

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Establishment of a Working Case)
For the Review and Consideration of Amending) File No. EW-2020-0377
The Commission’s Rule on Electric Utility Renewable)
Energy Standard Requirements.)

Initial Comments of the Office of the Public Counsel

The Office of the Public Counsel (OPC) offers the following comments regarding the Staff of the Public Service Commission’s (Staff) proposed revisions to the Public Service Commission’s (Commission) Renewable Energy Standard (RES) rule:

1. On May 20, 2020, Staff identified four issues regarding RES requirements with suggested revisions. Staff did not provide its own draft revisions, but invited comments from stakeholders.
2. On May 28, 2020, the Commission ordered stakeholders to file comments on proposed amendments no later than June 29, 2020.

Comments Responding to Staff Identified Issues

3. Staff’s first identified issue is that the Commission’s fuel adjustment clause (FAC) rule provides that renewable energy certificate (REC) revenues may be included in the FAC when not included in a renewable energy standard rate adjustment mechanism (RESRAM), but that the RESRAM portion of the RES rule does not contain similar language. Staff proposes to include language that “REC revenue” be returned to customers through a RESRAM, and to have an annual reporting requirement for those RECS that are nearly expired. The OPC supports Staff’s second proposal, but believes the first one requires clarifying language defining “REC revenue” or other agreed upon term. The OPC also notes that the FAC rule language is permissive as to whether REC revenues are included in the FAC, and believes that permissive “may be included” language should be consistently used in any RES rule revision.

4. Staff's second identified issue is the difficulty for Staff to determine the amount of a penalty amount in the event a utility is found to have violated the RES. Staff proposes that penalties be determined based on a company reported market-based value of RECs, and to remove the existing requirement that penalties be assessed based on the value of RECs used in compliance with the RES rule. The OPC supports Staff's efforts to find more accurate data on REC valuation, but reserves final judgement on any proposal until it sees draft language.

5. Staff's third identified issue is that the RES rule currently requires utilities to annually submit both plans and reports for compliance with the RES, while the Commission's resource planning rules also require the RES mandate to be addressed in its resource planning process. Staff proposes to remove the RES plan submission requirement from the RES rule, and to reduce reporting requirements to a "simple form" filed only when a utility uses unbundled RECs. The OPC reserves final judgement on this proposal until it can see actual draft language. The OPC recommends that the RES plan and RES report be consolidated into one report from the utilities identifying what resources are being devoted for RES compliance, the status thereof, associated costs, and how those costs were calculated. This report should also be written in a manner such that members of the general public can understand the impact of the RES, and be consistent with filed resource plans or have a detailed explanation as to any variation.

6. Staff's fourth identified issue is that while several utilities are exceeding RES requirements, utilities are also investing in further renewable energy endeavors beyond the RES. Staff proposes a required listing of resources "directly related to RES compliance" from utilities, and an additional "application process for voluntary renewable programs which would be applicable to a utility's internal renewable goal or customer-offered renewable program." The OPC reserves its position until Staff or other parties offer actual draft language, but suggests that Staff's proposed listing

include the actual cost and benefits of renewable resources from the ratepayers' perspective regardless of whether the renewable resource is devoted for RES compliance.

General Comments

7. The RES rule's definition of "Division" refers to the Division of Energy (DE) being a component of the Department of Economic Development. The DE is now housed within the Department of Natural Resources, and the OPC suggests that the Commission revise its rule accordingly.

8. Section (5)(B) of the RES rule details how the RES' retail rate impact is to be calculated. It relies on determining the cost of a non-renewable generation source to meet the "utility's needs on a least-cost basis for the next ten (10) years" and avoided cost calculations from the utility's resource planning process. The Commission recently utilized a request for proposal for capacity as the basis for determining avoided costs in Evergy Missouri Metro and Evergy Missouri West's application under 393.1075, RSMo in EO-2019-0132. Given this decision and other lessons learned since the RES rate impact was defined in the rule, the OPC recommends language clarifying how avoided costs are determined for ultimately calculating a retail rate impact.

9. Section (5)(G) of the RES rule refers to annual RES compliance plans "filed pursuant to section (7)(B) of this rule." This appears to be a typographical error as RES compliance plans are referred to instead in Section (8)(B), and no section (7)(B) exists within the RES rule.

10. Section (6) of the RES rule includes some provisions regarding data requests, intervention, and confidentiality that appear redundant to the general rules of practice before the Commission. The OPC suggests that these portions be reviewed for potential revisions to remove extraneous provisions and increase readability.

Wherefore, the OPC offers its comments in response to proposed revisions to the Commission's RES rule.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 29th Day of June, 2020, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall