

**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) File No. EW-2018-0078
Requirements for Electric Utility)
Cogeneration Tariff Filings) and 4 CSR)
240-20.065 (Net Metering).)

COMMENTS OF UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and for its Comments on the proposed amendments to the Missouri Public Service Commission's ("Commission") rules 4 CSR 240-20.060, 4 CSR 240-3.155, and 4 CSR 240-20.065, states as follows:

BACKGROUND

1. On May 22, 2018, the Commission's Staff submitted its Notice of Draft Rule for Comment, reflecting proposed modifications to Chapter 20 regulations based on prior responses and comments filed in this working case. Staff specifically proposed certain revisions to 4 CSR 240-20.060, the Commission's cogeneration rules, and 4 CSR 240-20.065, the Commission's Net Metering Rules. Also on May 22, 2018, the Commission issued its Order Inviting Responses to Draft Rules requesting interested parties to submit comments on these draft modifications by June 15, 2018.

2. Ameren Missouri appreciates the efforts that have gone into the proposed revisions to 4 CSR 240-20.060 and 4 CSR 240-20.065. Ameren Missouri believes certain clarifications and additional revisions will aid in the rules' execution. The Company presents its comments for each rule, as well as general comments regarding both rules, in more detail below.

4 CSR 240-20.060 – Cogeneration

3. General. One general note with regard to this rule is that not all of the internal references appear to have been updated. For example, (3)(B) Obligation to Sell to Qualifying Facilities references section (5) of the draft rule. However, the section referred to in the current rule, Rates for Sales has become section (6) in the draft rule as a result of a new section being inserted. Also, the draft contains two sections labeled (5)(E). All references should be reviewed and updated, as necessary, prior to the commencement of a formal rulemaking.

4. 4 CSR 240-20.060(2)(C). The proposed modification to this rule deletes the list of basic interconnection requirements for cogeneration. Ameren Missouri suggests that this minimal outline of interconnection requirements remains beneficial for customers or developers who are investigating interconnection of Qualifying Facilities for the first time. Instead of deleting the requirements, Ameren Missouri suggests adding either a reference to the appropriate code requirements or IEEE standard, or a note indicating that the list is not fully inclusive to avoid any impression that certain basic requirements are no longer necessary.

5. 4 CSR 240-20.060(2)(D). This rule describes certain basic provisions regarding contracts, including the inability to reach mutually agreeable contract terms, between a utility and a qualifying facility. Ameren Missouri believes it would be helpful, and may assist in avoiding confusion, to include the clarification that any FERC-granted

exemption granted from qualifying facility purchases¹ also applies to qualifying facility purchases within the state of Missouri.²

6. 4 CSR 240-20.060(4)(c)1. Ameren Missouri suggests it is unnecessary to include a reference to the net metering standard contract in this regulation, particularly since the rules' revisions suggest a separate process for the creation and approval of both net metering and cogeneration standard contracts.³

7. 4 CSR 240-20.060(7)(A). This proposed language addresses the customer's obligation to reimburse the utility for interconnection costs. The Company proposes the additional language be added to this regulation to help define, and provide clarity for electric utility customers, how these costs will be appropriately determined:

The customer shall be required to reimburse the utility for the interconnection costs of any equipment or facilities which result from connecting the customer's generating system with the utility's system according to the provisions contained in the utility's tariffs for connections at distribution or the governing RTO provisions if connecting to transmission.

8. 4 CSR 240-20.060(11)(C). Ameren Missouri is concerned that the creation of the working database described in this requirement may not be practical in the timeframe between which a final Commission order is issued and when the revised rule becomes effective. The Company suggests it would be appropriate to propose a future date for this portion of the rule become effective, determined through collaboration between the

¹ For example, exemptions granted pursuant to 18 CFR 292.309.

² The proposed rule appropriately references and strives to maintain consistency with the Federal Energy Regulatory Commission's ("FERC") Public Utility Regulatory Policies Act of 1978 ("PURPA") regulations (18 CFR Part 292), including granting deference to the PURPA definitions and excluding any requirements for minimum contract term. Adding this additional clarification further maintains that consistency.

³ The Company will discuss the matter of Commission approval of standard contracts for both net metering and cogeneration in the "Common Suggestions for Both Rules" section below.

interested parties in this proceeding and through consideration of the utilities' IT-related requirements and constraints.

9. 4 CSR 240-20.060(11)(D). Ameren Missouri suggests two revisions to the proposed language in this section. First, the Company suggests that, to accurately reflect the current pricing of energy purchases from qualifying facilities in the state, the third requirement be amended to read: "Market Based Pricing. If the electric utility is a member of a Regional Transmission Organization with a functioning capacity and/or energy market, the qualifying facility may receive those market rates." Second, the Company suggests the addition of a fourth option for the determination of avoided costs should other viable methodologies be identified: "The electric utility may propose any other method that can be demonstrated to reflect avoided costs."

4 CSR 240-20.065 – Net Metering

10. 4 CSR 240-20.065(5)(A). This rule contains a revision that modifies that liability insurance requirements for customer-generators so that the minimum policy requirements can be waived "for good cause shown." Ameren Missouri has concerns with this additional language as it is currently written. It is generally unclear how this provision would be implemented and what other consequences such a decision may have. If the Company examines "good cause" on a case-by-case basis, it will need to be wary of avoiding the inadvertent grant of any undue preference to one customer over another in the execution of this discretion. If the Company develops standards for what constitutes "good cause," other electric utilities may develop very different standards, and as a result, net metering customers in multiple service territories may file Commission complaints because of the inconsistencies. And these arguments do not even take into consideration any civil

liability concerns that such decision-making power may have on the Company, its financial well-being, and its ultimately its customers. While Ameren Missouri appreciates deference in many of its business decisions, this is a peculiar instance where, if Staff believes discretion to waive insurance requirements is necessary, the Commission itself may be the best arbiter of that discretion rather than the electric utilities.

11. 4 CSR 240-20.065(10)(C). Ameren Missouri's concern here is the same as the concern it expressed with regard to a similar revision made to 4 CSR 240-20.060(11)(C). The Company is concerned that the creation of the working database cross-referenced in this requirement may not be practical in the timeframe between which a final Commission order is issued and when the revised rule becomes effective. The Company suggests it would be appropriate to propose a future date for this portion of the rule become effective, allowing time for the development of the relevant database so that appropriate verification can take place.

Common Suggestions for Both Rules

12. One general suggestion appeared in both the cogeneration and net metering rules: the establishment of a Commission-approved standard form contracts. These new provisions require additional vetting and definition, however, if they are to be effectively implemented. While the proposed rules provide for standard contracts, they do not describe what process will be utilized for developing⁴ and approving⁵ these contracts. Further, the

⁴ For example, is the Commission anticipating: a collaborative process similar to that utilized for MEEIA programs; a workshop setting similar to the one for vetting these proposed rules; or a fully litigated, contested case hearing?

⁵ For example, is the Commission anticipating: an informal provision of information to its Staff and it is considered approved if no concerns are made; an EFIS filing similar to a tariff that is approved after a certain time period if no objection is raised; or a fully litigated, contested case hearing resulting in a Commission Report and Order?

rules do not address what steps⁶ could be taken for unique situations that require variances. The Company suggests that these matters would need to be explored further and fleshed out as necessary before requiring approval of standard form contracts as suggested.

WHEREFORE, for the foregoing reasons, the undersigned respectfully requests that the Commission accept these comments for consideration in determining the next steps regarding the proposed rule revisions.

Respectfully submitted,

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d/b/a Ameren Missouri

/s/ Paula N. Johnson

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⁶ For example, would there be sufficient flexibility to allow: approval of a rule variance to deal with unique situations; modification of the form contracts to address the unique characteristics of a specific project; or sufficient electric utility discretion to include specific terms based on its system requirements?

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the following on this 15th day of June, 2018:

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