

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY-AFFILIATE TRANSACTIONS

The Proposed Rules

Exhibit No. 5
Date 2/11/99 Case No. EL-99-042
Reporter ELM

AMEREN CORPORATION

4 CSR 240-20.015

4 CSR 240-40.015

4 CSR 240-80.015

Missouri Public Service Commission's Utility-Affiliate Transaction Rules

1. Consumer Welfare

- low prices
- high quality
- many choices

2. Prevent Abuse: *illegitimate advantages*

- cross subsidization
- discrimination: essential services
- discrimination: essential information

3. Preserve Benefits: *legitimate advantages*

- economics of scale & scope
- local experience
- brand name, marketing, & advertising

4. Competition - Not Competitors

- legitimate advantages = competition
- helping competitors harms consumers
- competitors can and will compete

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY-AFFILIATE TRANSACTION RULES

- **CROSS-SUBSIDIZATION**

- **Current Rule**
 - requires asymmetrical pricing
 - eliminates cross-subsidies but prevents consumer benefits and imposes costs
- Ameren's Rule
 - would allow more flexible definition of "cost"
 - would eliminate cross-subsidies but allow benefits

- **ANTI-DISCRIMINATION RULES: information and services**

- **Current Rules**
 - prohibit all "preferential service, information or treatment" to affiliates
 - are vague, eliminate consumer benefits, and harm consumers
- Ameren's Rules
 - would prohibit discrimination only in *essential* information or services
 - would eliminate discrimination, allow benefits and allow competition

- **EVIDENTIARY STANDARDS**

- **Current Rules**
 - require competitive bidding process, documentation of costs and use of a CAM
 - eliminate consumer benefits and impose significant costs
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STAFF'S PROPOSED RULES 2(A) & 1(E):

Anti-cross subsidization

- **Rule 2(A):**

(A) A regulated electrical corporation shall not provide a financial advantage to an affiliated entity.

For the purposes of this rule, a regulated electrical corporation shall be deemed to provide a financial advantage to an affiliated entity if--

1. It compensates an affiliated entity for goods or services above the lesser of--

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation to provide the goods or services for itself; or

2. It transfers information, assets, goods or services of any kind (including, but not limited to, land, patents, trained employees, research, employee training etc.) to an affiliated entity below the greater of--

A. The fair market price; or

B. The fully distributed cost to the regulated electrical corporation.

- **Rule 1(E):**

(E) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation.

AMEREN'S PROPOSED RULES 2(F)-(H) and 1(E):

Anti-cross subsidization

- **Rules 2(F)-(H):**

(F) Transactions between an electrical corporation and its affiliated interests shall not be allowed to subsidize the affiliated interests.

(G) Costs associated with the transfer of goods and services between an electric utility and its affiliated interests shall be priced either at cost or at fair market value, as specified in, and allocated pursuant to a Commission approved services agreement. For purposes of this section, a services agreement that has been approved by the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935, or any successor legislation or rules, will be deemed to satisfy this provision. The existence of an SEC-approved or Commission-approved Services Agreement under this provision shall not be a binding determination on the Commission regarding the reasonableness of charges in a subsequent Commission rate proceeding.

(H) A regulated electrical corporation shall maintain books, accounts, and records separate from those of its affiliated interests.

- **Rule 1(E):**

(E) Fully distributed cost (FDC) means a methodology that examines all costs of an enterprise in relation to all the goods and services that are produced. FDC requires recognition of all costs incurred directly or indirectly used to produce a good or service. Costs are assigned either through a direct or allocated approach. Costs that cannot be directly assigned or indirectly allocated (e.g., general and administrative) must also be included in the FDC calculation through a general allocation. For purposes of this rule, compliance with 17 C.F.R. §250.91 establishes FDC.

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STAFF'S PROPOSED RULES 2(B), 1(F) & 2(D):

Anti-discrimination

- **Rule 2(B):**

(B) The regulated electrical corporation shall conduct its business in such a way as **not to provide any preferential service, information or treatment to an affiliated entity over another party at any time.**

- **Rule 1(F):**

(F) Preferential service means information or treatment or actions by the regulated electrical corporation **which places the affiliated entity at an unfair advantage over its competitors.**

- **Rule 2(D):**

(D) If a customer requests information from the regulated electrical corporation about goods or services provided by an affiliated entity, the regulated electrical corporation shall provide information to the customer regarding the availability of other nonaffiliated entities that provide the same goods or services. The regulated electrical corporation shall include in its annual Cost Allocation Manual (CAM), the criteria, guidelines, and procedures it will follow to be in compliance with this rule.

AMEREN'S PROPOSED RULES 2(A) – (E): Anti-Discrimination

- (A) A regulated electrical corporation shall not provide affiliated interests or customers of affiliated interests preferential treatment or advantages relative to unaffiliated entities or their customers in connection with services provided under tariffs on file with the Missouri Public Service Commission.
- (B) A regulated electric corporation and its affiliated interests shall not notify potential or actual customers, either directly or indirectly, that the electric corporation provides any advantages relating to the scheduling, transmission or distribution of electricity to affiliated interests or their customers relative to unaffiliated entities and their customers.
- (C) A regulated electrical corporation shall not tie, as defined by State and federal anti-trust laws, the provision of any tariffed services to the taking of any goods and services from the electric utility's affiliated interests.
- (D) Specific customer information shall be made available to affiliated or unaffiliated companies only upon consent of the customer or as otherwise provided by law or Commission Rule and upon payment of reasonable charges incurred in producing such information. General or aggregated customer information may be made available to affiliated or unaffiliated companies or persons alike upon payment of reasonable charges incurred in producing such information.
- (E) A regulated electrical corporation shall treat as confidential all information related to the transmission or distribution of electric energy received from unaffiliated energy marketers and shall not share such information with its affiliates.

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STAFF'S PROPOSED RULE 3: Evidentiary Standards

- (A) When a regulated electrical corporation purchases information, assets, goods or services from an affiliated entity, the regulated electrical corporation shall either obtain competitive bids for such information, assets, goods or services or demonstrate why competitive bids were neither necessary nor appropriate.
- (B) In transactions that involve either the purchase or receipt of information, assets, goods or services by a regulated electrical corporation from an affiliated entity, the regulated electrical corporation shall document both the fair market price of such information, assets, goods and services and the FIDC to the regulated electrical corporation to produce the information, assets, goods or services for itself.
- (C) In transactions that involve the provision of information, assets, goods or services to affiliated entities, the regulated electrical corporation must demonstrate that it--
1. Considered all costs incurred to complete the transaction;
 2. Calculated the costs at times relevant to the transaction;
 3. Allocated all joint and common costs appropriately; and
 4. Adequately determined the fair market price of the information, assets, goods or services.
- (D) In transactions involving the purchase of goods or services by the regulated electrical corporation from an affiliated entity, the regulated electrical corporation will use a commission-approved CAM which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirements of this section if approved by the commission.

AMEREN'S PROPOSED RULE 3: Evidentiary Standards

- In transactions involving the purchase of goods or services by the regulated electrical corporation from an affiliated entity, the regulated electrical corporation will use a commission-approved Cost Allocation Manual (CAM) and Service Agreement, as described in Section 2(G), above, which sets forth cost allocation, market valuation and internal cost methods. This CAM can use benchmarking practices that can constitute compliance with the market value requirement of this section.