

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Staff's Review of Commission)	
Rules 4 CSR 240-20.060 (Cogeneration))	
4 CSR 240-3.155 (Filing Requirements for)	Case No. EW-2018-0078
Electric Utility Cogeneration Tariff Filings) and)	
4 CSR 240-20.065 (Net Metering))	

**COMMENTS OF THE MISSOURI INDUSTRIAL ENERGY
CONSUMERS IN REGARD TO THE MISSOURI PUBLIC SERVICE
COMMISSION'S ORDER INVITING RESPONSES TO DRAFT RULES**

In accordance with the May 22, 2018 "Order Inviting Responses to Draft Rules," the Missouri Industrial Energy Consumers¹ ("MIEC") hereby files its comments concerning Staff's proposed amendment to Chapter 20 of 4 CSR 240.

MIEC appreciates the work of the Staff to develop the proposed amendment which is designed to clarify and improve on the language governing the purchase of electricity from qualifying facilities, as well as the sale of services to qualifying facilities. MIEC has only limited comments at this point; but may have additional comments after reviewing the comments of other parties; or if the Commission decides to move the proposed revisions to a rulemaking.

MIEC's concern primarily is with Section (4)(B) which would permit standard rates for purchases from qualifying facilities with capacity of more than 1,000 kW. (MIEC does not raise objection to the provisions of Section (4)(A), 1 and 2, which relate to facilities with a capacity of less than 1,000 kW.) MIEC's concern about Section (4)(B) is that it is very difficult to develop standard rates for purchases from facilities of this size because facilities in this size range (greater than 1,000 kW) may vary significantly from one installation to another in terms of the many factors which influence what power is supplied and the ability of the facility to reliably provide the power to the utility system. Examples of factors which are not subject to

¹A non-profit company that represents the interests of industrial customers in Missouri utility matters.

standardization (but which should be the subject of facility-by-facility negotiations for rates and contract terms) include type of generation facility (i.e., solar, wind, biomass, natural gas, waste heat, etc.), operating pattern of the facility, controllability of the output of the facility and dispatchability (or not) by the utility, number of individual units in the facility, frequency and duration of necessary scheduled maintenance outages, expected reliability from the perspective of generating unit operation and expected forced outage rates, length of commitment, degree of firmness of output, operating pattern of the facility in terms of when output can be (and is) put to the system, etc. MIEC submits that it would be impossible to have a meaningful and accurate standard contract and prices for facilities that fall in this category. A standard contract could either undercompensate the facility to its detriment, or overcompensate the facility to the detriment of ratepayers. Neither is desirable and neither should be allowed to occur because a “standard” rate contract did not provide adequate protections to either the facility or ratepayers.

MIEC recommends that proposed Subsection (4)(B) be eliminated from the proposed language.

Consistent with the prior comments, MIEC recommends that the language in Section (10)(A), in the third line, which references tariffs containing standard contracts as described in Section (4), be modified to reference only Section (4)(A), which addresses facilities with a capacity of less than 1,000 kW. As noted above, standard rates or standard contracts for facilities with a capacity greater than 1,000 kW would be problematic, and should not be included in the rule.

It is also noted that in Section (10)(A), there is a reference to Section (5)(G), but the language in Section (5)(G) does not appear to relate to the subject matter of the reference in Section (10)(A).²

²Also, it appears that there are two sections designated as “5.”

Section (10)(D) makes reference to a Section (10)(C)(1), but Section (10)(C) does not contain a Subsection (C)(1).

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER, LLP

By: /s/ Diana Vuylsteke

Diana M. Vuylsteke, # 42419
211 N. Broadway, Suite 3600
St. Louis, Missouri 63102
Telephone: (314) 259-2543
Facsimile: (314) 259-2020
E-mail: dmvuylsteke@bclplaw.com

Lewis Mills, # 35275
221 Bolivar Street, Suite 101
Jefferson City, MO 65101
Telephone: (573) 556-6622
Facsimile: (573) 556-7442
E-mail: lewis.mills@bclplaw.com

Attorneys for the Missouri Industrial Energy
Consumers

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 15th day of June, 2018, to all parties on the Commission's service list in this case.

/s/ Diana Vuylsteke