

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

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

**COMMENTS OF UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI IN RESPONSE TO THE
COMMISSION'S OCTOBER 31, 2017 ORDER**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and submits the following *Comments* in response to the Missouri Public Service Commission's ("Commission") *Order Inviting Responses to Filed Comments* ("*Order*") issued October 31, 2017. The *Order* invited interested parties to submit comments by November 15, 2017.

BACKGROUND

1. The Commission's *Order* was issued in response to *Staff's Request for a Commission Order Inviting Responses to Filed Comments*, submitted by the Commission's Staff ("Staff") on October 30, 2017.
2. The following responses are provided by Ameren Missouri.

Division of Energy Comments

3. Division of Energy Recommendation 1. (p. 2) – "examine the value of distributed energy resources" and "determine fair compensation under the Net Metering and Easy Connection Act and Public Utilities Regulatory Policy Act of 1978^[1]" (emphasis added).

¹ Commonly referred to as "PURPA."

Ameren Missouri Response – While the Division of Energy does not attempt to define what "value" or "fair" mean, such terms have often been used when parties advocated that purchase rates by a utility from a customer-owned generator should include other factors that are not reflected in a utility's cost structure used to set rates, such as job creation, health benefits, carbon costs, etc. However, PURPA prescribes that avoided cost rates cannot "exceed the incremental cost to the electric utility of alternative electric energy." 16 U.S.C.A. 834a-3(b). PURPA makes clear that "incremental cost" is the cost the electric utility would have to pay for energy if it were to generate it itself or purchase it from a source other than the customer-owned generator. 16 U.S.C.A. 834a-3(d).

Consequently, such other factors cannot be used to determine PURPA rates for purchases by customer-generators. This is an important consumer protection for the utility's non-generating customers who bear the cost of a utility's purchases from such facilities.

4. Division of Energy Recommendation 2. (p. 3) – “The Commission should increase the flexibility afforded to customer-generators in how net metering occurs...” and "should include consideration of whether aggregated net metering, virtual net metering, and third party ownership arrangements should be allowed under the Commission's rules.”

Ameren Missouri Response – The intention of Missouri's net metering statute is to allow individual customers to construct small-scale generation (e.g., a homeowner who puts solar panels on his or her roof) to offset a part of *that* customer's usage in the customer's house or business. Aggregated net metering

and virtual net metering generally refer to practices adopted by some states whereby generation does not have to be either consumed "behind the meter" or purchased by the utility and can, instead, be applied to multiple different accounts, meters or premises; e.g., a subdivision developer could install solar panels on a lot and act as though that generation is offsetting usage for multiple homes. Putting aside legal questions raised by such situations, expansion of net metering in this fashion is bad policy and inconsistent with the intention of the net metering statute. Whenever net metering is expanded, the subsidy already provided by non-generating customers to customer-generators is increased. Such an expansion should not be pursued.

5. Division of Energy Recommendation 3. (p. 3) – "The Commission should consider whether a uniform structure for rates for supplemental, back-up, and emergency service to customer-generators, including CHP, would be appropriate."

Ameren Missouri Response – Ameren Missouri assumes for purposes of this statement that the Division of Energy is not using the term "customer-generator" as defined in the net metering statute, since net metering customers are not allowed to be assessed "any additional standby, capacity, interconnection or other fee or charge that would not otherwise be charged if the customer were not an eligible customer-generator." Section 386.890(2), RSMo (2016). Further, combined heat and power ("CHP") projects do not qualify for net metering. Assuming Division of Energy is referring to a statewide rate structure applicable to PURPA Qualifying Facilities ("QF's"), it is important to remember that in Ameren Missouri's most recent electric rate case, a new standby service tariff,

Rider SSR, was approved by the Commission after an extensive 2-year collaboration between Ameren Missouri, Division of Energy and other parties. Ameren Missouri is concerned about initiating another proceeding which would erase the significant efforts that were made to successfully analyze, negotiate and litigate an entirely new standby service rate that has only been effective for approximately six months.

Joint Comments of Renew Missouri and Cypress Creek Renewables

6. Renew Missouri/Cypress Creek Proposed Changes a. Public Availability of Avoided Cost Data (p. 5) – "We recommend that avoided cost forecasts inclusive of energy and capacity be made available over a 30-year period..."

Ameren Response – Ameren Missouri requests that the Commission take note that certain information that is used to develop avoided cost forecasts is Confidential and has been submitted as such in other proceedings before the Commission, including in IRP filings and rate cases. This designation is important because the release of forward views of avoided costs may have competitive implications for commercial transactions the Company may engage in with third parties. Any revision of the PURPA rules should protect Confidential information while satisfying the PURPA requirements.

7. Renew Missouri/Cypress Creek Proposed Changes c. System Size Limit for QFs (p. 7) – "We recommend changing the rule to a size limit of 5 MW under a standard offer contract utilizing the standard avoided cost methodology."

Ameren Missouri Response – While PURPA only requires a standard offer for generation of 100 KW and less, it does not prohibit a higher threshold. Ameren

Missouri understands there could be some benefit to increasing the threshold but has concern about a 5 MW threshold. As we noted in our original comments in this docket, a standard contract suitable for a 5 MW project that intends to primarily make sales to the utility may be highly burdensome for a small project that intends to only reduce retail purchases and never export. As such, increasing the threshold for the standard contract to cover larger and more complex systems might actually be detrimental to the smaller projects. Ameren Missouri would not oppose a nominally increased threshold higher than 100 KW.

8. Renew Missouri/Cypress Creek Proposed Changes d. Standard Contract Term Length (p. 8) – "Specifically, we propose a standard contract term of 20 years."

Ameren Missouri Response – As we stated in our original comments, capacity procured today is not the same as capacity that is projected to be procured at some point in the future (possibly 10 years or more). The latter scenario allows the utility and its customers to retain an option to not procure or construct new capacity until such time that the need is more immediate. As such, non-generating customers are taking on risk by procuring QF contracts prior to when the capacity is actually required. It has not been established that 20 year contracts are either necessary for a QF to procure financing or in the best interest of customers. The Commission should be cautious in this area and carefully balance the needs of non-generating customers and QF's if a minimum contract term is to be established.

9. Renew Missouri/Cypress Creek Proposed Changes f. Legally Enforceable Obligation (p. 10) – "...we recommend that the Commission adopt a LEO standard with

reasonable procedural timelines for utilities and developers to allow for sufficient certainty and visibility for all parties privy to the qualifying facilities development process."

Ameren Missouri Response – Ameren Missouri again refers to our original comments in this docket about balancing the needs of QF's and non-generating customers. While Ameren Missouri understands the desire of QF's to have a clear standard, the standard proposed by Renew Missouri puts non-generating customers at material risk. Just as occurred in the case of Missouri solar rebates, if there was no limit on the amount of capacity that can receive the posted QF price, or any type of eligibility queue, the potential exists for a "gold rush" or "run on the bank" to occur under some plausible circumstances. Various utilities, and their non-generating customers, have had this experience with PURPA in the past and some are having it right now. Any framework for a Legally Enforceable Obligation must be balanced and reciprocal.

Concluding Comments

10. With respect to all recommendations outlined by the various participants in this docket (including those discussed above), it is critical that the Commission ensure that non-generating customers will not be harmed as a result of recommendations that such participants have made in an effort to "help" QF's.

Ameren Missouri appreciates the opportunity to provide these additional comments and looks forward to its further participation in this workshop docket.

WHEREFORE, the undersigned respectfully requests that the Commission take these responses under advisement.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a Ameren Missouri

/s/ Wendy K. Tatro

Wendy K. Tatro, #60261
Director & Assistant General Counsel
Paula N. Johnson, # 68963
Senior Corporate Counsel
Ameren Services Company
P.O. Box 66149, MC 1310
St. Louis, MO 63166-6149
(314) 554-3484 (phone)
(314) 554-4014 (fax)

AmerenMOService@ameren.com

James B. Lowery, #40503
SMITH LEWIS, LLP
PO Box 918
Columbia, MO 65205-0918
(573) 443-3141 (phone)
(573) 442-6686 (fax)
lowery@smithlewis.com

ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI