

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

In the Matter of Proposed Rulemaking	)	
to Amend Commission Rule	)	Case No. EX-2008-0280
4 CSR 240-20.065.	)	

**ADDITIONAL COMMENTS  
OF UNION ELECTRIC COMPANY d/b/a AMERENUE**

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

**Background**

1. The Notice of Proposed Rulemaking published in the *Missouri Register* required that comments be filed on or before September 2, 2008, and scheduled a hearing for the same day.
2. AmerenUE filed *Comments* on August 29, 2008, and participated in the September 2, 2008 hearing.
3. At the September 2, 2008 hearing, the Staff (Staff) of the Missouri Public Service Commission (Commission) offered revisions to the proposed rule. The record was held open for additional written comments until 8:00 a.m. on Monday, September 8, 2008.
4. AmerenUE does not believe that either of the changes (alternatives to each other) proposed by Staff is necessary and believes that both should be rejected by the Commission.



5. Missouri law, as set forth in the Net Metering and Easy Connection Act, requires the utility to “...credit an amount at least equal to the *avoided fuel cost* of the excess kilowatt-hours generated during the billing period...” when the electricity generated by the customer-generator exceeds the electricity supplied by the utility during a billing period. § 386.890.5(3) RSMo. (emphasis added.)

6. “Avoided fuel cost” is defined as the current average cost of fuel for the entity generating electricity as defined by the governing body with jurisdiction over the utility. § 386.890.2(1) RSMo. The statute sets the “avoided fuel cost” as the floor for the payment to a customer-generator. § 386.890.5(3) RSMo.

7. Staff’s proposed modifications attempt to raise the statutory floor. Staff proposes that the Commission adopt one of two alternatives, both of which are designed so that a utility must pay the higher of its avoided fuel cost or cogeneration rate (referred to in AmerenUE’s tariffs as Qualifying Facility rate). The cogeneration rate is higher than the average cost of fuel for AmerenUE, KCP&L, Aquila and Empire at this time.

8. The first alternative proposed by Staff is to define “current average cost of fuel” as used in the “avoided fuel cost” definition to mean the greater of the annual average cost of fuel or the avoided cost identified in the utility’s cogeneration tariff. This is inconsistent with the definition in the Commission’s cogeneration regulations, which defines “avoided costs” as the incremental costs (not limited to fuel) to an electric utility of electric energy which is avoided by the purchase from the qualifying facility. 4 CSR 240-20.060(1)(A). Staff’s proposal results in the phrases “avoided fuel cost” and “avoided cost” having the same meaning. And they should not.



9. AmerenUE notes that rejecting Staff's proposed definitional change does not mean a utility cannot pay the cogeneration rate instead of its average cost of fuel as part of its net metering tariff, if it so chooses. That is because the statute only sets a floor for this rate, not a ceiling. In fact, AmerenUE's current net metering tariff uses the cogeneration rate as the rate it will pay net metering customers. The higher rate, however, if not required by the statute and should not be required by the Commission's regulations.

10. The Staff's second proposed alternative is to modify the rule to require the utility to pay the greater of the avoided fuel cost or its cogeneration rate. This alternative avoids the definitional confusion that the first alternative creates and, of the two, is preferable to AmerenUE. However, as stated above, the Commission would be requiring more in its regulations than is required by the statute itself.

11. The Commission does not have to adopt either of Staff's suggested changes in order to allow these generators to be eligible for any utility's cogeneration rate. The cogeneration rate is available to any generator that is a qualifying facility, which would include those generators that qualify for net metering, because the net metering statute requires the generator be powered by a renewable energy resource. § 386.890.2(3)(a) RSMo. Renewable as well as cogeneration facilities can be qualifying facilities. 4 CSR 240-20.060(1)(G). Accordingly, the cogeneration rate is available to these generators if they decide to sign up for the cogeneration tariff rather than the net metering tariff.

12. An additional concern with both alternatives proposed by Staff is that they require the Company to annually review and compare its cogeneration tariff rate with its



avoided fuel cost to determine if the rate it pays the net metering customer must change. This is a process that must be done manually and, depending on the outcome, the Company may be required to reprogram its billing system to use a different rate. AmerenUE would prefer to simply avoid this situation altogether and keep the language as originally proposed and to reject Staff's proposed changes.

13. As stated above, AmerenUE's net metering tariff pays the cogeneration rate, without the potential complications posed by Staff's proposals. Other utilities may not currently have the cogeneration rate in their net metering tariff and there is likely a valid reason for that distinction, but that is an issue that can be dealt with on a case-by-case basis as each utility submits its net metering tariff for Commission approval rather than in this rulemaking.

14. AmerenUE urges the Commission to adopt the rule as published with the two changes requested in the Company's *Comments* filed on August 29, 2008. The Company appreciates the opportunity to provide these *Additional Comments*.

WHEREFORE, AmerenUE asks the Missouri Public Service Commission to adopt the rule as published with the two changes proposed in its August 29, 2008 filing

Respectfully submitted,

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

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Dated: September 8, 2008



## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the following on this 8<sup>th</sup> day of September 2008:

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/s/ Wendy K. Tatro

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