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)	)))))	**Case No. EW-2018-0078**

MISSOURI DIVISION OF ENERGY'S RESPONSE TO *ORDER INVITING RESPONSES TO DRAFT RULES*

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

1. On May 22, 2018, the Commission Staff ("Staff") filed a *Notice of Draft Rule for Comment* in this working docket, along with draft revisions to 4 CSR 240-20.060 (Cogeneration) and 4 CSR 240-20.065 (Net Metering). That same day, the Commission issued its *Order Inviting Responses to Draft Rules*, stating that parties could reply to Staff's drafts by June 15, 2018. Consistent with these two filings, DE offers the comments below.

2. As a preliminary consideration, DE notes that the "Cogeneration" rule (4 CSR 240-20.060), both as it now appears and as revised, actually applies to two types of facilities under the Public Utility Regulatory Policy Act of 1978 ("PURPA"); one of these types of facilities is cogeneration (i.e., combined heat and power, or "CHP"),[1] and the other is "small power production facilities" that are powered by renewable energy.[2]

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[1] See 18 C.F.R. §§292.203(b) and 292.205 for operation, efficiency, and use of energy output.
[2] See 18 C.F.R. §§292.203(c) and 292.204 for size and fuel use.

Together, these two types of facilities are referred to in PURPA as “qualifying facilities” (“QFs”).[3] In view of this distinction, DE recommends that the “Cogeneration” rule be retitled as the “Qualifying Facility” rule to clarify the rule’s applicability. DE also recommends that those portions of the rule that relate to CHP, small power production facilities, or all QFs be clearly identified as such.

3. Although 4 CSR 240-20.060 contains a number of considerations in determining rates for purchases from QFs, DE observes that the potential “resiliency” attributes of QFs are not mentioned as additional factors in determining rates for purchases. Definitions of resiliency can differ, but the general concept of resiliency – i.e., the relative ability of a facility to recover to partial or full function after an interruption in energy service – should be considered as a part of how utilities value QFs. This is particularly true for CHP systems and systems that integrate energy storage. Therefore, DE recommends that 4 CSR 240-20.060 incorporate a requirement for utilities to consider the value of resiliency in setting rates for purchases from QFs, with consideration of system-specific features such as storage.

4. The revisions to 4 CSR 240-20.060(7)(A) (“Interconnection Costs”) would require a QF to, “… reimburse the utility for the interconnection costs of any equipment or facilities which result from connecting the customer’s generating system with the utility’s system.” By contrast, a dispute as to such reimbursements is to be resolved by the Commission per 4 CSR 240-20.060(7)(B), which may involve – but does not require – Commission determination of, “… the manner of payments of the interconnection costs, which may include reimbursement over a reasonable period of time ….” The rule should

[3] See 18 C.F.R. §292.207 as to certification as a qualifying facility.

require reasonable payment flexibility in both 4 CSR 240-20.060(7)(A) and (B), rather than only including such flexibility as an option in instances of disagreements between utilities and QFs. This remedy avoids potential barriers to QF deployment due to unreasonable interconnection cost requirements. PURPA establishes the right for customers to generate a portion or all of their energy demand and requires utilities to provide non-discriminatory interconnection services, so it is important for, and incumbent upon, regulated utilities and regulators to remove impediments to QFs.

5. Regarding the revised Net Metering rule (4 CSR 240-20.065), DE notes that Staff has removed language from the rule pertaining to solar rebates. However, maintaining language related to solar rebates in the rule is necessary for several reasons. First, The Empire District Electric Company currently offers solar rebates under the Renewable Energy Standard, and the other investor-owned electric utilities may still be paying some solar rebates under certain circumstances. Additionally, Senate Bill 564 (2018) has created a new solar rebate program at §393.1670, RSMo. The Net Metering rules should include solar rebate language to address both this new solar rebate requirement and the prior solar rebate authority.

WHEREFORE, the Missouri Division of Energy respectfully files its response to the Commission's *Order Inviting Responses to Draft Rules* and prays that the Commission consider the suggestions 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 June, 2018.

/s/ Marc Poston
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