BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

MISSOURI DIVISION OF ENERGY'S RESPONSE TO FILED COMMENTS

COMES NOW the Missouri Division of Energy ("DE"), by and through the undersigned counsel, and in response to the questions propounded in the Public Service Commission's ("Commission") *Order Inviting Responses to Filed Comments* in the above-captioned matter, states as follows:

The responses provided by the parties to this case can generally be classified as: 1) supporting a regulatory framework that encourages the efficient use of diverse energy resources in order to drive economic growth and achieve energy security; and, 2) favoring the *status quo* with the current rules, or even weakening the rules or underlying laws. DE addresses these two categories of responses below. DE does not offer a response to the Office of the Public Counsel's comments at this time, but may do so as this docket proceeds; in principle, DE does not object to the concept of the disclaimer proposed by the Office of the Public Counsel.

Response to Comments Supporting Positive Changes

Summit Natural Gas of Missouri, Inc. ("SNGMO") provides brief comments indicating its interest in the review of the Commission's cogeneration/combined heat and power ("CHP") rules at 4 CSR 240-20.060. SNGMO states that it wants any rule revisions to avoid adverse impacts on CHP opportunities. DE agrees with this aim.

In a joint filing, Renew Missouri Advocates ("Renew Missouri") and Cypress Creek Renewables ("CCR") suggest several specific changes to the cogeneration rules at 4 CSR 240-20.060. These changes are suggested by Renew Missouri and CCR in the context of bringing the rule into closer alignment with the Public Utility Regulatory Policies Act of 1978 ("PURPA"). The proposed changes include:

1. A transparent, standard, timely, and well-considered methodology for determining avoided costs, as occurred in Michigan;
2. A requirement that investor-owned utilities have a 20-year standard offer contract ("SOC") for qualifying facilities ("QF") sized at 5 MW or less, with an option for utilities to offer a SOC for QFs sized between 5 MW and 20 MW; and,
3. The codification of a legally enforceable obligation ("LEO") standard under which utilities would be required to purchase output from a QF under specific conditions.

DE agrees in principle with the proposed changes described above. Without commenting on the specific system size suggestions provided by Renew Missouri and CCR, DE generally agrees that a 100 kW size limit is too low and that increasing the threshold could allow QFs to more easily connect to a utility's system at reasonable rates, thereby improving the economic feasibility of projects by reducing "soft costs." Although PURPA and its implementing regulations only require standard offer rates for QFs of 100 kW or less,[1] other states have larger thresholds; North Carolina's threshold is 5 MW, Oregon's is 10 MW, and California's is 20 MW. The 20-year terms for a SOC is reasonable; some states (such as Idaho and Utah) have lowered their standard offer term lengths because of the surplus power supplied by QFs, but Missouri's utilities do not face this issue. A contract length of 20 years coupled with a SOC of 5 years for smaller capacity levels

[1] 18 C.F.R. § 292.304(c)(1)

might be reasonable for encouraging additional solar development. DE would also reiterate the need for a "value of distributed energy resources" ("DERs") study to appropriately account for the costs and benefits of DERs in the rates paid to customer-generators. A value of DERs study should consider not just avoided utility costs, but the costs and benefits of DERs for the utility, its customers, and society as whole, including, but not limited to, reduced line losses, contribution towards peak capacity needs, improved energy security, greater resilience, and mitigation of public and environmental health impacts.

Response to Comments Supporting the *Status Quo* or Worse

The responses provided by Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") and by Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") stand in contrast to the comments of SNGMO, Renew Missouri, and CCR. According to Ameren Missouri, the current rules are effective, the adoption of customer-owned systems "is more heavily influenced by factors other than the avoided cost rate," and the Commission should be cautious about making changes. Of course, DE agrees that caution should be exercised when considering changes to Commission rules. However, DE disagrees that the current rules are effective, as evidenced by the comments of Renew Missouri and CCR; truly effective rules would encourage a robust market for distributed generation that supports local economies and job creation. It has been DE's experience that customers are not always able to readily connect to utility systems, and that utility standby rates can serve as a barrier to deploying distributed generation. Further, while DE agrees that there are other factors that potential customer-generators may consider in addition to avoided cost rates, the avoided cost rate would seem to be a crucial consideration for any party interested in selling power back to a utility or producing power for their own use. The use of low avoided cost rates may discourage customers

who would have excess generation to sell to a utility in the case of net metering, and may also discourage additional QFs from connecting to the utility's system at competitive costs. Neither outcome is supportive of increased economic development, job creation, or energy security.

KCP&L and GMO also consider the subject rules to be effective, but suggest that the net metering rules be revisited in the context of alleged "subsidies" between those with and without distributed generation. Technically, cross-subsidization exists in the context of utility regulation only when one customer pays below its marginal cost of service while another customer pays above its fully allocated cost of service. The fact that one customer may contribute more to fixed cost recovery is not evidence that all customers are not better off as a result of DER benefits. DERs offer additional benefit to the grid that are not accounted for in cost of service studies, such as locational and temporal benefits.

Even if the specter of cost shifting without consideration of associated benefits was a reasonable basis for evaluating the impact of DERs, KCP&L and GMO provide no Missouri-specific information that supports the existence of purported economic distortions. As stated in its *Response to Order Seeking Responses Regarding Distributed Energy Resource Issues, and Scheduling a Workshop Meeting* in Case No. EW-2017-0245, DE is unaware of any investor-owned electric utility in Missouri asserting that it has reached the statutorily defined limits for net metering. Per section 386.890.3(1) RSMo., net metering is available, "… until the total rated generating capacity of net metering systems equals five percent of the utility's single-hour peak load during the previous year …" and to the extent that, "… no retail electric supplier shall be required to approve any application for interconnection if the total rated generating capacity of all applications for interconnection already approved to date by said supplier in said calendar year equals or exceeds one percent of said supplier's single-hour peak load for the previous calendar

year." In the case of the former limit, the Commission may raise the cap above five percent. In Case No. EW-2017-0245, KCP&L and GMO state in their most recent filing that the companies have 29.11 and 28.80 MW DC of connected customer-owned distributed generation on their respective systems; however, the companies do not indicate that these numbers constitute five percent of their respective single-hour peak loads. In that same case, Ameren Missouri indicates that about 57 MW of customer-owned renewable distributed generation (including QFs) were connected to its system as of the end of September 2017. Given that the company's recent triennial integrated resource plan filing indicates a forecasted peak load of 7,365 MW in 2018 for the company's planning case (Chapter 3, page 54), renewable distributed generation has reached about 0.77 percent of Ameren's forecasted system peak, and even less if the QFs not served under net metering are removed.

In its comments in the present docket, KCP&L and GMO cite a page in the National Association of Regulatory Utility Commissioners' manual on *Distributed Energy Resources – Rate Design and Compensation* that states, "At a low level of adoption, [DER-related cost shifting] may be considered merely another imperfection in rate design, but at large levels of adoption it can be problematic and represent large amounts of revenue being shifted to other, non-DER customers in the same rate class."[2] Thus, even the manual cited by KCP&L and GMO indicates that – assuming any cross-subsidization exists – cost-shifting at current levels of DER penetration in Missouri is unlikely to warrant the type of regulatory or statutory changes called for by KCP&L and GMO. Additionally, although DE agrees that rate design is an important consideration with respect to DERs, the solution to concerns about the recovery of short-run fixed costs should not be

[2] National Association of Regulatory Utility Commissioners, 2016, *Distributed Energy Resources – Rate Design and Compensation*, https://pubs.naruc.org/pub/19FDF48B-AA57-5160-DBA1-BE2E9C2F7EA0, page 67. Cited in footnote 5 of KCP&L's and GMO's comments.

to increase fixed charges and impose additional burdens on residential customers with lower use; for all classes, rates should provide flexibility and signal to customers that reduced use of utility infrastructure results in reduced costs in the long run. In the regulated utility context, "fixed costs" – such as large plant investments – most properly refers to a short-run economic view of fixed costs. In the long run, virtually all costs are variable: a decrease in usage will reduce the need for future investments in utility plant. Rate design should not "lock in" utility investments based on historic costs by encouraging customers to use energy inefficiently.

In summary, DE supports the suggestions of Renew Missouri and CCR, and does not agree with all of the comments filed by Ameren Missouri and KCP&L and GMO. This proceeding is an opportunity to consider DER-enabling changes to the Commission's rules. In so doing, the Commission should be aware of the actions undertaken by other states, such as those described in the NC Clean Technology Center's *50 States of Solar – Q3 2017 Quarterly Report* (https://nccleantech.ncsu.edu/wp-content/uploads/Q3-17_SolarExecSummary_final.pdf).

WHEREFORE, the Missouri Division of Energy respectfully files its *Response to Filed Comments* and prays that the Commission consider the responses herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 15th day of November, 2017.

/s/ Marc Poston
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