MEMORANDUM

TO: Morris L. Woodruff, Secretary

DATE: August 5, 2015

RE: Authorization to File Final Order of Rulemaking with the Office of Secretary of State

CASE NO: EX-2014-0352

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Order of Rulemaking with the Office of the Secretary of State, to wit:

Proposed Rule 4 CSR 240-20.100 – Electric Utility Renewable Energy Standard Requirements

Robert S. Kenney, Chairman

Stephen M. Stoll, Commissioner

William P. Kenney, Commissioner

Daniel Y. Hall, Commissioner

Scott T. Rupp, Commissioner

Jason Kander
Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-20.100

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:
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TYPE OF RULEMAKING ACTION TO BE TAKEN
☐ Emergency rulemaking, include effective date
☐ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☒ Order of Rulemaking
Effective Date for the Order _____
☐ Statutory 30 days OR Specific date _____
Does the Order of Rulemaking contain changes to the rule text? ☐ NO
☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:
Amendments made to Sections (1)(J), (1)(N), (2), (4)(J), (4)(L), (4)(M), (4)(N), (5)(A), (5)(B), (6)(A), (8)(A), and (8)(B). Added section (5)(J).

Small Business Regulatory Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON
AUG 0 5 2015
ADMINISTRATIVE RULES

Missouri Public Service Commission

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Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: section 393.1030, RSMo Supp. 2013, and sections 386.040 and 386.250, RSMo 2000.

If there are any questions regarding the content of this proposed rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
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Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 20 – Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 393.1030, RSMo (Cum. Supp. 2013), 386.040 RSMo 2000, and 386.250 RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.100 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2015 (40 MoReg 538). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 1, 2015, and the commission held a public hearing on the proposed amendment on June 11, 2015. The commission received timely written comments from Earth Island Institute, d/b/a Renew Missouri; Wind on the Wires; The Missouri Industrial Energy Consumers (MIEC); The Office of the Public Counsel; Union Electric Company, d/b/a Ameren Missouri; The Missouri Solar Energy Industries Association (MOSIEA); and the Staff of the Commission. In addition, the following people offered comments at the hearing: P.J. Wilson and Andrew Linhares, on behalf of Renew Missouri; Sean Brady, on behalf of Wind on the Wires; Wendy Tatro, Matt Michels, and Wade Miller on behalf of Union Electric Company, d/b/a Ameren Missouri; Larry Dority and Brad Lutz, on behalf of Kansas City Power and Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO); Edward Downey, on behalf of MIEC; Tim Opitz, on behalf of Public Counsel; Wendy Shoemyer, on behalf of MOSEIA; and Colleen Dale, Natelle Dietrich, Dan Beck, Claire Eubanks, and Mark Oligschlaeger, representing the Staff.

COMMENT #1: MOSEIA and Renew Missouri ask that the definition of operational found in subsections 20.100(1)(J) and (4)(M) be changed to prevent any delay by the utility in determining that the solar system is operational from causing the customer to receive a reduced rebate. KCP&L and GMO initially supported the language in the proposed rule. But at the hearing, Ameren Missouri proposed compromise language that was accepted by KCP&L, GMO, Renew Missouri, and Staff.

RESPONSE AND EXPLANATION OF CHANGE: The compromise language proposed by Ameren Missouri at the hearing is appropriate and will be added to the definition of operational.

COMMENT #2: Renew Missouri opposes the proposed change in the definition of renewable energy resource found in subsection 20.100(1)(N) and paragraph 20.100(2)(A)1, contending that the statute makes it clear that "renewable energy resource refers to energy, not to a type of generating unit. So the definition should continue to refer to "electric energy produced from", rather than "when used to produce" energy. No other commenter addressed this matter.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Renew Missouri's comment and will not change that aspect of the definition of renewable energy resource.

COMMENT #3: When the Commission originally promulgated this rule, the legislature passed a resolution that blocked the geographic sourcing provisions of subsection 20.100(2)(A) and paragraph (2)(B)2. The rule as published in the Code shows those numbers as "reserved". The proposed rule would remove the "reserved" designation and renumber the surrounding subsections. Renew Missouri points out that the legislature's blocking of the geographic sourcing provisions is still subject to on-going litigation and asks that the "reserved" designation remain in the rule. Staff replied that the "reserved" designation is unnecessary as the rules can be renumbered if any future changes to the rule result from that litigation.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will leave the "reserved" designation in place. That will require the proposed amendment's renumbering of the subsequent sections to be reversed.

COMMENT #4: Subsection 20.100(2)(B) would expand the one (1) percent retail compliance cap to include "renewable mandates required by law", including RES portfolio requirements. Renew Missouri and Wind on the Wires object that the statute requires that only the RES requirements established in the statute can be used to calculate the one percent cap, and would remove the other renewable mandates language from the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Renew Missouri and Wind on the Wires' comment and will modify the subsection accordingly.

COMMENT #5: Ameren Missouri would change the language of subsection 20.100(2)(C) that says solar energy shall be two (2) percent of the renewable energy resources to be no less than two percent. The proposed change would

recognize that the two (2) percent requirement is a floor, not a ceiling. Public Counsel opposes that change to the extent it would justify a utility paying more for solar than is economic. Renew Missouri and Staff support Ameren Missouri's comment.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Ameren Missouri's comment. The two (2) percent requirement is a floor, not a ceiling in that the utility may choose to obtain more than two (2) percent of its power needs from solar energy. Public Counsel is correct that a utility is not justified in spending more for solar power than is economic, but making the proposed change in the language of the rule does not change that fundamental limitation.

COMMENT #6: Ameren Missouri would substitute the word "acquired" for "purchased" in subsection 20.100(4)(J)'s reference to SRECs because not all the SRECs a utility acquires are purchased. Staff supports that change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will substitute "acquired" for "purchased" in the subsection.

COMMENT #7: Under subsection 20.100(4)(L), Ameren Missouri and Public Counsel would make the twelve-month period for the utility to confirm that the customer-generator's solar system is operational begin to run when the customer receives notice of the approval of its application from the utility, rather than when the customer applies for the rebate. Staff supports that change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #8: Regarding subsection 20.100(4)(M), Renew Missouri proposed alternative language to clarify that utility delay in determining that a customer-generator's solar system is operational does not reduce the solar rebate amount available for the customer. Ameren Missouri proposed compromise language that was accepted by KCP&L/GMO, Renew Missouri and Staff.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #9: Ameren Missouri would change the language of subsection 20.100(4)(N) to make it clear that no single program, such as the solar rebate program, will cause the utility to exceed the total retail rate impact, rather it would be a combination of all programs. Staff supports that change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #10: Ameren Missouri would modify subsection 20.100(4)(O) to eliminate the requirement to include information about the solar rebate application and review process on the electric utility's website when the utility has suspended payment of solar rebates pursuant to a commission order. Staff supports that change, but Renew Missouri and MOSEIA support the proposed tariff provision requirement and oppose Ameren Missouri's modification.

RESPONSE: The commission agrees with Renew Missouri and MOSEIA. Even if an electric utility has suspended payment of solar rebates, it is still appropriate to include information about solar rebates on the website, including, of course, the fact that payment of such rebates has been suspended. The commission will not make the modification suggested by Ameren Missouri.

COMMENT #11: Ameren Missouri would add a new subsection 20.100(4)(P) to clarify that the rule does not affect the Commission's approval of the stipulations and agreements in ET-2014-0059, ET-2014-0071, and ET-2014-0085, which are the case files regarding whether the electric utilities have reached the cap on payment of further solar rebates. Renew Missouri and MOSEIA oppose Ameren Missouri's proposal as litigation regarding the future payment of solar rebates is still ongoing.

RESPONSE: Ameren Missouri is correct that nothing in these rules affects the Commission's approval of the stipulations and agreements in the listed cases. But there is no need to "clarify" the rule by listing those agreements. The Commission will not add the subsection suggested by Ameren Missouri.

COMMENT #12: MOSIEA and Renew Missouri would add a provision to section 20.100(5) the Retail Rate Impact (RRI) section to require each utility to calculate and file the RRI each year as part of its annual compliance report. They do not, however suggest specific language, nor do they indicate exactly where in the section it should be inserted. KCP&L/GMO contend they already calculate the RRI and argue that no specific filing requirement is needed.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with MOSIEA and Renew Missouri's comment. The utilities already calculate the RRI for other purposes and it would not be unduly burdensome for them to make and file those calculations as part of its annual compliance report. The commission will add that requirement as subsection (J) at the end of section (5)

COMMENT #13: Ameren Missouri, MIEC, and Renew Missouri would clarify subsection 20.100(5)(A) to make it clear that the RRI calculation would exclude resources owned or under contract before the date of the original rule, not the current revision. That original effective date would be September 30, 2010. Public Counsel supports that clarification.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the suggested change.

COMMENT #14: Ameren Missouri proposes to change the word "through" to "based on" within subsection 20.100(5)(A).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the requested change.

COMMENT #15: Ameren Missouri notes that subsection 20.100(5)(B) is quite long and suggests that it be broken into paragraphs.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the subsection becomes more understandable when broken into paragraphs. The suggested change will be made.

COMMENT #16: MOSIEA and Renew Missouri suggest the commission clarify subsection 20.100(5)(B) to make it clear that all avoided costs are to be used in the RRI calculation, not just the avoided cost of fuel. Ameren Missouri suggests the commission expressly limit avoided costs to those that would be included in the utility's revenue requirement for setting rates, thus eliminating externalities, such as medical costs for treating asthma resulting from burning coal, etc. Staff supports Ameren Missouri's language, and MOSEIA and Renew Missouri indicated it would be acceptable to them as well.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will clarify the rule to make it clear that all avoided costs, not just the avoided cost of fuel are to be used in the RRI calculation. The commission will adopt the language proposed by Ameren Missouri. With the subsection having been broken into paragraphs, the revised language is in 20.100(5)(B)4

COMMENT #17: MOSIEA and Renew Missouri suggest the Commission modify subsection 20.100(5)(B) to specify that the utility's calculation of RRI must include the full risk of environmental regulation, not just greenhouse gas regulation costs. Ameren Missouri agrees and offers specific language for that purpose.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will adopt the language offered by Ameren Missouri. With the subsection having been broken into paragraphs, the revised language is in 20.100(5)(B)4

COMMENT #18: Renew Missouri strongly supports the proposed amendment's deletion of the last sentence of subsection 20.100(5)(B). The current rule limits when the utility must conduct the rate impact calculation.

RESPONSE: The commission thanks Renew Missouri for its comment and will leave the amendment's deletion of that sentence unchanged.

COMMENT #19: Public Counsel and MIEC are concerned that the proposed language of subsection 20.100(5)(B) would allow for the double-subtraction of fuel and environmental compliance costs in the calculation of RRI. MIEC proposed alternative language, which Staff accepts.

RESPONSE AND EXPLANATION OF CHANGE: The additional sentence proposed by MIEC will serve to clarify what is already the intent of the rule. The commission will add the sentence to the rule.

COMMENT #20: Wind on the Wires asks the commission to adopt a template spreadsheet for performing the RRI described in subsection 20.100(5)(B). It asserts that its spreadsheet would make the RRI uniform, open, and transparent for all the electric utilities. It also offers alternative language to clarify the components of the non-renewable generation and purchased power resource portfolio. Staff does not support Wind on the Wires' proposal, and Ameren Missouri offered specific criticism of that proposal. In summary, Ameren Missouri contends the proposal would effectively eliminate the one (1) percent rate impact cap.

RESPONSE: The purpose of the RRI calculation is to ensure that the electric utility's compliance with the renewable energy standards does not result in increases to retail rates of greater than one (1) percent, as required by the statute. Under the existing rule, that one (1) percent impact is averaged over a forward-looking ten-year period that accounts for the costs of existing renewable resources and reasonable estimates of additional renewable resources needed to comply with the RES Portfolio Requirement over that ten year period. In essence, the cost of using renewable energy to comply with the RES Portfolio Requirement is compared to the cost the utility would incur to supply that energy using non-renewable sources.

Wind on the Wires suggests the Commission incorporate a spreadsheet that it attached to its comments as the template for the electric utilities to use in their RRI calculations. Wind on the Wires does not explain in any detail how the proposed template would work. But Ameren Missouri's response raises concerns that Wind on the Wires' proposal would require the inclusion in the non-renewable portfolio of additional non-renewable energy even when that additional energy is not needed to serve customers, thereby ensuring that the one percent limitation would never be determined to have been reached.

Under the circumstances, the Commission will retain the RRI calculation methodology created by the members of its expert Staff and will not incorporate the spreadsheet proposed by Wind on the Wires.

COMMENT #21: In subsection 20.100(5)(D), MOSIEA suggests the Commission add a requirement that all RECs used for compliance be associated with electricity sold to Missouri customers.

RESPONSE: The geographic sourcing requirement that MOSIEA was rejected from this rule by joint resolution of the legislature when this rule was first promulgated. The Commission will not revisit that issue and will not incorporate the language proposed by MOSIEA.

COMMENT #22: Renew Missouri asks the commission to add the phrase "in accordance with this paragraph" to the new sentence at the end of subsection 20.100(5)(D) to modify the phrase "when adjusting downward the proportion of renewable energy resources" to make it clear that there is no other occasion for which the amount of renewable resources could be adjusted downward.

RESPONSE AND EXPLANATION OF CHANGE: The additional phrase proposed by Renew Missouri is not opposed by any other comment and is appropriate. The commission will add the phrase to the rule.

COMMENT #23: Wind on the Wires is concerned that subsection 20.100(5)(E) seems to be missing from the rule in that it is neither included as existing language, nor is it stricken from the rule.

RESPONSE: The Secretary of State's publication standards require that sections that are not amended or renumbered are not published in the Register as part of the proposed amendment. No changes were proposed to subsection (5)(E) so it was not published. It does, however, remain part of the rule.

COMMENT #24: Renew Missouri asks the commission to add a sentence to paragraph 20.100(5)(F)2 indicating that the Commission will not suspend solar rebate payments unless it expressly finds that the electric utility has accurately calculated the retail rate impact in the manner prescribed by the regulation.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Renew Missouri's comment and will add the requested sentence.

COMMENT #25: In subsection 20.100(5)(G), the proposed amendment creates a "carry-forward" component to be incorporated in the RRI calculation. Staff's written comment extensively explains why the "carry-forward" is needed. Because the one percent cap is calculated on a going forward basis, past expenditures are currently not included in the calculation. Thus, theoretically, a very large expenditure on renewable energy this year would not affect the calculation of a future ten-year average for purposes of applying the one (1) percent cap. As a result, without a "carry-forward" component, the actual ten-year average retail rate impact could exceed the one (1) percent cap. Public Counsel supports Staff's proposal. Wind on the Wires opposes the creation of

the "carry-forward" component and proposes an alternative tied to its alternate retail rate impact methodology proposed in connection with subsection 20.100(5)(B). Ameren Missouri recommends the commission tweak the proposed language by including and defining the term "cumulative carry-forward amount", and would define a starting point for the calculation of the carry-forward amount at January 1, 2013 to capture the surge in solar rebate payments. KCP&L and GMO support that position. Renew Missouri would replace the phrase "1% of the revenue requirement for that year" with "1% cap, as defined in section (5)(B)". Staff insists on a January 1, 2015 start date for the carry-forward calculation to avoid retroactive rulemaking concerns.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with its Staff that a "carry-forward" component is needed. The adjustments proposed by Wind on the Wires are tied to the alternative language it proposed in Comment #20, which the commission rejected for reasons explained in the response to that comment. The commission will again reject Wind on the Wires' proposal. The language adjustments proposed by Renew Missouri and Ameren Missouri are also appropriate, and will be adopted, except that the commission will start the carry-forward calculation with the current period beginning on January 1, 2015 as proposed by Staff.

COMMENT #26: With regard to subsection 20.100(5)(G), MIEC and Public Counsel are concerned that reduced billing units sold because of distributed generation, such as customer-owned solar power systems, replacing power sold by the utility will result in a greater than one percent rate impact. They would add language to this subsection to require an adjustment to recognize the effect of the difference. Ameren Missouri proposes to adjust subsection 20.100(5)(B) to accomplish that purpose. Staff does not believe that the proposed language is needed.

RESPONSE: The commission does not believe that the reduced billing units language is necessary at this time as customer-owned solar power systems and other distributed generation systems do not currently have a large impact on the sales of any Missouri electric utility. The proposed language will not be added to the rule.

COMMENT #27: In subsection 20.100(5)(I), Ameren Missouri asks the commission to modify subsection 20.100(5)(I) to clarify that the retail rate impact calculation is as provided in subsection (5)(B) of the rule. Also, Ameren Missouri would change the word "paid" to the customer to "made available" to the customer. MOSEIA would add language to make it clear that solar scale utility will not be counted against the one (1) percent cap in any year for purposes of paying solar rebates.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will make the suggested modifications.

COMMENT #28: Ameren Missouri asks the Commission to not incorporate the word "annual" into paragraph 20.100(6)(A)4 because there is no annual one (1) percent limit. Public Counsel supports that comment.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment and will make the requested change.

COMMENT #29: Ameren Missouri asks the Commission to replace the term "case numbers" with "file numbers" in Subparagraph 20.100(6)(A)17.C.

RESPONSE AND EXPLANATION OF CHANGE: File number is the phrase generally used by the commission and the phrase used in the subparagraph will be changed accordingly.

COMMENT #30: Ameren Missouri would remove the reference In subparagraph 20.100(8)(A)1.G to serial numbers of RECs as it contends RECs are not assigned a serial number. Staff opposes that change, contending that RECs are in fact assigned serial numbers.

RESPONSE AND EXPLANATION OF CHANGE: The commission recognizes Staff's need to be able to identify the vintage and source of the RECs, even if a serial number is not available. The subparagraph will be modified for that purpose.

COMMENT #31: Ameren Missouri comments that section 20.100(8), which describes the annual reports to be filed by a utility, requires the filing of large amounts of detailed information. It suggests the filing requirement be modified to allow the utility to make voluminous information available for Staff's review without actually filing it. Staff opposes Ameren Missouri's proposal.

RESPONSE: The commission believes that it is important that the required information be filed as part of the electric utility's report rather than just made available for Staff's review because Staff is not the only entity that will view the report. The commission will not make the requested change in the section.

COMMENT #32: Renew Missouri urges the commission to add a requirement to paragraph 20.100(8)(A)1 and subparagraph 20.100(8)(B)1.F to require the utility's annual RES plan to include the RRI calculation, not just a detailed explanation of the calculation.

RESPONSE: Renew Missouri's proposal for these paragraphs is tied to its proposal for subsection 20.100(5). (See Comment #12) The commission agreed with the proposal to modify subsection 20.100(5), and will similarly modify these paragraphs.

COMMENT #33: Subsection 20.100(8)(F) currently says the Commission may establish a procedural schedule if necessary when considering a utility's RES compliance plan. Renew Missouri urges the commission to add language to require the Commission to issue a final order directing that deficiencies in the compliance plan be corrected, or that the plan be approved. It would also require the Commission to find that the utility has correctly calculated the RRI. Public Counsel also supports a revision to the rule that would allow the Commission to issue an order directing the utility to correct deficiencies before a compliance report or plan would be approved. Staff is willing to see some sort of interim procedure to correct deficiencies short of requiring a complaint to be filed. KCP&L and GMO support the current procedures.

RESPONSE AND EXPLANATION OF CHANGE: The current rule allows the commission to establish a procedural schedule, but does not describe a purpose for doing so. The commission agrees that the rule needs to be clarified. The commission's proceedings to consider the electric utility's reports and plans are not a contested case and the commission does not believe a contested case is the best way to deal with those reports and plans. Therefore, the commission will not create a procedure that would require an evidentiary hearing. However, some procedure is appropriate to ensure that the commission is satisfied with the reports and plans submitted by the electric utility. The commission will modify the subsection to allow for such a procedure.

COMMENT #34: Staff offered a comment explaining the basis for the new provisions of subparagraph 20.100(8)(A)1.J.

RESPONSE: The commission thanks Staff for its comment.

COMMENT #35: Subsection 20.100(9)(A) requires that any allegation of a failure to comply with the RES must be filed as a complaint under the Commission's complaint procedure. Renew Missouri and Wind on the Wires urge the commission to remove the requirement that enforcement of the rule be made through the complaint process. Staff opposes that proposal.

RESPONSE: The comments of Renew Missouri and Wind on the Wires about the rule's complaint procedure are really addressing the commission's power to enforce compliance with the report and plan provisions of the rule that were addressed in comment #33. The complaint procedures of the rule are necessary to provide due process to an electric utility against whom penalties could be imposed. The commission will not modify this subsection.

4 CSR 240-20.100 Electric Utility Renewable Energy Standard Requirements.

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

(J) Operational means all of the major components of the on-site solar photovoltaic system have been purchased and installed on the customer generator's premises, and the production of rated net electrical generation has been measured by the utility. If a customer has satisfied all of the System Completion Requirements by June 30th of indicated years, but the electric utility is not able to complete all of the electric utility's steps needed to establish an Operational Date on or before June 30th, the Rebate Rate will be determined as though the Operational Date was June 30th. If it is subsequently determined that the customer or the System did not satisfy all Completion Requirements required of the customer on or before June 30th, the rebate rate will be determined based on the Operational Date;

(N) Renewable energy resource(s) means electric energy, produced from the following:

1. Wind;
2. Solar, including solar thermal sources utilized to generate electricity, photovoltaic cells, or photovoltaic panels;
3. Dedicated crops grown for energy production;
4. Cellulosic agricultural residues;
5. Plant residues;
6. Methane from landfills, from agricultural operations or wastewater treatment;
7. Thermal depolymerization or pyrolysis for converting waste material to energy;
8. Clean and untreated wood, such as pallets;
9. Hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has generator nameplate ratings of ten (10) megawatts or less;
10. Fuel cells using hydrogen produced by any of the renewable energy technologies in paragraphs 1. through 9. of this subsection; and
11. Other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the division;

(2) Requirements. Pursuant to the provisions of this rule and sections 393.1025 and 393.1030, RSMo, all electric utilities must generate or purchase RECs and S-RECs associated with electricity from renewable energy resources in sufficient quantity to meet the RES portfolio requirements (renewable and solar) on a calendar year basis. Utility renewable energy resources utilized for compliance with this rule must include the RECs or S-RECs associated with the generation. The RES portfolio requirements are based on total retail electric sales of the electric utility. The requirements set forth in this rule shall not preclude an electric utility from recovering all of its prudently incurred investment and costs incurred for renewable energy resources that exceed the requirements or limits of this rule but are consistent with the prudent implementation of any resource acquisition strategy the electric utility developed in compliance with 4 CSR 240-22, Electric Utility Resource Planning. RECs or S-RECs produced from these additional renewable energy resources may count toward the RES portfolio requirements.

(A) Reserved*

(B) The amount of renewable energy resources or RECs that can be counted towards meeting the RES portfolio requirements are as follows:

1. If the facility generating the renewable energy resource is located in Missouri, the allowed amount is the kilowatt-hours (kWhs) generated by the applicable generating facility, multiplied by one and twenty-five hundredths (1.25) to effectuate the credit pursuant to section 393.1030.1, RSMo. and subsection (3)(G) of this rule; and
2. Reserved*
3. RECs created by the operation of customer-generator facilities and acquired by the Missouri electric utility shall qualify for RES compliance if the customer-generator is a Missouri electric energy retail customer, regardless of the amount of energy the customer-generator provides to the associated retail electric provider through net metering in accordance with 4 CSR 240-20.065, Net Metering. RECs are created by the operation of the customer-generator facility, even if a significant amount or the total amount of electrical energy is consumed on-site at the location of the customer-generator.

(C) If compliance with the RES portfolio requirements would cause the retail rates of an electric utility to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, then compliance with those mandates shall be limited so that the cost of them would not cause retail rates of the electric utility to increase on average one percent (1%) as calculated per section (5) of this rule.

(D) If an electric utility is not required to meet the RES portfolio requirements in a calendar year, because doing so would cause retail rates to increase on average in excess of one percent (1%) as calculated per section (5) of this rule, then the RES portfolio requirement for solar energy shall be no less than two percent (2%) of the renewable energy resources that can be acquired subject to the one percent (1%) average retail rates limit as calculated per section (5) of this rule.

(E) If an electric utility intends to accept proposals for renewable energy resources to be owned by the electric utility or an affiliate of the electric utility, it shall comply with the necessary requirements of 4 CSR 240-20.015, Affiliate Transactions.

(4) Solar Rebate. Pursuant to section 393.1030, RSMo, and this rule, electric utilities shall include in their tariffs a provision regarding retail account holder rebates for solar electric systems. These rebates shall be available to Missouri electric utility retail account holders who install new or expanded solar electric systems comprised of photovoltaic cells or photovoltaic panels.

(J) Electric utilities that have acquired S-RECs under a one- time lump sum payment in accordance with subsection (H) of this section or as a result of the solar rebate S-RECs transferred through the solar rebate may continue to account for purchased S-RECs even if the owner of the solar electric system ceases to operate the system or the system is decertified as a renewable energy resource. S-RECs originated under this subsection shall only be utilized by the original purchasing utility for compliance with this rule. S-RECs originated under this subsection shall not be sold or traded.

(L) The electric utility shall provide the solar rebate payment to qualified customer-generators within thirty (30) days of confirming the customer-generator's solar electric system is operational. Consistent with 4 CSR 240-20.065(9), customer-generators have up to twelve (12) months from when they receive notice of approval of their Interconnection Application/Agreement for Net Metering Systems with Capacity of One Hundred Kilowatts (100 kW) or less for the utility to confirm the customer-generator's solar electric system is operational.

1. The solar rebates per installed watt up to a maximum of twenty-five kilowatts (25 kW) per retail account are—

A. $2.00 per watt for systems operational on or before June 30, 2014;

B. $1.50 per watt for systems operational between July 1, 2014 and June 30, 2015 (inclusive);

C. $1.00 per watt for systems operational between July 1, 2015 and June 30, 2016 (inclusive);

D. $0.50 per watt for systems operational between July 1, 2016 and June 30, 2019 (inclusive);

E. $0.25 per watt for systems operational between July 1, 2019 and June 30, 2020 (inclusive); and

F. $0.00 per watt for systems operational after June 30, 2020.

G. An electric utility may offer solar rebates after July 1, 2020 through a commission-approved tariff.

(M) An electric utility may, through its tariff, require applications for solar rebates to be submitted up to one hundred eighty-two (182) days prior to the June 30 operational dates. The electric utility will pay the pre-June 30 rebate amount as defined in this subsection to customer-generators who comply with the submission and system operational requirements on or before June 30 of the following year. Customer-generators that fail to meet the submission or system operational requirements on or before the June 30 date will receive the post-June 30 rebate amount if the electric utility confirms their solar electric systems are operational within one (1) year of their application. If a customer has satisfied all of the System Completion Requirements by June 30th of indicated years, but the electric utility is not able to complete all of the electric utility's steps needed to establish an Operational Date on or before June 30th, the Rebate Rate will be determined as though the Operational Date was June 30th. If it is subsequently determined that the customer or the System did not satisfy all Completion Requirements required of the customer on or before June 30th, the rebate rate will be determined based on the Operational Date;

(N) Unless the commission orders otherwise, if the electric utility meets or exceeds the retail rate impact limits of section (5) of this rule, the solar rebates shall be paid on a first-come, first-served basis, as determined by the solar system operational date. Any solar rebate applications that are not honored in a particular calendar year due to the requirements of this subsection shall be the first-come, first-served applications considered in the following calendar year.

(5) Retail Rate Impact.

(A) The retail rate impact (RRI), as calculated in subsection (5)(B), may not exceed one percent (1%) for prudent costs of renewable energy resources directly attributable to RES compliance. The retail rate impact shall be calculated annually on an incremental basis for each planning year based on procurement or development of renewable energy resources averaged over the succeeding ten-(10-) year period. The retail rate impact shall exclude renewable energy resources owned or under contract prior to September 30, 2010.

(B) The RES retail rate impact shall be determined by subtracting the total retail revenue requirement incorporating an incremental non-renewable generation and purchased power portfolio from the total retail revenue requirement including an incremental RES-compliant generation and purchased power portfolio.

1. The non-renewable generation and purchased power portfolio shall be determined by adding, to the utility's existing generation and purchased power resource portfolio excluding all renewable resources, additional non-renewable resources sufficient to meet the utility's needs on a least-cost basis for the next ten (10) years.

2. The RES-compliant portfolio shall be determined by adding to the utility's existing generation and purchased power resource portfolio an amount of least cost renewable resources sufficient to achieve the portfolio requirements set forth in section (2) of this rule and an amount of least-cost non-renewable resources, the combination of which is sufficient to meet the utility's needs for the next ten (10) years.

3. The cost of the RES-compliant portfolio shall also include the positive or negative cumulative carry-forward amount as determined in subsection (5)(G).

4. Assumptions regarding projected renewable energy resource additions will utilize the most recent electric utility resource planning analysis. These comparisons will be conducted utilizing incremental revenue requirement for new renewable energy resources, less the avoided cost for non-renewable energy resources due to the addition of renewable energy resources. Such avoided costs shall be limited to those that may be included in a utility's revenue requirement for setting rates In addition, the projected impact on revenue requirements by non-renewable energy resources shall include the expected value of greenhouse gas emissions compliance costs, assuming that such costs are made at the expected value of the cost per ton of greenhouse gas emissions allowances, cost per ton of a greenhouse gas emissions tax (e.g., a carbon tax), or the cost per ton of greenhouse gas emissions reductions for any greenhouse gas emission reduction technology that is applicable to the utility's generation portfolio, whichever is lower. Calculations of the expected value of costs associated with greenhouse gas emissions shall be derived by applying the probability of the occurrence of future greenhouse gas regulations to expected level(s) of costs per ton associated with those regulations over the next ten (10) years. The impact on revenue requirements by non-renewable energy resources shall also include consideration of environmental risks other than those related to regulation or greenhouse gases. Any costs included to reflect consideration of such risks shall be limited to those that may be included in a utility's revenue requirement for setting rates. Any variables utilized in the modeling shall be consistent with values established in prior rate proceedings, electric utility resource planning filings, or RES compliance plans, unless specific justification is provided for deviations. In no event shall the calculation of rate impact double count the cost of fuel or environmental compliance cost savings.

(D) For purposes of the determination in accordance with subsection (B) of this section, if the revenue requirement including the RES-compliant resource mix, averaged over the ten- (10-) year period, exceeds the revenue requirement that includes the non-renewable resource mix by more than one percent (1%), the utility shall adjust downward the proportion of renewable resources so that the average annual revenue requirement differential does not exceed one percent (1%). In making this adjustment, the solar requirement shall be in accordance with subsection (2)(D) of this rule. Prudently incurred costs to comply with the RES portfolio requirements, and passing this rate impact test, may be recovered in accordance with section (6) of this rule or through a rate proceeding outside or in a general rate case. When adjusting downward the proportion of renewable energy resources in accordance with this paragraph, the utility shall give first priority to reducing or eliminating the amount of RECs not associated with electricity delivered to Missouri customers.

(F) If the electric utility determines the maximum average retail rate increase provided for in section (5) will be reached in any calendar year, the electric utility may cease paying rebates to the extent necessary to avoid exceeding the maximum average retail rate increase by filing a request with the commission, at least sixty (60) days in advance, to suspend the solar rebate provisions in its tariff for the remainder of the calendar year.

1. The filing with the commission to suspend the electric corporation's solar rebate tariff provision shall include:

A. Its calculation reflecting that the maximum average retail rate increase will be reached with supporting documentation;

B. A proposed procedural schedule; and

C. A description of the process that it will use to cease or conclude the solar rebate payments to solar customers if the commission suspends its solar rebate tariff provision.

2. The commission shall rule on the suspension filing within sixty (60) days of the date it is filed. If the commission determines the maximum average retail rate increase will be reached, the commission shall suspend solar rebate payments. The commission will not suspend payment of solar rebates unless it expressly finds that the electric utility has accurately calculated the retail rate impact in the manner prescribed by this subsection(5).

3. The electric utility shall continue to process and pay applicable solar rebates until a final commission ruling.

A. If continuing to pay solar rebates causes the electric utility to exceed the maximum average retail rate increase, the excess payments shall not be considered to have been imprudently incurred for that reason.

(G) The utility shall calculate for each actual compliance year an annual carry-forward amount, illustration included herein as Attachment A. This amount shall be calculated as the positive or negative difference between the actual costs of RES compliance and an amount equal to the one percent (1%) cap, as calculated in section (5)(B), for the non-renewable generation and purchased power portfolio from its most recent annual RES compliance plan filed pursuant to subsection (7)(B) of this rule. The positive or negative cumulative carry-forward amount shall be calculated by accumulating the annual positive or negative annual carry-forward amounts. The initial cumulative carry-forward amount shall be equal to the sum of the annual carry-forward amounts for the period January 1, 2015, through December 31, 2015. Any annual carry-forward amounts shall be based on the revenue requirements analysis included in the utility's Annual RES Compliance Plan filed pursuant to subsection (8)(B) for each respective year. The positive or negative cumulative carry-forward amount shall be included in the cost of the RES-compliant portfolio for purposes of calculating the retail rate impact, as calculated in subsection (5)(B). Nothing in this subsection shall authorize recovery in excess of the one percent (1%) cap, as defined in subsection (5)(B).

(I) Not withstanding anything in subsection (H), until June 30, 2020, if the maximum average retail rate increase, as calculated pursuant to subsection (5)(B) would be less than or equal to one percent (1%) if an electric utility's investment in solar-related projects initiated, owned, or operated by the electric utility is ignored for purposes of calculating the increase, then additional solar rebates shall be made available and included in rates in an amount up to the amount that would produce a retail rate increase equal to the difference between a one percent (1%) retail rate increase and the retail rate increase calculated when ignoring an electric utility's investment in solar projects initiated, owned, or operated by the electric utility.

(J) Each electric utility shall calculate its actual calendar year RRI each year and shall file those calculations as part of its annual RES compliance plan. The electric utility may designate all or part of those calculations as highly confidential, proprietary, or public as appropriate under the commission's rules.

(6) Cost Recovery and Pass-through of Benefits. An electric utility outside or in a general rate proceeding may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs or pass-through of benefits received as a result of compliance with the RES; provided that the average annual impact on retail customer rates does not exceed one percent (1%) over a ten- (10-) year period as set out in subsections (5)(A), (B) and (G). In all RESRAM applications, the increase in electric utility revenue requirements shall be calculated as the amount of additional RES compliance costs incurred since the electric utility's last RESRAM application or general rate proceeding, net of any reduction in RES compliance costs included in the electric utility's prior RESRAM application or general rate case, and any new RES compliance benefits.

(A) For all RESRAM filings, except the initial filings by the electric utility, if the actual increase in utility revenue requirement is less than two percent (2%), subsection (B) of this section shall be utilized. If the actual increase in utility revenue requirement is equal to or greater than two percent (2%), subsection (C) of this section shall be utilized. For the initial filing by the electric utility in accordance with this section, subsection (B) of this section shall be utilized as well, except that the staff, and individuals or entities granted intervention by the commission, may file a report or comments no later than one hundred twenty (120) days after the electric utility files its application and rate schedules to establish a RESRAM.

1. The pass-through of benefits has no single-year cap or limit.

2. Any party in a rate proceeding in which a RESRAM is in effect or proposed may seek to continue as is, modify, or oppose the RESRAM. The commission shall approve, modify, or reject such applications and rate schedules to establish a RESRAM only after providing the opportunity for an evidentiary hearing.

3. If the electric utility incurs costs in complying with the RES that exceed the one percent (1%) rate limit determined in accordance with section (5) of this rule for any year, those excess costs may be carried forward to future years for cost recovery permitted under this rule. Any costs carried forward shall have a carrying cost applied to them monthly equal to the interest on those carried forward costs calculated at the electric utility's short-term borrowing rate. These carried forward costs plus accrued carrying costs plus additional annual costs remain subject to the one percent (1%) rate limit for any subsequent years. In any calendar year that costs from a previous compliance year are carried forward, the carried forward costs will be considered for cost recovery prior to any new costs for the current calendar year.

4. For ownership investments in eligible renewable energy technologies in a RESRAM application, the electric utility shall be entitled to a rate of return equal to the electric utility's most recent authorized rate of return on rate base. Recovery of the rate of return for investment in renewable energy technologies in a RESRAM application is subject to the one percent (1%) limit specified in section (5) of this rule.

5. Upon the filing of proposed rate schedules with the commission seeking to recover costs or pass-through benefits of RES compliance, the commission will provide general notice of the filing.

6. The electric utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with paragraph 7. of this subsection before the notices are sent to customers:

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

B. An annual notice to affected customers each year that a RESRAM is in effect explaining the continuation of its RESRAM and RES compliance; and

C. A RESRAM line item on all customer bills, which informs the customers of the presence and amount of the RESRAM charge.

7. Along with the electric utility's filing of proposed rate schedules to establish a RESRAM, the utility shall file the following items with the commission for approval or rejection, and the OPC may, within ten (10) days of the utility's filing of this information, submit comments regarding these notices to the commission:

A. An example of the notice required by subparagraph (A)6.A. of this section;

B. An example of the notice required by subparagraph (A)6.B. of this section; and

C. An example customer bill showing how the RESRAM will be described on affected customers' bills in accordance with subparagraph (A)6.C. of this section.

8. An electric utility may effectuate a change in its RESRAM no more often than one (1) time during any calendar year, not including changes as a result of paragraph 11. of this subsection.

9. Submission of Surveillance Monitoring Reports. Each electric utility with an approved RESRAM shall submit to staff, OPC, and parties approved by the commission, a Surveillance Monitoring Report. The form of the Surveillance Monitoring Report is included herein.

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

B. If the electric utility also has an approved fuel rate adjustment mechanism or environmental cost recovery mechanism (ECRM), the electric utility shall submit a single Surveillance Monitoring Report for the RESRAM, ECRM, the fuel rate adjustment mechanism, or any combination of the three (3). The electric utility shall designate on the single Surveillance Monitoring Report whether the submission is for RESRAM, ECRM, fuel rate adjustment mechanism, or any combination of the three (3).

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

10. The RESRAM charge will be calculated as a percentage of the customer's energy charge for the applicable billing period.

11. Commission approval of proposed rate schedules, to establish or modify a RESRAM, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to RES compliance costs during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. If the commission disallows, during a subsequent general rate proceeding, recovery of RES compliance costs previously in a RESRAM, or pass-through of benefits previously in a RESRAM, the electric utility shall offset its RESRAM in the future as necessary to recognize and account for any such costs or benefits. The offset amount shall include a calculation of interest at the electric utility's short-term borrowing rate as calculated in subparagraph (A)26.A. of this section. The RESRAM offset will be designed to reconcile such disallowed costs or benefits within the six- (6-) month period immediately subsequent to any commission order regarding such disallowance.

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

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

14. Upon the inclusion of RES compliance cost or benefit pass-through previously reflected in a RESRAM into an electric utility's base rates, the electric utility shall immediately thereafter reconcile any previously unreconciled RESRAM revenues or RESRAM benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RESRAM match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

15. In addition to the information required by subsection (B) or (C) of this section, the electric utility shall also provide the following information when it files proposed rate schedules with the commission seeking to establish, modify, or reconcile a RESRAM:

A. A description of all information posted on the utility's website regarding the RESRAM; and

B. A description of all instructions provided to personnel at the utility's call center regarding how those personnel should respond to calls pertaining to the RESRAM.

16. RES compliance costs shall only be recovered through a RESRAM or as part of a general rate proceeding and shall not be considered for cost recovery through an environmental cost recovery mechanism, fuel adjustment clause or interim energy charge.

17. Pre-existing adjustment mechanisms, tariffs, and regulatory plans. The provisions of this rule shall not affect—

A. Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to September 30, 2010; and

B. Any experimental regulatory plan that was approved by the commission and in effect prior to September 30, 2010; and

C. The commission's reports and orders in file numbers ET-2014-0059, ET-2014-0071, and ET-2014-0085.

18. Each electric utility with a RESRAM shall submit, with an affidavit attesting to the veracity of the information, the following information on a monthly basis to the manager of the auditing unit of the commission and to OPC. The information shall be submitted to the manager of the auditing department through the electronic filing and information system (EFIS). The following information shall be aggregated by month and supplied no later than sixty (60) days after the end of each month when the RESRAM is in effect. The first submission shall be made within sixty (60) days after the end of the first complete month after the RESRAM goes into effect. It shall contain, at a minimum—

A. The revenues billed pursuant to the RESRAM by rate class and voltage level, as applicable;

B. The revenues billed through the electric utility's base rate allowance by rate class and voltage level;

C. All significant factors that have affected the level of RESRAM revenues along with workpapers documenting these significant factors;

D. The difference, by rate class and voltage level, as applicable, between the total billed RESRAM revenues and the projected RESRAM revenues;

E. Any additional information the commission orders be provided; and

F. To the extent any of the requested information outlined above is provided in response to another section, the information only needs to be provided once.

19. Information required to be filed with the commission or submitted to the manager of the auditing unit of the commission and to OPC in this section shall also be, in the same format, served on or submitted to any party to the related rate proceeding in which the RESRAM was approved by the commission, periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

20. A person or entity granted intervention in a rate proceeding in which a RESRAM is approved by the commission shall be a party to any subsequent related periodic adjustment proceeding or prudence review, without the necessity of applying to the commission for intervention; and the commission shall issue an order identifying them. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM shall be served on or submitted to all parties from the prior related rate proceeding and on all parties from any subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing unit of the commission and OPC, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

21. A person or entity not a party to the rate proceeding in which the commission approves a RESRAM may timely apply to the commission for intervention, pursuant to sections 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic adjustment proceeding, or prudence review, or, pursuant to sections 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, continue, or discontinue the same RESRAM. If no party to a subsequent periodic adjustment proceeding or prudence review objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless, within the above-referenced ten- (10-) day period, the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten- (10-) day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

22. The results of discovery from a rate proceeding where the commission may approve, modify, reject, continue, or discontinue a RESRAM, or from any subsequent periodic adjustment proceeding or prudence review relating to the same RESRAM, may be used without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

23. If a party which submitted data requests relating to a proposed RESRAM in the rate proceeding where the RESRAM was established or in any subsequent related periodic adjustment proceeding or prudence review wants the responding party to whom the prior data requests were submitted to supplement or update that responding party's prior responses for possible use in a subsequent related periodic adjustment proceeding, prudence review, or general rate case to modify, continue, or discontinue the same RESRAM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response from a related rate proceeding where a RESRAM was established, reviewed for prudence, modified, continued, or discontinued, if the responding party has learned or subsequently learns that the data request response is in some material respect incomplete or incorrect.

24. Each rate proceeding where commission establishment, continuation, modification, or discontinuation of a RESRAM is the sole issue shall comprise a separate case. The same procedures for handling confidential information shall apply, pursuant to 4 CSR 240-2.135, as in the immediately preceding RESRAM case for the particular electric utility, unless otherwise directed by the commission on its own motion or as requested by a party and directed by the commission.

25. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

26. Prudence reviews respecting a RESRAM. A prudence review of the costs subject to the RESRAM shall be conducted no less frequently than at intervals established in the rate proceeding in which the RESRAM is established.

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

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

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

(II) If the time line is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subparagraph (A)26.A. of this section.

(8) Annual RES Compliance Report and RES Compliance Plan. Each electric utility shall file a RES compliance report no later than April 15 to report on the status of both its compliance with the RES and its compliance plan as described in this section for the most recently completed calendar year. Each electric utility shall file an annual RES compliance plan with the commission. The plan shall be filed no later than April 15 of each year.

(A) Annual RES Compliance Report.

1. The annual RES compliance report shall provide the following information for the most recently completed calendar year for the electric utility:

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

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

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

D. The number of RECs and S-RECs created by electrical energy produced by renewable energy resources owned by the electric utility. For the electrical energy produced by these utility-owned renewable energy resources, the value of the energy created. For the RECs and S-RECs, a calculated REC or S-REC value for each source and each category of REC;

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

F. The source of all RECs acquired during the calendar year;

G. The identification, by source and serial number, or some other identifier sufficient to establish the vintage and source of the REC, of any RECs that have been carried forward to a future calendar year;

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

I. For acquisition of electrical energy and/or RECs from a renewable energy resource that is not owned by the electric utility, except for systems owned by customer-generators, the following information for each resource that has a rated capacity of ten (10) kW or greater:

(I) Facility name, location (city, state), and owner;

(II) That the energy was derived from an eligible renewable energy technology and that the renewable attributes of the energy have not been used to meet the requirements of any other local or state mandate;

(III) The renewable energy technology utilized at the facility;

(IV) The dates and amounts of all payments from the electric utility to the owner of the facility; and

(V) All meter readings used for calculation of the payments referenced in part (IV) of this paragraph;

J. For acquisition of electrical energy and/or RECs from a customer generator—

(I) Location (zip code);

(II) Name of aggregated subaccount in which RECs are being tracked in;

(III) Interconnection date;

(IV) Annual estimated or measured generation; and

(V) The start and end date of any estimated or measured RECs being acquired;

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

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

M. The amount expended by the electric utility for solar rebates, including the price and terms of future S-REC contracts associated with the facilities that qualified for the solar rebates;

N. An affidavit documenting the electric utility's compliance with the RES compliance plan as described in this section during the calendar year; and

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

P. A calculation of its actual calendar year retail rate impact.

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

3. On the same date that the electric utility files its annual RES compliance report, the utility shall provide the commission with separate electronic copies of its annual RES compliance report including and excluding highly confidential and proprietary material. The commission shall place the redacted electronic copies of each electric utility's annual RES compliance reports on the commission's website in order to facilitate public viewing, as appropriate.

(B) RES Compliance Plan.

1. The plan shall cover the current year and the immediately following two (2) calendar years. The RES compliance plan shall include, at a minimum—

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

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

C. The projected total retail electric sales for each year;

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

E. A detailed analysis providing information necessary to verify that the RES compliance plan is the least cost, prudent methodology to achieve compliance with the RES;

F. A calculation of the RES retail impact limit calculated in accordance with section (5) of this rule. The calculation should be accompanied by workpapers including all the relevant inputs used to calculate the retail impact limits for the planning interval which is included in the RES compliance plan. The electric utility may designate all or part of those calculations as highly confidential, proprietary, or public as appropriate under the commission's rules; and

G. Verification that the utility has met the requirements for not causing undue adverse air, water, or land use impacts pursuant to subsection 393.1030.4. RSMo, and the regulations of the division.

(F) The commission may direct the electric utility to provide additional information or to address any concerns or deficiencies identified in the comments of Staff or other interested persons or entities.