted to the manager of the auditing department and served upon parties as provided in paragraph (A)20. in this section. The work papers may be submitted to the manager of the auditing department through EFIS.

(D) Alternatively, an electric utility may recover RES compliance costs without use of the RESRAM procedure through rates established in a general rate proceeding. In the interim between general rate proceedings the electric utility may defer the costs in a regulatory asset account, and monthly calculate a carrying charge on the balance in that regulatory asset account equal to its short-term cost of borrowing. All questions pertaining to rate recovery of the RES compliance costs in a subsequent general rate proceeding will be

reserved to that proceeding, including the prudence of the costs for which rate recovery is sought and the period of time over which any costs allowed rate recovery will be amortized. Any rate recovery granted to RES compliance costs under this alternative approach will be fully subject to the retail rate impact requirements set forth in section (5) of this rule.

(7) Annual RES Compliance Report and RES Compliance Plan. Each electric utility shall file an RES compliance report no later than April 15 to report on the status of the utility's compliance with the renewable energy standard and the electric utility's compliance plan as described in this section for the most recently completed calendar year. The initial annual RES compliance report shall be filed by April 15, 2012, for the purpose of providing the necessary information for the first RES compliance year (2011). Each electric utility shall file an annual RES compliance plan with the commission. The plan shall be filed no later than April 15 of each year.

(A) Annual RES Compliance Report.

1. The annual RES compliance report shall provide the following information for the most recently completed calendar year for the electric utility:

A. Total retail electric sales for the utility, as defined by this rule;

B. Total jurisdictional revenue from the total retail electric sales to Missouri customers as measured at the customers' meters;

C. Total retail electric sales supplied by renewable energy resources, as defined by section 393.1025(5), RSMo, including the source of the energy;

D. The number of RECs and S-RECs created by electrical energy produced by renewable energy resources owned by the electric utility. For the electrical energy produced by these utility-owned renewable energy resources, the value of the energy created. For the RECs and S-RECs, a calculated REC or S-REC value for each source and each category of REC;

E. The number of RECs acquired, sold, transferred, or retired by the utility during the calendar year;

F. The source of all RECs acquired during the calendar year;

G. The identification, by source and serial number, of any RECs that have been carried forward to a future calendar year;

H. An explanation of how any gains or losses from sale or purchase of RECs for the calendar year have been accounted for in any rate adjustment mechanism that was in effect for the electric utility;

I. For acquisition of electrical energy

and/or RECs from a renewable energy resource that is not owned by the electric utility, the following information for each resource that has a rated capacity of ten (10) kW or greater:

(I) Name, address, and owner of the facility;

(II) An affidavit from the owner of the facility certifying that the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate;

(III) The renewable energy technology utilized at the facility;

(IV) The dates and amounts of all payments from the electric utility to the owner of the facility; and

(V) All meter readings used for calculation of the payments referenced in part (IV) of this paragraph;

J. The total number of customers that applied and received a solar rebate in accordance with section (4) of this rule;

K. The total number of customers that were denied a solar rebate and the reason(s) for denial;

L. The amount of funds expended by the electric utility for solar rebates, including the price and terms of future S-REC contracts associated with the facilities that qualified for the solar rebates;

M. An affidavit documenting the electric utility's compliance with the RES compliance plan as described in this section during the calendar year. This affidavit will include a description of the amount of over- or under-compliance costs that shall be adjusted in the electric utility's next compliance plan; and

N. If compliance was not achieved, an explanation why the electric utility failed to meet the RES.

2. On the same date that the electric utility files its annual RES compliance report, the utility shall post an electronic copy of its annual RES compliance report, excluding highly confidential or proprietary material, on its website to facilitate public access and review.

3. On the same date that the electric utility files its annual RES compliance report, the utility shall provide the commission with separate electronic copies of its annual RES compliance report including and excluding highly confidential and proprietary material. The commission shall place the redacted electronic copies of each electric utility's annual RES compliance reports on the commission's website in order to facilitate public viewing, as appropriate.



(B) RES Compliance Plan.

1. The plan shall cover the current year and the immediately following two (2) calendar years. The RES compliance plan shall include, at a minimum—

A. A specific description of the electric utility's planned actions to comply with the RES;

B. A list of executed contracts to purchase RECs (whether or not bundled with energy), including type of renewable energy resource, expected amount of energy to be delivered, and contract duration and terms;

C. The projected total retail electric sales for each year;

D. Any differences, as a result of RES compliance, from the utility's preferred resource plan as described in the most recent electric utility resource plan filed with the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning;

E. A detailed analysis providing information necessary to verify that the RES compliance plan is the least cost, prudent methodology to achieve compliance with the RES;

F. A detailed explanation of the calculation of the RES retail impact limit calculated in accordance with section (5) of this rule. This explanation should include the pertinent information for the planning interval which is included in the RES compliance plan; and

G. Verification that the utility has met the requirements for not causing undue adverse air, water, or land use impacts pursuant to subsection 393.1030.4. RSMo, and the regulations of the Department of Natural Resources.

(C) Upon receipt of the electric utility's annual RES compliance report and RES compliance plan, the commission shall establish a docket for the purpose of receiving the report and plan. The commission shall issue a general notice of the filing.

(D) The staff of the commission shall examine each electric utility's annual RES compliance report and RES compliance plan and file a report of its review with the commission within forty-five (45) days of the filing of the annual RES compliance report and RES compliance plan with the commission. The staff's report shall identify any deficiencies in the electric utility's compliance with the RES.

(E) The Office of the Public Counsel and any interested persons or entities may file comments based on their review of the electric utility's annual RES compliance report and RES compliance plan within forty-five (45) days of the electric utility's filing of its compliance report with the commission.

(F) The commission shall issue an order

which establishes a procedural schedule, if necessary.

(8) Penalties. An electric utility shall be subject to penalties of at least twice the average market value of RECs or S-RECs for the calendar year for failure to meet the targets of section 393.1030.1, RSMo, and section (2) of this rule.

(A) Any allegation of a failure to comply with the RES requirements shall be filed as a complaint under the statutes and regulations governing complaints.

(B) An electric utility shall be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated or to the extent that the maximum average retail rate impact increase, as determined in accordance with section (5) of this rule, would be exceeded.

(C) Any penalty payments assessed by the courts shall be remitted to the department. These payments shall be utilized by the department for the following purposes:

1. Purchase RECs or S-RECs in sufficient quantity to offset the shortfall of the utility to meet the RES requirements; and

2. Payments in excess of those required in paragraph (C)1. of this section shall be utilized to provide funding for renewable energy and energy efficiency projects. These projects shall be selected by the Department of Natural Resources in consultation with the staff.

(D) Upon determination by the commission that an electric utility has not complied with the RES, penalty amounts shall be calculated by determining the electric utility's shortfall relative to RES total requirements and RES solar energy requirements for the calendar year. The penalty amount recommended by the commission to the court of jurisdiction shall be twice the average market value during the calendar year for RECs or S-RECs in sufficient quantity to make up the utility's shortfall for RES total requirements or RES solar energy requirements. The average market value for RECs or S-RECs for the calendar year shall be based on RECs and S-RECs utilized for compliance with this rule. A recommended average market value for the compliance period shall be calculated by staff. The Office of the Public Counsel and any interested persons or entities may file comments based on their review of staff's recommendation. The commission may issue an order which establishes a further procedural schedule, or the commission may determine the average market value as part of the complaint proceeding.

(E) Any electric utility that is subject to penalties as prescribed by this section shall

not seek recovery of the penalties through section (6) of this rule or any other rate-making activity.

(9) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that an electric utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existence of its RESRAM as a defense to a complaint case based upon an allegation that it is earning more than a fair return on equity.

(10) Waivers and Variances. Upon written application, and after notice and an opportunity for hearing, the commission may waive or grant a variance from a provision of this rule for good cause shown.

(A) The granting of a variance to one (1) electric utility which waives or otherwise affects the required compliance with a provision of this rule does not constitute a waiver respecting, or otherwise affect, the required compliance of any other electric utility.

(B) The commission may not waive or grant a variance from this rule in total.



Electric Company
12 Months Ended _____
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
RATE BASE AND RATE OF RETURN

<u>Total Company Rate Base</u>	<u>Measurement Basis</u>	<u>12 Months Ended</u>
Plant in Service		
Intangible	End of Period	xxx,xxx
Production – Steam	End of Period	xxx,xxx
Production – Nuclear	End of Period	xxx,xxx
Production – Hydraulic	End of Period	xxx,xxx
Production – Other	End of Period	xxx,xxx
Transmission	End of Period	xxx,xxx
Distribution	End of Period	xxx,xxx
General	End of Period	xxx,xxx
Total Plant in Service	End of Period	\$ <u>x,xxx,xxx</u>
Reserve for Depreciation		
Intangible	End of Period	xxx,xxx
Production – Steam	End of Period	xxx,xxx
Production – Nuclear	End of Period	xxx,xxx
Production – Hydraulic	End of Period	xxx,xxx
Production – Other	End of Period	xxx,xxx
Transmission	End of Period	xxx,xxx
Distribution	End of Period	xxx,xxx
General	End of Period	xxx,xxx
Total Reserve for Depreciation		<u>x,xxx,xxx</u>
Net Plant		x,xxx,xxx
Add:		
Materials & Supplies	13 Mo. Avg.	x,xxx,xxx
Cash	(from prior rate case including offsets)	x,xxx,xxx
Fuel Inventory	13 Mo. Avg.	x,xxx,xxx
Prepayments	13 Mo. Avg.	x,xxx,xxx
Other Regulatory Assets	End of Period	x,xxx,xxx
Less:		
Customer Advances	13 Mo. Avg.	x,xxx,xxx
Customer Deposits	13 Mo. Avg.	x,xxx,xxx
Accumulated Deferred Income Taxes	End of Period	x,xxx,xxx
Other Regulatory Liabilities	End of Period	x,xxx,xxx
Other Items from Prior Rate Case	Per rate case method	<u>x,xxx,xxx</u>
(A) Total Rate Base		<u>\$ x,xxx,xxx</u>
(B) Net Operating Income		\$ x,xxx,xxx
(C) Return on Rate Base [(B) / (A)]		



Electric Company
12 Months Ended
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
CAPITAL STRUCTURE AND RATE OF RETURN

	<u>Overall Cost of Capital</u>			
	<u>Amount</u>	<u>Percent</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-Term Debt	\$ x,xxx,xxe	x.xx%	f	x.xx%
Short-Term Debt	x,xxx,xxe	x.xx%	f	x.xx%
Preferred Stock	x,xxx,xxe	x.xx%	f	x.xx%
Other	x,xxx,xxe	x.xx%	f	x.xx%
Common Equity	x,xxx,xxe	x.xx%	a	x.xx%
Total Overall Cost of Capital based on Rate Case				
Rate of Return on Equity	<u>\$ x,xxx,xxx</u>	<u>100.00%</u>		<u>x.xx%/a</u>

	<u>Actual Earned Return on Equity</u>			
	<u>Amount</u>	<u>Percent</u>	<u>Cost</u>	<u>Weighted Cost</u>
Long-Term Debt	\$ x,xxx,xxe	x.xx%	f	x.xx%
Short-Term Debt	x,xxx,xxe	x.xx%	f	x.xx%
Preferred Stock	x,xxx,xxe	x.xx%	f	x.xx%
Other	x,xxx,xxe	x.xx%	f	x.xx%
Common Equity	x,xxx,xxe	x.xx%	c	x.xx%
Total Overall Cost of Capital with Actual Return				
On Equity	<u>\$ x,xxx,xxx</u>	<u>100.00%</u>		<u>x.xx%/b</u>

a From last general rate case, Report & Order
 b From actual Return on Rate Base, page 1 "Rate Base"
 c Calculated after actual Return on Rate Base, per footnote B, is determined
 d Other capital structure components from last general rate case, Report & Order
 e Actual balance at end of period
 f Actual average cost at end of period

Note Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20



Electric Company
Quarter Ended and 12 Months Ended _____
Per Books
(IN THOUSANDS OF DOLLARS)
FINANCIAL SURVEILLANCE MONITORING REPORT
OPERATING INCOME STATEMENT

	Quarter Ended Actual		12 Months Ended Actual	
Operating Revenues				
Sales to Residential, Commercial, & Industrial Customers				
Residential	\$	x,xxx,xxx	\$	x,xxx,xxx
Commercial		x,xxx,xxx		x,xxx,xxx
Industrial		x,xxx,xxx		x,xxx,xxx
Total of Sales to Residential, Commercial, & Industrial Customers		\$ x,xxx,xxx		\$ x,xxx,xxx
Other Sales to Ultimate customers		x,xxx,xxx		x,xxx,xxx
Sales for Resale				
Off-System Sales		x,xxx,xxx		x,xxx,xxx
Other Sales for Resale		x,xxx,xxx		x,xxx,xxx
Provision for Refunds		x,xxx,xxx		x,xxx,xxx
Other Operating Revenues		x,xxx,xxx		x,xxx,xxx
Operating Revenues		\$ x,xxx,xxx		\$ x,xxx,xxx
Operating & Maintenance Expenses				
Production Expenses				
Fuel Expense				
Native Load		x,xxx,xxx		x,xxx,xxx
Off-System Sales		x,xxx,xxx		x,xxx,xxx
Other Production-Operations		x,xxx,xxx		x,xxx,xxx
Other Production-Maintenance		x,xxx,xxx		x,xxx,xxx
Purchased Power-Energy				
Native Load		x,xxx,xxx		x,xxx,xxx
Off-System Sales		x,xxx,xxx		x,xxx,xxx
Purchased Power-Capacity		x,xxx,xxx		x,xxx,xxx
Total Production Expenses		x,xxx,xxx		x,xxx,xxx
Transmission Expenses		x,xxx,xxx		x,xxx,xxx
Distribution Expenses		x,xxx,xxx		x,xxx,xxx
Customer Accounts Expense		x,xxx,xxx		x,xxx,xxx
Customer Serve. & Info. Expenses		x,xxx,xxx		x,xxx,xxx
Sales Expenses		x,xxx,xxx		x,xxx,xxx
Administrative & General Expenses		x,xxx,xxx		x,xxx,xxx
Total Operating & Maintenance Expenses		\$ x,xxx,xxx		\$ x,xxx,xxx
Depreciation & Amortization Expense				
Depreciation Expense		x,xxx,xxx		x,xxx,xxx
Amortization Expense		x,xxx,xxx		x,xxx,xxx
Decommissioning Expense		x,xxx,xxx		x,xxx,xxx
Other		x,xxx,xxx		x,xxx,xxx
Total Depreciation & Amortization Expense		x,xxx,xxx		x,xxx,xxx
Taxes Other than Income Taxes		xxx,xxx		xxx,xxx
Operating Income Before Income Tax		x,xxx,xxx		x,xxx,xxx
Income Taxes		xxx,xxx		x,xxx,xxx
Net Operating Income		\$ x,xxx,xxx		\$ x,xxx,xxx
Actual Cooling Degree Days		x,xxx		x,xxx
Normal Cooling Degree Days		x,xxx		x,xxx
Actual Heating Degree Days		x,xxx		x,xxx
Normal Heating Degree Days		x,xxx		x,xxx



Electric Company
12 Months Ended
FINANCIAL SURVEILLANCE MONITORING REPORT
Missouri Jurisdictional Allocation Factors

<u>Description</u>	<u>Allocation Factor</u>
Plant in Service	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Depreciation Reserve	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Net Plant	
Materials & Supplies	
Cash Working Capital	per rate case
Fuel Inventory	
Prepayments	
Other Regulatory Assets	Jurisdictional Specific
Customer Advances	
Customer Deposits	
Accumulated Deferred Income Taxes	
Other Regulatory Liabilities	Jurisdictional Specific
Other Items from Prior Rate Case	
Operating Revenues	
Interchange Revenues	
Production Expenses:	
Fuel Expense	
Native Load	
Off-System Sales	
Other Production – Operations	
Other Production – Maintenance	
Purchased Power – Energy	
Native Load	
Off-System Sales	
Purchased Power – Capacity	
Total Production Expenses	
Transmission Expenses	
Distribution Expenses	
Customer Accounts Expense	
Customer Serve. & Info. Expenses	
Sales Expenses	
Administrative & General Expenses	
Depreciation Expense	
Depreciation Expense	
Amortization Expense	
Decommissioning Expense	
Taxes, Other than Income	
Income Taxes	
Other Items	
xxxx	
xxxx	
xxxx	

Note Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20



Electric Company
Quarter Ended and 12 Months Ended _____
Per Books
FINANCIAL SURVEILLANCE MONITORING REPORT

NOTES TO FINANCIAL SURVEILLANCE REPORT



AUTHORITY: section 393.1030, RSMo Supp. 2009 and sections 386.040 and 386.250, RSMo 2000.* Original rule filed Jan. 8, 2010, effective Sept. 30, 2010.

*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 393.1030, RSMo 2007, amended 2008.

***Ruling by the Joint Committee on Administrative Rules.** On July 1, 2010, the Joint Committee on Administrative Rules voted to disapprove subsection (2)(A) and paragraph (2)(B)2. of 4 CSR 240-20.100. Those portions contained provisions on geographic sourcing. The committee considered those portions which were disapproved to be held in abeyance and asked that they not be published.

Public Service Commission action. On January 26, 2011, the Public Service Commission filed an order with the Administrative Rules Division of the Office of the Secretary of State withdrawing the geographic sourcing provisions found in subsection (2)(A) and paragraph (2)(B)2. of 4 CSR 240-20.100. This commission order renewed the request of the Public Service Commission submitted by letter with its final order of rulemaking on July 6, 2010, that subsection (2)(A) and paragraph (2)(B)2. not be published in the **Code of State Regulations** and that these portions of the rule not become effective. A copy of this order appeared in the April 1, 2011, issue of the **Missouri Register** (36 MoReg 1002-1007).

Legislative action. On January 24, 2011, Senate Concurrent Resolution No. 1 regarding 4 CSR 240-20.100 was adopted by the Senate and was concurred in by the House of Representatives on February 1, 2011. On February 16, 2011, the governor sent a letter to the speaker of the Missouri House of Representatives and the president pro tem of the Missouri Senate serving as notice of his action on the resolution. This concurrent resolution upheld a ruling issued by the Joint Committee on Administrative Rules disapproving subsection (2)(A) and paragraph (2)(B)2. of 4 CSR 240-20.100. The concurrent resolution permanently disapproves and suspends the final order of rulemaking for the proposed amendment to the above stated subsection and paragraph. The concurrent resolution and the letter from the governor were published in the April 1, 2011, issue of the **Missouri Register** (36 MoReg 1008-1011).