

FILED³

MAR 08 2011

MEMORANDUM

Missouri Public
Service Commission

TO: Steven C. Reed, Secretary

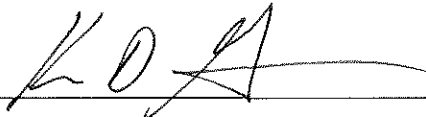
DATE: March 2, 2011

RE: Authorization to File Order of Rulemaking with the Office of Secretary of State

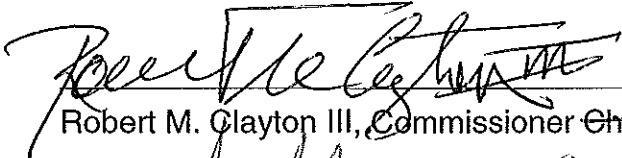
FILE NO: EX-2010-0254

The undersigned Commissioners hereby authorizes the Secretary of the Missouri Public Service Commission to file the following Order of Rulemaking with the Office of the Secretary of State, to wit:

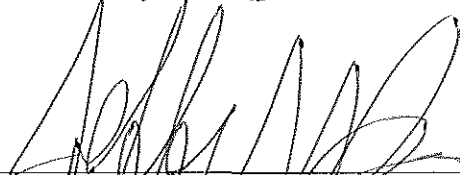
4 CSR 240-22.080 – Amendment



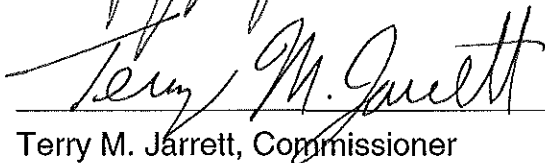
Kevin D. Gunn, Chairman



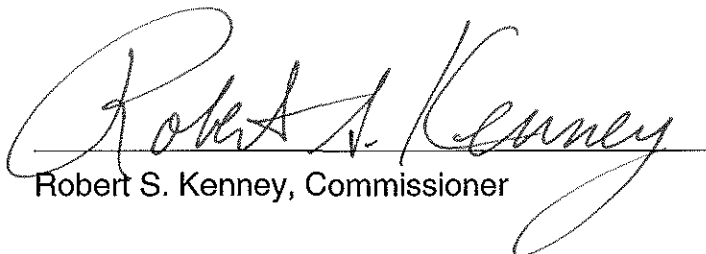
Robert M. Clayton III, Commissioner Chairman



Jeff Davis, Commissioner



Terry M. Jarrett, Commissioner



Robert S. Kenney, Commissioner

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-22.080

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

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Data Entry same

Phone

FAX

Email address

Interagency mailing address Public Service Commission, 9th Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☐ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☒ Order of Rulemaking

Effective Date for the Order

☒ Statutory 30 days OR Specific date

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Section (17) and a new form have been added. Sections (1), (2)(E)5.B, (7), (8), (9), (12), (13), and the purpose statement have been amended. Section (17) has been renumbered.

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

MAR 03 2011

ADMINISTRATIVE RULES



Commissioners

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Chairman

ROBERT M. CLAYTON III

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Chief Staff Counsel

Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-22.080 Filing Schedule and Requirements

Dear Secretary Carnahan,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.040, 386.250, 386.610 and 393.140, RSMo 2000

If there are any questions regarding the content of this order of rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov

A handwritten signature in cursive script that reads "Morris L. Woodruff".

Morris L. Woodruff
Chief Regulatory Law Judge

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 22 – Electric Utility Resource Planning**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 386.610, and 393.140, RSMo 2000, the Commission amends a rule as follows:

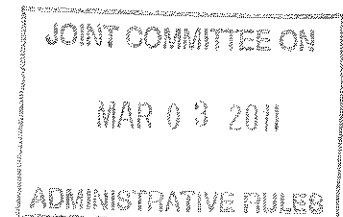
4 CSR 240-22.080 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2010 (35 MoReg 1769). The sections with changes are reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended January 3, 2011, and a public hearing on the proposed rule was held January 6, 2011. Timely written comments were received from the staff of the Missouri Public Service Commission (Staff), the Office of the Public Counsel, The Empire District Electric Company (Empire), Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCPL), Union Electric Company d/b/a Ameren Missouri, the Missouri Department of Natural Resources (DNR), Dogwood Energy, LLC, Renew Missouri and Great Rivers Environmental Law Center (Renew Missouri), and from Public Service Commissioner Jeff Davis. In addition, Staff, Public Counsel, Empire, KCPL, Renew Missouri, DNR, Dogwood, KCPL, and Ameren Missouri offered comments at the hearing. The comments proposed various modifications to the amendment.

Comments relating to the entire package of changes to Chapter 22: The proposed amendment to this rule is part of a larger package of nine rules that comprise the proposed Chapter 22 of the Commission's rules that establish the requirements for resource planning by investor-owned electric utilities in Missouri. Some of the submitted comments relate to the overall package in general. The Commission will address those comments first, and then will address the comments that relate specifically to this rule of Chapter 22.

COMMENT 1 - The Rules Should Be Less Prescriptive: Ameren Missouri, Empire, and KCPL, the electric utilities that will need to comply with Chapter 22, suggest that the entire Chapter 22 should be less prescriptive. By that, they mean the Chapter 22 rules should focus more on the end result, the preferred



resource plan, and allow the electric utilities more leeway to determine how to arrive at that result. As an alternative to the rules the Commission has proposed, they offer a set of rules prepared by the Missouri Energy Development Association (MEDA), an electric, natural gas and water utility trade organization.

RESPONSE: The MEDA rules, a copy of which was attached to the comments filed by both Ameren Missouri and KCPL, has the virtue of being much shorter than the Commission's rule, but that brevity comes with a cost. As Staff explained in its testimony, it and other interested stakeholders cannot properly evaluate a utility's resource plan unless they know what went into development of the plan. A preferred resource plan may look entirely reasonable when presented by the utility, but unless the reviewer knows the assumptions and processes that were used to determine the plan; the review is of little value.

An analogy can be made to a weather forecast offered by the weather bureau. The forecaster may offer an opinion that it will rain tomorrow, but unless the reviewer knows the basis of that forecast, the reviewer has little more to go on than trust. Staff, other interested stakeholders, and the Commission need to be able to base their evaluation of the plans submitted by the utilities on more than just trust.

Furthermore, while the electric utilities would prefer a less-prescriptive rule, they will be able to comply with the rules the Commission has proposed. At the public hearing, Ameren Missouri commented: "We have concerns about how much the process can get in the way of getting to a good result. But in the end we will do it." Also in the public hearing, in response to Commissioner Jarrett's questions about the experience in other states, Empire commented: "... we're able to do a total company IRP. And since the Missouri rule is the more onerous ... what we do in Missouri, as far as the IRP, in those other jurisdictions. And we are all on the same three-year filing cycle in all three states, which makes it nice for us."

The rules the Commission has proposed strike a proper balance between the utilities' interest in freedom of action and the Commission's need to know the basis for their proposed plans. The Commission will not adopt the rules proposed by MEDA.

COMMENT 2 - Linkage with the MEEIA Rules: Renew Missouri and the Department of Natural Resources are concerned about the interrelationship of these rules with the rules the Commission has proposed to implement the Missouri Energy Efficiency Investment Act of 2009, section 392.1075, RSMo (MEEIA). In particular, they cite a provision in the MEEIA rules that directs electric utilities to assemble comprehensive demand-side portfolios that are subject to approval and cost recovery under the MEEIA. Before that is done, the MEEIA rules require that the utility's demand-side programs or program plans are either included in the electric utility's preferred resource plan or have been analyzed through the integration analysis process required by Chapter 22 to determine the impact of the demand-side programs or program plans on the net present value of revenue requirements of the electric utility. Renew Missouri and

DNR worry that the integration analysis under Chapter 22 would introduce elements into the demand-side portfolios that would be inconsistent with the requirements of the MEEIA rules. Their solution to this problem is to suggest that the definitions and requirements of these Chapter 22 rules be made as consistent as possible with the definitions and requirements of the MEEIA rules.

RESPONSE: The Commission is mindful of the concerns expressed by Renew Missouri and DNR, but it is unwilling to make the Chapter 22 rules subservient to the MEEIA rules in the manner they propose. The goal of MEEIA is to achieve all cost-effective demand-side savings. The fundamental objective of these rules is to provide the public with energy services that are safe, reliable, and efficient at just and reasonable rates. To accomplish that fundamental objective, these rules require the utility to consider and analyze demand-side resources and supply-side resources on an equivalent basis.

COMMENT 3 - Preapproval of Large Projects: The electric utilities, through the MEDA rules, advocate for the option of requesting preapproval of large investments as part of a utility's Chapter 22 compliance filing. Ameren Missouri asserts that preapproval is a way for the utility to seek determination of ratemaking treatment on a major project before the project begins. It also points out that the Missouri Energy Efficiency Investment Act (MEEIA) provides for preapproval of demand side resources. Ameren Missouri claims that it is a logical extension to provide a preapproval option for large supply-side investments, if preapproval is requested by the utility.

Staff and Public Counsel oppose an option for preapproval of large projects. They argue that utilities already have authority to request additional regulatory certainty by requesting a regulatory plan or some other form of preapproval. The utilities have utilized both of these approaches in the past, and it is unnecessary and inappropriate to include a preapproval process in the Chapter 22 rules.

Dogwood suggests the Commission open a new separate rulemaking process to consider proposals to develop a procedure by which electric utilities may seek preapproval from the Commission for certain large projects.

RESPONSE: The Commission agrees with its Staff and Public Counsel that there are other more appropriate alternatives for preapproval and will not include a provision for preapproval of large investments in its Chapter 22 rules. The Commission is open to further discussion on the preapproval question, but will not undertake a rulemaking on the subject at this time.

COMMENT 4 - Illegal Infringement on the Right to Manage the Utility: Ameren Missouri contends the proposed rules go beyond the Commission's statutory authority by intruding on the day-to-day management prerogatives of the utility.

RESPONSE: The Commission certainly is not interested in managing the utility companies, and these rules do not attempt to do so. Rather, the rules are designed to ensure that the electric utilities implement an effective and thorough integrated resource planning process to ensure that their ratepayers continue to receive safe and reliable service at just and reasonable rates.

COMMENT 5 - Acknowledgment: The Department of Natural Resources urges the Commission to modify the Chapter 22 rules to authorize the Commission to “acknowledge” the reasonableness of the electric utility’s resource acquisition strategy. DNR believes this acknowledgment would increase the Commission’s authority over integrated resource planning by making the process more meaningful and consistent with the utility’s business plan. The electric utilities, through the MEDA rules, make a similar suggestion. Ameren Missouri contends, “acknowledgment is a way to give value to all the work of the parties involved by acknowledging that the plan is reasonable at the time it was developed.”

Staff is opposed to acknowledgment of the reasonableness of the electric utility’s resource acquisition strategy in these rules. Staff points out that currently the Commission’s decision whether to allow the cost of a resource to be recovered in rates occurs after the resource is “fully operational and used for service,” and the utility has requested that it be added to the utility’s rate base. A resource can be added to the rate base, and its cost recovered, if the investment was prudent, reasonable, and of benefit to Missouri retail ratepayers (a finding that has historically been made in Missouri after the resource has been constructed and after it is fully operational and used for service). Further, Staff is greatly concerned that stakeholders lack the resources to review and conduct prudence/reasonableness/benefit-to-Missouri-retail-ratepayers level analysis of all the resources necessary early in the planning stages if an acknowledgment determination is being made by the Commission.

RESPONSE: The Commission does not wish to move down the path toward preapproval of projects as part of the resource planning process. However, it is important to emphasize the importance of that planning process by giving the Commission authority to acknowledge that the officially adopted resource acquisition strategy, or any element of that strategy, is reasonable at a particular date. The Commission will adopt modified language that defines acknowledgment in a manner that will make it clear that acknowledgment is not preapproval and will not bind a future commission in any future case. In addition, the Commission will adopt other elements of DNR’s proposal for implementation of an acknowledgment option, except for the inclusion of a definition for “substantive concern.” The specific changes that will be made to the proposed rules are described in detail in comments relating to the specific rule provisions.

Comments relating to this particular rule of Chapter 22:

COMMENT 6 – Change to the Purpose Statement: The Missouri Department of Natural Resources proposes to add a sentence to the purpose statement regarding the Commission's authority to acknowledge the reasonableness of the preferred resource plan or resource acquisition strategy.

RESPONSE: The Commission agrees with DNR and will modify the purpose statement.

COMMENT 7 - Clarifications of .080(1): Staff proposes to delete a portion of this subsection to clarify that KCPL and GMO, even though they are affiliated utilities, will be required to file separate IRPs. The rule will allow the utilities to file those IRPs at the same time in the same case file. Public Counsel supports Staff's interpretation and modification of the section. KCP&L & GMO responded at the hearing by pointing out that requiring separate IRPs from the two affiliated utilities may result in the individual company plans may exactly coinciding with the corporate strategy of the holding company that controls both utilities.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with its Staff. So long as KCPL & GMO are operated as separate utilities, they should be required to file separate IRPs. The Commission will modify the rule as Staff requests.

COMMENT 8 – Change to Subsection .080(2)(E)5.B: Public Counsel would add language to this subsection to focus on the level of average retail rates and percentage change from the prior year.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with Public Counsel and will modify the section accordingly.

COMMENT 9 – Change to Section .080(7), (8) and (9): The Department of Natural Resources proposes multiple changes to this rule to implement its proposal to allow the Commission an option to acknowledge a utility's preferred resource plan. DNR would extend the time for Staff and other stakeholder to review the utility's filing and file a report from 120 days to 150 days to recognize the additional time required to consider acknowledgement of the utility's filing. Similarly, DNR would extend the time allowed for negotiation of a joint agreement to remedy deficiencies in (9) from 45 to 60 days. DNR would also allow for the identification of "substantive concerns" in line with the definition of "substantive concerns" that DNR proposed in 4 CSR 240-22.020(5). (See COMMENT 15 for that Order of Rulemaking).

RESPONSE: The Commission agrees with DNR except for the need to add a definition for "substantive concern. The Commission will modify the sections accordingly

COMMENT 10 - Changes to .080(7) and (8): These sections allow Staff and other interested parties 120 days to review the IRP filings submitted by a utility. Section (7) applies to Staff and section (8) applies to other interested parties. The proposed rule would require anyone who identifies a deficiency in a plan to provide at least one suggested remedy for each identified deficiency and to provide workpapers within one week. Public Counsel asks the Commission to remove the requirement to provide a suggested remedy, reasoning that being able to identify a problem does not necessarily imply the ability to develop a solution. Interested stakeholders, such as Public Counsel, may have only limited resources and requiring them to not only identify, but also propose solutions to problems might discourage them from raising concerns about legitimate deficiencies. Public Counsel proposes to change the requirement to a permissive request by changing "shall" to "may". It would also remove the requirement to produce workpapers.

Staff accepts Public Counsel's concern about discouraging the identification of deficiencies without accompanying solutions, but would not totally remove the requirement. Instead, Staff would modify section (8) to require other interested parties to make only a good faith effort to provide at least one suggested remedy for each identified deficiency.

RESPONSE AND EXPLANATION OF CHANGE: Since Staff indicates it is comfortable with a requirement that it propose at least one suggested remedy for each identified deficiency, the Commission will not modify this aspect of section (7). The Commission agrees with Staff's suggested change to section (8), which applies to Public Counsel and other interested parties, and will modify the section accordingly. The Commission will also modify the requirement to produce workpapers to clarify that an interested party is required to provide only such workpapers as they possess and are not required to create workpapers just to comply with this section of the rule.

Comment 11 - Changes to .080(12): This section requires a utility to notify the Commission if between its triennial IRP filings, it determines that its business plan or acquisition strategy has become inconsistent with its preferred resource plan, or if it determine that its acquisition strategy or preferred resource plan is no longer appropriate. Dogwood asks the Commission to add an express requirement that the utility also serve notice on all interested parties. Also, Public Counsel suggests that this section be modified to accommodate filing requirements contained in proposed 4 CSR 240-22.070(9), which at Public Counsel's suggestion, the Commission has deleted.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with Dogwood and Public Counsel and will modify the section accordingly.

COMMENT 12 - Changes to .080(13): This section allows the Commission to grant a variance from certain provisions of these rules upon written application made at least 12 months before the compliance filing is due. Ameren Missouri

suggests the Commission add an exception to the section to allow a request for variance to be filed less than 12 months before the compliance filing is due, upon a showing of good cause.

Staff does not oppose the concept of allowing a good cause exception, but contends the inclusion of such an exception in this section is unnecessary.

RESPONSE AND EXPLANATION OF CHANGE: The proposed rule would allow the Commission to grant a variance from the provisions of 4 CSR 240-22.030 through 4 CSR 240-22.070. The Commission agrees with Ameren Missouri that it should be able to grant a variance from the provisions of 4 CSR 240-22.080 as well. In addition, the Commission will modify the section to allow the Commission to grant a variance less than 12 months prior to the filing upon a showing of good cause for the delay in filing the request for variance.

COMMENT 13 – Changes to Section .080(16): The Department of Natural Resources would create a new subsection (B) that would give the Commission authority to acknowledge that a preferred resource plan or resource acquisition strategy seems reasonable in whole or in part at the time of the finding.

RESPONSE: The Commission agrees with DNR's proposal to give the Commission authority to acknowledge a preferred resource plan or resource acquisition strategy, but that authority would more appropriately appear in a new section .080(17). The subsequent section will be renumbered accordingly.

COMMENT 14, Staff's New Form: At the hearing, Staff offered a reporting form that it failed to attach to the proposed rule. The form describes the information the utility is expected to report regarding its forecast of Capacity Balance. Staff initially offered both public and confidential versions of the form, but after the Commission's exchange with witnesses for KCPL and others at the public hearing, Staff agrees that all information reported on the form should be confidential.

RESPONSE: Since all the information to be provided will be confidential, there is no reason to require a separate public version of the report. The Commission will incorporate the highly confidential version of the form submitted by Staff.

4 CSR 240-22.080 Filing Schedule, Filing Requirements, and Stakeholder Process.

PURPOSE: This rule specifies the requirements for electric utility filings to demonstrate compliance with the provisions of this chapter. The purpose of the compliance review required by this chapter is not commission approval of the substantive findings, determinations, or analyses contained in the filing. The purpose of the compliance review required by this chapter is to determine whether the utility's resource acquisition strategy meets the requirements of chapter 22. However, if the commission determines that the filing substantially meets these requirements, the commission may further acknowledge that the preferred resource plan or resource acquisition strategy is reasonable in whole or in part at the time of the finding. This rule also establishes a mechanism for the utility to solicit and receive stakeholder input to its resource planning process.

(1) Each electric utility which sold more than one (1) million megawatt-hours to Missouri retail electric customers for calendar year 2009 shall make a filing with the commission every three (3) years on April 1. The electric utilities shall submit their triennial compliance filings on the following schedule:

(2) The utility's triennial compliance filings shall demonstrate compliance with the provisions of this chapter and shall include at least the following items:

(E) An executive summary, separately bound and suitable for distribution to the public in paper and electronic formats. The executive summary shall be an informative non-technical description of the preferred resource plan and resource acquisition strategy. This document shall summarize the contents of the technical volume(s) and shall be organized by chapters corresponding to 4 CSR 240-22.030-4 CSR 240-22.070. The executive summary shall include:

1. A brief introduction describing the utility, its existing facilities, existing purchase power arrangements, existing demand-side programs, existing demand-side rates, and the purpose of the resource acquisition strategy;

2. For each major class and for the total of all major classes, the base load forecasts for peak demand and for energy for the planning horizon, with and without utility demand-side resources, and a listing of the economic and demographic assumptions associated with each base load forecast;

3. A summary of the preferred resource plan to meet expected energy service needs for the planning horizon, clearly showing the demand-side resources and supply-side resources (both renewable and non-renewable resources), including additions and retirements for each resource type;

4. Identification of critical uncertain factors affecting the preferred resource plan;

5. For existing legal mandates and approved cost recovery mechanisms, the following performance measures of the preferred resource plan for each year of the planning horizon:

A. Estimated annual revenue requirement;

B. Estimated level of average retail rates and percentage of change from the prior year; and

C. Estimated company financial ratios;

6. If the estimated company financial ratios in subparagraph (2)(E)5.C. of this rule are below investment grade in any year of the planning horizon, a description of any changes in legal mandates and cost recovery mechanisms necessary for the utility to maintain an investment grade credit rating in each year of the planning horizon and the resulting performance measures of the preferred resource plan;

7. Actions and initiatives to implement the resource acquisition strategy prior to the next triennial compliance filing; and

8. A description of the major research projects and programs the utility will continue or commence during the implementation period; and

(7) The staff shall conduct a limited review of each triennial compliance filing required by this rule and shall file a report not later than one hundred fifty (150) days after each utility's scheduled triennial compliance filing date. The report shall identify any deficiencies in the electric utility's compliance with the provisions of this chapter, any major deficiencies in the methodologies or analyses required to be performed by this chapter, and any other deficiencies and shall provide at least one (1) suggested remedy for each identified deficiency. Staff may also identify concerns with the utility's triennial compliance filing, may identify concerns related to the substantive reasonableness of the preferred resource plan or resource acquisition strategy and shall provide at least one (1) suggested remedy for each identified concern. Staff shall provide its workpapers related to each deficiency or concern to all parties within ten (10) days of the date its report is filed. If the staff's limited review finds no deficiencies or no concerns, the staff shall state that in the report. A staff report that finds that an electric utility's filing is in compliance with this chapter shall not be construed as acceptance or agreement with the substantive findings, determinations, or analysis contained in the electric utility's filing.

(8) Also within one hundred fifty (150) days after an electric utility's triennial compliance filing pursuant to this rule, the public counsel and any intervenor may file a report or comments. The report or comments, based on a limited review, may identify any deficiencies in the electric utility's compliance with the provisions of this chapter, any major deficiencies in the methodologies or analyses required to be performed by this chapter, and any other deficiencies. The report may also identify concerns with the utility's triennial compliance filing, and may identify concerns related to the substantive reasonableness of the preferred resource plan or resource acquisition strategy. Public counsel or intervenors shall make a good faith effort to provide at least one (1) suggested remedy for each identified deficiency or concern. Public counsel or any intervenor shall provide its workpapers, if any, related to each deficiency or concern to all parties within ten (10) days of the date its report is filed.

(9) If the staff, public counsel, or any intervenor finds deficiencies in or concerns with a triennial compliance filing, it shall work with the electric utility and the other parties to reach, within sixty (60) days of the date that the report or comments were submitted, a joint agreement on a plan to remedy the identified deficiencies and concerns. If full agreement cannot be reached, this should be reported to the commission through a joint filing as soon as possible but no later than sixty (60) days after the date on which the report or comments were submitted. The joint filing should set out in a brief narrative description those areas on which agreement cannot be reached. The resolution of any deficiencies and concerns shall also be noted in the joint filing.

(12) If, between triennial compliance filings, the utility's business plan or acquisition strategy becomes materially inconsistent with the preferred resource plan, or if the utility determines that the preferred resource plan or acquisition strategy is no longer appropriate, either due to the limits identified pursuant to 4 CSR 240-22.070(2) being exceeded or for other reasons, the utility, in writing, shall notify the commission within sixty (60) days of the utility's determination, and shall serve notice on all parties to the most recent triennial compliance filing. The notification shall include a description of all changes to the preferred plan and acquisition strategy, the impact of each change on the present value of revenue requirement, and all other performance measures specified in the last filing pursuant to 4 CSR 240-22.080 and the rationale for each change.

(A) If the utility decides to implement any of the contingency resource plans identified pursuant to 4 CSR 240-22.070(4), the utility shall file for review a revised resource acquisition strategy. In this filing, the utility shall specify the ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the new alternative resource plan remains appropriate.

(B) If the utility decides to implement a resource plan not identified pursuant to 4 CSR 240-22.070(4) or changes its acquisition strategy, it shall give a detailed description of the revised resource plan or acquisition strategy and why none of the contingency resource plans identified in 4 CSR 240-22.070(4) were chosen. In this filing, the utility shall specify the ranges or combinations of outcomes for the critical uncertain factors that define the limits within which the new alternative resource plan remains appropriate.

(13) Upon written application made at least twelve (12) months prior to a triennial compliance filing, and after notice and an opportunity for hearing, the commission may waive or grant a variance from a provision of 4 CSR 240-22.030-4 CSR 240-22.070 80 for good cause shown. The Commission may grant an application for waiver or variance filed less than twelve (12) months prior to the triennial compliance filing upon a showing of good cause for the delay in filing the application for waiver or variance.

(A) The granting of a variance to one (1) electric utility which waives or otherwise affects the required compliance with a provision of this chapter does not constitute a waiver respecting, or otherwise affect, the required compliance of any other electric utility with a provision of these rules.

(B) The commission will not waive or grant a variance from this chapter in total.

(17) If the commission finds that the filing achieves substantial compliance with the requirements outlined in (16), the commission may acknowledge the utility's preferred resource plan or resource acquisition strategy as reasonable at a specific date. The commission may acknowledge the preferred resource plan or resource acquisition strategy in whole, in part, with exceptions, or not at all. Acknowledgment shall not be construed to mean or constitute a finding as to the prudence, pre-approval, or prior commission authorization of any specific project or group of projects. In proceedings where the reasonableness of resource acquisitions are considered, consistency with an acknowledged preferred resource plan or resource acquisition strategy may be used as supporting evidence, but shall not be considered any more or less relevant than any other piece of evidence in the case. Consistency with an acknowledged preferred resource plan or resource acquisition strategy does not create a rebuttable presumption of prudence and shall not be considered to be dispositive of the issue. Furthermore, in such proceedings, the utility bears the burden of proof that past or proposed actions are consistent with an acknowledged preferred resource plan or resource acquisition strategy and must explain and justify why it took any actions inconsistent with an acknowledged preferred resource plan or resource acquisition strategy.

(A) The utility shall notify the commission pursuant to 4 CSR 240-22.080(12) in the event there is material reason why any plan acknowledged by the commission is no longer viable.

(B) Any interested stakeholder group may file a notice in the utility's most recent Chapter 22 compliance file with the commission if a substantial change in circumstances has occurred that it believes may result in the invalidation of any aspect of a preferred resource plan or portion of a resource acquisition strategy previously acknowledged by the commission.

(C) The utility about which a stakeholder group files a notice described in the previous section may file its response within fifteen (15) working days of the date the notice is filed.

(18) In all future cases before the commission which involve a requested action that is affected by electric utility resources, preferred resource plan, or resource acquisition strategy, the utility must certify that the requested action is substantially consistent with the preferred resource plan specified in the most recent triennial compliance filing or annual update report. If the requested action is not substantially consistent with the preferred resource plan, the utility shall provide a detailed explanation.

Forecast of Capacity Balance (MW) - HIGHLY CONFIDENTIAL

Name of Utility: _____

Year of Electric Utility Resource Planning Filing: _____

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 20</u>
A. System Generation Capacity							
Base Capacity							
Unit 1							
Unit 2							
Unit 3							
Unit 4							
.....							
Unit i							
Total Base Capacity							
Intermediate Capacity							
Unit i+1							
Unit i+2							
Unit i+3							
Unit i+4							
.....							
Unit j							
Total Intermediate Capacity							
Peaking Capacity							
Unit j+1							
Unit j+2							
Unit j+3							
.....							
Unit k							
Total Peaking Capacity							
Intermittent Capacity							
Wind							
Solar							
Total Intermittent Capacity							
Percent Accredited Intermittent Capacity							
Total Accredited Intermittent Capacity							
Total Generation Capacity = TGC							
B. Capacity Transactions							
Purchases							
Source 1							
Source 2							
Source 3							
.....							
Source t							
Total Purchases = P							
Sales							
Party 1							
Party 2							
.....							
Party s							
Total Sales = S							
Net Transactions = NT = P - S							
Total System Capacity = TSC = TGC + NT							
C. System Peaks & Reserves							
Peak Demands							
Forecasted Peak							
less DSM							
Peak Forecast less DSM = PF							
Capacity Reserves = CR = TSC - PF							
D. Capacity Needs							
% Reserve Margin = RM							
% Capacity Margin = CM = RM/(1 + RM)							
Required Capacity = RC = PF/(1-CM)							
Capacity Balance = TSC - RC							