

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of Kansas City Power & Light )  
Company's Tariffs for Standby Service and Special ) Case No. ET-97-113  
Contracts. )  
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**REPORT AND ORDER**

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**Issue Date:** June 13, 1997

**Effective Date:** July 2, 1997

In the Matter of Kansas City Power & Light Company's Tariffs for Standby Service and Special Contracts. ) Case No. ET-97-113

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**LAW JUDGE:**

Joseph A. Derque, III.

# **REPORT AND ORDER**

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## **Procedural History**

This docket was created as the result of Case No. ER-94-199, a class cost of service study of Kansas City Power & Light Company (KCPL), itself a spinoff from a stipulation and agreement in Case No. ER-94-197. In the Commission's Order Approving Stipulation And Agreement in Case No. ER-94-199, KCPL was ordered to file tariffs related to Special Contract Service (SCS) and Standby Service for Qualifying Facilities (SQF). KCPL filed proposed tariffs in both instances on August 2, 1996. The Commission suspended those tariffs for 120 days and an additional six-month period. Those tariffs now bear an operation-of-law date of July 2, 1997. Copies of the text of the most recent iterations of the proposed tariffs are appended to this Report And Order as Attachment A.

Participating parties in the hearing of this matter include the Office of the Public Counsel (OPC), Trigen-Kansas City Energy Corporation (Trigen-KC), the United States Department of Energy (DOE), and the Staff of the Commission (Staff). The evidentiary hearing in this matter was held on April 7 and 8, 1997, and after briefing, this case was finally submitted to the Commission for decision on May 27, 1997.

### **Prehearing Motions**

On April 1, 1997, KCPL filed a Motion To Compel Answer To Data Request Or, In The Alternative, To Strike Testimony. KCPL stated that it had submitted a data request to Dr. Roy J. Shanker, a witness for Trigen-KC, regarding the basis for a statement made by Shanker in prefiled testimony. KCPL stated that Shanker responded that the supporting information was received by Shanker during a privileged conversation with counsel. KCPL asserted that the Trigen-KC witness inappropriately invoked the attorney-client privilege, and sought to compel an answer to the proffered data request or to strike Shanker's testimony.

In its response to the KCPL motion, Trigen-KC stated that the response to the KCPL data request was complete and that additional information to support the statement in testimony by Shanker could be explored by KCPL on cross-examination.

The Commission ruled on the pending motion prior to commencing the evidentiary hearing. The Commission found that the motion should be denied to the extent that KCPL would be allowed to cross-examine Shanker on the controversial statement in his testimony, but would not be allowed to question Shanker about communications with his attorney.

### **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

The Commission has reviewed and considered all of the evidence and argument presented by the parties contesting this matter. Some evidence

and positions taken by the parties may not be addressed by the Commission in this Report And Order. The failure of the Commission to mention a piece of evidence or the position of a party indicates that, while the evidence or position was considered, it was not found to be relevant or necessary to the resolution of the case.

For the purposes of this Report And Order, the Commission will deal with the two instant tariffs separately, beginning with the standby service proposal, Schedule SQF.

### **I. Standby Service for Self-Generating Customers - Schedule SQF**

KCPL filed these tariffs in response to the Commission's order approving the Stipulation and Agreement in Case No. EO-94-199. Prior to that filing, the Commission had approved several special contracts under the KCPL special contracts tariff, including one with KCPL's only cogeneration customer. The SQF tariff is intended to provide electric service to customers who have self-generation in the form of backup, maintenance and supplementary energy services. The Commission's rule on cogeneration, 4 CSR 240-20.060, defines these three types of service. A copy of the Commission's cogeneration rule is appended to this Report And Order as Attachment B. In that rule, various terms are defined and standards set for the regulation of small power production and cogeneration, in compliance with the Public Utility Regulatory Policies Act of 1978 (PURPA).

KCPL proposes to price its standby service using several components. The two components which have generated this litigation are the access charge and the hourly energy usage price. The access charge is designed to compensate KCPL for access to its system by the cogenerator and for the fixed components of supplying the various types of service as set

out in the cogeneration rule. The hourly usage price is designed to compensate KCPL for its marginal or incremental cost of supplying both energy and capacity.

The details of its proposed access charge are described by KCPL as follows:

The Access Charge is the difference between the Standard Bill and the monthly total of the hourly energy usage prices applied to the Customer Baseline Load (CBL) hourly loads. The Standard Bill is the amount of the monthly bill for a customer on the standard tariff with usage and peak demand levels corresponding to the CBL. The CBL is the pattern and level of load typical of the customer and is determined by the customer's load in the year before the customer begins receiving Standby Service. This contractual CBL may include special adjustments to remove abnormal load patterns, and it must be mutually agreed upon by KCPL and the customer. (Ex. 2, pp. 5-6.) In other words, the Access Charge represents the difference between pricing the CBL on the standard tariff and pricing the CBL on hourly Real-Time Prices. The Access Charge thus includes (1) the cost of transmission and distribution facilities installed and maintained to serve the customer, (2) billing and administrative costs, and (3) embedded costs of generation. (Id., pp. 6, 8.) Of course, the Standby Service customer will continue to use KCPL's transmission and distribution facilities. KCPL will continue to incur billing and administrative costs to serve the customer. The embedded generation costs were incurred on behalf of all customers, including customers that are considering the installation of their own generation. Providing for recovery of these costs through the Access Charge avoids the financial and equity problems associated with burdening either shareholders or other customers with costs that were incurred to serve customers who decide to self-generate. Three other KCPL rate schedules, previously approved by the Commission and currently in effect, require customers to pay an Access Charge very similar to the one proposed for the Standby Service Tariff. (Id., pp. 8-9.) KCPL originally proposed a provision that would have allowed a discount to the Access Charge. That provision was withdrawn in response to concerns raised by the Staff and the Office of the Public Counsel (Public Counsel). (Ex. 3, p. 8; Ex. 32, p. 6.<sup>3</sup>)

It is the Access Charge that provides the incentive for customers to make economically efficient decisions as to whether they should install generation. Pricing usage at marginal cost provides appropriate economic signals for

decisions on the usage of electricity at each individual hour and the economically efficient operation of the customer's self-generation. It does not address, however, the customer's capacity investment decision. The Access Charge, which signals the value of additional generation capacity relative to the standard rate for baseline service, provides customers with the correct signals regarding the societal value of installing additional generating capacity. Of course, the "right level" for the Access Charge continually changes as the market cost of energy and the market value of capacity change. That is why the Access Charge is computed using a formula that links these market values with the price of the customer's alternative to self-generation -- the price of purchasing full electricity requirements from KCPL. (Ex. 13, p. 8.)

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<sup>3</sup> KCPL, in response to concerns of the Staff, also agreed to make the Standby Service Tariff available to self-generators that are not Qualifying Facilities pursuant to the Public Utility Regulatory Policies Act (PURPA). (Ex. 3, p. 8.)

(KCPL Initial Brief, pp. 4-6).

Staff has provided the Commission with a synopsis and background information regarding PURPA and the development of alternative sources for electric generation. Staff states that PURPA was enacted in order to encourage the development of alternative forms of electric generation by requiring regulated utilities to provide supplemental service to cogeneration and qualifying small power production facilities. Federal Energy Regulatory Commission (FERC) rules list the services to be provided, including supplemental power, backup power, maintenance power and interruptible power. Those services are defined as follows:

- (1) Supplemental Power: electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself. 18 CFR § 292.101(b)(8).
- (2) Backup Power: electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility. 18 CFR § 292.101(b)(9).

- (3) Maintenance Power: electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility. 18 CFR § 292.101(b)(11).
- (4) Interruptible Power: electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions. 18 CFR § 292.101(b)(10).

Backup, maintenance and supplemental power are referred to in this case simply as standby service. The ultimate responsibility for implementing PURPA and the associated FERC guidelines remains with the individual state regulatory agencies. The Commission promulgated the above-cited cogeneration rule to mirror the FERC rules.

Testimony of Staff witnesses reveals that the cogeneration rule provides for the execution of contracts between cogenerators and utilities to ensure the safe transmission of electric power from the cogenerator to the utility's system, with compensation to the cogenerating facility. Staff notes that the cogeneration rule does not require the regulated utility to have a standard tariff for standby service to qualifying facilities (QFs) over 100 kW.

In developing its position regarding the standby tariff proposal, Staff states that its objective is to fulfill the underlying purpose of PURPA, which is to "encourage the optimization of the efficiency of use of facilities and resources by electric utilities." To this end, Staff proposes an alternative to the KCPL tariffs based on market-based pricing for energy.

Staff witness, Dr. Michael Proctor, explains in his testimony that there are two basic methods for the pricing of standby service for self-generators: (1) traditional, embedded cost-of-service rate setting, or (2) market-based pricing. Staff proposes the adoption of a market-based



pricing methodology. This pricing method is referred to in testimony as "real-time" pricing.

This pricing methodology is based on the market price for generation as KCPL would purchase it in the bulk power market. Staff maintains that this would more likely ensure the efficient operation of self-generating facilities, and would reflect to the self-generator the same price for services that the regulated utility is faced with in the wholesale power market. This feature would eliminate the distinctions between the embedded cost for the three services included in the standby tariffs of KCPL.

Staff's proposal consists of two basic components: (1) the real-time pricing for the energy component, and (2) an access charge, designed to recover the stranded costs associated with the lost fixed costs which would otherwise be borne by the remaining ratepayers or KCPL stockholders. Staff proposes to determine the amount of access charge for each individual customer by calculating an individual customer baseline load (CBL) to reflect the difference between the utility's embedded cost and the hourly market price for baseline usage. Staff argues that its access charge method perpetuates the status quo by allowing the recovery of fixed costs to remain on all customers on the system, regardless of their status.

Intervenor Trigen-KC takes the position that the proposed KCPL tariffs should be rejected. Trigen-KC makes a twofold legal argument, maintaining that KCPL's proposed tariff is contrary to state and federal energy law and that the proposed tariff violates federal antitrust law.

The testimony of Philip B. Thompson reveals that Trigen-KC is opposed to the access component of both the Staff's and KCPL's proposals. Trigen-KC feels that it is neither economically appropriate nor legal to

impose an access charge on cogenerators which is designed to recover embedded or stranded costs not incurred in the past to serve the customer. Trigen-KC seems to advocate a cost-pricing method reflecting "true marginal total generation costs (i.e. including required capital outlays)." Trigen-KC alleges the KCPL proposal would have the cogenerator pay the utility an amount which would yield essentially the same revenues that would result from its standard rates. Trigen-KC maintains that this amount would exceed KCPL's "true marginal cost."

The testimony of Trigen-KC witness Shanker reflects the position that the proposed tariffs should be rejected as violative of rate design and cost of service principles dictated by federal and state regulations. Shanker maintains that KCPL's proposal to charge for backup service recovers the same contribution above marginal cost that full-service customers pay. Shanker continues that the rate design inherent in the SQF proposal is discriminatory in that the "fee" applies to no other customers, is being used as a tool to hinder competition, and reflects inefficient "lost contribution" pricing. Shanker concludes by stating:

With this type of recovery system, KCP&L never has to face the consequences of its own inefficiencies in generation planning or any other activities that incur such fixed costs [i.e., long-term investment obligations - my gloss]. It can be certain that once a customer has taken service on its system, it will be effectively trapped forever into being responsible to reimburse KCP&L for these expenses, regardless of whether they are prudent, efficient or reasonable, as judged by a competitive market.

(Shanker Direct, p. 26, lines 7-15).

Intervenor DOE is opposed to the KCPL proposed tariffs for much the same reasons as reflected in the Trigen-KC argument. DOE takes the position that PURPA's requirement that utility sales to qualifying cogenerators and small power producers be at just and reasonable and

nondiscriminatory rates mandates that KCPL's standby service rates be based upon the same embedded cost concepts used to derive its otherwise applicable sales rates. The demand rate for backup service should be equal to the demand rate for sales service, adjusted for the diversity of backup service customers. In addition, there should be no demand charge for maintenance service as long as that service is coordinated with KCPL. The demand charge for supplementary service should be the same as the demand charge for sales customers. DOE submits that KCPL's failure to design its standby rate accordingly results in a proposed rate that is unlawful, unjust and unjustly discriminatory.

DOE takes the position that the Commission should reject KCPL's access charge component. DOE maintains that stranded costs should not be included in an access charge for standby service customers. DOE witness I. David Rosenthal presents in his testimony many of the same legal arguments regarding the interpretation and application of PURPA and the accompanying FERC regulations as those presented by Trigen-KC in its brief.

In the testimony of DOE witness Luis C. Bernal, DOE urges the rejection of the KCPL proposal because it is not cost-based, but includes recovery of "stranded costs" from cogenerators. The DOE alternative proposal varies in specifics from the KCPL tariff under consideration here, but it can be fairly stated that it is forward-looking and includes no stranded costs, but includes individual charges for services plus a standard customer charge as is found in KCPL's current tariffs.

In its initial brief OPC states that it takes no position on the appropriateness of the standby tariff.

The Commission has considered the positions of the parties and finds the Staff proposal, establishing a market-based rate structure, to

be reasonable. The Commission is of the opinion that the market-based proposal strikes a fair balance between the dissimilar interests of the utility and the large consumers and potential competitors, while avoiding the placement of an unfair burden on the remaining small commercial and residential ratepayers.

The Commission has considered the legal arguments raised by the DOE and Trigen-KC, but concludes that it has satisfied the requirements of both state and federal law in enacting its cogeneration rule and in approving a market-based system for service to QF customers.

The Commission will order KCPL to file tariffs in compliance with this decision, in cooperation with Staff, incorporating the real-time (or market-based) pricing provisions supported by the Staff in its testimony.

## **II. Special Contract Service - Schedule SCS**

Along with its proposed tariff for standby service, KCPL filed a proposed tariff for the execution of special contracts, as ordered by Case Nos. EO-94-199 and EO-95-181. In the past, KCPL has requested Commission approval to enter into special contracts on a case-by-case basis. The proposed tariff is generic and would apply to all similarly situated customers. Those customers have previously had either competitive alternatives or special service characteristics which cannot be met with the generally available tariffs, hence the special, individual requests by KCPL to obtain approval for individual special contracts.

KCPL has filed a proposed tariff intended to serve a variety of purposes, establishing the conditions under which a special contract may be negotiated, specifying a minimum price for bundled services and

providing for recovery of marginal costs with some contribution to fixed costs.

By the terms of the proposed tariff, a special contract would be available only to retail customers with a peak demand in excess of 1,000 kW. The tariff provides that the average price offered under a special contract must be over the expected average marginal costs incurred by KCPL. The proposed tariff contains administrative and facilities charges over and above the tariffed rate, as well as an access charge. This proposed tariff is accurately characterized by Staff as a flex-rate tariff.

Staff generally agrees in principle with the proposed tariff but has offered the following eight additional conditions that Staff states should be incorporated into the KCPL proposal. Seven of those conditions are contained in Proctor's direct testimony as Schedule 6, and are as follows:

1. **CUSTOMER NEEDS:** The Company should provide a narrative description of the reasons why the special contract customer should not or cannot use the generally available tariff. This description should include the special needs of this customer for a different form of service and/or the competitive alternatives available to the customer. In addition, this description should include the consequences to the customer if the special contract is approved.
2. **CUSTOMER ALTERNATIVES:** The Company should provide its estimate of the cost to the customer for each competitive alternative available to the customer. This estimate should be for the time frame of the special contract, or by each year for multi-year contracts.
3. **INCREMENTAL AND ASSIGNABLE COSTS:** The Company should quantify the incremental cost that can be avoided if the special contract customer reduces load or leaves the system, and the incremental cost incurred if the special contract customer is a new load or expands existing load. The Company should also identify and quantify the embedded and replacement value of all

specific facilities (e.g., distribution) that are assignable to serving the special contract customer. This quantification should be for the time frame of the special contract, or by each year for multi-year contracts. All significant assumptions should be identified that affect this quantification.

4. **PROFITABILITY:** The Company should quantify the profitability of the special contract as the difference between the revenues generated from the pricing provisions in the special contract compared to the Company's long-run incremental costs. All significant assumptions should be identified that affect this quantification.
5. **LOST REVENUES:** The Company should quantify the loss in annual revenues from the special contract as the difference between the revenues that would be recovered from the general availability tariff compared to the revenues that alternatively would be recovered from the pricing provisions in the special contract. This quantification should also include a separate adjustment for either the potential increase in sales that may be brought about by the special contract, or the potential loss of sales that may occur without the special contract. All significant assumptions should be identified that affect this quantification.
6. **OTHER RATEPAYER BENEFITS:** The Company should quantify the benefits that it believes will accrue to other ratepayers from the special contract. All significant assumptions should be identified that affect this quantification.
7. **DOCUMENTATION:** The Company should provide references to each internal policy, procedure and practice that it has developed and used in its negotiation of the special contract and make available copies of said policies, procedures and practices.

The eighth condition, reflected in Proctor's testimony, is the inclusion of the category "Other Economic Benefits to the Area" in the contract documentation. In its initial brief, KCPL states that it "essentially" has agreed to the eight Staff conditions. Trigen-KC also agrees that the proposed tariff should be modified to include the Staff conditions.

Trigen-KC is in agreement with Staff that no specified term length should be included as a special contract requirement for the reason that KCPL would then be able to keep customers out of the market through the use of mandatory long-term agreements. Finally, Trigen-KC would prefer the Commission review each special contract in a more "rigorous" fashion to prevent anticompetitive behavior on the part of KCPL.

OPC has two general concerns with the proposed special contract tariff. The first is that KCPL will negotiate contracts with little or no contribution to fixed costs. OPC believes stronger language is necessary in the proposed tariff to ensure that KCPL collects more than a token contribution to fixed costs and that special contract customers actually pay all fixed costs incurred to serve them.

Secondly, OPC would restrict the proposed tariff only to customers with documented alternatives to taking service from KCPL. OPC argues that the purpose of the special contract tariffs is to keep large users on the system under the theory that collecting some or most of the costs of service from these customers is better than collecting nothing at all. Limiting contracts to only those with documented alternatives should, in the opinion of OPC, meet KCPL's needs sufficiently. OPC is in agreement with Trigen-KC and Staff in that no term limit should be specified for contracts of this type.

DOE takes the position that there is no reason for KCPL to have a tariff for special contract service at this time, preferring KCPL be free to negotiate and seek approval for each individual special contract. In addition, DOE is opposed to the recovery of stranded costs as a part of the special contract rates. DOE presumably includes what the remainder of the parties refer to as fixed costs in the category of stranded costs.

The Commission has found, in reviewing special contracts from KCPL based on language formalized in the current proposed tariffs, that the relevant current practices of KCPL are not unreasonable or discriminatory. The Commission will, however, continue its oversight and review of special contracts, particularly in light of the evidence of record regarding KCPL's plans for marketing this type of contract to targeted large energy consumers.

Therefore, the Commission finds the eight conditions proposed by Staff in its testimony should be incorporated into the KCPL SCS tariff prior to approval. These eight conditions will ensure that large users are free to enter the marketplace in the advent of electric restructuring, as well as provide safeguards to both competitors and ratepayers by ensuring that special contracts will be negotiated only with appropriate customers.

The Commission will order KCPL to file its SCS tariff with the eight Staff provisions, as set out above, incorporated therein. The Staff will ensure that the appropriate language is properly included in the tariffs finally approved by this Commission.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at the following conclusions of law.

Orders of the Commission must be based on substantial and competent evidence, taken on the record as a whole, and may not be arbitrary, capricious, or contrary to law. In setting rates which are just and reasonable, the Commission has considered all relevant evidence, as set out in the findings of fact, and determines the following regarding the tariffs proposed by Kansas City Power & Light Company.



Kansas City Power & Light Company is a public utility operating in the State of Missouri, engaged in the distribution of electric service to the public and subject to the jurisdiction of the Public Service Commission pursuant to Chapters 386 and 393, RSMo 1996.

Pursuant to the provisions of Sections 393.130, 393.140 and 393.150, RSMo 1996, the Commission has jurisdiction over rates charged by Kansas City Power & Light Company, both generally and to specific customers. Among other matters, these statutes authorize the Commission to fix just and reasonable rates, prohibit a utility from charging a particular customer a different rate than that charged to other customers for like or similar service unless the service is provided under different circumstances or conditions, and prohibit a utility from collecting a greater or lesser charge than that appearing on the filed schedule unless those rates are extended to all customers.

The Commission finds that the Special Contract Service tariff proposed by Kansas City Power & Light Company is in compliance with the above-quoted statutes, but only when modified by the addition of the eight provisions proposed by Staff.

The Commission finds that the Special Qualifying Facility tariff, as modified by the Staff proposal as stated in the body of this Report And Order, is also in compliance with the above-quoted statutes.

The Commission finds that both tariffs, as modified, are lawful mechanisms for the setting of rates for the affected rate classes, are in the public interest, and are just and reasonable.

The Commission finds that, in order to comply with Section 393.140, RSMo 1996, Kansas City Power & Light Company will be required to submit all contracts, negotiated under either tariff as

approved, to the Staff of the Commission. Those contracts will also be made available to the Office of the Public Counsel upon request.

**IT IS THEREFORE ORDERED:**

1. That the proposed tariffs filed by Kansas City Power & Light Company on August 2, 1996 are hereby rejected, and Kansas City Power & Light Company is ordered to file no later than August 8, 1997, in lieu thereof, revised tariffs in accordance with this Report And Order. The revised tariff sheets shall be filed with an effective date 25 days from the date filed.

2. That Kansas City Power & Light Company is ordered to submit all contracts executed under the revised tariffs as approved by the Commission, to the Staff of the Commission when executed. Staff is ordered to inform the Office of the Public Counsel of the receipt and availability of each contract, when received.

3. That the Commission's Staff shall file a memorandum to the official case file regarding whether the revised tariffs comply with this Report And Order no later than August 15, 1997.

4. That this Report And Order shall become effective on July 2, 1997.

**BY THE COMMISSION**



**Cecil I. Wright  
Executive Secretary**

( S E A L )

Crumpton, Drainer and Murray, CC.,  
concur and certify compliance  
with the provisions of  
Section 536.080, RSMo 1994.  
Zobrist, Chm., not participating.  
Lumpe, C., absent.

Dated at Jefferson City, Missouri,  
on this 13th day of June, 1997.

Missouri Retail Service Area

Standby Service for Self-Generating Customers  
Schedule SGC

**AVAILABILITY**

Electric service is available under this schedule at points on the Company's existing transmission or distribution facilities located within its retail service area for Customers having an electricity generator with maximum capacity over 100 kW. The Customer's generator must be capable of serving all or a portion of their full power demand requirement. The Company reserves the right to determine the applicability or the availability of this price schedule to any specific applicant for electric service who meets the above criteria.

This price schedule is not available for standard retail service or resale. The Customer must enter into a contractual agreement with the Company (pursuant to Missouri Department of Economic Development Cogeneration Rule 4 CSR 240-20.060 if applicable) to receive service under this schedule.

**SPECIAL PROVISIONS**

**A. Pricing Methodology:**

The energy prices are hourly and will be transmitted to the Customer by 4 p.m. on the day before the prices apply, except possibly on Sundays, Mondays and days following holidays, when KCPL will endeavor to provide the prices by 4 p.m. of the previous business day. Customers will pay a monthly Access Charge that depends on: 1) the tariff prices of the baseline or standard tariff at which the Customer would otherwise be taking service (SGS, MGS, LGS, LPS, SGA, MGA, or LGA), 2) the billing determinants derived from the historical Customer Baseline Loads, and 3) the hourly energy prices. The composition of the Access Charge is detailed in the Bill Determination section below.

**B. Metering of Load:**

Customers taking service under this option must have or have installed a conventional hourly recording meter. If the Customer is to sell power to the Company, they must also have meters that allow sales to KCPL to be recorded. KCPL will have the right to install and maintain load profile meters for monitoring the Customer's energy production and usage. This metering will be at the utility's expense but must be accessible to the Company at any time.

**TERM OF CONTRACT AND TERMINATION**

The Customer may return to service under a standard, generally available tariff if they no longer require standby service by giving written notice six (6) months in advance. However, any incremental Facilities, Administrative and Interconnection costs must be paid for the remainder of the term of the contract if the Customer returns to service under a standard, generally available tariff.

Issue Date

Effective Date

## Missouri Retail service Area

Standby Service for Self-Generating Customers  
Schedule SGC

(cont.)

## CUSTOMER BASELINE LOAD (CBL)

The Customer Baseline Load (CBL) is one complete year of Customer-specific load data that represents the electricity consumption pattern and level typical of this Customer's operation under the standard price schedule. The CBL normally will be based upon the Customer's pattern and level of kWh usage in the most recent calendar year prior to taking service under this schedule. In order to formulate a CBL that achieves a representative load pattern, the Company may make adjustments to historical usage data or may estimate usage if historical data are not available or are not appropriate. The CBL must be mutually agreed upon by both the Customer and the Company. Agreement on the CBL is a precondition for service under this tariff. In general, the Company will not increase the CBL when a Customer increases load. If there is a significant decrease in the Customer's full electrical load, including the portion generated by the Customer, then the Company will review the CBL with the Customer to determine if it should be reduced.

## BILL DETERMINATION

The bill for Standby Service is rendered after each monthly billing period. The charges cover system access; Back-up, Maintenance, and Supplemental Energy services; and Interconnection, Facilities, and Administrative charges. The Customer's Standby Bill is calculated as follows:

$$\begin{aligned}\text{Standby Bill} &= \text{Standard Bill} + \sum_{hr} \text{RTP}_{hr} \times [\text{ActualkWh}_{hr} - \text{CBLkWh}_{hr}] + \\ &\quad \text{Reactive} + \text{PC} - \text{Payment} \\ &= \text{Standard Bill} - \sum_{hr} [\text{RTP}_{hr} \times \text{CBLkWh}_{hr}] + \sum_{hr} [\text{RTP}_{hr} \times \text{ActualkWh}_{hr}] + \\ &\quad \text{Reactive} + \text{PC} - \text{Payment}\end{aligned}$$

Where:

Standard Bill = Customer's bill for a specific month on usage as defined by the CBL and billed under the standard price schedule, including reactive billing if applicable;

$\text{RTP}_{hr}$  = The hourly Real-Time Prices based on Schedule RTP-Plus and adjustments as described below in the sections concerning Prices and Interruptible Service;

$\text{CBLkWh}_{hr}$  = The Customer Baseline kWh usage in each hour;

$\text{ActualkWh}_{hr}$  = The Customer's actual usage during each hour;

Issue Date

Effective Date

Missouri Retail Service Area

Standby Service for Self-Generating Customers  
Schedule SGC

(cont.)

**BILL DETERMINATION (continued)**

Reactive = Incremental reactive power charge, calculated by taking the difference between the bill for reactive power using the standard rate applied to the current month quantities and the bill based on the historical CBL quantities. This charge may be positive or negative;

PC = Interconnection Charge + Facilities Charge + Administrative Charge; and

Payment = Payment from KCPL for electricity services supplied by the Customer to KCPL  
=  $\sum_{hr} [RTP:MC_{hr} \cdot QFkWh_{hr}]$ ;

Where:

RTP:MC<sub>hr</sub> = Adjusted RTP-Plus prices each hour, with adjustments as described below in the section on Prices; and  
QFkWh<sub>hr</sub> = Electricity supplied to the Company by the Customer in each hour.

The Access Charge is defined as follows:

Access Charge = The difference between the Standard Bill and the monthly sum of the product in each hour of the CBL kWh multiplied by the hourly energy price;  
= Standard Bill -  $\sum_{hr} [RTP_{hr} \times CBLkWh_{hr}]$ .

**PRICES**

The baseline tariff prices that are used in the calculation of the Standard Bill can be found on the Customer's applicable standard tariff sheets (Schedule SGS, MGS, LGS, LPS, SGA, MGA, or LGA).

The hourly energy prices are the Real Time Prices from Schedule RTP-Plus, except when modified for transmission or interruptible service. The hourly energy prices will be adjusted with a transmission service adder during the following hours on non-holiday weekdays in July and August:

<u>Hours</u>	<u>Price Adder</u>
11:00 a.m. - 2:00 p.m.	\$ 0.0186 per kWh
2:00 p.m. - 6:00 p.m.	\$ 0.0454 per kWh
6:00 p.m. - 7:00 p.m.	\$ 0.0186 per kWh

Issue Date

Effective Date

Missouri Retail Service Area

Standby Service for Self-Generating Customers  
Schedule SGC

(cont.)

**PRICES (continued)**

The transmission service hourly price adder will be applied only during the calendar months of July and August. The adder will not be included in the hourly energy price on Independence Day or any weekday celebrated as such if the holiday falls on a weekend. The transmission service adder values shown above are to be applied at the primary service voltage level. If the Customer is served at a voltage level other than primary, the value of the transmission adder will be adjusted for the appropriate difference in energy losses.

The RTP-Plus prices paid to the Customer for electric service sold to the Company are adjusted: 1) to reflect the marginal line loss specific to the Customer's location and voltage delivery level (rather than the averaged value used in the RTP-Plus prices); and 2) to remove the risk factor that KCPL includes to compensate for forecasting marginal costs one day ahead. The transmission service adder is not included in the hourly energy price paid to the Customer.

**INTERCONNECTION CHARGE**

Customers will be responsible to the Company for any additional cost associated with providing Interconnected Service under this tariff (as per Missouri 4 CSR 240-20.060(1)(C) and (2)(C)3 if applicable). This cost will be collected from customers during the full term of the contract period, even if they return to service under the standard tariff before the contract period is complete.

**FACILITIES CHARGE**

A Facilities Charge will be assessed to cover the costs of any additional facilities that are necessary to serve the Customer under the terms of this tariff and that are not included in the Interconnection Charge. If the Company is required to either increase the capacity or accelerate its plans for increasing the capacity of the transmission or distribution facilities to accommodate a customer's altered load under this schedule, then an additional Facilities Charge will be assessed if the expansion is not revenue justified using KCPL's current methodology. The incremental costs related to these facilities will be collected from customers during the full term of the contract period, even if they return to service under the standard tariff before the contract period is complete.

**ADMINISTRATIVE CHARGE**

This charge is to cover billing and administrative costs beyond those covered in the standard tariff. This charge will not include any cost already accounted for in the Interconnection or Facilities Charges. This cost will be collected from customers during the full term of the contract period, even if they return to service under the standard tariff before the contract period is complete.

Issue Date

Effective Date

Missouri Retail Service Area

Standby Service for Self-Generating Customers  
Schedule SGC

(cont.)

**SPECIAL PROVISIONS FOR INTERRUPTIBLE SERVICE**

If the Customer requests and qualifies for service under the Peak Load Curtailment Credit (PLCC) rider, the PLCC credits will be included in the calculation of the Standard Bill component of the total Standby Bill. Standby service is interruptible to the same extent that it is reflected in the CBL used in calculating the Standard Bill. If the credit rates under the PLCC rider change, corresponding adjustments will be made in the calculation of the Standard Bill under this tariff to reflect the modified credit value. The curtailment provisions of the rider will continue to apply as stated in the rider. During periods in which actual load interruption is requested by the Company, the CBL will be adjusted to the firm (non-interruptible) load level if this value is lower than the CBL. The outage cost component of the hourly RTP-Plus prices will not be applied to the interruptible portion of the Customer's Baseline and actual loads in any hour.

**SPECIAL PROVISIONS FOR CUSTOMERS WITH AN ECONOMIC DEVELOPMENT RIDER**

Economic Development Rider (EDR) Customers will continue to receive the discounts provided for in the rider except that they will apply to the CBL usage only. Changes in usage from the CBL quantities will be priced at the hourly energy prices under this schedule, not at the EDR rate. The EDR discount percentage will change each year in accordance with the EDR provisions even though the CBL quantities remain fixed.

**SPECIAL PROVISIONS FOR CUSTOMERS WITH A THERMAL STORAGE RIDER**

This rider will not be available in combination with Standby Service.

**SPECIAL PROVISIONS FOR ELECTRIC HEATING CUSTOMERS**

For customers that are currently taking service with separately metered space heat, the kWh usage is determined by summing the usage from the separate meters, both for the CBL and for the current period.

**TAX ADJUSTMENT**

Tax Adjustment Schedule TA shall be applicable to all Customer billings under this schedule.

**REGULATIONS**

Subject to Rules and Regulations filed with the State Regulatory Commission.

Issue Date

Effective Date

**Missouri Retail Service Area**

**Special Contract Service  
Schedule SCS**

**AVAILABILITY**

Electric service is available under this schedule at points on the Company's existing transmission or distribution facilities located within its retail service area for customers that either have competitive alternatives for serving a portion or all of their electric load requirements or require a special form of service not available in the Company's other available tariffs. In order to receive service under this schedule, the Customer must have a maximum half hour demand in excess of 1000 kW and must enter into a contractual agreement (Special Contract) with the Company. This schedule is not available for wholesale or resale service. The Company will not use undue discrimination in the application of this schedule. The Company reserves the right to determine the applicability or the availability of this schedule to any specific applicant for electric service who meets the above criteria.

**SPECIAL PROVISIONS**

**A. Pricing Methodology:**

The expected annual average prices for each customer under this schedule will be higher than the expected average marginal costs incurred by KCPL to serve each customer. In general, the marginal costs are calculated using the approach that underlies the pricing of the Company's experimental Real-Time Pricing (RTP or RTP-Plus) rate schedules, Incremental Energy Rider (IER), or Two Part Time-of-Use (TPP) schedule. Real-Time Pricing operations under this tariff will have the transmission of the hourly prices conform to the methods used by the Company in the RTP and RTP-Plus schedules.

Customers will pay a monthly Access Charge that depends on: 1) the tariff prices of the standard tariff (SGS, MGS, LGS, LPS, SGA, MGA, or LGA) at which the Customer would otherwise be taking service; 2) the billing determinants derived from the historical Customer Baseline Loads; and 3) the costs or cost savings anticipated from special provisions of the individual contract. The Company will adjust the Access Charge, energy prices, and/or other pricing components to maximize the Customer's expected contribution to margin without exercise of undue price discrimination.

KCPL will bill customers on this tariff on a monthly basis.

**B. Metering of Load:**

Customers taking service under this option must have or have installed an hourly recording meter. This metering must be accessible to the Company at any time.

**Issue Date**

**Effective Date**



Missouri Retail Service Area

Special Contract Service  
Schedule SCS

(cont.)

**TERM OF CONTRACT AND TERMINATION**

The Customer may return to service under a standard, generally available tariff if they no longer require the specific service arrangement provided for in the Special Contract. The conditions for return to a standard tariff must be negotiated in the Special Contract. However, any incremental Facilities and Administrative costs must be paid during the remainder of the term of the Special Contract if the Customer returns to service under a standard, generally available tariff. The Special Contract must contain provisions to address pricing and service conditions, and to provide pricing options if required by the Customer, in the event that the choice of alternative electric power suppliers becomes available to the Customer's standard tariff class subsequent to the effective date of the Special Contract.

**CUSTOMER BASELINE LOAD (CBL)**

The Access Charge is based on a Customer Baseline Load, which is defined as one complete year of Customer-specific load data representative of the electricity consumption pattern and level typical of this Customer's operation under the standard price schedule, unless otherwise agreed. In order to formulate a CBL that achieves this representative load pattern, the Company may make adjustments to historical usage data.

**BILL DETERMINATION**

The bill for Special Contracts will depend substantially on the specific form of the Contract. However, the following is an example of the default form of these contracts. It is specified in terms of a two-part tariff similar to that found in the Company's RTP schedule.

$$\text{Customer Bill} = \text{Access Charge} + \sum_{hr} [\text{P RTP}_{hr} \times \text{Actual kWh}_{hr}] + \text{Reactive} + \text{PC}$$

Where:

$$\begin{aligned} \text{Access Charge} &= \text{The difference between the Standard Bill and the monthly sum of the} \\ &\quad \text{product in each hour of the CBL kWh multiplied by the hourly RTP price;} \\ &= \text{Standard Bill} - \sum_{hr} [\text{CBL kWh}_{hr} \times \text{P RTP}_{hr}] ; \end{aligned}$$

Where:

$$\begin{aligned} \text{Standard Bill} &= \text{Customer's bill for a specific month on CBL usage billed under the standard} \\ &\quad \text{price schedule, including reactive pricing if applicable;} \\ \text{CBL kWh}_{hr} &= \text{The Customer Baseline kWh in each hour; and} \\ \text{P RTP}_{hr} &= \text{The hourly Real Time Prices.} \end{aligned}$$

Issue Date

Effective Date

Missouri Retail Service Area

Special Contract Service  
Schedule SCS

(cont.)

**BILL DETERMINATION (continued)**

- ActualkWh<sub>hr</sub> = The Customer's actual usage during each hour;
- PC = Facilities Charge + Administrative Charge ; and
- Reactive = Incremental reactive power charge, calculated by taking the difference between the bill for reactive power using the standard rate applied to the current month quantities and the bill based on the historical CBL quantities. This charge may be positive or negative.

**PRICES**

The baseline tariff prices that are used in the calculation of the Access Charge may be found on the Customer's standard tariff sheets (SGS, MGS, LGS, LPS, SGA, MGA, or LGA), plus any adjustments for applicable riders. Special conditions as specified in the Special Contract can result in changes from these prices based on the Company's anticipated cost savings or market conditions. The hourly real time prices are equal to the Company's expected or actual hourly marginal costs, plus an adder. The adder may vary in size depending on the marginal cost and market considerations.

**ADMINISTRATIVE CHARGE**

This charge will cover billing and administrative costs beyond those that are covered in the standard tariff. These costs will be collected from customers for the full term of the Special Contract even if they return to service under the standard tariff before the contract period is complete.

**FACILITIES CHARGE**

A Facilities Charge incorporates incremental costs of serving the Customer that are not included elsewhere in the tariff. If the Company is required to either increase the capacity or accelerate its plans for increasing the capacity of transmission or distribution facilities to accommodate a customer's altered load served under this schedule, then an additional Facilities Charge will be assessed if the expansion is not revenue justified using KCPL's current methodology. The incremental costs related to these facilities will be collected from customers during the full term of the Special Contract, even if they return to service under the standard tariff before the contract period is complete.

Issue Date

Effective Date

Missouri Retail Service Area

Special Contract Service  
Schedule SCS

(cont.)

**SPECIAL RIDERS**

Applicable riders will be addressed with provisions in the Special Contract.

**CONTRACT DOCUMENTATION**

Prior to the effective date of the Special Contract, the Company will provide a copy of the Special Contract and supporting documentation to the Missouri Public Service Commission Staff and the Office of Public Counsel Staff. The supporting documentation will include the following eight items:

1. Customer Needs: A description of why the Customer needs this Contract rather than other available tariffs.
2. Customer Alternatives: The costs of Customer alternatives, if available.
3. Incremental and Assignable Costs: The costs that are avoided if the Customer reduces load or increases load; these two may differ depending on particular circumstances.
4. Profitability: The projected profits resulting from implementation of the Contract.
5. Revenue Change: The impact on revenue resulting from the Customer operating under the Special Contract rather than under a generally available tariff. This change may be a gain in cases where the Customer's needs are for increased services, such as reliability.
6. Other Ratepayer Benefits: A quantification of the benefits that the Company projects to accrue to other ratepayers as a result of the Special Contract.
7. Other Economic Benefits to the Area: A quantification of the economic benefits to the state, metropolitan area, and/or local area that the Company projects to be realized as a result of the Special Contract.
8. Documentation: The Company will identify and supply, if necessary, references to its policies, procedures, and practices utilized in the Contract negotiation.

**TAX ADJUSTMENT**

Tax Adjustment Schedule TA shall be applicable to all Customer billings under this schedule.

**REGULATIONS**

Subject to Rules and Regulations filed with the State Regulatory Commission.

Issue Date

Effective Date

A commercial unit is defined as that portion of a building or premises which by appearance, design or arrangement is normally used for commercial purposes, whether or not actually so used:

(D) Construction begins when the footings are poured;

(E) A mobile home park is defined as a contiguous parcel of land which is used for the accommodation of occupied mobile homes;

(F) A multiple-occupancy building is defined as a building or premises which is designed to house more than one (1) residential or commercial unit; and

(G) A residential unit is defined as one (1) or more rooms for the use of one (1) or more persons as a housekeeping unit with space for eating, living and sleeping, and permanent provisions for cooking and sanitation.

(2) Each residential and commercial unit in a multiple-occupancy building construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each residential or commercial unit.

(3) Each mobile home unit in a mobile home park construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each mobile home unit.

(4) For the purposes of carrying out the provisions of sections (2) and (3), the following exceptions apply and separate metering will not be required:

(A) For transient multiple-occupancy buildings and transient mobile home parks—for example, hotels, motels, dormitories, rooming houses, hospitals, nursing homes, fraternities, sororities, campgrounds and mobile home parks which set aside, on a permanent basis, at least eighty percent (80%) of their mobile home pads or comparable space for use by travel trailers;

(B) Where commercial unit space is subject to alteration with change in tenants as evidenced by temporary versus permanent type of wall construction separating the commercial unit space—for example, space at a trade fair;

(C) For commercial adjacent buildings;

(D) For that portion of electricity used in central space heating, central hot water heating, central ventilating and central air-conditioning systems;

(E) For buildings or mobile home parks where alternative renewable energy resources are utilized in connection with central space heating, central hot water heating, central ventilating and central air-conditioning systems; or

(F) For all portions of electricity in commercial units in buildings with central space heating, ventilating and air-conditioning systems.

(5) Any person or entity affected by this rule may file an application with the commission seeking a variance from all or parts of this rule (4 CSR 240-20.050) and for good cause shown, variances may be granted as follows:

(A) The variance request shall be filed in writing and directed to the secretary of the commission;

(B) If the commission deems it in the public interest, a hearing may be held by the commission as in complaint hearings before the commission; and

(C) A variance committee consisting of two (2) members of the commission's utility division staff and a member of the commission's general counsel's office shall be established by the commission within thirty (30) days from September 28, 1981. The public counsel shall be an *ex officio* member of this committee.

1. The variance committee shall consider all variance applications filed by utilities and shall make a written recommendation of its findings to the commission for its approval.

2. Each applicant for a variance shall have ten (10) days from the date of the variance committee's findings to either accede or request a formal hearing before the commission.

3. If applicant accedes, the commission may adopt the variance committee's findings or set the matter for formal hearing upon the application of any interested person or upon the commission's own motion.

(6) The commission, in its discretion, may approve tariffs filed by an electric corporation which are more restrictive of master metering than the provisions of this rule.

*AUTHORITY: section 386.250, RSMo (Cum. Supp. 1991). \* Original rule filed March 13, 1980, effective Dec. 15, 1980. Emergency amendment filed May 13, 1981, effective May 31, 1981, expired Sept. 28, 1981. Amended: Filed May 13, 1981, effective Sept. 28, 1981.*

*\*Original authority 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991.*

#### 4 CSR 240-20.060 Cogeneration

*PURPOSE: This rule implements Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 with*

*regard to small power production and cogeneration. The objective of Sections 201 and 210 of Public Utility Regulatory Policies Act is to provide a mechanism to set up a cogeneration program for Missouri for regulated utilities.*

*Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.*

(1) Definitions. Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this rule as they have under PURPA, unless further defined in this rule.

(A) Avoided costs means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, that utility would generate itself or purchase from another source.

(B) Back-up power means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility.

(C) Interconnection costs means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent those costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.

(D) Interruptible power means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

(E) Maintenance power means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(F) Purchase means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(G) Qualifying facility means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of Part 292 of the Federal Energy Regulatory Commission's (FERC) regulations.

(H) Rate means any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity or any rule or practice respecting any such rate, charge or classification and any contract pertaining to the sale or purchase of electric energy or capacity.

(I) Sale means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

(J) Supplementary power means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(K) System emergency means a condition on a utility's system which is likely to result in imminent significant disruption of service to consumers or is imminently likely to endanger life or property.

(2) Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities Under Section 210 of the Public Utility Regulatory Policies Act of 1978.

(A) Applicability. This section applies to the regulation of sales and purchases between qualifying facilities and electric utilities.

(B) Negotiated Rates or Terms. Nothing in this section—

1. Limits the authority of any electric utility or any qualifying facility to agree to a rate for any purchase or terms or conditions relating to any purchase, which differ from the rate or terms or conditions which would otherwise be required by this rule; or

2. Affects the validity of any contract entered into between a qualifying facility and an electric utility for any purchase.

(C) Every regulated utility which provides retail electric service in this state shall enter into a contract for parallel generation service with any customer which is a qualifying facility, upon that customer's request, where that customer may connect a device to the utility's delivery and metering service to transmit electrical power produced by that customer's energy generating system into the utility's system.

1. The utility shall supply, install, own and maintain all necessary meters and associ-

ated equipment used for billing. The costs of any such meters and associated equipment which are beyond those required for service to a customer which is not a qualifying facility shall be borne by the customer. The utility may install and maintain, at its expense, load research metering for monitoring the customer's energy generation and usage.

2. The customer shall supply, install, operate and maintain, in good repair and without cost to the utility, the relays, locks and seals, breakers, automatic synchronizer, a disconnecting device and other control and protective devices required by the utility to operate the customer's generating system parallel to the utility's system. The customer also shall supply, without cost to the utility, a suitable location for meters and associated equipment used for billing, load research and disconnection.

3. The customer shall be required to reimburse the utility for the cost of any equipment or facilities required as a result of connecting the customer's generating system with the utility's system.

4. The customer shall notify the utility prior to the initial testing of the customer's generating system and the utility shall have the right to have a representative present during the testing.

5. Meters and associated equipment used for billing, load research and connection and disconnection shall be accessible at all times to utility personnel.

6. A manual disconnect switch for the qualifying facility must be provided by the customer which will be under the exclusive control of the utility dispatcher. This manual switch must have the capability to be locked out of service by the utility-authorized switchmen as a part of the utility's workman's protection assurance procedures. The customer must also provide an isolating device which the customer has access to and which will serve as a means of isolation for the customer's equipment during any qualifying facility maintenance activities, routine outages or emergencies. The utility shall give notice to the customer before a manual switch is locked or an isolating device used, if possible; and otherwise shall give notice as soon as practicable after locking or use.

(D) No customer's generating system or connecting device shall damage the utility's system or equipment or present an undue hazard to utility personnel.

(E) If harmonics, voltage fluctuations or other disruptive problems on the utility's system are directly attributable to the operation of the customer, these problems will be corrected at the customer's expense.

(F) Every contract shall provide fair compensation for the electrical power supplied to the utility by the customer. If the utility and the customer cannot agree to the terms and conditions of the contract, the Public Service Commission (PSC) shall establish the terms and conditions upon the request of the utility or the customer. Those terms and conditions will be established in accordance with Section 210 of the Public Utility Regulatory Policies Act of 1978 and the provisions of this rule.

(3) Availability of Electric Utility System Cost Data.

(A) All regulated electric utilities shall—

1. File tariffs providing standardized rates for facilities at or under one hundred (100) kilowatts on design capacity. The tariffs are to take account of the stochastic effect achieved by the aggregate output of dispersed small systems, that is, statistically a dispersed array of facilities may produce a level of reliability not enjoyed by any one (1) of the units taken separately. When that aggregate capacity value which allows the utility to avoid a capacity cost occurs and can be reasonably estimated, a corresponding credit must be included in the standard rates. The tariffs should take into account patterns of availability of particular energy sources such as the benefits to a summer peaking utility from photovoltaic systems or to a winter peaking utility for wind facilities;

2. Submit a standard form contract for facilities over one hundred (100) kilowatts as the basis for tariffs for these facilities. Issues such as avoided costs, losses, reliability and ability to schedule are to be considered in the contract; and

3. Submitted to the commission all tariffs and other data required to be prepared and filed by electric utilities under the provisions of subsection (3)(A) no later than September 15, 1981, and updated and revised on or before January 15, 1983 and not less than every two (2) years after that, unless otherwise ordered by the commission.

(B) General Rule. To make available data from which avoided costs may be derived, not later than September 15, 1981 and updated and revised on or before January 15, 1983, and not less than every two (2) years after that, unless otherwise ordered by the commission, each regulated electric utility shall provide to the PSC and shall maintain for public inspection the following data:

1. The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. These levels of purchases shall be stated in blocks of

more than one hundred (100) megawatts for systems with peak demand of one thousand (1000) megawatts or more, and in blocks equivalent to not more than ten percent (10%) of the system peak demand for systems of less than one thousand (1000) megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next five (5) years:

2. The electric utility's plans for the addition of capacity by amount and type, for purchases of firm energy and capacity and for capacity retirements for each year during the succeeding ten (10) years; and

3. The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, expressed in cents per kilowatt hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.

(C) Special Rule for Small Electric Utilities.

1. Each electric utility (other than any electric utility to which subparagraph (2)(C)1.B. applies) upon request shall—

A. Provide comparable data to that required under subsection (3)(B) to enable qualifying facilities to estimate the electric utility's avoided costs for periods described in subsection (3)(B); or

B. With regard to an electric utility which is legally obligated to obtain all its requirements for electric energy and capacity from another electric utility, provide the data of its supplying utility and the rates at which it currently purchases the energy and capacity.

2. If any such electric utility fails to provide this information on request, the qualifying facility may apply to the Public Service Commission for an order requiring that the information be provided.

(D) PSC Review.

1. Any data submitted by an electric utility under this section shall be subject to review by the PSC.

2. In any such review, the electric utility has the burden of coming forward with justification for its data.

(4) Electric Utility Obligations Under This Rule.

(A) Obligation to Purchase From Qualifying Facilities. Each electric utility shall purchase, in accordance with section (5), any energy and capacity which is made available from a qualifying facility—

1. Directly to the electric utility; or

2. Indirectly to the electric utility in accordance with subsection (4)(D) of this rule.

(B) Obligation to Sell to Qualifying Facilities. Each electric utility shall sell to any qualifying facility, in accordance with section (6) of this rule, any energy and capacity requested by the qualifying facility.

(C) Obligation to Interconnect.

1. Subject to paragraph (4)(C)2. of this rule, any electric utility shall make interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this rule. The obligation to pay for any interconnection costs shall be determined in accordance with section (7) of this rule.

2. No electric utility is required to interconnect with any qualifying facility if, solely by reason of purchases or sales over the interconnection, the electric utility would become subject to regulation as a public utility under Part II of the Federal Power Act.

(D) Transmission to Other Electric Utilities. If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from a qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which energy or capacity is transmitted shall purchase energy or capacity under this subsection (4)(D) as if the qualifying facility were supplying energy or capacity directly to the electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect line losses pursuant to paragraph (5)(E)4. of this rule and shall not include any charges for transmission.

(E) Parallel Operation. Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any applicable standards established in accordance with section (9) of this rule.

(5) Rates for Purchases.

(A) Rates for purchases shall be just and reasonable to the electric consumer of the electric utility and in the public interest and shall not discriminate against qualifying cogeneration and small power production facilities. Nothing in this rule requires any electric utility to pay more than the avoided costs for purchases.

(B) Relationship to Avoided Costs.

1. For purposes of this section, new capacity means any purchase from capacity of a qualifying facility, construction of which was commenced on or after November 9, 1978.

2. Subject to paragraph (5)(B)3. of this rule, a rate for purchases satisfies the requirements of subsection (5)(A) of this rule if the rate equals the avoided costs determined after consideration of the factors set forth in subsection (5)(E) of this rule.

3. A rate for purchases (other than from new capacity) may be less than the avoided cost if the PSC determines that a lower rate is consistent with subsection (5)(A) of this rule and is sufficient to encourage cogeneration and small power production.

4. Rates for purchases from new capacity shall be in accordance with paragraph (5)(B)2. of this rule, regardless of whether the electric utility making the purchases is simultaneously making sales to the qualifying facility.

5. In the case in which the rates for purchases are based upon estimates of avoided costs over the specific term of the contract or other legally enforceable obligation, the rates for the purchases do not violate this paragraph if the rates for the purchases differ from avoided costs at the time of delivery.

(C) Standard Rates for Purchases.

1. There shall be put into effect (with respect to each electric utility) standard rates for purchases from qualifying facilities with a design capacity of one hundred (100) kilowatts or less.

2. There may be put into effect standard rates for purchases from qualifying facilities with a design capacity of more than one hundred (100) kilowatts.

3. The standard rates for purchases under this subsection shall be consistent with subsections (5)(A) and (E) of this rule, and may differentiate among qualifying facilities using various technologies on the basis of the supply characteristics of the different technologies.

(D) Purchases as Available or Pursuant to a Legally Enforceable Obligation. Each qualifying facility shall have the option either—

1. To provide energy as the qualifying facility determines this energy to be available for the purchases, in which case the rates for the purchases shall be based on the purchasing utility's avoided costs calculated at the time of delivery; or

2. To provide energy or capacity pursuant to a legally enforceable obligation for the delivery of energy or capacity over a specified term, in which case the rates for the purchases, at the option of the qualifying facility exercised prior to the beginning of the specified term, shall be based on either the avoided costs calculated at the time of delivery or the avoided costs calculated at the time the obligation is incurred.

(E) Factors Affecting Rates for Purchases. In determining avoided costs, the following factors, to the extent practicable, shall be taken into account:

1. The data provided pursuant to section (3) of this rule, including PSC review of any such data;

2. The availability of capacity or energy from a qualifying facility during the system daily and seasonal peak periods, including:

A. The ability of the utility to dispatch the qualifying facility;

B. The expected or demonstrated reliability of the qualifying facility;

C. The terms of any contract or other legally enforceable obligation, including the duration of the obligation, termination notice requirement and sanctions for noncompliance;

D. The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

E. The usefulness of energy and the capacity supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

F. The individual and aggregate value of energy and capacity from qualifying facilities on the electric utility's system; and

G. The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities;

3. The relationship of the availability of energy or capacity from the qualifying facility as derived in paragraph (5)(E)2. of this rule, to the ability of the electric utility to avoid costs, including the deferral of capacity additions and the reduction of oil use; and

4. The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated an equivalent amount of energy itself or purchased an equivalent amount of electric energy or capacity.

(F) Periods During Which Purchases not Required.

1. Any electric utility which gives notice pursuant to paragraph (5)(F)2. of this rule will not be required to purchase electric energy or capacity during any period which, due to operational circumstances, purchases from qualifying facilities will result in costs greater than those which the utility would incur if it did not make the purchases, but instead generated an equivalent amount of energy itself.

2. Any electric utility seeking to invoke paragraph (5)(F)1. of this rule must notify, in accordance with applicable state law or rule, each affected qualifying facility in time for

the qualifying facility to cease the delivery of energy or capacity to the electric utility.

3. Any electric utility which fails to comply with the provisions of paragraph (5)(F)2. of this rule will be required to pay the same rate for the purchase of energy or capacity as would be required had the period described in paragraph (5)(F)1. of this rule not occurred.

4. A claim by an electric utility that this period has occurred or will occur is subject to verification by the PSC as the PSC determines necessary or appropriate, either before or after the occurrence.

#### (6) Rates for Sales.

(A) Rates for sales shall be just and reasonable and in the public interest and shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for sales which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that those rates apply to the utility's other customers with similar load or other cost-related characteristics.

(B) Additional Services to be Provided to Qualifying Facilities.

1. Upon request of a qualifying facility, each electric utility shall provide supplementary power, back-up power, maintenance power and interruptible power.

2. The PSC may waive any requirement of paragraph (6)(B)1. of this rule if, after notice in the area served by the electric utility and after opportunity for public comment, the electric utility demonstrates and the PSC finds that compliance with that requirement will impair the electric utility's ability to render adequate service to its customers or place an undue burden on the electric utility.

(C) Rates for Sale of Back-Up and Maintenance Power. The rate for sales of back-up power or maintenance power—

1. Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously or during the system peak or both; and

2. Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

#### (7) Interconnection Costs.

(A) If the utility and the qualifying facility cannot reach agreement as to the amount or the manner of payment of the interconnection costs to be paid by the qualifying facility, the

PSC, after hearing, shall assess against the qualifying facility those interconnection costs to be paid to the utility, on a nondiscriminatory basis with respect to other customers with similar load characteristics or shall determine the manner of payments of the interconnection costs, which may include reimbursement over a reasonable period of time, or both. In determining the terms of any reimbursement over a period of time, the commission shall provide for adequate carrying charges associated with the utility's investment and security to insure total reimbursement of the utility's incurred costs, if it deems necessary.

#### (8) System Emergencies.

(A) Qualifying Facility Obligation to Provide Power During System Emergencies. A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent provided by agreement between the qualifying facility and electric utility or ordered under Section 202(c) of the Federal Power Act.

(B) Discontinuance of Purchases and Sales During System Emergencies. During any system emergency, an electric utility may discontinue purchases from a qualifying facility if those purchases would contribute to the emergency and sales to a qualifying facility, provided that discontinuance is on a nondiscriminatory basis.

(9) Standards for Operating Reliability. The PSC may establish reasonable standards to ensure system safety and reliability of interconnected operations. Those standards may be recommended by any electric utility, any qualifying facility or any other person. If the PSC establishes standards, it shall specify the need for the standards on the basis of system safety and reliability.

(10) Implementation of Certain Reporting Requirements. Any electric utility which fails to comply with the requirements of subsection (3)(B) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the FERC's regulations issued under Section 133 of PURPA.

(11) Exemption to Qualifying Facilities From the Public Utility Holding Company Act and Certain State Law and Rules.

(A) Applicability. This section applies to qualifying cogeneration facilities and qualifying small power production facilities which have a power production capacity which does not exceed thirty (30) megawatts and to any qualifying small power production facility

a power production capacity over thirty megawatts if that facility produces electric energy solely by the use of biomass as a primary energy source.

(B) A qualifying facility described in subsection (1)(A) shall not be considered to be an electric utility company as defined in Section 2(a)(3) of the Public Utility Holding Company Act of 1935, 15 USC 79b(a)(3).

(C) Any qualifying facility shall be exempted (except as otherwise provided) from Missouri PSC law or rule respecting the rates of electric utilities and the financial and organizational regulation of electric utilities. A qualifying facility may not be exempted from Missouri PSC law and rule implementing Subpart C of PURPA.

**AUTHORITY:** section 393.140, RSMo (1986). \* Original rule filed Oct. 14, 1980, effective May 15, 1981.

\*Original authority 1939, amended 1949, 1967.

#### 4 CSR 240-20.070 Decommissioning Trust Funds

**PURPOSE:** This rule is promulgated pursuant to section 393.292, RSMo —1) govern the review and authorization of changes to the rates and charges contained in the tariff(s) of an electric corporation as a result of a change in the level or annual accrual of funding necessary for its nuclear power plant decommissioning trust fund, 2) govern the procedure for the submission, examination, hearing and approval for the tariff changes and 3) ensure that the amounts collected from ratepayers and paid into the trust funds will be neither greater nor lesser than the amounts necessary to carry out the purposes of the trust.

**Editor's Note:** The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) As used in this rule, decommissioning means those activities undertaken in connection with a nuclear generating unit's retirement from service to ensure that the final removal, disposal, entombment or other disposition of the unit and of any radioactive components and materials associated with the

unit, are accomplished in compliance with all applicable laws, and to ensure that the final disposition does not pose any undue threat to the public health and safety. Decommissioning includes the removal and disposal of the structures, systems and components of a nuclear generating unit at the time of decommissioning.

(2) As used in this rule, decommissioning costs means all reasonable costs and expenses incurred in connection with decommissioning, including all expenses to be incurred in connection with the preparation for decommissioning, including, but not limited to, engineering and other planning expenses; and to be incurred after the actual decommissioning occurs, including, but not limited to, physical security and radiation monitoring expenses, less proceeds of insurance, salvage or resale of machinery, construction equipment or apparatus the cost of which was charged as a decommissioning expense.

(3) As used in this rule, utility(ies) means all electrical corporations subject to the jurisdiction of the Missouri Public Service Commission (commission) that own, in whole or in part, or operate nuclear generating units in Missouri or elsewhere and that have costs of these units reflected in the rates charged to Missouri ratepayers.

(4) Each utility shall establish a tax-qualified externally managed trust fund for the purpose of collecting funds to pay for decommissioning costs. The tax-qualified trust shall be established and maintained in accordance with the provisions of the Internal Revenue Code. If the utility has collected funds in excess of the Internal Revenue Service's (IRS) tax-qualified amount, a nontax-qualified externally managed trust fund shall be established and maintained for all these funds. These trust funds shall be administered pursuant to the following requirements:

(A) Each utility shall submit a copy of the decommissioning trust agreement and any other agreement entered into between the utility, trustee and investment manager(s) for approval by the commission. The listing of trustee fees shall be contained in or attached to the trust agreement itself. Any change in the trust agreement, trustee or investment manager(s) also shall be submitted to the commission for approval;

(B) The commission shall have the authority to require each utility to change the trustee or investment manager(s) of a decommissioning trust for good cause shown. The commission shall be informed of any significant dis-

putes between the utility, the trustee or investment manager(s);

(C) Each utility shall maintain separate tax qualified trusts for each nuclear generating unit. All decommissioning trusts shall be maintained to show the amounts contributed annually by Missouri jurisdictional customers. Amounts to be contributed annually for Missouri jurisdictional customers shall be computed based on the jurisdictional allocator used in the company's last general rate proceeding unless otherwise ordered by the commission;

(D) The decommissioning trust shall be funded through no less than quarterly payments by the utility. The tax-qualified trust shall be funded with the lesser of the utility's decommissioning costs reflected in its cost of service or the maximum amount allowable by the IRS. All funds in excess of the IRS's ruling amount shall be placed in a nonqualified trust;

(E) The trustee or investment manager(s) shall invest the tax-qualified trust assets and nontax-qualified trust assets only in assets that are prudent investments for assets held in trust and in a manner designed to maximize the after-tax return on funds invested, consistent with the conservation of the principal, subject to the limitations specified as follows:

1. The trustee and investment manager(s) shall not invest any portion of the tax-qualified or nontax-qualified trust's funds in the securities or assets of the following:

A. Any owner or operator of a nuclear power plant;

B. Any index fund, mutual fund or pooled fund in which more than fifteen percent (15%) of the assets are issued by owners or operators of nuclear power plants;

C. Any affiliated company of the utility; or

D. The trustee or investment manager's(s') company or affiliated companies (This limitation does not include time or demand deposits offered through the trustee or investment manager's(s') affiliated banking operations.);

2. The nontax-qualified trust shall be subject to the prohibitions against self-dealing applicable to the tax qualified trust as specified in the Internal Revenue Code; and

3. A utility's total book value of investments in equity securities in all of its decommissioning trusts shall not exceed sixty-five percent (65%) of the trust funds' book value; and

(F) All income earned by a trust's funds shall become a part of that trust's funds.