

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

In the Matter of a Proposed Rulemaking)	
Regarding Electric Utility Renewable)	<u>Case No. EX-2010-0169</u>
Energy Standard Requirements)	

COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of the Public Counsel and offers the following comments on proposed rules regarding electric utility renewable energy standard requirements:

1. In general, Public Counsel supports the proposed Renewable Energy Standard (RES) rules. However, certain changes must be made in order to accurately reflect the RES law, to make the procedures under the rules more clear, and provide adequate consumer protections. Many of Public Counsel's proposed changes are reflected in Attachment 1 hereto, and most of those are largely self-explanatory. The most complicated proposed change in Attachment 1 is to 4 CSR 240-20.100(5)(B) and relates to the calculation of environmental costs associated with carbon emissions. The rule as proposed is not entirely clear, and does not discuss enough possible scenarios. Two additional proposed changes are described in the following two paragraphs.

2. 4 CSR 240-20.100(6) contemplates that different procedures would be used for cost recovery and pass-through of benefits, depending on whether the actual increase is above or below 2%. Adjustments for such increases are limited to once per year, and so it makes no sense to allow for the abbreviated procedure set forth in 4 CSR 240-20.100(6)(B). Public Counsel suggests that all increases under 4 CSR 240-20.100(6) follow the procedures set forth in 4 CSR 240-20.100(6)(C). If the Commission decides to keep 4 CSR 240-20.100(6)(B), it should lengthen the amount of time for decision as reflected in Attachment 1 hereto.

3. 4 CSR 240-20.100(6) also contemplates that a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) may be periodically “re-based” and RES costs included in base rates. In order to more clearly show customers the impacts of the RES, Public Counsel suggests that RESRAM charges not be re-based and buried in base rates, but instead continue to be shown separately on customers' bills. There are a number of instances in which the proposed rule refers to re-basing, and all such references should be eliminated.

WHEREFORE, Public Counsel respectfully submits its comments on the proposed rule.

Respectfully submitted,

OFFICE OF THE Public Counsel

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ATTACHMENT 1

4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements

PURPOSE: This rule sets the definitions, structure, operation, and procedures relevant to compliance with the Renewable Energy Standard.

(1) Definitions. For the purpose of this rule:

...

(M) RESRAM or Renewable Energy Standard Rate Adjustment Mechanism means a mechanism that allows ~~periodic~~ rate adjustments no more than once per calendar year to recover prudently incurred RES compliance costs and pass-through to customers the benefits of any savings achieved in meeting the requirements of the Renewable Energy Standard;

...

(P) The RES revenue requirement means the following:

1. All expensed RES compliance costs (other than taxes and depreciation associated with capital projects) that are included in the electric utility's revenue requirement in the proceeding in which the RESRAM is established, continued, modified, or discontinued; and

2. The costs (i.e., the return, taxes and depreciation) of any capital projects whose primary purpose is to permit the electric utility to comply with any RES requirement. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the proceeding in which the RESRAM is established, continued, modified, or discontinued;

5) Retail Rate Impact.

(A) The retail rate impact, as calculated in 5 (B), may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance. The rate impact shall be calculated on an incremental basis for each addition of renewable generation through procurement or development of renewable energy resources, averaged over ~~a~~the succeeding ten (10) year period, and shall exclude renewable energy resources owned or under contract prior to the effective date of this rule ~~and renewable energy resources previously determined not to exceed the one percent (1%) threshold.~~

(B) The RES retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio. The non-renewable generation and purchased power portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio, additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years. The RES-Compliant portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio an amount of renewable resources sufficient to achieve the standard set forth in Section (2) of this rule, and an amount of least-cost non-renewable resources, the combination of which is sufficient to meet the utility's needs for the next ten (10) years. These renewable energy resource additions will utilize the most recent electric utility resource planning analysis. These comparisons will be conducted utilizing projections of the incremental revenue requirement for new renewable energy resources, less the avoided cost of fuel not purchased for non-renewable energy resources due to the addition of renewable energy resources. In addition, the projected impact on revenue requirements by non-renewable energy resources shall be ~~reduced~~increased by the ~~cost~~expected value of greenhouse gas emissions ~~reductions~~compliance costs, assuming that such ~~reductions~~costs are made at the ~~then current~~expected value of the cost per ton of greenhouse gas emissions allowances, cost per ton of a greenhouse case emissions tax (e.g. a carbon tax), or the cost per ton of greenhouse gas emissions reductions ~~off for any~~ greenhouse gas emission reduction technology that is applicable to the utility's generation portfolio, whichever is lower. Calculations of the expected value of costs associated with greenhouse gas emissions shall be

derived by applying the probability of the occurrence of future greenhouse gas regulations to expected level(s) of costs per ton associated with those regulations over the next ten years. Any variables utilized in the modeling shall be consistent with values established in prior rate proceedings, electric utility resource planning filings or RES compliance plans, unless specific justification is provided for deviations. The comparison of the rate impact of renewable and non-renewable energy resources shall be conducted only when the electric utility proposes to add incremental renewable energy resource generation through the procurement or development of renewable energy resources.

(C) Rebates made during any calendar year in accordance with Section (4) of this rule shall be included in the cost of generation from renewable energy resources.

(D) For purposes of the determination in accordance with subsection (B) of this section, if the revenue requirement including the RES-compliant resource mix, averaged over a-the succeeding ten (10) year period, exceeds the revenue requirement that includes the non-renewable resource mix by more than 1%, the utility shall adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not ~~at any time~~ exceed 1%. In making this adjustment, the solar requirement shall be in accordance with subsection (2)(F) of this rule. Prudently incurred costs to comply with the RES standard, and passing this rate impact test, may be recovered in accordance with Section (6) of this rule or through a rate proceeding outside or in a general rate case.

(E) Costs or benefits attributed to compliance with a federal renewable energy standard or portfolio requirement shall be considered as part of compliance with the Missouri RES.

(6) Cost Recovery and Pass-through of Benefits. Pursuant to this rule and sections 393.1030 and 393.1045, RSMo, an electric utility outside or in a general rate proceeding may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs or pass-through of benefits received as a result of compliance with RES requirements; provided that the RES compliance retail rate impact on average retail customer rates does not exceed one percent (1%) as determined by section (5) of this rule.

(A) ~~If the actual increase in utility revenue requirements is less than two percent (2%), subsection (B) of this section shall be utilized. If the actual increase in utility revenue requirements is equal to or greater than two percent (2%), subsection (C) of this section shall be utilized. For the initial filing by the electric utility in accordance with this section, subsection (C) of this section shall be utilized.~~

(6) (B) RESRAM for less than two percent (2%) actual increase in utility revenue requirements.

1. When an electric utility files proposed rate schedules pursuant to sections 393.1020 and 393.1030, RSMo, and the provisions of this rule, the commission staff shall conduct an examination of the proposed RESRAM.

2. The staff of the commission shall examine and analyze the information submitted by the electric utility to determine if the proposed RESRAM is in accordance with provisions of this rule and sections 393.1030 and 393.1045, RSMo, and shall submit a report regarding its examination to the commission not later than sixty (60) days after the electric utility files its proposed rate schedules.

3. The commission may hold a hearing on the proposed rate schedules and shall issue an order to become effective not later than ~~ninety (90)~~ one hundred (120) days after the electric utility files the proposed rate schedules.

6) (C) RESRAM for equal to or greater than two percent (2%) actual increase in utility revenue requirements.

1. If an electric utility files an application and rate schedules to establish, continue, modify, or discontinue a RESRAM outside of a general rate proceeding, the staff shall examine and analyze the information filed in accordance with this section and additional information obtained through discovery, if any, to determine if the proposed RESRAM is in accordance with provisions of this rule and sections 393.1030 and 393.1045, RSMo. The commission shall establish a procedural schedule providing for an evidentiary hearing and commission report and order regarding the electric utility's filing. The staff shall submit a report regarding its examination and analysis to the commission not later than seventy-five (75) days after the electric utility files its application and rate schedules to establish a RESRAM. An individual or entity granted intervention by the commission may file comments not later than seventy-five (75) days after the electric utility files its application and rate schedules to establish a RESRAM. The electric utility shall have no less than fifteen (15) days from the filing of the staff's report and any intervenor's comments to file a reply. The commission shall have no less than ~~thirty-sixty~~ (30) (60) days from the filing of the electric utility's reply to hold a hearing and issue a report and order approving the electric utility's rate schedules subject to or not subject to conditions, rejecting the electric utility's rate schedules, or rejecting the electric utility's rate schedules and authorizing the electric utility to file substitute rate schedules subject to or not subject to conditions.