**4 CSR 240-20.XXX Electric Utility Renewable Energy Standard Requirements**

*PURPOSE: This rule sets the definitions, structure, operation, and procedures relevant to compliance with the Renewable Energy Standard.* *[See also 393.1040. "In addition to the renewable energy objectives set forth in sections 393.1025, 393.1030, and 393.1035, it is also the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity."]*

(1) Definitions. As used in this rule, the following terms mean as follows:

(A) Co-fire means simultaneously using multiple fuels in a single generating unit for the production of electricity;

(B) Commission is the Missouri Public Service Commission;

(C) Compliance year or calendar year means a period of 365 days (or 366 days for leap years) that includes January 1 of the year and all subsequent days through and including December 31 of the same year;

(D) Department is the department of natural resources;

(E) Electric utility means an electrical corporation as defined in section 386.020, RSMo, subject to the jurisdiction of the commission pursuant to Chapters 386 and 393, RSMo;

(F) Eligible customer-generated renewable energy is electricity generated by a customer-generator as defined in section 386.890.2(3), RSMo. The customer-owned generating equipment must qualify as an eligible renewable energy resource in accordance with this rule. The customer-generator must be a Missouri retail customer of the electric utility;

(G) Eligible renewable energy resource(s) or renewable energy resource(s) is electricity generated through the application of~~from~~ eligible renewable energy technologies *[Note- Subtle point, but it is not the technology that generates the electricity, but rather the application of the technology. Corresponding edits are suggested throughout.]* that is delivered by the utility to Missouri retail customers as well as eligible customer-generated renewable energy. Electrical energy purchased by the electric utility is eligible only if the source is an eligible renewable energy resource and only if the utility purchases both the energy and the related green attributes. The amount of electrical energy considered for this definition is the net output of the applicable generating facility. The generation facility must comply with all applicable federal and state statutes and rules;

(H) Eligible renewable energy technologies are sources of electrical energy that shall be considered renewable for purposes of this section and shall include:

1. Wind;

2. Solar, including solar thermal sources utilized to generate electricity, photovoltaic cells and panels;

3. Dedicated crops grown for energy production;

4. Cellulosic agricultural residues;

5. Plant residues;

6. Methane from landfills or wastewater treatment;

7. Clean and untreated wood, such as pallets;

8. Hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has generator nameplate capacity rating(s) of ten (10) megawatts or less;

9. Fuel cells using hydrogen produced by one of the eligible renewable energy technologies in paragraphs 1 through 8 of this subsection; and

10. Other technologies that become available after November 4, 2008 and have been certified as eligible renewable energy technologies by rule by the department.

(I) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;

(J) Green attributes are the characteristics which differentiate a unit of electrical energy supplied by eligible~~a~~ renewable energy resources~~technology~~ from a unit of electrical energy supplied by ~~a~~ non-renewable generation resources used by each utility ~~technology~~. The green attributes may be represented by RECs, SO-RECs, or S-RECs; *[Note- Definition is important as RECs don't encompass all environmental attributes, (eg emissions reduction)]*

(K) REC, Renewable Energy Credit, or Renewable Energy Certificate is a tradable certificate of proof that one megawatt-hour of electricity has been generated from eligible renewable energy resources. RECs include, but are not limited to, solar on-site renewable energy credits and solar renewable energy credits;

(L) RES or Renewable Energy Standard means sections 393.1025 and 393.1030, RSMo;

(M) RES requirements are the numeric values [and other requirements] established by section 393.1030.1, RSMo and this rule;

(N) Solar on-site renewable energy credit or SO-REC means a REC created by a solar renewable energy system located on the premises of an end-use consumer located within the service territory of an electric utility;

(O) Solar renewable energy credit or S-REC means a REC created by a solar renewable energy system. S-RECs include, but are not limited to, SO-RECs;

(P) Staff means the staff of the Missouri Public Service Commission;

(Q) Total jurisdictional revenue requirement is the total cost to the utility of providing retail electric service to its Missouri customers;

(R) Total retail electric sales, or total retail electric energy usage, is the megawatt-hours of electricity delivered in a specified time period by an electric utility to its Missouri retail customers as measured at the customers' meters; and

(S) Utility renewable energy resources are those eligible renewable energy resources that are owned, controlled or purchased by the electric utility.

(2) Requirements. Pursuant to the provisions of this rule and 393.1025 and 393.1030, RSMo, all electric utilities must generate or purchase electricity from eligible renewable energy resources in sufficient quantity to meet the RES requirements on a compliance year basis. Electric utility renewable energy resources utilized for compliance with this rule must include the RECs associated with the generation. The RES requirements and the RES solar energy requirements are based on total retail electric sales for each electric utility. If an electric utility does not achieve compliance with the RES requirements through generation or purchase of electricity from ~~an~~ eligible renewable energy resource(s)~~technology~~, compliance may also be achieved through the purchase and retirement of RECs.

(A) The RES requirements are:

1. No less than two (2) percent for calendar years 2011 through 2013;

2. No less than five (5) percent for calendar years 2014 through 2017;

3. No less than ten (10) percent for calendar years 2018 through 2020; and

4. No less than fifteen (15) percent in each calendar year beginning in 2021.

(B) At least two (2) percent of each RES requirement listed in subsection (A) of this section shall be derived from solar energy. The RES solar energy requirements are:

1. No less than four-hundredths (0.04) percent for calendar years 2011 through 2013;

2. No less than one-tenth (0.1) percent for calendar years 2014 through 2017;

3. No less than two-tenths (0.2) percent for calendar years 2018 through 2020; and

4. No less than three-tenths (0.3) percent in each calendar year beginning in 2021.

(C) For compliance years in which the utility does not meet the requirements of subsection (A) of this section, but is limited by the maximum retail rate impact specified in section (5) of this rule, the two (2) percent solar energy requirement will be applicable on a proportional basis.

(3) Renewable Energy Credits. RECs, S-RECs, and SO-RECs will be utilized to satisfy the RES requirements of this rule. RECs must be generated~~created~~ by application of eligible renewable energy resources~~technologies~~ as defined in this rule. RECs, S-RECs or SO-RECs that are not associated with electric utility generated or purchased electrical energy, may be utilized to comply with any portion of the RES requirements, up to and including one hundred (100) percent of the RES requirements, where they are ~~. RECs, S-RECs or SO-RECs~~ acquired by contracts or through a system of tradable RECs, exchanges or brokers may be utilized to comply with the RES requirements. Only S-RECs or SO-RECs may be utilized to comply with the RES solar energy requirements.

(A) RECs *[Note- What does the concept of retention add here that isn't captured by duration?]* ~~may be retained and~~ are valid for a maximum period of three (3) years from the month and year of the REC creation. The month and year of REC creation shall be determined from the time of completion of the generation underlying a REC. The REC, S-REC or SO-REC creation is linked to the associated electrical generation from an eligible renewable energy technology. For purposes of retaining RECs, S-RECs or SO-RECs, the utility, person, or entity responsible for creation of the REC, S-REC, or SO-REC must maintain verifiable records that prove the creation month(s) and year(s).

(B) A REC may only be used once to comply with this rule. RECs, S-RECs or SO-RECs used to comply with this rule may not also be used to satisfy any similar nonfederal requirement. Electric utilities may not use RECs, S-RECs or SO-RECs derived from a green pricing program to comply with this rule.

(C) RECs, S-RECs or SO-RECs created by the operation of net-metered sources from eligible customer-generated renewable energy shall initially be owned by the customer-generator. All contracts between electric utilities and the owners of net-metered sources entered into after the effective date of these rules shall clearly specify the entity or person who shall own the RECs, S-RECs or SO-RECs associated with the energy generated by the facility. Electric metering associated with net metered

sources shall meet the meter accuracy and testing requirements of 4 CSR 240-10.030, Standards of Quality.

(D) RECs, S-RECs or SO-RECs that are created after November 4, 2008 may be utilized for compliance with the RES.

(E) RECs that are generated with fuel cell energy using hydrogen derived from an eligible renewable energy resource are eligible for compliance purposes only to the extent that the energy used to generate the hydrogen did not create RECs.

(F) If an electrical generator co-fires an eligible renewable energy fuel source with an ineligible fuel source, only the proportion of the electrical energy output associated with the eligible renewable energy fuel source shall be permitted to count toward compliance with the RES.

(G) Electric utilities shall record REC information in a database and format or other similar tracking mechanism and format. The tracking mechanism and format shall include, but not be limited to, a list of eligible renewable energy resources the electric utility utilizes for compliance with the RES, including type, location, owner, operator, commencement of operations, and actual REC generation. For RECs used for compliance, but not linked to electrical generation used by the electric utility to serve its total retail electric energy usage, the tracking mechanism and format shall include type, location, original owner, transfer information, and retirement information.

(H) The Commission shall order all electric utilities to use a common central third-party registry or other equivalent tracking mechanism for REC accounting for RES requirements.

(I) RECs that are created by the generation of electricity by an eligible renewable energy resource physically located in the state of Missouri will count as one and twenty-five hundredths (1.25) RECs for purposes of compliance with this rule. This additional credit will not be tracked in the tracking systems specified in subsections (G) or (H) of this section. This additional credit of twenty-five hundredths (0.25) shall be recognized when the electric utility files its annual compliance report in accordance with section (7) of this rule.

(J) RECs that are purchased by an electric utility from a facility that subsequently fails to meet the requirements for eligible renewable energy resources will remain valid through the date of facility decertification. These ~~valid~~ RECs shall~~may~~ remain valid ~~be retained~~ for a period of thirty six (36) months from the date of the facility decertification in accordance with subsection (A) of this section.

(K) All supporting documents for RECs utilized for compliance shall be available for review by the Staff.

(4) Solar Rebate. Pursuant to section 393.1030, RSMo, and this rule all electric utilities shall include in their tariffs a provision regarding retail customer rebates for solar electric systems. These rebates will be available to Missouri retail customers who install new or expanded solar electric systems that become operational after December 31, 2009. *[Note- the ballot language specifies "after 2009", and it would seem that there may have been some misimpressions both on the part of installers and retail customers as to when the rebates would become available. In any event, an informed retail customer will typically be inclined to wait until 2010 to put in a solar electric system. To some extent this involves a deferral of baseline 2009 work, or the demand for installation of solar electric systems in the absence of any rebate, into 2010. The result does not help with any of workforce training, keeping locally owned installers in business or general economic recovery. Inasmuch as Missouri can, in our opinion, better position itself as a manufacturing center for renewable resources by moving ahead with the rebate program in 2009, the mechanics of doing so are worth consideration by the Commission. One source of funding might be federal recovery funds. Alternatively, should one or more utilities decide to honor the rebate in 2009, we believe that they ought to be supported through the mechanism currently defined by this regulation or a variation. ]* The minimum amount of the rebate will be two (2) dollars per installed watt up to a maximum of twenty-five (25) kilowatts per retail customer system.

(A) The retail customer must be an active account of the electric utility's system.

(B) The solar electric system must be permanently installed on the customer's premises. Any indication of portability will render the solar electric system ineligible for the solar rebate.

(C) The installed solar electric system must remain in place on the ~~customer's~~installed premises for the duration of its warranted~~useful~~ life. If the customer fails to maintain the system in an operational configuration or removes the system from the original customer premises, the customer shall reimburse the entire solar rebate to the applicable electric utility. *[Note- There is nothing in the statute on this point, and the prospect of having to disgorge the rebate in full when sometime over the course of 30 to 50 years a solar electric system either malfunctions, is substantially modified, or components are resold is excessive, especially in light of the one rebate provision in (D), below.]* The solar electric system, with the exception of any associated batteries, shall be covered by a minimum five-year original equipment manufacturer's

warranty. [*Note- Manufacturers in the solar electric industry do not typically identify themselves as OEMS, and limited warranties run with components, not systems.*]

(D) Solar electric systems installed by retail customers must consist of equipment that is commercially available and factory new when installed on the original customer's premises. Rebuilt, used or refurbished equipment is not eligible to receive the rebate. [*Note- Why not permit systems to include refurbished equipment, especially if the component is being warranted per (C) above, and the following sentence applies.*] For any applicable solar electric system, only one rebate will be paid for the lifetime of the solar electric system.

(E) The solar electric system shall meet all requirements of 4 CSR 240-20.065, Net Metering.

(F) The electric utility may inspect customer-owned solar electric systems for which it has paid a solar rebate pursuant to this section, at any reasonable time, with prior notice of at least three (3) business days provided to the customer-owner.

(G) For the purpose of determining the amount of solar rebate, the solar electric system wattage rating will be established as the direct current wattage rating provided by the original ~~equipment~~ photovoltaic module manufacturer with respect to Standard Test Conditions. [*Note- STC is the most universally applied benchmark for nominal dc wattage.*][*Also note, we encourage the Commission to consider addressing the lack of equivalency of dc wattage between traditional format photovoltaic modules (mono or polycrystaline based cells included within a frame as to which power output is usually warranted at 80% of nameplate for 20 years or more) versus some of the newer thin film or amorphous silicon products many of which may only carry a 5 or 10 year power output warranty. The later are available at a much lower initial cost per installed watt dc and would maximize rebate applications at the cost of longer term production or environmental benefit. In order to remain technology/format agnostic, we believe that power output warranties per watt dc are the best yardstick to use in establishing some equivalency.*][*Also note- To the extent that solar thermal is included in the rebate structure, an approach would be to take the Btuh rate of the system, convert to kWH equivalent system capacity, and then apply the solar electric rebate structure.*]

(H) At the time of the rebate payment or anytime thereafter, the electric utility may negotiate a one-time lump sum payment or annual payments for any SO-RECs created by the installed solar electric system, provided that ~~. This provision does not require~~ the customer shall not be required to sell any or all

RECS, SO-RECs, or Green attributes to the electric utility that supplies the retail customer, or included as a requirement of the utility's interconnection agreement. For purposes of this subsection, the energy that will be generated by a solar photovoltaic system with a nameplate capacity of ten (10) kW or less may be estimated using generally accepted analytical tools. The selection and use of these analytical tools shall be conducted in consultation with the staff of the commission.

(I) Electric utilities that have purchased SO-RECs in accordance with subsection (H) of this section may continue to account for any RECs purchased in the event the owner of the solar electric system ceases to operate the system or the system is decertified as an eligible renewable energy resource. *[Note- This doesn't seem to be consistent with the objective of the statute, especially where the value of the market value of the SO-REC in subsequent years could be considerable in relation to the initial rebates and lump sum SO-REC purchase price paid.]*

(J) In the event the solar rebate program for an electric utility causes the utility to meet or exceed the retail rate impact limits of section (5) of this rule, the solar rebates will be paid on a first-come, first served basis, as determined by the solar rebate application date. *[Note- Seemingly the list ought not to re-set by Compliance Year, so a retail customer that misses out in one year does not get skipped over once the following year's rebate pool becomes available.]*

(5) Retail Rate Impact. The RES compliance retail rate impact will be limited to no more than a maximum average retail rate increase of one (1) percent per year pursuant to 393.1030 and 393.1045, RSMo.

(A) The portion of an electric utility's total jurisdictional revenue requirement deemed attributable to the RES shall include all prudently incurred direct costs associated with RES compliance, including, but not limited to, program administration, rebates, payments made under eligible renewable energy resource supply contracts, payments for RECs, and computer modeling and analysis time, net of all related incremental revenue *[Note- While the RECS associated with green energy marketing programs are specifically excluded as a means for the utilities to achieve compliance, here we anticipate that RECS produced or purchased by utilities to achieve compliance could be marketed to customers for incremental revenue through green power programs, in which case the incremental revenue ought to reduce the jurisdictional revenue requirement]*. These costs shall also include depreciation, income taxes, and a return on eligible renewable energy net investment that is fully operational and used for service. *[Note- Lump sum payments for*

*RECS, SO-RECS or Green attributes should not be taken at 100% in the year paid, but rather reflected ratably over the expected system life.]* The administrative costs of an electric utility to implement this rule are capped at ten (10) percent of the total annual cost. *[Note- This seems high as a percentage of the total, especially on an ongoing basis.]*

(B) The retail rate impact will be analyzed by determining the revenue requirement necessitated by RES compliance as follows:

1. The electric utility will determine the actual total jurisdictional revenue requirement for the compliance year being reviewed.

2. The electric utility will determine the portion of the actual total jurisdictional revenue requirement that can be specifically attributed to actions taken to meet the RES requirements for the compliance year being reviewed.

3. The electric utility will determine the estimated alternative total jurisdictional revenue requirement if the eligible renewable energy resources, specifically attributed to actions taken to meet the RES requirements, had not been utilized for the compliance year being reviewed.

A. The estimated alternative total jurisdictional revenue requirement will be determined by utilizing the utility's most recent electric utility resource plan filed at the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning, unless an exception to this methodology is approved by the commission.*[Note- The statute calls for "taking into proper account future environmental regulatory risk including the risk of greenhouse gas regulation. If the most recent electric utility resource plan does not account for these costs then the alternative to RES implementation looks more expensive than it is. Shouldn't the utilities be reflecting a contingent liability for carbon output and other environmental costs? Is the Commission implementing this through Resource Planning?]*

B. Input data for the estimated alternative total jurisdictional revenue requirement will be actual data for the compliance year being considered.

4. The electric utility will determine the difference between the actual total jurisdictional revenue requirement as determined by paragraph 1 of this subsection and the estimated alternative total jurisdictional revenue requirement as determined by paragraph 3 of this subsection.

5. The electric utility will compare the difference determined by paragraph 4 of this subsection with the amount determined by paragraph 2 of this subsection. The number with the least monetary value will be designated as the RES cost or benefit of compliance for the compliance year being reviewed.

6. The electric utility will divide the RES cost or benefit of compliance, as determined by paragraph 5 of this subsection, by the estimated alternative total jurisdictional revenue requirement, as determined by paragraph 3 of this subsection. This amount, expressed as a positive (cost) or negative percentage (benefit) will be designated as the RES compliance retail rate impact.

(6) Cost Recovery and Pass-through of Benefits. Pursuant to this rule and sections 393.1030 and 393.1045, RSMo, an electric utility may file proposed rate schedules with the commission in an RES Cost Recovery Surcharge (RESCRS) or RES benefit pass-through (RESBPT) application that will allow for the adjustment of its rates and charges to provide for recovery of costs incurred or pass-through of benefits received as a result of compliance with RES requirements; provided that the RES compliance retail rate impact does not exceed an average of more than one (1) percent increase in any year. The pass-through of benefits has no single-year cap or limit. Recovery of costs associated with solar rebates as provided for in section (4) of this rule shall be included in the one (1) percent limit.

(A) If the electric utility incurs costs in complying with the RES requirements that exceed the one (1) percent limit for any year, those excess costs may be carried forward to future years for cost recovery under this rule. These carried forward costs plus additional annual costs remain subject to the one (1) percent limit for any subsequent years. In any calendar year that costs from a previous compliance year are carried forward, the carried forward costs will be considered for cost recovery prior to any new costs for the current calendar year.

(B) For ownership investments in eligible renewable energy resources~~technologies~~ in an RESCRS or RESBPT application, the electric utility shall be entitled to a rate of return equal to the electric utility's most recent authorized rate of return on rate base. Recovery of the rate of return for investment in renewable energy resources~~technologies~~ in an RESCRS application is subject to the one (1) percent limit specified in section (5) of this rule. *[Note- Here the distinction between a technology and a resource becomes important, as the current language could be interpreted as permitting recovery on investments in open ended technology commercialization efforts rather than deployment. Also note- There is no reason why a utility's costs in deploying renewable energy resources should exceed the cost of deployment by residential retail customers where there are no economies of scale.]*

(C) Upon the filing of proposed rate schedules with the commission seeking to recover costs or pass-through benefits of

RES compliance, the commission will provide general notice of the filing.

(D) The electric utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with subsection (E) of this section before the notices are sent to customers:

1. An initial, one (1) time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes a RESCRS or RESBPT, explaining the utility's RES compliance and identifying the statutory authority under which it is implementing a RESCRS or RESBPT;

2. An annual notice to affected customers each year that a RESCRS or RESBPT is in effect explaining the continuation of its RES compliance; and

3. A RESCRS or RESBPT line item on all customer bills, which informs the customers of the presence and amount of the RESCRS or RESBPT.

(E) Along with the electric utility's filing of proposed rate schedules to establish a RESCRS or RESBPT, the utility shall file the following items with the commission and the office of the public counsel:

1. An example of the notice required by paragraph (D)1. of this section;

2. An example of the notice required by paragraph (D)2. of this section; and

3. An example customer bill showing how the RESCRS or RESBPT will be described on affected customers' bills in accordance with paragraph (D)3. of this section.

(F) 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 RESCRS or RESBPT.

(G) The staff of the commission shall examine the information of the electric utility to confirm the underlying costs and calculations for the proposed RESCRS or RESBPT, and shall submit a report regarding its examination to the commission not later than forty five (45) days after the electric utility files its proposed rate schedules.

(H) The commission may hold a hearing the proposed rate schedules and shall issue an order to become effective not later than sixty (60) days after the electric utility files the proposed rate schedules.

(I) If the commission finds that the proposed rate schedules or substitute filed rate schedules comply with the applicable requirements, the commission shall enter an order authorizing the electric utility to utilize said RESCRS or RESBPT rate

schedules with an appropriate effective date, as determined by the commission.

(J) The RESCRS or RESBPT will be calculated as a percentage of the customer's energy charge for the applicable billing period.

(K) Commission approval of proposed rate schedules, to establish or modify a RESCRS shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to RES compliance costs during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of RES compliance costs previously in a RESCRS, or pass-through of benefits previously in a RESBPT, the electric utility shall offset its RESCRS or RESBPT in the future as necessary to recognize and account for any such costs or benefits. The offset amount shall include a calculation of interest at the electric utility's short-term borrowing rate. The RESCRS or RESBPT offset will be designed to reconcile such disallowed costs or benefits within the six (6) month period immediately subsequent to any commission order regarding such disallowance.

(L) An electric utility may effectuate a change in RESCRS or RESBPT no more often than one (1) time during any calendar year, not including changes as a result of subsection (K) of this section.

(M) At the end of each twelve (12) month period that a RESCRS or RESBPT is in effect, the electric utility shall reconcile the differences between the revenues resulting from the RESCRS or RESBPT and the pretax revenues as found by the commission for that period and shall submit the reconciliation to the commission with its next sequential proposed rate schedules for RESCRS or RESBPT modification.

(N) An electric utility that has implemented a RESCRS or RESBPT shall file revised RESCRS or RESBPT rate schedules to reset the RESCRS or RESBPT to zero (0) when new base rates and charges become effective following a commission report and order establishing customer rates in a general rate proceeding that incorporates RES compliance costs or benefits previously reflected in a RESCRS or RESBPT in the utility's base rates. If an over- or under-recovery of RESCRS revenues or over- or under-pass-through of RESBPT benefits, exists after the RESCRS or RESBPT has been reset to zero (0), that amount of over- or under-recovery, or over- or under-pass-through shall be tracked in an account and considered in the next RESCRS or RESBPT filing of the electric utility.

(O) Upon the inclusion of RES compliance cost or benefit pass-through previously reflected in a RESCRS or RESBPT into an electric utility's base rates, the utility shall immediately

thereafter reconcile any previously unreconciled RESCRS revenues or RESBPT benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RESCRS or RESBPT match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

(P) At the time an electric utility files proposed rate schedules with the commission seeking to establish, modify, reconcile a RESCRS or RESBPT, it shall submit its supporting documentation regarding the calculation of the proposed RESCRS or RESBPT, and shall serve the office of the public counsel with a copy of its proposed rate schedules and its supporting documentation. The utility's supporting documentation shall include workpapers showing the calculation of the proposed RESCRS or RESBPT, and shall include, at a minimum, the following information:

1. The state, federal, and local income or excise tax rates used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those tax rates;

2. The regulatory capital structure used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using the capital structure;

3. The cost rates for debt and preferred stock used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those rates;

4. The cost of common equity used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for that equity cost;

5. The depreciation rates used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and the basis for using those depreciation rates;

6. The applicable customer class billing methodology used in calculating the proposed RESCRS or RESBPT, and an explanation of the source of and basis for using that methodology;

7. An explanation of how the proposed RESCRS or RESBPT is allocated among affected customer classes, if applicable; and

8. For purchase of electrical energy from eligible renewable energy resources bundled with the associated RECs or for the purchase of unbundled RECs, the cost of the purchases, and an explanation of the source of the energy or RECs and the basis for making that specific purchase, including an explanation of the request for proposal (RFP) process, or the reason(s) for not using an RFP process, used to establish which entity provided the energy or RECs associated with the RESCRS or RESBPT.

(Q) In addition to the information required by subsection (P) of this section, the electric utility shall also provide the

following information when it files proposed rate schedules with the commission seeking to establish, modify, or reconcile a RESCRS or RESBPT:

1. A description of all information posted on the utility's website regarding the RESCRS or RESBPT; and

2. A description of all instructions provided to personnel at the utility's call center regarding how those personnel should respond to calls pertaining to the RESCRS or RESBPT.

(7) Annual Compliance Report. Each electric utility shall file an annual RES compliance report no later than March 1 to report on the status of the utility's compliance with the renewable energy standard for the most recently completed compliance year.

(A) The annual RES compliance report shall provide the following information for the most recently completed compliance year for the electric utility:

1. Total retail electric sales for the utility, as defined by this rule;

2. Total jurisdictional revenue from the total retail electric sales to Missouri customers as measured at the customers' meters;

3. Total retail electric sales supplied by eligible renewable energy resources, section 393.1025.(5), RSMo, including the source of the energy;

4. The number of RECs acquired, sold, transferred, or retired by the utility during the compliance year;

5. The source of all RECs acquired during the compliance year;

6. The identification, by source and serial number, of any RECs that have been carried forward to a future compliance year;

7. An explanation of how any gains or losses from sale or purchase of RECs for the compliance year have been accounted for in any rate adjustment mechanism that was in effect for the electric utility;

8. For acquisition of electrical energy and/or RECs from an eligible renewable energy resource that is not owned by the electric utility, the following information for each resource:

A. Name, address, and owner of the facility;

B. An affidavit from the owner of the facility certifying that the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local, state, or federal mandate;

C. The eligible renewable energy technology utilized at the facility;

D. The dates and amounts of all payments from the electric utility to the owner of the facility; and

E. All meter readings used for calculation of the payments referenced in paragraph D. of this subsection.

9. The total number of customers that applied and received a solar rebate in accordance with section (4) of this rule.

10. The total number of customers that were denied a solar rebate and the reason(s) for denial.

11. The amount of funds expended by the electric utility for solar rebates.

12. An analysis showing whether the electric utility achieved compliance with the RES during the compliance year.

13. If compliance was not achieved, an explanation why the electric utility failed to meet the RES.

(B) On the same date that the electric utility files its annual RES compliance report, the utility shall post an electronic copy of its annual RES compliance report, excluding highly confidential material, on its website to facilitate public access and review.

(C) On the same date that the electric utility files its annual RES compliance report, the utility shall provide the commission with an electronic copy of its annual RES compliance report excluding highly confidential material. The commission may place the redacted electronic copy of each electric utility's annual RES compliance report on the commission's website in order to facilitate public viewing.

(D) Upon receipt of the electric utility's annual RES compliance report, the commission will establish a docket for the purpose of receiving the report. The commission will issue a general notice of the filing.

(E) The staff of the commission shall examine each electric utility's annual RES compliance report and file a report of its review of each electric utility's annual RES compliance report with the commission within forty-five (45) days of the filing of the compliance report with the commission. The staff's report will identify any deficiencies in the electric utility's compliance with the RES.

(F) The office of the public counsel and any interested persons or entities may file comments based on their review of the electric utility's annual RES compliance report within forty-five (45) days of the electric utility's filing of its compliance report with the commission.

(G) The commission shall issue an order which establishes a procedural schedule, if necessary.

(8) Penalties. An electric utility shall be subject to penalties of at least twice the average market value of RECs for the compliance period for failure to meet the targets of section 393.1030.1, RSMo and section 2 of this rule.

(A) An electric utility will be excused if it proves to the commission that failure was due to events beyond its reasonable control that could not have been reasonably mitigated, or that the maximum average retail rate impact increase has been reached.

(B) Penalty payments will be remitted to the department. These payments will be utilized by the department for the following purposes:

1. Purchase RECs in sufficient quantity to offset the shortfall of the utility to meet the RES requirements; and

2. Payments in excess of those required in paragraph 1 of this subsection will be utilized to provide funding for renewable energy and energy efficiency projects. These projects will be selected by the department's energy center in consultation with the staff.

(C) Penalty amounts will be calculated by determining the electric utility's shortfall relative to RES total requirements and RES solar energy requirements for the compliance year. The penalty amount will be based on twice the average market value during the compliance year for RECs or S-RECs in sufficient quantity to make up the utility's shortfall for RES total requirements or RES solar energy requirements. The average market value for RECs or S-RECs for the compliance year will be determined by the staff, subject to approval by the commission.

(D) Any electric utility that is subject to penalties as prescribed by this section shall not seek recovery of the penalties through section (6) of this rule or any other rate-making activity.

(9) Solar Energy Exemptions. Pursuant to 393.1050, RSMo, and this rule electric utilities may be exempt from certain requirements of the RES.

(A) Any electric utility which, by January 20, 2009, achieved an amount of eligible renewable energy technology aggregate nameplate capacity equal to or greater than fifteen (15) percent of the electric utility's total owned fossil-fired generating capacity, shall be exempt from the following requirements of this rule:

1. The requirement to provide a solar rebate to the electric utility's retail customers in accordance with section 393.1030, RSMo and section (4) of this rule; and

2. The requirement to provide a certain percentage of its total retail electric sales from solar energy in accordance with section 393.1030, RSMo and section (3) of this rule.

(10) RES Compliance Plan. Each electric utility will file an annual RES Compliance Plan with the commission, commencing in

2010. The plan shall be filed by April 1 of each year. The plan shall cover the current year and immediately following two (2) calendar years. The RES Compliance Plan shall include, at a minimum:

(A) A specific description of the electric utility's planned actions to comply with the RES;

(B) A list of executed contracts to purchase RECs (whether or not bundled with energy), including type of eligible renewable energy resource, expected amount of energy to be delivered, and contract duration;

(C) The projected total retail electric sales for each year; and

(D) Any differences, as a result of RES compliance, from the utility's most recent electric utility resource plan filed with the commission in accordance with 4 CSR 240-22, Electric Utility Resource Planning.

(11) Waivers and Variances. Upon written application, and after notice and an opportunity for hearing, the commission may waive or grant a variance from a provision of this rule for good cause shown.

(A) The granting of a variance to one (1) electric utility which waives or otherwise affects the required compliance with a provision of this rule does not constitute a waiver respecting, or otherwise affect, the required compliance of any other electric utility.

(B) The commission may not waive or grant a variance from this rule in total.

(C) The commission may not waive or grant a variance from any section of this rule that implements the specific requirements of sections 393.1025, 303.1030, 393.1035, 393.1040, or 393.1045, RSMo.

*AUTHORITY: section 393.1030, RSMo, sections 386.040, 386.610 and 393.140, RSMo 1986 and 386.250, RSMo Supp. 1991.*