

Title 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 20 – Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, and 393.140, RSMo 2016, the commission amends a rule as follows:

20 CSR 4240-20.065 is amended.

A notice of proposed rulemaking containing the proposed amendment was published in the *Missouri Register* on July 1, 2020 (45 MoReg 1015-1017). Changes to the proposed amendment are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended July 31, 2020, and the commission held a public hearing on the proposed amendment on August 11, 2020. The commission received timely written comments from Karen Bretz, Senior Counsel, on behalf of the staff of the commission (Staff), Caleb Hall, Senior Counsel, on behalf of The Office of the Public Counsel (OPC), Patricia Sharkey, Policy Director, on behalf of Midwest Cogeneration Association, Mary Shields, Executive Director, on behalf of Missouri Solar Energy Association, Roger W. Steiner, Attorney, on behalf of Evergy Missouri Metro and Evergy Missouri West (Evergy Missouri), Paula N. Johnson, Senior Corporate Counsel, on behalf of Union Electric Company d/b/a Ameren Missouri, Diana C. Carter, Attorney, on behalf of Liberty Utilities, and Tim Opitz, Attorney, on behalf of Renew Missouri. The commission received comments at the hearing regarding the amendment from Karen Bretz, Senior Counsel, on behalf of Staff, Claire Eubanks, Engineer Manager, on behalf of Staff, Caleb Hall, Senior Counsel, on behalf of OPC, Jim Fischer, Fischer & Dority, PC, on behalf of Evergy Missouri, and Paula N. Johnson, Senior Corporate Counsel, on behalf of Ameren Missouri.

COMMENT #1: Staff commented that this rulemaking was undertaken in response to Executive Order 17-03 and is being proposed in order to streamline, and eliminate redundant regulations. Staff supports the proposed amendment.

RESPONSE: No change was made as a result of this comment.

COMMENT #2: Staff commented supporting proceeding with this amendment given the Federal Energy Regulatory Commission's Order 872, updating the Public Utility Regulatory Policies Act (PURPA). Staff states that PURPA does not address net metering, so there is no reason why the proposed net metering amendments should not

proceed. Ameren Missouri also commented that the net metering amendment should proceed.

RESPONSE: No change was made as a result of this comment.

COMMENT #3: Renew Missouri attached The Corporate Clean Energy Procurement Index 2020, to its written comments for the commission's information. It ranks the states based on the ease companies can procure renewable energy. While the attachment was primarily offered in support of Renew Missouri's cogeneration positions, it also contained information regarding net metering in other states.

RESPONSE: No change was made as a result of this comment.

COMMENT #4: Renew Missouri commented, in response to a question by commissioner Holsman, that in regard to net metering Missouri is average as compared to other states.

RESPONSE: No change was made as a result of this comment.

COMMENT #5: Ameren Missouri, Evergy, Liberty Utilities, and OPC commented regarding errors in the numbering of several sections within the rule. the proposed amendments to 20.065(1) have subsection (D) follow subsection (B). Section 20.065(1)(G) regarding the definition of operational should be updated to the (F) to for sequential order. A section number was skipped resulting in sections (4)–(8) being numbered incorrectly. Section 20.065(9)(A)2, contains two subsections labeled A.

RESPONSE: Errors were corrected in the proposed amendment filed in the Missouri Register. No change was made as a result of this comment.

COMMENT #6: OPC commented that the proposed amendment 20.065(1)(B) definition of avoided fuel cost refers to 20 CSR 4240-20.060, which does not contain avoided fuel costs. The amendment is unclear as to whether avoided fuel costs and avoided costs are the same.

The commission's staff proposed that 20.065(1)(B) be modified to read "Avoided fuel cost means the incremental costs to the electric utility of electric energy, but for the purchase from the customer-generator, the utility would generate itself or purchase from another source. Avoided fuel cost is used to calculate the electric utility's standard rate for purchase from systems less than one hundred (100) kilowatts pursuant to 20 CSR 4240-20.060. The information used to calculate this rate is provided to the commission biennially and maintained for public inspection."

RESPONSE AND EXPLANATION OF CHANGE: The commission will amend the rule to incorporate its staff's proposed language.

COMMENT #7: Ameren Missouri, Evergy, and Liberty Utilities commented that the proposed amendment deletes the definition of "customer generator" from 20.065(1)(C). The definition mirrors the definition in Section 386.890 RSMo. Subsection 20.065(1)(A)

incorporates definitions contained in 20 CSR 4240-20.100, which contains a definition of customer generator that differs from the statutory definition. Ameren Missouri, Evergy, and Liberty Utilities recommend using the statutory definition.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that to avoid contradictory definitions the rule should be revised to retain the statutory definition.

COMMENT #8: Ameren Missouri, Evergy Missouri, and Liberty Utilities commented that the current rule at 20.065(4)(A) provides that customer-generators can waive the liability insurance minimum policy requirements "for good cause shown." They are unclear how this provision would be implemented and believe that differing interpretations of what constitutes good cause could lead to complaints to the commission. Ameren Missouri, Evergy, and Liberty Utilities recommend that the "good cause" language be removed from the rule.

RESPONSE: This provision is in the current rule and no one indicated that it has caused any problems in the past. Further since the deletion of the provision was not included in the proposed amendment, no other stakeholder has had notice of the proposed change, nor have they had an opportunity to comment regarding the provision. No change was made as a result of this comment.

COMMENT #9: Ameren Missouri, Evergy Missouri, and Liberty Utilities commented recommending that the dates be removed from the standards in 20.065(5)(A). They say the standards are currently going through revisions and UL issues revisions periodically. Ameren Missouri, Evergy, and Liberty Utilities recommend adding "as revised from time to time" instead of specific dates.

Staff proposed to identify the standard by date as otherwise the rule implies the most recent version is applicable. Steps have not been taken to adopt the most recent IEEE 1547 revision. Staff does not oppose a change if amendment of the cogeneration rule 20 CSR 4240-20.060 requiring commission approval of technical specifications and Staff's proposed language in 20.065(7)(A) is adopted.

RESPONSE: The commission is withdrawing the proposed amendment of 20 CSR 4240-20.060 and wishes to keep the dates identifying the standards version. No change was made as a result of this comment.

COMMENT #10: Ameren Missouri, Evergy Missouri, and Liberty Utilities commented that a section (G) needs to be added to 20.065(5) with a provision that allows a utility to require a customer generator to test its generating capacity for the applicable regional transmission organization requirements. Ameren Missouri, Evergy Missouri, and Liberty Utilities assert that this is necessary to meet new regional transmission organization accreditation requirements.

RESPONSE: The proposed new section was not included in the proposed amendment so no other stakeholder has had notice of the proposed change, nor have they had an

opportunity to comment regarding the proposed change. No change was made as a result of this comment.

COMMENT #11: Regarding Section (6), the commission notes that because it is withdrawing the proposed amendment of 20 CSR 4240-20.060, the proposed amendment's reference to 20 CSR 4240-20.060(4)(A)1 is now incorrect. It also is no longer necessary to have a tariff case for the net metering rate without the cogeneration rate filing.

RESPONSE AND EXPLANATION OF CHANGE: The commission will revert to the original language of this section and update the rule citation to the current Title 20 citation.

COMMENT #12: Ameren Missouri, Evergy Missouri, and Liberty Utilities commented that they have concerns regarding the removal of a template interconnection agreement from 20.065(7). The amendment proposes to remove the agreement from the rule, placing it on the Commission's website and then incorporating it by reference into the rule. Ameren Missouri is specifically concerned with the removal of the template to the commission's website because it has existing variances from the rule and is unsure what would happen to those variances, or what variances would be allowable in the future. Ameren Missouri, Evergy Missouri, and Liberty Utilities question how the website agreement will be developed, and how disputes will be resolved.

Staff commented in response that this removal is a simplification, which would not require variances for minor wording changes. Staff also states that removing forms from the rule complies Executive Order 17-03.

RESPONSE AND EXPLANATION OF CHANGE: The commission is concerned that removing the template application from the rule will make it less accessible to the public. Even if the template application were removed from the rule and incorporated by reference, wording changes could not be made without following the required rulemaking procedures, but the temptation to make "minor" changes without following those procedures would exist. The commission will not remove the template application from the rule nor the language indicating that the application is included in the rule.

COMMENT #13: Staff commented proposing that if the standard version dates are removed from 20.065(5)(A), that 20.065(7)(A) be modified to read that " Each customer-generator and electric utility shall enter into an interconnection agreement, which includes technical and performance standards and interconnection testing requirements developed per 20 CSR 4240-20.060(4)(D). The interconnection agreement will be substantially the same as the interconnection application located on the commission's website and incorporated by reference."

RESPONSE: The standard version dates are not being removed from the rule. Therefore, the commission will not make a change to incorporate Staff's proposed language. No changes were made as a result of this comment

COMMENT #14: Ameren Missouri, Evergy Missouri, and Liberty Utilities commented with concerns that 20.065(7)(A)1 requires "a signature page for the customer and solar installer to indicate acknowledgement of the entire interconnection application." Since electronic signatures are prevalent and installers often operate as agents for the customer they propose that both physical and electronic signatures be allowed, or that if a physical page is unavailable a letter be sent to the customer confirming terms of the agreement..

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that either a physical or electronic signature would satisfy the signature requirement and will add language that electronic signatures are permissible.

COMMENT #15: OPC commented that 20.065(8)(C) requires electric utilities to verify compliance with the proposed "10 CSR 4240-20.060(11)(C)1, but not 20.060(11)(C)2. OPC recommends that the commission instead use 20.060(11)(C).

Staff responded to OPC's comments recommending that 20.065(8)(C) be amended to read "Verify compliance with 20 CSR 4240-20.060(11)(C) for customer-generator systems; and"

RESPONSE AND EXPLANATION OF CHANGE: The commission is withdrawing the proposed amendment of 20 CSR 4240-20.060. Therefore, the commission will remove 20 CSR 4240-20.065(8)(C).

COMMENT #16: OPC comments that the proposed subsection 20.065(8)(D), which details the commission's duties to upload annual net metering reports to the commission's website is inconsistent with the other subsections requiring utility action. OPC recommends that the Commission redraft the subsection (D) to be its own subsection, or otherwise separate it from the requirements imposed on electric utilities.

Staff responded to OPC's comments and recommended that 20 CSR 4240-20.065(8)(D) be renumbered to be 20 CSR 4240-20.065(9).

RESPONSE: The Commission agrees with OPC and will adopt Staff's proposed revision.

20 CSR 4240-20.065

(1) Definitions.

(B) Avoided fuel cost means the incremental costs to the electric utility of electric energy, but for the purchase from the customer-generator, the utility would generate itself or purchase from another source. Avoided fuel cost is used to calculate the electric utility's standard rate for purchase from systems less than one hundred (100) kilowatts pursuant to 20 CSR 4240-20.060. The information used to calculate this rate is provided to the commission biennially and maintained for public inspection.

(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.

(F) Operational means all of the major components of the on-site system have been purchased and installed on the customer-generator's premises and the production of rated net electrical generation has been measured by the electric utility. If a customer has satisfied all of the System Completion Requirements by June 30 of indicated years, but the electric utility is not able to complete all of the company's steps needed to establish an Operational Date on or before June 30, the rebate rate will be determined as though the Operational Date was June 30. If it is subsequently determined that the customer of the system did not satisfy all Completion Requirements required of the customer on or before June 30, the rebate rate will be determined based on the Operational Date.

(6) Net Metering Rates. Each electric utility shall file on or before January 15 of each odd-numbered year for the commission's approval in the electric utility's tariff, a rate schedule with a net metering rate that is the same rate as the utility's cogeneration rate. The electric utility's cogeneration rate is filed for the commission's approval in the electric utility's tariff on or before January 15 of every odd-numbered year as required in 20 CSR 4240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings section (4). The cogeneration rate is stated in dollars per kilowatt-hour or cents per kilowatt-hour on the cogeneration rate tariff sheet and, likewise, the net metering rate shall be stated in dollars per kilowatt-hour or cents per kilowatt-hour on the net metering rate tariff sheet.

(7) Interconnection Application.

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

1. The interconnection application shall include a signature page for the customer and solar installer to indicate acknowledgment of the entire interconnection application. It is permissible to sign the signature page with an electronic signature.

2. If the electric utility so chooses, it may allow customers to apply electronically through the electric utility's website.

A. The interconnection application on the electric utility's website shall substantially be the same as the interconnection application included herein.

B. The electronic application shall be submitted, or made available in test mode, to the manager of the Energy Unit of the staff for review by staff prior to being placed on the electric utility's website.

C. The electric utility shall notify the manager of the Energy Unit of the staff of any revisions to the electronic application on its website within ten (10) working days of when the electronic application is revised.

(8) Annual Net Metering Report. Each year prior to April 15, every electric utility shall—

(A) Submit an annual net metering report to the commission, 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.

(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.

(9) As soon as reasonably possible after the electric utility files its annual net metering report, the commission will place the electronic copies of each electric utility's annual net metering reports on the commission's website in order to facilitate public viewing, as appropriate.