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Mike Taylor
Utility Operations Division
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Re: AmerenUE's comments on Staff's draft Electric Utility Renewable Energy Standard Requirements

Dear Mike:

The purpose of this letter is to provide AmerenUE's initial comments on the proposed draft of the Electric Utility Renewable Energy Standard Requirements rules that the Staff has developed as part of the workshops held on March 9 and April 13, 2009. AmerenUE appreciates having the opportunity to participate in the workshops, and this opportunity to comment on the Staff's proposal, before a formal rulemaking respecting the Renewable Energy Standard (RES) requirements in Proposition C is commenced.

In many respects, the Staff's proposal is consistent with the letter and the spirit of Proposition C (Section 393.1030 *et seq.*), the statute that authorizes RES rules. However, with respect to the provisions of Chapter 20, Section (5) ("Retail Rate Impact") and Section (6) ("Cost Recovery and Pass-through of Benefits"), as well as some of the filing and reporting requirements in Chapter 3, the Staff's draft imposes requirements far beyond those contemplated by Proposition C, and in fact contradicts Proposition C in several respects. These provisions impose unnecessary, inefficient and, in some cases, unlawful obligations on Missouri electric utilities and should not be included in the RES rules.

The heart of our objection to these provisions stems from the fact that the cost recovery and reporting provisions of the draft rules are modeled on the Commission's Environmental Cost Recovery Mechanism (ECRM) rules, which allow electric utilities to recover the cost of environmental compliance. However, the statute that authorized the Commission to enact ECRM rules (commonly referred to as Senate Bill 179) affords the Commission substantial discretion to allow (or not allow) the utility to establish an ECRM that would permit the recovery of some or all of its environmental costs.

The statute that authorizes RES rules confers no such discretion to the Commission. The statute provides only that "...all the costs associated with any such renewable mandate ***shall be recoverable in the rates charged by the electric supplier."*** Section 393.1045 (emphasis added). Section 393.1030 requires the Commission to develop rules that include "Provision for recovery outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section." Section 393.1030 2(4). RES rules adopted by the Commission therefore must provide for a direct process for the timely recovery of prudently incurred costs of complying with the RES, less any savings achieved through compliance with the statute through a rate adjustment mechanism.

Unfortunately, the Staff's draft rules provide no such direct and timely recovery of prudently incurred costs. Chapter 20, Section 5 requires an averaging of the cost of compliance over sequential three-year periods. This may mean that a utility would have to wait at least three years before it has an opportunity to recover any of its prudently incurred costs of complying with the statute. This section should be modified so that it is clear that no such delay in cost recovery is contemplated. Section 6 also contains provisions that appear to be inconsistent with the statute. It affords the Commission almost unlimited discretion to approve, reject or modify a RESRAM (the rate adjustment mechanism through which the utilities recover their costs pursuant to the statute). Section 6(A)(3) specifically provides that any party may oppose the establishment or continuation of a RESRAM, which is contrary to Proposition C. Section 6 also allows the Commission to consider items such as (a) the magnitude of the costs, and (b) the ability of the utility to manage the costs, in determining whether to allow recovery of those costs. Even worse, Section 6(A)(2) appears to afford the Commission unlimited discretion in determining whether to permit recovery of costs through the RESRAM, or through base rates.

Again, the problem with the Staff's proposal is that it is based on the ECRM rules, which given the differences between Proposition C and SB 179 is simply an inappropriate model. The ECRM rules afford the Commission a level of discretion in determining which costs to allow the utility to recover and when to allow recovery which is simply not contemplated by Proposition C. Proposition C provides fairly explicit direction to the Commission: net compliance costs incurred by a utility, up to the ceiling of 1%, *are recoverable through a rate adjustment mechanism* outside of a rate case. The Staff's proposal ignores this simple directive regarding cost recovery, affording the Commission the unlawful opportunity to substantially delay cost recovery or perhaps deny it altogether.

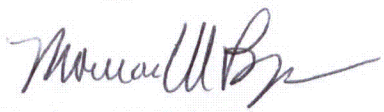
By tracking the ECRM rules, the Staff's proposal also imposes an unnecessary and inefficient layer of administration on this process.

Although exhaustive reporting requirements and months-long prudency proceedings might arguably be required in the case of environmental projects costing tens or even hundreds of millions of dollars, such procedures appear to be overkill in this context. The bottom line is that any RES rules should provide a more simple, direct method for utilities to recover their cost of compliance every year, and they should provide a much more streamlined set of administrative procedures designed specifically for Proposition C compliance. Importing the ECRM rules and procedures for this purpose is inappropriate and inefficient.

AmerenUE plans to work with other utilities to draft cost recovery provisions and administrative procedures that address the issues in this letter and that are more consistent with Proposition C. I would request that the Staff not represent the draft rules it has circulated as any type of consensus document that includes AmerenUE.

Again, AmerenUE appreciates having the opportunity to comment on these draft rules, and looks forward to actively participating in the formal rulemaking proceeding regarding this matter.

Sincerely,



Thomas M. Byrne

Cc: Chairman Robert Clayton, III
Commissioner Jeff Davis
Commissioner Terry Jarrett
Commissioner Kevin Gunn
Lena Mantle, MPSC
Lewis Mills, OPC