

Revision 7

4 CSR 240-20.XXX 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. As used in this rule, the following terms mean as follows:

(A) Co-fire means simultaneously using multiple fuels in a single generating unit for the production of electricity;

(B) Commission is the Missouri Public Service Commission;

(C) Compliance year or calendar year means a period of 365 days (or 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;

(D) Department is the department of natural resources;

(E) Electric utility or utility means an electrical corporation as defined in section 386.020, RSMo, subject to the jurisdiction of the commission;

(F) Customer-generated renewable energy is electricity generated by a customer-generator as defined in section 386.890.2(3), RSMo, Net Metering and Easy Connection Act. [GRLF: net metering size is limited] The customer-owned generating equipment must qualify as a renewable energy source in accordance with this rule. The customer-generator must be a Missouri retail customer of an electric utility;

(G) Renewable energy resource(s) is electric energy generated from the application of renewable energy technologies that is delivered by the utility to Missouri retail customers as well as customer-generated renewable energy. Electrical energy purchased by the electric utility is eligible only if it is delivered to a Missouri electric utility via a defined physical delivery path and is derived from a renewable energy resource and only if the utility purchases both the energy and the related RECs. The amount of electrical energy considered for this definition is the net output of the applicable generating facility. The generation facility must comply with all applicable federal and state statutes and rules;

(H) Renewable energy technologies [Wind coalition: "technology" not used in statute] are sources of electrical energy that shall be considered renewable for purposes of this section and shall include:

1. Wind;
2. Solar, including solar thermal sources utilized to generate electricity, photovoltaic cells and panels;
3. Dedicated crops grown for energy production;
4. Cellulosic agricultural residues;

Revision 7

5. Plant residues;
 6. Methane from landfills or wastewater treatment; [Mo Renewables: Include animal waste]
 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 rating(s) of ten (10) megawatts or less;
 9. Fuel cells using hydrogen produced by one of the renewable energy technologies in paragraphs 1 through 8 of this subsection; and
 10. Other technologies not including nuclear that have been certified as renewable energy technologies by rule by the department. [Wind Coalition: technology vs. fuel for each of these][DNR, Wind Coalition: add date back in - not consistent with statute][UE, Midwest Solar: date needed in to allow some technologies that are available but not fully developed at this time][Midwest solar: should include solar thermal; btu is meterable][Wind Coalition: 'electric energy provided from"]
- (I) 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;
- (J) Green pricing program means a voluntary program that provides an opportunity for an electric utility's retail customers to purchase renewable energy or RECs;
- (K) REC, Renewable Energy Credit, or Renewable Energy Certificate is a tradable certificate, certified by an entity nationally recognized and accepted for REC certification and allowed as an acceptable accreditation authority by the commission. A REC will represent that one megawatt-hour of electricity has been generated from renewable energy resources. RECs include, but are not limited to solar renewable energy credits; [Colin: service as defined not commercially available. Certification would need to be done by Comm.]
- (L) RES or Renewable Energy Standard means sections 393.1025 and 393.1030, RSMo;
- (M) RES requirements are the numeric values and other requirements established by section 393.1030.1, RSMo and section (2)(A) and (B) of this rule;
- (N) Solar renewable energy credit or S-REC means a REC created by generation of electric energy from solar thermal sources, photovoltaic cells and panels;
- (O) Staff means the staff of the Missouri Public Service Commission;
- (P) Standard Test Conditions means solar incidence of one (1) kilowatt per square meter and a cell or panel temperature of

Revision 7

twenty-five (25) degrees centigrade as related to measuring the capability of solar electrical generating equipment;

(Q) Total retail electric sales, or total retail electric energy usage, is the megawatt-hours of electricity delivered in a specified time period by an electric utility to its Missouri retail customers as measured at the customers' meters; and

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

(2) Requirements. [Wind Coalition: Generated or delivered in Missouri. Energy must be purchased in addition to RECs.] Pursuant to the provisions of this rule and 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 the RES requirements and RES solar energy requirements respectively on a compliance year basis. Electric 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 for each electric utility. If an electric utility does not achieve compliance with the RES requirements through generation or [need to be changed to "and"?]purchase of RECs and S-RECs associated with electricity from a renewable energy resource, compliance may also be achieved through the purchase and retirement of RECs and S-RECs that are not associated with electrical energy delivered to the utility's Missouri retail customers. [MIEC: if RECs are purchased instead of power and RECs, the utility must demonstrate that the purchase was least-cost. Must be considered when interim rates go into effect.][Colin: Commission approve compliance plan][Green Alt: utility generation (energy plus REC) vs small applications(REC only)][UE: energy does not have to be generated in MO]

(A) The RES requirements are:[Wind coalition: add language in statute. Statute states sales to Missouri consumers][KCPL: statute does not require energy purchase. Allows purchase of RECs]

1. No less than two (2) percent for calendar years 2011 through 2013;

2. No less than five (5) percent for calendar years 2014 through 2017;

3. No less than ten (10) percent for calendar years 2018 through 2020; and

Revision 7

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

(B) At least two (2) percent of each RES requirement listed in subsection (A) of this section shall be derived from solar energy. The RES solar energy requirements are:

1. No less than four-hundredths (0.04) percent for calendar years 2011 through 2013;

2. No less than one-tenth (0.1) percent for calendar years 2014 through 2017;

3. No less than two-tenths (0.2) percent for calendar years 2018 through 2020; and

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

(C) In the event that compliance with the above renewable energy portfolio requirements would cause an average retail rate increase of more than one (1) percent, the above requirements shall be limited to providing renewable energy in amounts that would cause only a one (1) percent average retail rate increase. In addition to any renewable energy sources placed into service after November 4, 2008, all renewable energy sources placed into on or before November 4, 2008, shall count toward compliance with the above renewable energy portfolio requirements.

(~~E~~D) For compliance years in which the utility does not meet the requirements of ~~subsection~~subsections (A) of this section, ~~but is limited by because of~~ the ~~maximum~~ retail rate impact limitation specified in section (5) of this rule, the two (2) percent solar energy requirement specified in subsection (B) will be applicable on a proportional basis of the renewable energy that can be acquired subject to the retail rate impact limitation. [MO Solar: intent of voters was that solar be in Missouri.]

[Wind Coalition: be sure that there is no double counting (REC and energy)(State to state)(Federal and State). Measure energy in RECs]

[KCPL: no standardization with RECs. Need MO-REC. Key is making sure consistent accounting. Should be balance between economic development and impact of cost on customer.]

[Green Alt: RECs can be traded but only retired once. REC administrator => Clean Power Markets]

[DNR: all states but one put geographic sourcing requirements. Agree that policy should be based on balance]

Revision 7

(3) Renewable Energy Credits. [DNR: certification process by DNR] RECs and S-RECs shall be utilized to satisfy the RES requirements of this rule. RECs and S-RECs shall be created by application of renewable energy technologies as defined in this rule. A utility may use RECs or S-RECs separated from the underlying energy to satisfy the RES requirements provided that the underlying energy meets the definition of renewable energy resources. RECs or S-RECs acquired by contracts or through a system of tradable RECs, exchanges or brokers may be utilized to comply with the RES requirements. 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) RECs are valid for a maximum period of three (3) years from the date of the REC creation. The REC or S-REC creation is linked to the associated electrical generation from a renewable energy technology. 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 that prove the creation date. [Solar Appl: solar recs should be for solar power in MO]

(B) A 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 requirement. Electric utilities may not use RECs or S-RECs retired under a green pricing program to comply with this rule.[KCPL: Why was date removed?][GRLF: why the use of "retired" instead of statutory language?]

(C) RECs or S-RECs created by the operation of net-metered sources from customer-generated renewable energy shall be owned by the customer-generator. All contracts between electric utilities and the owners of net-metered 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 facility. Electric metering associated with net metered sources shall meet the meter accuracy and testing requirements of 4 CSR 240-10.030, Standards of Quality.[Colin: Exception for calculated REC for small applications]

(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.

Revision 7

(F) Electric utilities shall record REC information in a database and format or other similar tracking mechanism and format. The tracking mechanism and format shall include, but not be limited to, a list of renewable energy resources the electric utility utilizes for compliance with the RES, including type, location, owner, operator, commencement of operations, and actual REC generation. For RECs used for compliance, but not linked to electrical generation used by the electric utility to serve its total retail electric energy usage, the tracking mechanism and format shall include type, location, original owner, transfer information, and retirement information.

(G) All electric utilities shall use a commission designated common central third-party registry or other equivalent electronic tracking mechanism for REC accounting for RES requirements.

(H) RECs that are created by the generation of electricity by an renewable energy resource physically located in the state of Missouri will count as one and twenty-five hundredths (1.25) RECs for purposes of compliance with this rule. This additional credit will not be tracked in the tracking systems specified in subsections (F) or (G) 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.

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

(J) All supporting documents for RECs utilized for compliance shall be available for review by the Staff.[GRLF: put on public web site as well][DNR: need to coordinate]

(4) Solar Rebate. [MO Valley Renewable, Solar Appl, Midwest Solar Industry: earmark portion for small systems. Intent of bill to create jobs. Increase viability.] [Colin: no small system carve out in legislation] [Power Source Solar: California started with small systems and we are following California lead.] Pursuant to section 393.1030, RSMo, and this rule all electric utilities shall include in their tariffs a provision regarding retail account holder rebates for solar electric systems. These rebates will be available to Missouri electric utility retail account holders who install new or expanded solar electric systems that become operational after December 31, 2009. [KCPL: when does clock start for cost recovery?] The minimum amount of the rebate will be two (2) dollars per installed watt up to a maximum of twenty-five (25) kilowatts per retail account holder system. The customer-owned solar

Revision 7

generating equipment must be interconnected with the electric utility's system. [Solar Appl: Payment also could go to installer. Tax incentives may be better for installer. Notarized paper used in other states.][UE: Problematic - id of utility customer tied to installation.]

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

(B) The solar electric system must be permanently installed on the account holder's premises. Any indication of portability will render the account holder ineligible for the solar rebate.[Energy Store: Strike portability language or define portability.][Colin: California defines portability][GRLF: customer should not be denied if late on one payment][EDE: credit could be offset to delinquent account if late by 1-3 days.]

(C) The installed solar electric system must remain in place on the account holder's premises for the duration of its useful life which will 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 [Solar Appl: metering source or building?][UE: premise tied to one account, may be more than one meter.]and factory new when installed on the original account holder's premises and shall be covered by a warranty from the manufacturer or installer for a minimum of five (5) years. Rebuilt, used or refurbished equipment is not eligible to receive the rebate unless it is covered by an installer or manufacturer warranty for a minimum of five (5) years and has not been previously recognized for a solar rebate under this rule. For any applicable solar electric system, only one rebate will be paid for the lifetime of the solar electric system. For situations involving multiple installations on a single premise, retail account holders will only be eligible for an aggregate solar rebate up to the twenty-five (25) kilowatt limit of this section.[MIEC: no definition of system that statute limits to 25 kW. Account holder- customer vs. account holder system]

(E) The solar electric system shall meet all requirements of 4 CSR 240-20.065, Net Metering.

(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

Revision 7

the utility's personnel.[Colin: should be in installation consideration.]

(G) For the purpose of determining the amount of solar rebate, the solar electric system wattage rating will be established as the direct current wattage rating provided by the original manufacturer or [Green Alt: strike "or installer". Will keep it simpler.] installer with respect to standard test conditions.

(H) At the time of the rebate payment or anytime thereafter, the electric utility may negotiate a one-time lump sum payment or annual payments for any S-RECs created by the installed solar electric system provided that the customer shall not be required to sell any or all S-RECs to the electric utility that supplies the retail customer. The sale of any S-RECs created by the installed solar electric system shall not be included as a requirement of the utility's interconnection agreement. For purposes of this subsection, the energy that will be generated by a solar photovoltaic system with a nameplate capacity of ten (10) kW or less may be estimated using generally accepted analytical tools. [Energy Store: use PVWatts] The selection and use of these analytical tools shall be conducted in consultation with the staff of the commission.

(I) Electric utilities that have purchased S-RECs under a one-time lump sum payment in accordance with subsection (H) of this section may continue to account for any RECs purchased in the event the owner of the solar electric system ceases to operate the system or the system is decertified as a renewable energy resource.

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

(K) In the event 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 will be paid on a first-come, first-served basis, as determined by the solar rebate application date. Any solar rebate applications that are not honored in a compliance year due to the requirements of this subsection will be the first applications considered in the following compliance year.

[Colin, Solar Appl: time limits on process, specifically time requirement on receipt of rebate.][KCPL and UE: okay with response requirements. KCPL - 14 days may be too short, UE - 30 days]

(5) Retail Rate Impact. ~~[UE: does not work in practicality. Additional comments will be put in EW docket][Colin: consider how to handle negative rate impact.] [Wind Coalition: 1045~~

Revision 7

~~language not in effect. Rule should not allow 1045 to go into effect.] [OPC: look at 1% cap; 1) planning current language won't work, use planning model results + 1%, 2) hard {with and without rate case} 1% cap with deferrals so long as planning process is transparent. FERC number only good to determine hard cap.]~~ The RES compliance retail rate impact will be limited to ~~no more than a maximum~~an average retail rate increase of one (1) percent ~~per year pursuant to 393.1030 and 393.1045, RSMo, unless adjusted for future environmental regulatory risk pursuant to 393.1030, RSMo and this rule. The RES compliance retail rate impact limit is only applicable to cost recovery conducted in accordance with section (6) of this rule~~393.1030.2, RSMo. That limit applies whether the cost of RES compliance is recovered through the sur-charge in paragraph (6) hereof or through a rate case.

~~—(A) For a compliance year, utilizing the utility's most recent electric utility resource plan filed at the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning, the retail rate impact limit will be calculated as follows: [GRLF: use simplified version of least cost planning met with supply side resources.]~~

~~—— 1. Estimate the cost of RES compliance with least cost renewable generation. This cost shall be determined in a manner equivalent to that for calculating the value reported on line 80, page 321, FERC Form No. 1 (Total Power Production Expenses) for the Missouri jurisdictional operations of the utility.~~

~~—— 2. Estimate the cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation. This cost shall be determined in a manner equivalent to that for calculating the value reported on line 80, page 321, FERC Form No. 1 (Total Power Production Expenses) for the Missouri jurisdictional operations of the utility.~~

~~—— 3. If the cost calculated [GRLF: difference between 1 and 2 is not a percent.] in paragraph (A)1. of this section is greater than or equal to the cost calculated in paragraph (A)2. of this section, the RES compliance retail rate impact limit will be no more than a maximum average retail rate increase of one (1) percent for the compliance year.~~

~~—— 4. If the cost calculated in paragraph (A)2. of this section is greater than the cost calculated in paragraph (A)1. of this section, the RES compliance retail rate impact limit will be calculated as follows:~~

~~—— A. Subtract the cost determined in paragraph (A)1. of this section from the cost determined in paragraph (A)2. of this~~

Revision 7

~~section. The result of this subtraction is then divided by the cost determined in paragraph (A)2. of this section.~~

~~B. Divide the cost determined in paragraph (A)2. of this section by the total sales to ultimate consumers amount for the compliance year. The total sales to ultimate consumers amount for the compliance year shall be determined in a manner equivalent to that for calculating the value reported on line 10, column (b), page 300, FERC Form No. 1 (Total Sales to Ultimate Consumers) for the Missouri jurisdictional operations of the utility.~~

~~C. Multiply the amount determined in subparagraph (A)4.A. of this section by the amount determined in subparagraph (A)4.B. of this section. This amount should be expressed as a percentage.~~

~~D. The RES retail rate impact limit shall be one (1) percent plus the amount determined in subparagraph (A)4.C. of this section.~~

~~(B) The RES retail impact limit shall be calculated for the compliance years including the current year and the following two (2) years.~~

~~[MIEC, OPC: Change requirement to be based on revenue requirement instead of generation costs.][Colin: base on resource plan?][KCPL: 1% is derived from rate making process, resource planning is independent of rate making. Using resource planning results in circular logic.]~~

~~[OPC: focus should be on planning. Title: "Planning with the retail rate constraint". Baseline plan and Alternative least cost renewable plan that meets requirements. Avg retail rate of plans should be estimated. If difference is increase in rates of less than 1% then nothing else needs to be done. If avg retail rate change is >1% then come up with plan that barely gets below the 1%. Don't have to meet 1% cap if utility can meet standards before reaching the cap.]~~

~~[Wind Coalition: lack of comment doesn't mean consensus. May need additional discussion on this section.]~~

~~[Solar Appl: 1% over what rates would have been.]~~

~~[CRLF: 1030 Need to know: renewable portfolio cost; cost of nonrenewable (in most part known), regulatory risk along with environmental cost. Customer bills should not increase not more than 1%.]~~

~~[KCPL: prescribe (predefine) future environmental cost in rule.]~~

(A) The Retail Rate Impact in any year shall be determined by subtracting the hypothetical prudently incurred cost of generating power entirely from nonrenewable sources in that year from the actual incurred cost of a combination of existing in-service renewable and nonrenewable sources in that year. The

Revision 7

costs associated with solar rebates as provided in section (4) of this rule shall be included in the cost of generating power from renewable sources in that year. Costs as used in this section means revenue requirements.

(B) In the event that the Retail Rate Impact is positive, the impact shall be recovered as provided in paragraph (6) hereof subject to the limitation that average retail rates may never be higher than one (1) percent on account of RES compliance. In the event that the Retail Rate Impact is negative, the full benefit shall be passed through to consumers in paragraph (6) hereof.

(6) Cost Recovery and Pass-through of Benefits. ~~[Colin: benefits should be spelled out better. Benefits should be reported as incremental cost] [KCPL: could this be done with "traditional" rate design methods instead of a rider?] [UE agrees with using ISRS methodology for recovery.] [Wind Coalition: Any credit for the fact that generation may be needed anyway?]~~ Pursuant to

To comply with this rule and sections 393.1030 and 393.1045, RSMo, an electric utility may file proposed tariffs with the commission inshall file a general rate case proposing an RES Cost Recovery Surcharge (RESCRS) or RES benefit pass-through (RESBPT) applicationmechanism that will allow for the future 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; [UE: this language prevents double counting], provided that the RES compliance retail rate impact does not exceed the amount determined in section (5) of this rule. The pass-through of benefits has no ~~single year cap or limit. Recovery of costs associated with solar rebates as provided for in section (4) of this rule shall be included in the retail rate impact.~~ cap or limit. Copies of the proposed tariffs and any other documentation hereunder shall also be provided to the Office of Public Counsel and to all parties to the utility's last rate case.

(A) The portion of an electric utility's total jurisdictional revenue requirement deemed attributable to the RES shall include all prudently incurred direct costs associated with RES compliance, including, but not limited to, program administration, rebates, payments made under renewable energy

Revision 7

resource supply contracts, payments for RECs, and computer modeling and analysis time. These costs shall also include depreciation, income taxes, and a return on renewable energy net investment that is fully operational and used for service. The administrative costs of an electric utility to implement this rule are capped at ten (10) percent of the total annual cost.

~~{GRLF: no double recovery for energy. Recovery only for RECs.}[OPC: this language could permit double recovery. All costs should be incremental that are not already in revenue requirement. How to measure incremental cost of resource planning.]}~~ (B) If the electric utility incurs costs in complying with the RES requirements that exceed the retail rate impact limit for any year, those excess costs and associated interest costs may be carried forward to future years for cost recovery under this rule solely for the purpose of offsetting any cost benefits that may arise from RES compliance. The associated interest will be determined at a per annum rate equal to the prime bank lending rate, as published in the Wall Street Journal for the last business day of the previous compliance year. ~~These carried forward costs and interest plus additional annual costs remain subject to the retail rate impact 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.~~

(C) For ownership investments in renewable energy technologies in an RESCRS or RESBPT 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 RESCRS application is subject to the retail rate impact limit specified in section (5) of this rule.

(D) Upon the filing of proposed tariffs with the commission seeking to recover costs or pass-through benefits of RES compliance, the commission will provide general notice of the filing.

(E) The electric utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with subsection (F) of this section before the notices are sent to customers:

1. 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

Revision 7

a RESCRS or RESBPT, explaining the utility's RES compliance and identifying the statutory authority under which it is implementing a RESCRS or RESBPT;

2. An annual notice to affected customers each year that a RESCRS or RESBPT is in effect explaining the continuation of its RES compliance; and

3. A RESCRS or RESBPT line item on all customer bills, which informs the customers of the presence and amount of the RESCRS or RESBPT.

(F) Along with the electric utility's filing of proposed tariffs to establish a RESCRS or RESBPT, the utility shall file the following items with the commission and the office of the public counsel:

1. An example of the notice required by paragraph (E)1. of this section;

2. An example of the notice required by paragraph (E)2. of this section; and

3. An example customer bill showing how the RESCRS or RESBPT will be described on affected customers' bills in accordance with paragraph (E)3. of this section.

(G) When an electric utility files proposed tariffs 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 RESCRS or RESBPT.

(H) The staff of the commission shall examine the information of the electric utility to confirm the prudence and amount of underlying costs and calculations for the proposed RESCRS or RESBPT, and shall submit a report regarding its examination to the commission, the Office of Public Counsel and to all parties to the utility's last rate case not later than ~~thirtysixty~~ (30)60 days after the electric utility files its proposed tariffs. ~~{GRLF: allow for stakeholder input.}[UE: these will be docket case which allow stakeholders.]~~ Parties wishing to respond to the staff's report shall file such comments with the Commission within fifteen (15) days of the staff's filing.

(I) The commission may hold a hearing on the proposed tariffs and shall issue an order to become effective not later than ~~sixty~~ (60)one hundred five (105) days after the electric utility files the proposed tariffs. ~~{GRLF: allow public to petition for hearing.}~~

(J) If the commission finds that the proposed tariffs or substitute filed tariffs comply with the applicable requirements, the commission shall enter an order authorizing the electric utility to utilize said RESCRS or RESBPT tariffs with an appropriate effective date, as determined by the commission.

Revision 7

(K) The RESCRS or RESBPT will be calculated as a percentage of the customer's total bill for electric service for the applicable billing period.

(L) Commission approval of proposed tariffs, to establish or modify a RESCRS 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 a RESCRS, or pass-through of benefits previously in a RESBPT, the electric utility shall offset its RESCRS or RESBPT 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. The RESCRS or RESBPT 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.

(M) An electric utility may effectuate a change in RESCRS or RESBPT no more often than one (1) time during any calendar year, not including changes as a result of subsection (L) of this section.

(N) At the end of each twelve (12) month period that a RESCRS or RESBPT is in effect, the electric utility shall reconcile the differences between the revenues resulting from the RESCRS or RESBPT 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 tariffs for RESCRS or RESBPT modification. The RESCRS or RESBPT reconciliation shall include interest at the electric utility's short-term borrowing rate.

(O) An electric utility that has implemented a RESCRS or RESBPT shall file revised RESCRS or RESBPT tariffs to reset the RESCRS or RESBPT 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 a RESCRS or RESBPT in the utility's base rates. If an over- or under-recovery of RESCRS revenues or over- or under-pass-through of RESBPT benefits, exists after the RESCRS or RESBPT 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 RESCRS or RESBPT filing of the electric utility.

(P) Upon the inclusion of RES compliance cost or benefit pass-through previously reflected in a RESCRS or RESBPT into an

Revision 7

electric utility's base rates, the utility shall immediately thereafter reconcile any previously unreconciled RESCRS revenues or RESBPT benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RESCRS or RESBPT match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

(Q) At the time an electric utility files proposed tariffs with the commission seeking to establish, modify, reconcile a RESCRS or RESBPT, it shall submit its supporting documentation regarding the calculation of the proposed RESCRS or RESBPT, and shall serve the office of the public counsel with a copy of its proposed tariffs and its supporting documentation. The utility's supporting documentation shall include workpapers showing the calculation of the proposed RESCRS or RESBPT, and shall include, at a minimum, the following information:

1. The state, federal, and local income or excise tax rates used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those tax rates;

2. The regulatory capital structure used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using the capital structure;

3. The cost rates for debt and preferred stock used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those rates;

4. The cost of common equity used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for that equity cost;

5. The depreciation rates used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those depreciation rates;

6. The applicable customer class billing methodology used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and basis for using that methodology;

7. An explanation of how the proposed RESCRS or RESBPT is allocated among affected customer classes, if applicable; and

8. For purchase of electrical energy from 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 RESCRS or RESBPT. ~~[OPC: ISRS is more prescriptive. Needs similar prescriptive language.]~~

Revision 7

(R) In addition to the information required by subsection (Q) of this section, the electric utility shall also provide the following information when it files proposed tariffs with the commission seeking to establish, modify, or reconcile a RESCRS or RESBPT:

1. A description of all information posted on the utility's website regarding the RESCRS or RESBPT; and

2. 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 RESCRS or RESBPT.

(S) When the commission has approved tariffs or substitute filed tariffs filed by an electric utility for RESCRS or RESBPT, the utility will initiate [MIEC: this is 37 for FAC/ECRM.] a general rate proceeding within forty-eight (48) months of the effective date of the report and order authorizing the initial tariff in any chronological sequence of RECRS or RESBPT tariffs for the utility.

~~{OPC: Come up with regulatory costs similar to ECRM. Renewable revenue requirement with cost to comply. When someone makes adjustment after rate case, change should be based on change to net plant. Otherwise there could be overearnings. } [MIEC: agrees with OPC. Calculation and showing of benefits. ISRS is only includes costs. There are no benefits to be shown.]~~

~~[MIEC: tie filings to ECRM/FAC filings. Interest calculation should be consistent with ECRM/FAC.]~~

(7) Annual Compliance Report. Each electric utility shall file an annual RES compliance report no later than March 1 to report on the status of the utility's compliance with the renewable energy standard for the most recently completed compliance year.

(A) The annual RES compliance report shall provide the following information for the most recently completed compliance year for the electric utility:

1. Total retail electric sales for the utility, as defined by this rule;

2. Total jurisdictional revenue from the total retail electric sales to Missouri customers as measured at the customers' meters; [Wind Coalition: How would off-system sales be taken into account?][MIEC: Fuel and Off-system sales need to be taken into account][OPC: Off-system sales would also need to be accounted for in Cost Recovery, on an incremental basis]

3. Total retail electric sales supplied by renewable energy resources, section 393.1025(5), RSMo, including the source of the energy;

4. The number of RECs and S-RECs created by electrical energy produced by renewable energy resources owned by the electric utility. For these RECs and S-RECs, a calculated REC

Revision 7

or S-REC value for each source and each category of REC;[Colin: REC value vs. energy value, both should be verified]

5. The number of RECs acquired, sold, transferred, or retired by the utility during the compliance year;

6. The source of all RECs acquired during the compliance year;

7. The identification, by source and serial number, of any RECs that have been carried forward to a future compliance year;

8. An explanation of how any gains or losses from sale or purchase of RECs for the compliance year have been accounted for in any rate adjustment mechanism that was in effect for the electric utility;

9. 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:

A. Name, address, and owner of the facility;

B. An affidavit from the owner of the facility certifying that the energy was derived from a renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local, state, or federal mandate;

C. The renewable energy technology utilized at the facility;

D. The dates and amounts of all payments from the electric utility to the owner of the facility; and

E. All meter readings used for calculation of the payments referenced in subparagraph D. of this paragraph.

10. The total number of customers that applied and received a solar rebate in accordance with section (4) of this rule.

11. The total number of customers that were denied a solar rebate and the reason(s) for denial.

12. 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.

13. An analysis showing whether the electric utility achieved compliance with the RES during the compliance year. [KCPL: Affidavit with Schedule showing compliance as substitute for 13.]

14. If compliance was not achieved, an explanation why the electric utility failed to meet the RES.

(B) 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 material, on its website to facilitate public access and review.

Revision 7

(C) On the same date that the electric utility files its annual RES compliance report, the utility shall provide the commission with an electronic copy of its annual RES compliance report excluding highly confidential material. The commission may [Renew MO: shall instead of may] place the redacted electronic copy of each electric utility's annual RES compliance report on the commission's website in order to facilitate public viewing.

(D) Upon receipt of the electric utility's annual RES compliance report, the commission will establish a docket for the purpose of receiving the report. The commission will issue a general notice of the filing.

(E) The staff of the commission shall examine each electric utility's annual RES compliance report and file a report of its review of each electric utility's annual RES compliance report with the commission within forty-five (45) days of the filing of the compliance report with the commission. The staff's report will identify any deficiencies in the electric utility's compliance with the RES.

(F) 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 within forty-five (45) days of the electric utility's filing of its compliance report with the commission.

(G) 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 compliance period for failure to meet the targets of section 393.1030.1, RSMo and section 2 of this rule.

(A) An electric utility will 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 that the maximum average retail rate impact increase has been reached.

(B) Penalty payments will be remitted to the department. These payments will 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 1 of this subsection will be utilized to provide funding for renewable energy and energy efficiency projects. These projects will be selected by the department's energy center in consultation with the staff.

Revision 7

(C) Penalty amounts will be calculated by determining the electric utility's shortfall relative to RES total requirements and RES solar energy requirements for the compliance year. The penalty amount will be based on twice the average market value during the compliance 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. [Colin: Could provide long-term contract prices to project future values, would be helpful even if not used for that year's value][MSA: Could REC value be set by Commission for first year compliance?][Colin: Set REC values for larger system and use that value for small facilities][AmerenUE: Let market set price but it will not be a future price] The average market value for RECs or S-RECs for the compliance year will be based on RECs and S-RECs utilized for compliance with this rule and determined by the staff. The office of public counsel and any interested persons or entities may file comments based on their review of staff's determination of REC and S-REC value. The commission shall issue an order which establishes a procedural schedule, if necessary.

(D) 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) Solar Energy Exemptions. Pursuant to 393.1050, RSMo, and this rule electric utilities may be exempt from certain requirements of the RES.

(A) Any electric utility which, by January 20, 2009, achieved an amount of renewable energy technology aggregate nameplate capacity equal to or greater than fifteen (15) percent of the electric utility's total owned fossil-fired generating capacity, [Colin: Since RECs could have been sold, then capacity would be reduced][Midwest Solar: Opposed, especially to (9)(A)(2.)) shall be exempt from the following requirements of this rule:

1. The requirement to provide a solar rebate to the electric utility's retail customers in accordance with section 393.1030, RSMo and section (4) of this rule; and

2. The requirement to provide a certain percentage of its total retail electric sales from solar energy in accordance with section 393.1030, RSMo and section (3) of this rule.

(10) RES Compliance Plan. [Colin: Should this also include a approval process?] Each electric utility will file an annual RES Compliance Plan with the commission, commencing in 2010. The plan shall be filed by February 1 of each year. The plan shall cover the current year and immediately following two (2)

Revision 7

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; and

(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. [KCPL: This should qualify as substitute to meet the 60 day IRP notification requirement]{MIEC: Least Cost statement}

(E) 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 three (3) years which are included in the RES compliance plan.

(11) 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.

(C) The commission may not waive or grant a variance from any section of this rule that implements the specific requirements of sections 393.1025, 303.1030, 393.1035, 393.1040, or 393.1045, RSMo.

AUTHORITY: section 393.1030, RSMo, sections 386.040, 386.610 and 393.140, RSMo 1986 and 386.250, RSMo Supp. 1991.