

Cost Recovery and Pass-through of Benefits
Chapter 20 Rule, Revision 11, Section 6

(6) Cost Recovery and Pass-through of Benefits.

(A) Applications to Establish, Continue, or Modify a RESRAM. 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, or modify 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%). The pass-through of benefits has no single-year cap or limit. Any party in a rate proceeding in which a RESRAM is in effect or proposed may seek to continue as is, modify, or oppose the RESRAM. The commission shall approve, modify, or reject such applications and rate schedules to establish a RESRAM only after providing the opportunity for an evidentiary hearing.

1. In determining which incremental RES compliance cost components to include in a RESRAM, the commission shall consider the extent to which the cost is related to RES compliance, and in addition shall consider, but is not limited to only considering, the magnitude of the costs and the ability of the utility to manage the costs.

2. The commission may, in its discretion, determine what portion of prudently incurred RES compliance costs may be recovered in a RESRAM and what portion shall be recovered in base rates.

3. Any party to the rate proceeding may oppose the establishment, continuation or modification of a RESRAM and/or may propose alternative RESRAMs for the commission's consideration including but not limited to modifications to the electric utility's RESRAM.

4. The RESRAM shall be based on known and measurable RES compliance costs that have been incurred by the electric utility.

5. If a RESRAM is approved, the commission shall determine the base RES compliance revenue requirement.

6. RES compliance costs shall only be recovered through a RESRAM and shall not be considered for cost recovery through an environmental cost recovery mechanism or fuel adjustment clause or interim energy charge.

7. An electric utility shall include in its initial notice to customers regarding the RESRAM rate proceeding, a commission approved description of how the costs or benefits passed through the proposed RESRAM requested shall be applied to monthly bills.

8. The electric utility shall meet the filing requirements in 4 CSR 240-3.YYY in conjunction with an application to establish, continue, or modify a RESRAM.

(B) Applications to Discontinue a RESRAM. The commission shall allow or require the rate schedules that define and implement a RESRAM to be discontinued and withdrawn only after providing the opportunity for a full hearing outside or in a general rate proceeding.

1. Any party to the rate proceeding may oppose the discontinuation of a RESRAM on the grounds that the electric utility is currently experiencing, or in the near term, is likely to experience declining costs or on any other grounds that would result in a detriment to the public interest. If the commission is seeking to discontinue the RESRAM under these circumstances, the commission shall not permit the RESRAM to be discontinued, and shall order its continuation or modification.

2. The electric utility shall include in its initial notice to customers regarding the rate proceeding, a commission approved description of why it believes the RESRAM should be discontinued.

3. Paragraphs (A)3. through (A)8. of this section shall apply to any proposal for discontinuation.

4. The electric utility shall meet the filing requirements in 4 CSR 240-3.YYY in conjunction with an application to discontinue a RESRAM.

(C) Establishment of a RESRAM outside of a general rate proceeding. If an electric utility files an application and rate schedules to establish a RESRAM outside of a general rate proceeding, the staff shall examine and analyze the information filed in accordance with 4 CSR 240-3.YYY 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 no later than one hundred twenty (120) days after the electric utility's filing of its application and rate schedules. The staff shall submit a report regarding its examination and analysis to the commission not later than sixty (60) 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 sixty (60) 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 forty-five (45) 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.

(D) Periodic Adjustments of a RESRAM. If an electric utility files proposed rate schedules to adjust its RESRAM rates between general rate proceedings, the staff shall examine and analyze the information filed in accordance with 4 CSR 240-3.YYY and additional information obtained through discovery, if any, to determine if the proposed adjustment to the RESRAM is in accordance with provisions of this rule, sections 393.1030 and 393.1045, RSMo, and the RESRAM established in the utility's most recent rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its RESRAM rates. If the RESRAM rate adjustment is in accordance with the provisions of this rule, sections 393.1030 and 393.1045, RSMo, and the RESRAM established in the most recent rate proceeding, the commission shall either issue rate adjustment order approving the tariff schedules and the RESRAM rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the RESRAM rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the RESRAM rate adjustment is not in accordance with the provisions of this rule, sections 393.1030 and 393.1045, RSMo, or the RESRAM established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate rate schedule(s).

1. The periodic adjustments shall be limited to the expense items and the capital projects that are used to determine the RES compliance revenue requirement in the previous rate proceeding and those investments or expenses necessary to comply with the utility's RES compliance plan for the period the RESRAM is in effect.

2. The periodic adjustment shall reflect a comprehensive measurement of both increases and decreases to the

RES revenue requirement established in the prior rate proceeding plus the additional RES compliance costs incurred since the prior rate proceeding.

3. Any periodic adjustment made to RESRAM rate schedules shall not generate an amount of general revenue that exceeds the limitations of section (5) of this rule.

A. The electric utility shall be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-through taxes and fees and such taxes and fees shall not be counted against the limitations of section (5) of this rule.

B. Any RES compliance costs, to the extent addressed by the RESRAM, not recovered as a result of the limitations of section (5) of this rule may be deferred, at a carrying cost each month equal to the utility's net of tax cost of capital, for recovery or in the utility's next rate proceeding subject to the limitations of section (5) of this rule.

4. An electric utility with a RESRAM shall file adjustments to its RESRAM with the timing and number of such additional filings to be determined in the rate proceeding establishing the RESRAM.

5. The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in subsection (G) of this section and its monthly reporting requirements as required by 4 CSR 240-3.YYY in order for the commission to process the electric utility's requested RESRAM adjustment increasing or decreasing rates.

6. If the staff, Office of Public Counsel (OPC) or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.YYY and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.YYY and the commission order establishing the RESRAM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the RESRAM rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.YYY, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing time line for the adjustment to increase RESRAM rates

shall be suspended. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.YYY in a request to decrease RESRAM rates shall not alter the processing time line.

(E) Prudence Reviews Respecting a RESRAM. A prudence review of the costs subject to the RESRAM shall be conducted no less frequently than at intervals established in the rate proceeding in which the RESRAM is established.

1. All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis for each month the RESRAM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative RESRAM over-collection or under-collection balance. Each month's accumulated interest shall be included in the RESRAM over-collection or under-collection balances on an on-going basis.

2. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The staff shall file notice within ten (10) days of starting its prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

A. If the staff, OPC or other party auditing the RESRAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RESRAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information shall timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing time line shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing time line. For good cause shown the commission may further suspend this time line.

B. If the time line is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the

electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in paragraph (6)(E)1. of this rule.

(F) Disclosure on Customers' Bills. Any amounts charged under a RESRAM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.

(G) Submission of Surveillance Monitoring Reports. Each electric utility with an approved RESRAM shall submit to staff, OPC and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.YYY.

1. The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the RESRAM.

2. If the electric utility also has an approved fuel rate adjustment mechanism or environmental cost recovery mechanism (ECRM), the electric utility shall submit a single Surveillance Monitoring Report for the RESRAM, ECRM, the fuel rate adjustment mechanism, or any combination of the three. The electric utility shall designate on the single Surveillance Monitoring Report whether the submission is for RESRAM, ECRM, fuel rate adjustment mechanism or any combination of the three.

3. Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.YYY, after notice and an opportunity for a hearing, the commission may suspend a RESRAM or order other appropriate remedies as provided by law.

(H) Pre-Existing Adjustment Mechanisms, Tariffs and Regulatory Plans. The provisions of this rule shall not affect:

1. Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

2. Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

Sun Edison (Rick Gilliam) comments

Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) and cost cap issues

The retail rate impact component of Colorado's renewable energy standard has been among the most complex and resource intensive elements of the policy. While it is tempting to use a simplified approach to determining the effect on rates of the RES, it is difficult to come up with such an approach that makes sense and is fair. Conversely, the full and detailed modeling required to accurately portray incremental costs and savings to the utility system is daunting and results in complex regulatory proceedings. As always, the regulator must strike an appropriate balance in this important topic area. Based on experience in other states, we here identify suggested guidelines for cost cap implementation.

The eligible resources used for compliance purposes should be the same resources used for the cost cap. All costs and all benefits need to be incorporated (see discussion of APS study below). Some of these resources will have a positive rate impact, i.e. increasing costs, and some will generate savings for customers, i.e. a net reduction in costs;

The method of calculation should be transparent and all assumptions and data inputs should be consistent with the utility's most recent resource plan;

To the extent that utilities own eligible resources, the full utility cost of service associated with such resources should be reflected;

Eligible resources may be acquired by a QRU prior to the time needed for compliance for a number of reasons. The QRU should not be penalized for acquisition strategies that are in the best long-term interests of its customers;

Since the RESRAM cannot exceed 1%, there may need to be another mechanism to account for the non-incremental costs of eligible resources. In Colorado the ECA (fuel clause) is utilized;

To the extent that the cost cap is reached, there should be proportionality maintained among the requirements. For example, utilities should not be allowed to stop acquiring eligible solar resources because they have expended the full incremental 1% on non-solar

RESRAM undercollections and overcollections should be given the same treatment.

Decent Energy (Barry Dicker) comments

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rate schedules to establish a RESRAM only after providing the opportunity for an evidentiary hearing.

**Renew Missouri, Missouri Coalition for the Environment,
Great Rivers Environmental Law Center (Henry Robertson)**
comments

(B) Applications to Discontinue a RESRAM. The commission shall allow or require the rate schedules that define and implement a RESRAM to be discontinued and withdrawn only after providing the opportunity for a full hearing outside or in a general rate proceeding.

1. Any party to the rate proceeding may oppose the discontinuation of a RESRAM on the grounds that the electric utility is currently experiencing, or in the near term, is likely to experience declining costs or on any other grounds showing that discontinuation would result in a detriment to the public interest. If the commission is seeking to discontinue the RESRAM under these circumstances, the commission shall not permit the RESRAM to be discontinued, and shall order its continuation or modification.