

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-10.125 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes, and Other Evidences of Indebtedness **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1579). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended August 15, 2018, and the commission held a public hearing on the proposed rule on August 22, 2018. The commission received timely written comments from the staff of the commission. Alexandra Klaus, representing the commission's staff; and Ryan Smith, representing the Office of the Public Counsel, appeared at the hearing and offered comments.

COMMENT #1: The commission staff filed written comments in support of the proposed rule.

RESPONSE: The commission agrees and will adopt the rule.

COMMENT #2: The Office of the Public Counsel indicated no opposition to the proposed rule.

RESPONSE: The commission agrees and will adopt the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-10.135 Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1579–1580). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended August 15, 2018, and the commission held a public hearing on the proposed rule on August 22, 2018. The commission received timely written comments from the staff of the commission. Alexandra Klaus, representing the commission's staff; and Ryan Smith, representing the Office of the Public Counsel, appeared at the hearing and offered comments.

COMMENT #1: The commission staff filed written comments in support of the proposed rule.

RESPONSE: The commission agrees and will adopt the rule.

COMMENT #2: The Office of the Public Counsel indicated no opposition to the proposed rule.

RESPONSE: The commission agrees and will adopt the rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-10.145 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on July 16, 2018 (43 MoReg 1580–1581). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended August 15, 2018, and the commission held a public hearing on the proposed rule on August 22, 2018. The commission received timely written comments from the staff of the commission. Alexandra Klaus, representing the commission's staff; and Ryan Smith, representing the Office of the Public Counsel, appeared at the hearing and offered comments.

COMMENT #1: The commission staff filed written comments in support of the proposed rule, but recommends that the final sentence in section (5) be removed as it is no longer consistent with commission practice.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, and will adopt the rule with the final sentence in section (5) removed.

COMMENT #2: The Office of the Public Counsel indicated no opposition to the proposed rule.

RESPONSE: The commission agrees, and will adopt the rule with the final sentence in section (5) removed, as recommended by the commission staff.

4 CSR 240-10.145 Annual Report Submission Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utilities

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading.

**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 386.250 and 393.140, RSMo 2016, and section 386.266, RSMo Supp. 2018, the commission amends a rule as follows:

4 CSR 240-20.090 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on July 2, 2018 (43 MoReg 1426-1437). 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 August 6, 2018, and the commission held a public hearing on the proposed amendment on August 13, 2018. The commission received six (6) written comments. Comments were received from the Office of the Public Counsel (OPC), The Empire District Electric Company, a Liberty Utilities Company (Empire), the staff of the commission (staff), Dogwood Energy LLC (Dogwood), and jointly from Union Electric Company d/b/a Ameren Missouri (Ameren Missouri), Kansas City Power & Light Company (KCPL), and KCP&L Greater Missouri Operations (GMO). Appearing at the hearing and offering comments were: Ron Irving, representing staff and John Rogers on behalf of staff; Ryan Smith representing OPC and Lena Mantle on behalf of OPC; Jim Lowery, representing Ameren Missouri; Jim Fischer, representing KCPL and GMO; and Diana Carter representing Empire. All the comments were generally supportive of amending the rule, but each of the commenters had specific amendments to which it objected or proposed revisions. Each of the comments will be addressed in relation to the specific provisions.

COMMENT #1: Staff proposed minor language changes to proposed subsection (1)(A) and to paragraphs (1)(K)3., (1)(K)4., and (1)(K)5. to clarify those provisions. Ameren Missouri, Empire, KCPL, and GMO (collectively referred to as “the utilities”) concurred with the changes proposed by staff. In addition, the utilities suggested minor wording changes to proposed subsections (1)(B), (1)(I), and (1)(K) to maintain consistency with how those terms are used throughout the remainder of the rule and to proposed paragraph (1)(K)4. for clarification. Dogwood suggests minor clarifications to subsection (1)(W) to make that provision consistent or more understandable. Further, the utilities suggested reorganization of proposed paragraph (1)(Z)1. and subparagraph (1)(Z)1.A. None of the commenters objected to these changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the proposed clarifications provided by staff, the utilities, and Dogwood and will adopt changes to proposed subsections (1)(A), (1)(B), (1)(I), (1)(K), (1)(W), and (1)(Z), paragraphs (1)(K)3., (1)(K)4., (1)(K)5., and (1)(Z)1., and to subparagraph (1)(Z)1.A. The commission also reorganizes proposed subparagraph (1)(Z)1.A., but not as suggested by the utilities.

COMMENT #2: Empire joined in the utilities’ initial comments and the reply comments of Ameren Missouri at the hearing. Empire also filed separate written comments and Ms. Carter spoke at the hearing on Empire’s behalf. Empire’s joint comments with regard to the specific parts of the proposed rule are set out below as comments of “the utilities” or “Ameren Missouri.” As for Empire’s general comments, it argued that the rule needed to allow for the inclusion of both fuel-related revenues, including transportation, and fuel and purchased power costs, including transportation. Empire made several arguments about why the commission should set out the specific transmission costs to be included in the fuel adjustment clause (FAC).

Mr. Smith on behalf of OPC stated at the hearing that OPC is opposed to including all the regional transmission organization (RTO) transmission costs in the FAC and opposes the change suggested by Empire. Ameren Missouri commented that it believes that all transmission charges associated with power purchased from an RTO market and power sold to an RTO market should be included in utility FACs. However, consistent with its view that the FAC rules should not prescribe the components of fuel and purchased power, including transportation, that should be included, Ameren Missouri does not believe the proposed rule needs to be revised in this manner.

RESPONSE: The rule as currently proposed allows for the recovery of transportation costs but leaves the determination of which of the specific costs and how much of those costs to include for determination based on the individual facts of the case. The rule has treated these costs in this manner since it was originally promulgated and has been working fairly well in this regard. The commission determines no change is necessary based on these comments.

COMMENT #3: OPC proposed changing the definition of “base factor” in order to correct it and be consistent with the remainder of the rule. Ameren Missouri indicated it does not oppose making the change as proposed by OPC.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the suggestion reasonable and will change proposed subsection (1)(D) to correct the definition of “base factor.” However, the language suggested by OPC is somewhat confusing. Therefore, the commission has not adopted OPC’s language verbatim. The commission rewrites subsection (1)(D).

COMMENT #4: OPC proposed changing the definition of “base rates” in proposed subsection (1)(E). OPC proposed adding a sentence indicating that base rates are designed to recover the FAC costs and revenues and the non-FAC costs and revenues. OPC commented that this was a clarification. Ameren Missouri responded at the hearing in opposition to OPC’s proposed change stating that the change was confusing and that the rule as proposed was clear.

RESPONSE: The commission finds the definition of “base rates” in proposed subsection (1)(E) does not need clarification. No change was made in response to these comments.

COMMENT #5: Both OPC and Ameren Missouri suggested the word “during” is confusing in proposed paragraph (1)(K)1. They suggested ways to clarify the paragraph.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will change the word “during” to “of” in proposed paragraph (1)(K)1.

COMMENT #6: OPC suggested deleting the second sentence of proposed subsection (1)(L) because this went beyond what the statute required by including hedging. OPC argued that the parties should be allowed to argue on a case-by-case basis about whether hedging costs are appropriate in a rate adjustment mechanism (RAM). Ameren Missouri agreed with this comment.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will delete the second sentence of proposed subsection (1)(L).

COMMENT #7: OPC recommends defining “fuel costs” in proposed subsection (1)(L) similar to the Federal Energy Regulatory Commission (FERC) FAC requirements published at 18 CFR Part 35.14. OPC also recommended adopting a different definition for “purchased power costs.” Ameren Missouri responded that the commission should not prescriptively adopt OPC’s narrow view of what constitutes fuel and purchased power in the rule. Ameren Missouri also pointed out that the commission rejected OPC’s definitions of fuel and purchased power in KCPL’s last rate case.

RESPONSE: The commission agrees with Ameren Missouri. The commission will not adopt in the rule the narrow definitions of fuel and purchased power costs suggested by OPC.

COMMENT #8: The utilities proposed a change in paragraph (1)(L)2. to ensure that the costs that are included are not counted twice. At the hearing, staff and OPC indicated their agreement with this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the suggested language in paragraph (1)(L)2. and will change that paragraph in a substantially similar way as that suggested by the utilities. However, the commission amends paragraph (1)(L)2. further to clarify which costs are not to be contained in more

than one (1) rate adjustment mechanism.

COMMENT #9: At the hearing, Ameren Missouri suggested adding the words “or capacity” to proposed subsection (1)(M) so that all revenues from the purchase of capacity are included.

RESPONSE AND EXPLANATION OF CHANGE: No one opposed Ameren Missouri’s recommended change and the commission finds it to be reasonable. The commission will add the words “or capacity” to proposed subsection (1)(M).

COMMENT #10: OPC proposed a new definition of “fuel-related revenues” at proposed subsection (1)(M) so that it included transmission costs. Ameren Missouri commented that it agrees in concept with the idea of including transmission costs associated with off-system sales in the FAC. However, Ameren Missouri disagreed with OPC’s language because it would dictate (and require changes to) Ameren Missouri’s accounting. Further, Ameren Missouri stated that it was not sure how it would be able to identify or tie specific transmission charges to off-system sales.

RESPONSE: The commission finds that the definition should not include transmission costs as suggested by OPC. No change was made as a result of this comment.

COMMENT #11: The utilities suggested a grammatical correction by adding a hyphen to “short-term” in proposed subsection (1)(O). Staff proposed changes to the definition of “interest” in subsection (1)(O) to clarify that interest is the total amount of interest applied to the various components of a fuel and purchased power adjustment. Ameren Missouri responded at the hearing with additional clarifying language.

RESPONSE AND EXPLANATION OF CHANGE: The changes proposed clarify the definition of “interest” and will be adopted with additional changes to the suggested formatting. Therefore, the commission will rewrite the definition of “interest” and add a hyphen in subsection (1)(O).

COMMENT #12: Staff and OPC proposed correcting the abbreviation of megawatt hours in proposed subsection (1)(Q). OPC also proposed adding the definition of megawatt (MW) and making the definitions of megawatt hour at proposed subsection (1)(Q) and MMBtu at proposed subsection (1)(S) consistent with the other definitions. The utilities concurred with these changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and will correct the abbreviation in proposed subsection (1)(Q). The commission will make the definitions consistent in proposed (1)(Q) and (1)(S) and spell out “Btus” as “British thermal units.” The commission also adds a definition of MW at new subsection (1)(Q) and reletters the following paragraphs accordingly.

COMMENT #13: OPC commented that the definition of “net base energy costs (NBEC)” at proposed subsection (1)(T) should be amended. Ameren Missouri agreed that the definition should be amended as proposed by OPC with the additional modification of adding “including transportation” to OPC’s definition. Dogwood and staff also made minor wording suggestions to the proposed subsection (1)(T).

RESPONSE AND EXPLANATION OF CHANGE: The definition of “net base energy cost (NBEC)” is an important definition in determining the adjustment to rates. The commission determines that OPC’s definition is clearer than the one originally proposed and should be adopted. The commission is not adopting Ameren Missouri’s suggestion. Transportation does not need to be specifically set out in the rule but should be determined on a case-by-case basis. Therefore, the commission will change proposed subsection (1)(T) as suggested by OPC but will reject Ameren Missouri’s suggested addition to OPC’s language. Because the commission is amending subsection (1)(T), Dogwood’s and staff’s suggestions are moot and will not be adopted.

COMMENT #14: OPC commented that the definition of “recovery period” in proposed subsection (1)(X) should be amended by deleting “usage on a per kilowatt-hours (kWh) basis in an effort.” Ameren Missouri agreed.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines that OPC’s suggested change to proposed subsection (1)(X) is reasonable and will adopt it by deleting the phrase as suggested.

COMMENT #15: Staff proposed adding language to section (2) to clarify there is a requirement to rebase base energy costs in each general rate proceeding in which a rate adjustment mechanism is continued or modified. The utilities concurred with this change as proposed by staff.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the proposed clarification and will add the language to section (2).

COMMENT #16: Staff recommended adding and deleting punctuation and adding language to proposed sections (5) and (7), subsections (2)(A), (3)(A), (5)(B), (8)(B), and (8)(C), and paragraphs (9)(A)2. and (9)(A)3. to clarify that if electronic spreadsheets are filed, they shall have both the links and the formulas available. OPC also suggested similar language be added to proposed section (6). Ameren Missouri agreed with these comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the proposed clarification and will add the clarifying language to proposed sections (5), (6), and (7), subsections (2)(A), (3)(A), (5)(B), (8)(B), and (8)(C), and paragraphs (9)(A)2. and (9)(A)3.

COMMENT #17: The utilities recommended rewriting proposed paragraphs (2)(A)1. and (3)(A)1. because they did not believe it was appropriate to include in the notice, an estimate about future rate adjustments. Additionally, the utilities stated that their proposed language would clarify to which notice the rule refers. At the hearing, staff and OPC agreed with the utilities’ suggested changes.

RESPONSE AND EXPLANATION OF CHANGE: No one opposed the utilities’ recommended changes and the commission finds them to be reasonable. The commission will rewrite the language in paragraphs (2)(A)1. and (3)(A)1. as suggested in the utilities’ comments with some additional modification for clarification.

COMMENT #18: OPC commented that proposed paragraph (2)(A)2. should include an example customer bill for each rate class. Ameren Missouri disagreed stating that OPC’s language would require it to provide eight (8) sample bills. Ameren Missouri suggested alternative language that would generally require no more than two (2) sample bills be provided.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds Ameren Missouri suggested language to be the most reasonable and least burdensome requirement. Therefore, the commission adopts the language proposed by Ameren Missouri and amends paragraph (2)(A)2. so that the sample customer bill or bills covers all of the utility’s rate classes.

COMMENT #19: Staff recommended changing the word “true-up” to “over- or under-billed” in paragraph (2)(A)7. in order to clarify that over- and under-billed amounts can occur during both the accumulation period and the recovery period. Staff also recommended adding “over- or” to proposed subsection (9)(C) because a true-up amount will occur anytime there is either an over-billing or an under-billing during the recovery period. In their comments, the utilities agreed with these changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the proposed clarifications and will amend proposed paragraph (2)(A)7. and proposed subsection (9)(C) accordingly.

COMMENT #20: In proposed paragraph (2)(A)8., OPC suggested

adding a reference to section (11) in order to help navigate the rule. Ameren Missouri agreed with this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the suggestion to be helpful and will add a reference to section (11) in proposed paragraph (2)(A)8.

COMMENT #21: OPC proposed extensive changes to proposed paragraph (2)(A)9., and the subparagraphs following, to require the utilities provide more information in the initial FAC filings. OPC also commented that proposed paragraph (2)(A)10. was unnecessary because revenues were included in the preceding paragraph. OPC gave examples of the information that is provided with the FAC filings and argued that the utilities should provide much more detailed information up front so that OPC and staff do not have to ask for additional details from the utilities via data requests. OPC argued that the electric utility customers would benefit from this added information because they have absolutely no way of calculating how their electric bills will change in the future because of the FAC. OPC argued that the result of this proposed provision would give the customers, the parties to the FAC proceedings, and the commission an idea of the magnitude and the volatility of these costs.

The utilities recommended deletion of most of proposed paragraphs (2)(A)9. and 10. The utilities opposed inclusion of the language proposed by OPC, especially proposed subparagraphs (2)(A)9.D., E., and F., because OPC was trying to promote its policy argument against FACs by making the filing as difficult as possible. The utilities explained that this proposed criteria stems from a dispute between OPC and the utilities during KCPL's last rate case (File No. ER-2016-0285) and Empire's most recent rate case (File No. ER-2014-0258). In those proceedings the commission found against OPC on this issue.

Ameren Missouri and the utilities further argued that analyses about magnitude and volatility of costs and revenues should not be codified in the regulation as that presupposes there is a requirement for the utilities to provide this information in each FAC filing. The utilities also argued that some of these numbers would be difficult to quantify with any kind of accuracy. Ameren Missouri commented that the commission is not prohibited from ordering the utility to provide more detail under the rule language proposed by the utilities if it is needed on a case-by-case basis.

At the hearing, staff agreed with deleting the language in paragraph (2)(A)9. and subparagraphs A. through G. as proposed by Ameren Missouri because, although the utilities have the ability to make an estimate of the expected magnitude of the changes of costs over the next four (4) years, given the dynamic nature of the electric utility marketplace it would be a difficult task that would add very little value to the determination of a FAC. Mr. Fischer, on behalf of KCPL and GMO, also concurred with Ameren Missouri's comments. KCPL and GMO further commented that each company's tariffs, would govern the FAC. Mr. Fischer added that those tariffs have been litigated rigorously and do not need to be incorporated into the rule. **RESPONSE AND EXPLANATION OF CHANGE:** The commission will adopt the changes proposed by the utilities for the reasons expressed by staff. Therefore, the commission deletes proposed paragraph (2)(A)9. and subparagraphs A. through G. and adopts the new paragraph (2)(A)9. proposed by the utilities. The commission makes no change to paragraph (2)(A)10. as published.

COMMENT #22: Staff commented that a change should be made to paragraph (2)(A)13. to clarify that it is the commission determining whether the fuel and purchased power cost and fuel-related revenues are prudent. Additionally, the utilities suggested adding language to paragraph (2)(A)13. to clarify that competitive bidding is not always warranted or practical.

RESPONSE AND EXPLANATION OF CHANGE: No one opposed staff's or the utilities' recommended changes and the commission finds them to be reasonable. The commission will add language to clarify paragraph (2)(A)13. as suggested in staff's and the utilities' comments.

COMMENT #23: Staff recommended deleting paragraph (2)(A)14. Staff explained that the opening clause of the paragraph will not be at issue due to definition of "base energy costs" in subsection (1)(C). Staff also explained that there is no need to include a methodology for allocating fuel and purchased power costs and fuel-related revenue to specific customer classes because all fuel and purchased power costs and fuel-related revenues are recovered from all customer classes through the same dollars per kWh fuel adjustment rate (FAR) prior to making an adjustment for the different voltage service levels.

The utilities also provided written and oral comments recommending that both proposed paragraphs (2)(A)14. and (2)(A)15. be deleted. The utilities commented that these paragraphs would require a utility to provide information regarding the allocation of net energy costs to customer classes in base rates and to provide a discussion of how the FAC rate design is reasonable given that cost allocation. The utilities explained that while such information could be provided, it was not likely to provide any additional value in the establishment of a just and reasonable FAC rate. The utilities explained that if a party to an FAC proceeding wants to present an analysis advocating for a particular rate design, it can request historical data from the utility, but that the rule should not require the analysis be done upfront. At the hearing, staff agreed with the utilities that these paragraphs should be deleted.

OPC filed written comments supporting the proposed language and suggesting an expansion to include the requirements for interim energy charges (IECs). OPC requests the filing requirements for an application for approval, modification, or continuation of a RAM include elements of rate design at a customer class level.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the utilities and staff that paragraphs (2)(A)14. and (2)(A)15. are likely to create an administrative burden for the utilities that would not provide a corollary amount of value to the process of setting FAC rates. Additionally, because proposed subsection (1)(V) defines a RAM to include an IEC, OPC's additional language is unnecessary. Further, the rule as a whole already requires sufficient information without these paragraphs. Therefore, the commission will delete proposed paragraphs (2)(A)14. and (2)(A)15. and renumber proposed paragraphs 16-22 accordingly.

COMMENT #24: OPC commented that the word "any" should be deleted from paragraph (2)(A)17. OPC states that by qualifying these filings for "any risk" the rule suggests that there may not be a risk to customers. The utilities proposed deleting the entire paragraph. The utilities disagree with the premise of proposed paragraph (2)(A)17., which suggests that an FAC imposes some risk to the various customer classes. The utilities also question how to quantify risk if any exists. OPC agreed at the hearing that the requirement to "quantify" risk should be removed from the rule. The utilities further explained that this proposed language arose from OPC's prior attempts through proceedings before the commission to oppose FACs outright by claiming that they are bad policy because they shift risks to customers. The utilities stated that arguments about any risks that exist should be made in the course of FAC and other proceedings but the regulation should not promote OPC's point of view by including this language. At the hearing, Mr. Rogers on behalf of staff commented that staff's position was that "quantification" should be removed from the paragraph, but the rest should remain.

RESPONSE AND EXPLANATION OF CHANGE: Although considering any possible transfer of risks to customers may be a factor for consideration in general rate proceedings or other proceedings before the commission, the commission determines that including a requirement to quantify the risks to a customer class during the course of an FAC proceeding is not appropriate. The commission may consider the transfer of risk on a case-by-case basis in the appropriate proceeding. Therefore, the commission will delete proposed paragraph (2)(A)17. in its entirety. The commission rennumbers proposed paragraphs 18-22 accordingly.

COMMENT #25: OPC proposed adding a new subsection to proposed section (2) that would require staff to submit in its direct case a summary of the result of its review of the information provided by the utility. Ameren Missouri argued that the rule should not prescribe what staff's filing must include.

RESPONSE: The commission agrees with Ameren Missouri, that the rule should not prescribe how staff will submit information to the commission.

COMMENT #26: OPC suggested new language for proposed paragraph (2)(A)18. to clarify that heat rate tests were required within twenty-four (24) months of a general rate case. Dogwood also suggested a change to include the twenty-four (24) month period. Ameren Missouri responded that it did not oppose OPC's language with some additional modification to reflect that the utilities do continual monitoring but that a "test" is not always how the efficiency of a unit is determined. KCPL/GMO agreed with Ameren Missouri's comments and further stated that monitoring is done on a scheduled and routine basis and that the results are transparent to the parties.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the reason for the language proposed by OPC and Dogwood reasonable, but will modify that language as suggested by Ameren Missouri. This will reflect that continual monitoring is occurring and the commission need not require a specific "test." Thus, the commission rewrites proposed paragraph (2)(A)18, and adds subparagraphs (2)(A)18.A. and B.

COMMENT #27: OPC suggested amending proposed paragraph (2)(A)19. by requiring additional information about the integrated resource planning (IRP) process to be filed in the FAC proceedings. In conjunction with this recommendation, OPC also suggested adding a definition of "Chapter 22 filings" at subsection (1)(F). Ameren Missouri, KCPL/GMO, and Empire object to including more filings from the IRP process in the FAC proceeding. The utilities state that these filings would add nothing to the FAC process and is an unnecessary burden and barrier to requesting an FAC.

RESPONSE: The commission determines there is no reason to include a requirement for filing information in the FAC proceedings that is already available through the IRP process. This would be an added burden with little value. Therefore, the commission makes no change as a result of these comments.

COMMENT #28: OPC commented that proposed paragraph (2)(A)22. should be amended to include continuation or modification in addition to establishment of a RAM. Ameren Missouri agreed.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with OPC and Ameren Missouri and will amend paragraph (2)(A)22. to include continuation or modification.

COMMENT #29: OPC is concerned that proposed subsection (2)(B) makes it so that new parties will not be able to access previous case filings and that the provision may incentivize the utilities to vaguely refer to filings without specificity. However, if this provision is included, OPC recommended rewriting proposed subsection (2)(B) and making the last sentence of the subsection a new subsection (2)(C). Ameren Missouri agreed with OPC's changes, though not with OPC's concerns about the provision.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines that proposed subsection (2)(B) will alleviate the burden of providing copies in some instances and should remain. The commission also determines that most of the changes proposed by OPC are reasonable so that parties that were not parties to the general rate case will receive the necessary information. However, because subsection 386.266.1, RSMo., provides that "any electrical corporation may make an application to the commission," the commission does not delete "An electric utility" as proposed by OPC. Therefore, the commission rewrites and reformats subsection (2)(B) so that the last sentence creates a new subsection (2)(C). Additionally, the commission will reletter proposed subsections

(2)(C) through (2)(G) accordingly.

COMMENT #30: OPC commented that the minimum criteria provided for commission consideration when evaluating whether to establish, continue, modify, or discontinue an FAC should be revised in proposed subsection (2)(C) to include language from the *Report and Order* in File No. ER-2014-0370 (KCPL). OPC also requested that the commission add criteria showing that the RAM is not harmful to the ratepayers and is in the public interest. OPC provided a substantial amount of comments at the hearing arguing that this language should be incorporated to ensure that all the information that the commission has used to make its prior FAC decisions is required to be provided. Ameren Missouri objected to these criteria being included in the rule. Ameren Missouri argued that even though the commission used these criteria in past decisions, the criteria should not be codified in the rule. Additionally, OPC suggested adding the words "In its determination" to the last sentence of proposed subsection (2)(C). Ameren Missouri did not object to this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines that including OPC's proposed additional criteria would prescribe the factors, policies, and standards the commission will be required to include in its decisions. However, there may be factual situations where the commission will consider different criteria or find that these criteria are not important enough to include. The commission determines these decisions should be made on the facts of the case and the standards set out in the controlling statutes and case law. Therefore, the commission will not adopt OPC's proposed additional criteria. The commission will, however, adopt OPC's suggested clarification by adding language to the last sentence of proposed subsection (2)(C).

COMMENT #31: OPC suggested deleting proposed paragraph (2)(C)1. and the last sentence of proposed paragraph (2)(C)3. and adding "or other lawful factors" to proposed paragraph (2)(C)1. OPC indicated that the first paragraph is unnecessary in conjunction with the last paragraph. Ameren Missouri objects to OPC's suggestions. Ameren Missouri argues that the additional language is not needed because it need not be repeated that the commission can consider other lawful factors. Further, Ameren Missouri argues that the language OPC wants to delete should remain. Staff recommended rewriting the last sentence of proposed paragraph (2)(C)3. to clarify that the RAM is not only used to recover costs from customers but to also return over-collected costs to customers. Ameren Missouri agreed with staff's changes, but proposed an additional change to the last sentence.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines that OPC's deletions will not help to clarify the rule and may restrict the commission's determinations further than required. The paragraphs set out the general framework of the commission's considerations without altering the considerations that the commission will make. The commission will, however, adopt the changes to the last sentence in proposed paragraph (2)(C)3. as proposed by staff and Ameren Missouri as this language clarifies that the RAM is not only used to recover costs from customers but to also return over-collected costs to customers.

COMMENT #32: OPC proposed clarifications by replacing "with" with "requesting" in proposed subsection (2)(F). and making the last sentence of proposed (2)(F)3. a new subsection. Ameren Missouri agreed with these changes. Additionally, OPC commented that not every electric utility does a recalculation of the fuel and purchased power adjustment (FPA) referenced in proposed paragraph (2)(F)2. OPC made a new language suggestion. Ameren Missouri objected to the change stating that "any" qualified the requirement so that if an electric utility did not recalculate the FPA, the rule would not apply.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees OPC's suggestion is more clear and will make the language change to proposed subsection (2)(F) and make the last sentence of

proposed (2)(F)3. a new subsection. Additionally, the commission reletters proposed subsection (2)(G) accordingly. The commission agrees with Ameren Missouri and rejects OPC's suggested change to proposed paragraph (2)(F)2.

COMMENT #33: Staff recommended adding the word "and" to the end of proposed paragraph (3)(A)4. because it is the next to last item in a series.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff and will add "and" to the end of paragraph (3)(A)4.

COMMENT #34: Dogwood suggested deleting the comma after "rates" in proposed section (3).

RESPONSE AND EXPLANATION OF CHANGE: Upon review of this provision, the commission finds that the language in section (3) should not differ significantly from the language in the subsection 386.266.5, RSMo. Therefore, the commission will change the last sentence of proposed section (3) to more closely mirror the requirement in the statute.

COMMENT #35: OPC commented that proposed subsection (3)(B) should be altered to include the balance of ratepayers' interest as well as the utility's ability to earn a return on equity. Ameren Missouri replied that the rule should not dictate these standards opening the commission up to OPC's claims of legal error if the commission fails to follow the standard to OPC's satisfaction.

RESPONSE: The commission agrees that there is a legal standard requiring a balance of interests in commission decision making. However, the commission determines that it should not incorporate the legal standard in the rule as it is dictated by the commission's statutory authority and the governing case law. Therefore, the commission will make no change as a result of this comment.

COMMENT #36: OPC proposed adding itself as a party authorized to request inspection of fuel transportation contracts, hedging policies, and internal policies for participating in regional transmission organizations (RTOs), and who receives notice from the utilities of new or amended contracts in subsections (4)(A) and (B). Ameren Missouri responded that while it has agreed to give OPC access to these materials, the rule should not expand OPC's limited statutory authority. Ameren Missouri argues that because OPC is not a regulator, but instead is appointed under section 386.710, RSMo, to represent the public, it does not automatically have the access to the utilities' books and records in the same manner as the commission. Ameren Missouri argues that instead, OPC must request access from the commission and must establish good cause under section 386.450, RSMo, in order to have the authority to access this information.

RESPONSE: The commission agrees with Ameren Missouri. The commission makes no change as a result of these comments.

COMMENT #37: OPC commented that the periodic reports in section (5) of the rule should remain monthly as they are currently in 4 CSR 240-3.161 that is being rescinded. OPC stated that as proposed, section (5) would have the utilities providing these reports one (1) to four (4) times per year depending on the company. OPC stated this was not frequent enough. Ameren Missouri responded that it believes the reports it has submitted on a monthly basis for the nearly ten (10) years it has had an FAC go largely unused by the other parties, including staff and OPC, except in prudence reviews or later rate cases. Ameren Missouri further suggested that if OPC's request for monthly reports is accepted, the requirement of the proposed rule to provide year-to-date and prior calendar year information should be eliminated.

RESPONSE AND EXPLANATION OF CHANGE: The current rule, 4 CSR 240-3.161, which is being rescinded simultaneously with this amendment required monthly reports. Over the years of its implementation, the commission has ordered various companies to

provide additional items in the reports. With this amendment, the commission is adding those requirements in the rule. Staff and OPC use the monthly reports and the commission will change section (5) to require monthly reporting consistent with the prior practice. The commission will also eliminate the need for year-to-date and prior year information in the reports as suggested by Ameren Missouri.

COMMENT #38: Dogwood suggested inserting "by the commission" after "ordered" in subsection (5)(D). Ameren Missouri agreed with this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission will adopt the clarification suggested by Dogwood and amends subsection (5)(D) by inserting "by the commission" after "ordered."

COMMENT #39: The utilities, OPC, and staff made suggestions for correcting or clarifying parts of proposed section (5). The utilities suggested adding language at subsection (5)(C) to clarify the intent of the rule. Staff and OPC recommended correcting "mWh" to "MWh" in proposed paragraphs (5)(J)4. and 5. OPC suggested deleting the unnecessary "s" from "kWhs" in subsection (5)(A) and replacing the spelled out term with the abbreviation in proposed paragraph (5)(J)2. Ameren Missouri stated that it agreed with these changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments. The commission adds "Revenues from billed" to the beginning of subsection (5)(C), corrects "MWh" in paragraphs (5)(J)4. and 5., and deletes an "s" in subsection (5)(A). The commission also changes "Million British Thermal Units" to "MMBtus" in paragraph (5)(J)2.

COMMENT #40: OPC suggested a rewrite of proposed paragraph (5)(J)6. and the addition of paragraph (5)(J)7. to make it apply to other fuel types besides coal. Ameren Missouri responded that it did not object to the change except that it is not possible to breakdown the commodity from transportation for nuclear fuel. Ameren Missouri suggested that nuclear fuel be excluded from the paragraph.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the suggestion of OPC appropriate with the exception of nuclear fuel as stated by Ameren Missouri. Therefore, the commission rewrites paragraph (5)(J)6. and adds new paragraph (5)(J)7.

COMMENT #41: OPC and the utilities proposed significant changes and reorganization of proposed subsections (5)(E)–(J). The utilities commented that the rule as proposed is duplicative. The utilities' stated that the current process is working well and should not be drastically modified. The utilities' suggested specific edits because algebraically, proposed (5)(E) and (5)(G) produce the same result as do (5)(F) and (5)(H). Consequently, only (5)(E) and (5)(F) are necessary. For energy, per FERC Order 668, sales of energy (i.e., "revenue") are netted against purchases of energy in each hour, with the net recorded in the general ledger. If sales are greater than purchases in an hour, the ledger will show a net sale, and vice-versa.

Ameren Missouri further commented that with regard to OPC's proposed changes, this request from OPC arose from its dispute in KCPL's last rate case about how production cost modeling results are presented. In that case, the commission required KCPL to follow FERC Order 668, which resolved the issue in KCPL's favor for that case. The utilities opposed OPC's language because it causes a duplication of information, seeks data that is not readily reportable or used for financial reporting, is highly prescriptive without showing a need for such prescriptiveness, and has no clear value. The utilities argued that the commission should not change the rule to address a single-company dispute that has already been resolved.

RESPONSE AND EXPLANATION OF CHANGE: The utilities suggested edits to proposed subsections (5)(E) through (5)(H) require the utilities to provide relevant, clear, and non-duplicative information in periodic FAC reports. The commission finds that the changes proposed by the utilities, and not those proposed by OPC, should be adopted. The commission rewrites subsections (5)(E) and (5)(F),

deletes subsections (5)(G) and (5)(H), and reletters subsections (5)(I) through (5)(M).

COMMENT #42: The utilities suggested changes to proposed subsection (5)(K). They stated that utilities use managerial accounting designations and other than in one case involving KCPL, the commission has not found it necessary to order any other designations. Thus, the utilities suggested clarifying language to this subsection. OPC also suggested that proposed subsection (5)(K) be amended to state that no new costs or revenue types can be added between rate cases.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines that the utilities' proposed language changes are appropriate. Therefore, the commission amends proposed subsection (5)(K). The commission disagrees with OPC's suggested change because the FAC tariff of each utility will prescribe what can and cannot be added. Therefore, no additional change was made as a result of this comment.

COMMENT #43: OPC commented that one (1) regulated electric utility does not file reports with the Securities and Exchange Commission (SEC) as set out in proposed section (6). Thus, OPC suggested adding a sentence to the rule to cover utilities that have foreign ownership and do not file SEC reports. Additionally, OPC suggested that the rule should include a form in order to ensure consistency between utilities and across time. Dogwood commented that "by the commission" should be added after "specified" in proposed paragraph (6)(A)1. Ameren Missouri agreed with the proposed changes.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the suggested changes of Dogwood and OPC to clarify which reports are needed for utilities that do not file reports with the SEC and to clarify that the commission is the entity that can specify the quantifications to be provided in paragraph (6)(A)1. Therefore, the commission will add a sentence in section (6) and add the words "by the commission" to paragraph (6)(A)1. The commission does not agree, however, that the rule should include a specific form for the utilities to use when filing the information. While a single form may initially be convenient for the commission and OPC's use, forms are cumbersome in rules and not easy to change when they need to be updated as filing requirements change at the federal level or otherwise. The rule as proposed and the statutes set out the information that is to be filed and this should be sufficient for consistency.

COMMENT #44: Staff recommended changing the words "Operating" and "Income" to lower case in subparagraph (6)(A)1.L. Ameren Missouri agreed.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines staff's suggested change is appropriate and will make the change to subparagraph (6)(A)1.L.

COMMENT #45: Staff recommended redefining the "quarterly filing requirements" to be consistent with the Missouri Energy Efficiency Investment Act (MEEIA) rules and with past practice for Part VI submissions in proposed paragraph (6)(A)6. so that a full accounting of all requirements of 4 CSR 240-20.093(10) be submitted for the duration of each MEEIA cycle as well as the last quarter and last twelve (12) months required by 4 CSR 240-20.090(6). OPC pointed out an incorrect rule citation in proposed paragraph (6)(A)6. as well. Ameren Missouri agreed with these comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will redefine "quarterly filing requirements" and correct the citation in paragraph (6)(A)6.

COMMENT #46: OPC proposed adding a new subsection (6)(C) to assure timely filings and transparency. Ameren Missouri agreed that new subsection (6)(C) should be added.

RESPONSE AND EXPLANATION OF CHANGE: The commis-

sion determines that OPC's new subsection (6)(C) is an appropriate addition and will adopt it.

COMMENT #47: Staff, OPC, and Dogwood each suggested changing "highly confidential" to "confidential" in proposed section (7). Ameren Missouri agreed.

RESPONSE AND EXPLANATION OF CHANGE: The commission has recently amended its rule regarding confidential information and no longer routinely uses a "highly confidential" designation. Therefore, the commission will delete the word "highly" in section (7).

COMMENT #48: The utilities proposed changing "short-term debt interest rate" to "short-term borrowing rate."

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the utilities and will amend that term in proposed section (9), proposed paragraphs (2)(A)7. and (8)(B)2., proposed subparagraphs and (8)(B)2.B. through (8)(B)2.D. and (9)(A)2.C., and proposed parts (9)(A)2.C.(II) through (IV).

COMMENT #49: The utilities recommended several edits to section (8) and specifically changes to proposed subsection (8)(C) for clarification and numerous changes to subsection (8)(F) to add precision and clarity. The utilities explained that this provision was an adaptation of a provision that has been included in Ameren Missouri's tariffs since 2012, and was now also included in the FAC tariffs of KCPL and GMO. The utilities further explained that the provision is designed for when RTOs recognize new "market settlement types" or "schedules" that provide revenues or charge costs that are in the nature of, and possess the characteristics of, revenues or costs that are already included in the FAC. Sometimes the RTOs create a new type or schedule and move costs or revenues that were previously covered in one (1) type or schedule to the new type or schedule. At other times, RTOs will decide to break down a cost into additional subcomponents and report them under the new type or schedule. The utilities' recommended changes were designed to make clear that it is the cost or revenue that is included in the FAC and that the type or schedule is just a designation for those costs or revenues. The utilities also suggested that there need not be a separate provision for the utility and for another party for filing requests to include costs or revenues.

OPC commented at the hearing that it had no objection to the suggestions of the utilities in their joint written comments. OPC offered additional recommendations on reorganizing section (8) by beginning subsection (8)(A) with the last sentence of proposed section (8) and renumbering through proposed subsection (8)(C), and then relettering subsections (8)(D) through (8)(F). OPC also suggested adding "the following filings" to the end of proposed section (8) for clarity and using the abbreviation for kilowatt-hours and megawatt-hours in proposed subparagraphs (8)(B)1.A. and (8)(B)1.D. OPC further suggested that proposed subparagraphs (8)(B)1.C. and D. were duplicative. Ameren Missouri agreed with these suggestions.

OPC also commented that additional language should be added to proposed subsection (8)(A) to help readers of testimony filed to identify what cost/revenues changed from accumulation period to accumulation period and why they changed. Ameren Missouri agreed with the basic additions of new paragraphs requiring the accumulation period NBEC, ANEC, and FPA and an explanation detailing the factors that contributed to the FPA amount. However, Ameren Missouri objected to the three (3) additional requirements for an explanation of each RAM cost, explanation of each RAM revenue, and quantification of hedging gains and losses with commissions paid to make such hedges listed separately. Ameren Missouri objected because the comparison sought for the first two (2) of these explanations would be irrelevant. Additionally, Ameren Missouri explained that these two (2) provisions are very subjective and could lead to disputes about the adequacy of the explanation. With regard to suggested part III., Ameren Missouri stated that this information is provided in periodic reports and should not be duplicated in the rule.

Staff suggested a few minor changes to proposed section (8) in order to clarify and be consistent with the remainder of the rule. Staff suggested changing “schedules” to “sheets” in proposed section (8) and paragraph (8)(J)3. for consistency. Staff also suggested reorganization and relettering of proposed subparagraphs (8)(B)1.G. and H. because proposed parts (8)(B)1.G.(I)-(III) should not be subordinate to proposed subparagraph (8)(B)1.G. Staff and Ameren Missouri suggested changing the terms “costs and revenues” in subsection (8)(F) to be consistent with the terminology used in proposed paragraphs (8)(A)9. and (2)(C)3.

RESPONSE AND EXPLANATION OF CHANGE: The commission determines the reorganization, clarification, and minor textual comments of Ameren Missouri, staff, and OPC are reasonable and should be adopted. The commission also determines OPC’s suggested change of adding language to the end of proposed section (8) adds clarity and should be adopted. With regard to the addition of OPC’s proposed new paragraphs under proposed subsection (8)(A), the commission agrees with Ameren Missouri that these changes should be adopted with the exception of the items requiring an explanation of each RAM cost, explanation of each RAM revenue, and quantification of hedging gains and losses with commissions paid to make such hedges listed separately. The commission will not adopt those provisions.

Therefore, the commission adopts the utilities clarification in proposed subsection (8)(C) and adopts new subparagraphs under proposed subsection (8)(A). With the exceptions stated below, the commission also makes the other language changes to proposed section (8), paragraph (8)(J)3., and subparagraphs (8)(B)1.A. and (8)(B)1.D. and rewrites subparagraphs (8)(B)1.C. and D. as suggested by OPC, staff, and Ameren Missouri. The commission reorganizes and rennumbers section (8) so that subsection (8)(A) begins at the third sentence of proposed section (8). In order to avoid duplication and clarify the rule, the commission rejects staff’s proposed deletion of “the FPA” in proposed section (8) and OPC’s proposed addition to proposed section (8) of “the following filings.” The commission also adopts the suggested changes in subsection (8)(F) for consistency with other parts of the rule as suggested by staff and Ameren Missouri. After the incorporation of all the changes and reorganizations, the entire section is renumbered accordingly.

COMMENT #50: OPC commented that a new subsection (6)(D) and additional language added to proposed subsection (8)(G) for the purpose of providing consequences for the failure to provide reports. Ameren Missouri opposed the inclusion of this language arguing that these provisions are unlawful and unnecessary.

RESPONSE: The commission finds that OPC’s suggestion is unnecessary in that failure to file required reports has not been an issue in the electric industry. Further, there is a question as to whether the commission has authority to impose punitive sanctions for a utility failing to follow a rule other than those set out in the complaint statute. Section 386.266, RSMo, which establishes FAC clauses, does not give any specific authority in this regard. Therefore, the commission makes no change as a result of these comments.

COMMENT #51: OPC commented that the time to provide responses to data requests should be shortened from a twenty (20) days to ten (10) calendar days in proposed subsections (8)(H) and (9)(D) because of the short timeframes available for discovery in these proceedings. Ameren Missouri responded that it agreed with the general concept of shortening the response times but proposed fifteen (15) calendar days instead. Ameren Missouri also suggested that if the response time is shortened the time for giving notice of the need for additional time to object should also be shortened.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that because these are statutorily expedited cases, the timeframes for data request responses should be shortened. The commission will adopt Ameren Missouri’s proposed timeframes and will also shorten the timeframe for giving notice of additional time to answer. The commission will amend subsections (8)(H) and (9)(D)

to alter the response and objection timeframes for data requests.

COMMENT #52: OPC commented that language should be added to proposed sections (8) and (9) to clarify that a party’s silence or recommendation to approve a FAR does not necessarily mean they agree with what has been filed by a utility. Ameren Missouri argued strongly that this proposed language should not be included as it makes no sense for an affirmative recommendation that an FAC filing be approved to later be disavowed by the party filing it. Further, Ameren Missouri stated that with regard to “silence” in an FAC proceeding, there has never been a problem where a cost or revenue that was included or excluded by mistake that was not able to be remedied later.

RESPONSE: The commission agrees with Ameren Missouri’s arguments. No change was made as a result of this comment.

COMMENT #53: Dogwood suggested amending proposed subsections (8)(K) and (9)(G) by deleting the scope-limiting phrase referring to information submitted pursuant to 4 CSR 240-2.135 and changing it to information required “by this rule.” Dogwood also suggested changing the word “shall” to “will” in proposed paragraph (9)(G)2. Ameren Missouri agreed with Dogwood’s comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Dogwood’s comments and will amend subsections (8)(K) and (9)(G) and paragraph (9)(G)2.

COMMENT #54: OPC commented that a new subsection under proposed section (9) should be added directing certain filings be made in separate cases and not in the FAR adjustment case. Ameren Missouri responded that it did not understand OPC’s suggestion.

RESPONSE: OPC’s suggestion does not clarify the rule and the commission will not adopt it. Thus, the commission makes no change as a result of these comments.

COMMENT #55: Ameren Missouri suggested adding a new subparagraph (9)(A)2.B. in order to clarify that any and all corrections, proposed adjustments, or refunds ordered are considered.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with Ameren Missouri’s comment and will adopt it. The commission adds a new subparagraph (9)(A)2.B. and reletters the remaining subparagraphs.

COMMENT #56: OPC requested the commission add a requirement in proposed subsection (9)(C) for a utility to be current on the submission of its periodic reporting requirements as required by section (5) when it files its RAM true-up. Ameren Missouri stated that it did not object to this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the suggestion of OPC reasonable and will adopt it. The commission amends subsection (9)(C) to adopt OPC’s suggested language.

COMMENT #57: Staff and Dogwood commented that text needed to be deleted from proposed subsection (9)(D) as it was redundant. OPC commented that the rule reference is incorrect in proposed subsection (9)(D) as that rule is being rescinded. Ameren Missouri agreed with these comments.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comments and will delete part of proposed subsection (9)(D). Because the commission is adopting this change, OPC’s suggestion is moot. The commission amends subsection (9)(D) accordingly.

COMMENT #58: Staff suggested amending proposed section (9) to more clearly state the purpose of the true-up to a RAM. Ameren Missouri commented that it agreed with this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds staff’s proposed change to section (9) is appropriate and

adds a phrase to the end of section (9).

COMMENT #59: Staff proposed deleting language referring to tariff sheets in proposed paragraphs (9)(F)1. and 2. Staff also commented that to be more accurate, “schedules” should be “sheets” in section (10). Ameren Missouri agreed with this change but stated that some of the proposed language in paragraph (9)(F)2. should remain in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff’s change but will retain the language in paragraph (9)(F)2. regarding a determination that the true-up amount is incorrect. Thus, the commission deletes text from proposed paragraphs (9)(F)1. and (9)(F)2. and changes “schedules” to “sheets” in section (10).

COMMENT #60: The utilities commented that proposed subsection (10)(A) should be corrected so that the utility must file a new general rate proceeding within four (4) years of the effective date of the new rates, not within four (4) years of the effective date of the commission order approving those rates.

RESPONSE: Paragraph 386.266.5(3), RSMo, requires that the effective date of new rates be no later than four (4) years after the effective date of the commission’s order implementing the adjustment mechanism. Thus, the commission will not change this subsection. No change was made as a result of this comment.

COMMENT #61: Dogwood suggested replacing the word “costs” in proposed section (11) with “fuel and purchased power costs and fuel-related revenue.” Ameren Missouri replied that it agreed with Dogwood’s comments but that “including transportation” should also be added to the provision.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that section (11) should be amended, but only to add “and revenues.” The statute includes “transportation” and the commission has traditionally decided what types of transportation are or are not included based on the facts of the particular case.

COMMENT #62: OPC recommends adding language to proposed section (11) to highlight the timing of prudence reviews and to set out in the rule the “reasonable person” standard. OPC argues that its proposed language will clarify in the staff recommendation filed in the prudence review, whether costs and revenues were reviewed in a recent general rate case or the staff’s prudence audit. OPC recommends the “reasonable person” standard be included to codify the standard that the commission has applied in past prudence reviews. Ameren Missouri objected to OPC’s language. Ameren Missouri stated that there is no need to restate, paraphrase, or codify legal principles and standards that have developed in case law. Ameren Missouri commented that the parties are capable of briefing the law regarding legal standards and the commission is capable of applying the law to the facts on a case-by-case basis. Ameren Missouri also stated that OPC’s language is imprecise since it uses the term “burden of proof” which consists of two components (burden of production and burden of persuasion). KCPL also objected to putting the legal standard from case law into the rule. Empire also concurred with the other utilities.

RESPONSE: The commission finds that the legal standard has been applied on a case-by-case basis since the statute has been in effect. The commission agrees with the utilities that the commission should not codify the legal standard in the regulation. Therefore, no change was made as a result of these comments.

COMMENT #63: The utilities, staff, OPC, and Dogwood suggested changes to proposed section (13). Staff, Dogwood, and the utilities suggested clarifying the time of the studies by adding a directive that the system loss study “must be” within the stated timeframe. Staff also suggested changing the timeframe to “no earlier than four (4) years” as opposed to two (2) years. The utilities suggested rewording the next-to-last sentence to clarify that it applies to the initial request

and modifying the last sentence because it should be the same as for the initial request of the RAM. OPC suggested setting the last two sentences out as separate subsections for clarity.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the suggested changes are reasonable and add clarity to the provision. Therefore, the commission will adopt the proposed changes to section (13) by rewriting it. The commission also sets out the last two (2) sentences as new subsections (13)(A) and (13)(B).

COMMENT #64: OPC commented that proposed subsection (14)(A) should end after “base energy costs” and the remaining part of the sentence be deleted because it was repetitive of section (14). Ameren Missouri agreed this change should be made.

RESPONSE AND EXPLANATION OF CHANGE: The commission concurs and will delete the end of subsection (14)(A).

COMMENT #65: OPC commented that proposed section (15), in particular subsection (15)(B), was not needed because there were no pre-existing experimental regulatory plans currently in operation. Ameren Missouri agreed.

RESPONSE: The rulemaking process has many steps and these rules will not become effective immediately upon a commission decision on the final order of rulemaking. It is possible that a commission decision or other ruling regarding an experimental regulatory plan could become effective before these rules become effective. Therefore, the commission will not delete section (15) or subsection (15)(B).

COMMENT #66: Staff suggested a change to proposed section (17) for consistency.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that section (17) could be shortened considerably without losing its meaning. Therefore, the commission rewrites section (17).

COMMENT #67: Dogwood suggested adding “access to” after “provided” in proposed subsection (17)(A). Ameren Missouri agreed with this change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that Dogwood’s proposed language may allow parties to access necessary information without requiring the physical exchange of documents. Therefore, the commission will adopt the change and amend subsection (17)(A).

COMMENT #68: Ameren Missouri suggested deleting the last part of proposed section (22) so that the commission was not creating the right to a hearing where none previously existed.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with this comment and will delete the text in section (22) after “good cause.”

4 CSR 240-20.090 Fuel and Purchased Power Rate Adjustment Mechanisms

(1) The following subsections define various terms as used in this rule:

(A) Accumulation period means the time period set by the commission in the general rate proceeding over which historical fuel and purchased power costs and fuel-related revenues are accumulated for purposes of determining the actual net energy costs (ANEC). An accumulation period may be a time period from three (3) to twelve (12) months with the timing and number of accumulation periods to be determined in the general rate proceeding establishing, continuing, or modifying the FAC;

(B) Actual net energy costs (ANEC) means prudently incurred fuel and purchased power costs net of fuel-related revenues of a rate adjustment mechanism (RAM) during the accumulation period;

(D) Base factor (BF) means base energy costs rate or rates that are established in a general rate proceeding and are included in the utility’s

fuel adjustment clause (FAC). The base factor rates may vary within a year;

(I) Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding which is designed to recover from or return to customers the fuel and purchased power adjustment (FPA) amounts through periodic changes to the fuel adjustment rates (FAR) made outside a general rate proceeding;

(K) Fuel and purchased power adjustment (FPA) amount means the dollar amount intended to be recovered from or returned to customers during a given recovery period of a FAC. The FPA may be positive or negative. It includes:

1. The difference between the ANEC and NBEC of the corresponding accumulation period taking into account any incentive ordered by the commission;

2. True-up amount(s) ordered by the commission prior to or on the same day as commission approval of the FAR adjustment;

3. Prudence adjustment amount(s) ordered by the commission since the last adjustment to the FAR;

4. Interest; and

5. Any other adjustment amount(s) ordered by the commission;

(L) Fuel and purchased power costs means prudently incurred and used fuel and purchased power costs, including transportation costs. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility.

1. If off-system sales revenues are not reflected in the rate adjustment mechanism (RAM), fuel and purchased power costs shall only reflect the prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers.

2. Unless otherwise approved by the commission, fuel and purchased power costs do not include environmental costs as defined in 4 CSR 240-20.091(1) or renewable energy standard compliance costs as defined in 4 CSR 240-20.100(1). If such costs are included in fuel and purchased power costs, they shall not be included in another rate adjustment mechanism.

(M) Fuel-related revenues means those revenues related to the generation, sale, or purchase of energy or capacity. Fuel-related revenues may include, but are not limited to, off-system sales, emission allowance sales, and renewable energy credits or certificates whenever such renewable energy credits or certificates are not included in a Renewable Energy Standard Rate Adjustment Mechanism (RESRAM) in compliance with 4 CSR 240-20.100;

(O) Interest means monthly interest at the utility's short-term borrowing rate to accurately and appropriately remedy any over- or under-billing of the FPA amount during an accumulation period and recovery period, and any commission ordered refund of imprudently incurred costs;

(Q) Megawatt (MW) is one million (1,000,000) watts;

(R) Megawatt hour (MWh) is one million (1,000,000) watt hours or one thousand (1,000) kilowatt hours (kWh);

(S) MCF is one thousand (1,000) cubic feet of natural gas;

(T) MMBtu is one million (1,000,000) British thermal units (Btus);

(U) Net base energy costs (NBEC) means the fuel and purchased power costs net of fuel-related revenues billed during the accumulated period in base rates;

(V) Other parties means any party to the applicant's most recent general rate proceeding in which the RAM at issue was established, continued, or modified;

(W) Rate adjustment mechanism (RAM) refers to either a commission-approved fuel adjustment clause (FAC) or a commission-approved interim energy charge (IEC);

(X) Rebase base energy costs means the base energy cost as reset in each general rate proceeding in which the FAC is continued or modified;

(Y) Recovery period means the period over which the FAR is applied to retail customers' bills to recover the FPA. A recovery period is determined in a general rate case and shall not be longer than twelve (12) billing months;

(Z) Staff means the staff of the Public Service Commission; and

(AA) True-up amount means—

1. For a FAC, the true-up amount shall be the difference between the FPA and the utility's aggregate FAC charges billed for a recovery period.

- A. If the aggregate FAC charges billed for recovery period are more than the FPA, the true-up amount will be negative.

- B. If the aggregate FAC charges billed for a recovery period are less than the FPA, the true-up amount will be positive.

- C. The electric utility may request in its general rate case to use the final Regional Transmission Organization (RTO) determinants to update the FPA for its true-up if the electric utility belongs to an RTO where the RTO may, after the beginning of the recovery period, finalize the determinants used to calculate the FPA for the recovery period.

2. For an IEC, the true-up amount shall be determined as follows for each consecutive twelve- (12-) month period—

- A. If the actual fuel and purchased power cost is greater than the IEC ceiling, the true-up amount shall be zero;

- B. If the actual fuel and purchased power cost is less than the IEC ceiling and greater than the IEC floor, the true-up amount shall be the difference between the actual fuel and purchased power cost and the combined IEC billed plus the base energy cost. The customers will be credited/refunded this amount; or

- C. If the actual fuel and purchased power cost is less than the IEC floor, the true-up amount shall be the aggregate IEC billed. The customers will be credited/refunded this amount.

(2) Establishment, Continuance, or Modification of a RAM. An electric utility may only file a request with the commission to establish, continue, or modify a RAM in a general rate proceeding and must rebase base energy costs in each general rate proceeding in which the FAC is continued or modified. Any party in a general rate proceeding may seek to continue, modify, or oppose the RAM. The commission shall approve, modify, or reject such request only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The electric utility shall file the following supporting information, in electronic format, where available, with all links and formulas intact, as part of, or in addition to, its direct testimony:

1. An example of the notice to be provided to customers during the pendency of the general rate proceeding where the RAM is under consideration, which shall be approved by the commission. The notice shall include a description of how its proposed RAM shall be applied to monthly bills, the amount of the proposed change in base rates caused by the rebase of energy costs, and the estimated impact on a typical residential customer's bill resulting from the rebase of energy costs;

2. An example customer bill(s) covering all of the electric utility's rate classes showing how the proposed RAM shall be separately identified on affected customers' bills in accordance with section (12);

3. Proposed RAM tariff sheets;

4. A detailed description of the design and intended operation of the proposed RAM;

5. A detailed explanation of how the proposed RAM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

6. A detailed explanation of how the proposed FAC shall be true-up for over- and under-billing, or how and when the refundable portion of the proposed IEC shall be true-up;

7. A detailed description of how the electric utility's monthly short-term borrowing rate will be defined and how it will be applied, during the accumulation period and the recovery period, to over- and under-billed amounts and prudence disallowances;

8. A detailed description of how the proposed RAM is compatible with the requirement for prudence reviews in section (11);

9. A detailed explanation of the fuel and purchased power costs,

including transportation, that are to be considered in determining the amount to be recovered under the proposed RAM with identification of the specific account and any other designation ordered by the commission where that cost will be recorded on the electric utility's book and records.

10. A detailed explanation of the fuel-related revenues that are to be considered in determining the amount to be recovered under the proposed RAM with identification of the specific account and any other designation ordered by the commission where that revenue will be recorded on the electric utility's books and records;

11. A detailed explanation of any incentive feature in the proposed RAM with the expected benefit and cost each feature is intended to produce for both the electric utility and its Missouri retail customers;

12. A detailed explanation of any rate volatility mitigation feature in the proposed RAM;

13. A detailed explanation of any feature of the proposed RAM and any existing electric utility policy, procedure, or practice that ensures only prudent fuel and purchased power costs and fuel-related revenues are recovered through the proposed RAM, including, but not limited to, utilization of competitive bidding or other sourcing or sales practices;

14. A detailed explanation of any change to the electric utility's business risk resulting from implementation of the proposed RAM, in addition to any other changes in business risk the electric utility may experience;

15. A level of efficiency for each of the electric utility's generating units determined by the results of heat rate/efficiency tests or monitoring that were conducted or obtained on each of the electric utility's steam generators, including nuclear steam generators, heat recovery steam generators, steam turbines and combustion turbines within twenty-four (24) months preceding the filing of the general rate increase case.

A. The results should be filed in a table format by generating unit type, rated megawatt (MW) output rating, the numerical value of the latest result and the date of the latest result;

B. The electric utility shall provide documentation of the actual test/monitoring procedures. The electric utility may, in lieu of filing the documentation of these procedures with the commission, provide them to the staff, OPC, and to other parties as part of the workpapers it provides in connection with its direct case filing. If the electric utility submits the results in workpapers, it will provide a statement in its testimony as to where the results can be found in workpapers;

16. Information that shows that the electric utility has in place a long-term resource planning process;

17. If the electric utility proposes to include emissions allowances costs or sales revenue in the proposed FAC and not in an environmental cost recovery mechanism, a detailed explanation of its emissions management policy, and its forecasted environmental investments, emissions allowances purchases, and emissions allowances sales;

18. For each power generating unit the electric utility owns or controls, in whole or in part, the electric utility shall file graphs, accompanied by the data supporting the graphs, for each month over the immediately preceding five (5) years, showing the monthly equivalent availability factor, the monthly equivalent forced outage rate, and the length and timing of each planned outage of that unit; and

19. Authorization for the staff to release to all parties to the general rate proceeding in which the establishment, continuation, or modification of a RAM is requested, the previous five (5) years of historical surveillance monitoring reports the electric utility submitted in EFIS.

(B) In lieu of providing copies of information, an electric utility filing for modification or continuance of a RAM in which the information required in subsection (2)(A) has been previously filed with the commission as part of a general rate proceeding and has not changed in any manner, may certify that the information has not

changed and provide to all parties the general rate case number and location in EFIS, including the EFIS item and page number where the information can be found. If there are parties to the RAM proceeding that would not have access to the rate case information, the electric utility must provide copies of the information to that party.

(C) An electric utility filing to continue or modify a RAM must also provide to all parties any additional information the commission ordered the electric utility to provide when seeking to continue or modify its RAM.

(D) The commission may approve the establishment, continuation, or modification of a RAM and associated tariff sheets provided that it finds that the RAM is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity and so long as the tariff sheets that implement the RAM conform to the RAM approved by the commission. In its determination, the commission may consider, but is not limited to, considering—

1. Fuel and purchased power costs, fuel-related revenues that would flow through the RAM, or other factors it deems appropriate;

2. Any change in business risk of the utility resulting from establishment, continuation, or modification of the RAM in setting the electric utility's allowed return on equity in any general rate proceeding, in addition to any other changes in business risk experienced by the electric utility; and

3. In determining which fuel and purchased power cost types and fuel-related revenue types to include in a RAM, the commission may consider the magnitude of each cost or revenue type, the ability of the utility to manage each cost or revenue type, the volatility of each cost or revenue type and the incentive provided to the utility as a result of the inclusion or exclusion of each cost or revenue type. The commission may, in its discretion, determine what portion of prudently incurred fuel and purchased power costs and fuel-related revenues may be recovered from and/or returned to customers through a RAM and what portion shall be included in the determination.

(E) Any party to the general rate proceeding may oppose any RAM and/or may propose alternative RAMs for the commission's consideration.

(F) The RAM, and any adjustments to the FARs if a FAC is approved, shall be based on historical fuel and purchased power costs and fuel-related revenues.

(G) For an electric utility requesting a FAC, the utility shall include in its proposed tariff sheets provisions which shall accurately and appropriately remedy any true-up amount as part of the electric utility's determination of its FPA for a change to its FARs. The proposed tariff sheets shall include, at a minimum:

1. When the electric utility will file for a true-up;

2. How the true-up amount will be determined including, but not limited to, any recalculation of the FPA; and

3. How and when the true-up amount will be recovered.

(H) For an electric utility with an IEC mechanism, a true-up must be filed within sixteen (16) months of the operation of law date of the IEC and be filed annually thereafter.

(I) Any party to the general rate proceeding may propose a cap on the periodic changes to the fuel adjustment rate (FAR), to mitigate volatility in rates, provided it proposes a method for the utility to recover all of the costs it would be entitled to recover in the FAC, together with interest thereon.

(3) Discontinuance of a RAM. The tariff sheets that define and implement a RAM shall only be discontinued and withdrawn after the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors which may affect the costs or overall rates and charges of the petitioning electric utility.

(A) When an electric utility files a general rate proceeding in which it requests that its RAM be discontinued, the electric utility shall file with the commission, and serve on the parties, the following supporting information, in electronic format, where available, with all links and formulas intact, as part of, or in addition to, its direct testimony:

1. An example of the notice to be provided to customers during the pendency of the general rate proceeding in which discontinuation is being proposed. The notice shall be approved by the commission and should include a description of why the utility believes the RAM should be discontinued;

2. A detailed explanation of how the electric utility proposes to discontinue its RAM.

A. If requesting to discontinue its FAC, the electric utility shall include the following in its explanation:

(I) The ending date of the last FAC accumulation period;

(II) The beginning and ending dates of the recovery period for that accumulation period; and

(III) The procedure for the true-up associated with the recovery period for that accumulation period.

B. If requesting to discontinue its IEC, the electric utility shall include a detailed explanation of how any over-billing will be returned to the electric utility's retail customers;

3. A detailed explanation of why the RAM is no longer necessary to provide the electric utility a sufficient opportunity to earn a fair return on equity;

4. A detailed explanation of any impact on setting the electric utility's allowed return on equity in any rate proceeding as a result of the change to the electric utility's business risk resulting from discontinuation of its RAM, in addition to any other changes in business risk experienced by the electric utility; and

5. Any additional information that the commission ordered the electric utility to provide when seeking to discontinue its RAM.

(5) Periodic Reports. So long as it has a RAM in effect, each electric utility shall submit a monthly report through EFIS and to staff, OPC, and other parties. Each periodic report shall be verified by the affidavit of an electric utility representative(s) who has knowledge of the subject matter and who attests to both the veracity of the information and his/her knowledge of it. The information identified in this section shall be provided in electronic format, where available, with all links and formulas intact. Each periodic report shall contain the following information by month:

(A) The billing month actual energy usage in kWh by rate class and voltage level;

(B) Net base energy costs billed in base rates by rate class and voltage level along with workpapers with all links and formulas intact detailing the calculation;

(C) Revenues from billed FARs by voltage level along with workpapers (with formulas intact) detailing the calculation;

(D) The fuel and purchased power costs and fuel related revenues for each month, year-to-date, and prior calendar year by account and any other designation ordered by the commission. If accounts, sub-accounts, and other designations are not comparable to costs and revenues listed in the electric utility's FAC tariff sheets, the electric utility shall also include the costs as listed in the tariff sheets;

(E) Energy.

1. RTO market transactions—

A. Revenue net of the cost of any energy purchases in the RTO market;

B. MWh's net of the MWh's for any energy purchases in the RTO market.

2. Physical bilateral transactions—

A. Total MWh's;

B. Total revenues and costs;

(F) Capacity.

1. If sold within an RTO market—

A. MW capacity sold net of MW capacity purchased;

B. Revenue received net of the cost of capacity purchased.

2. Third party bilateral transactions—

A. Total MW;

B. Total revenue and costs;

(G) Reason for the purchase of capacity in the RTO markets;

(H) The following information for the period, by generation facility, by fuel type, and by total for the electric utility:

1. Quantity of fuel burned, with the designation of the units in which the quantity is reported (e.g., tons, MCF, MMBtu);

2. MMBtu of fuel burned;

3. Average cost of fuel per MMBtu, by fuel type;

4. Aggregate megawatt hours (MWhs) of net energy generated by the generating facility at each generation station, where net energy generated is the gross generation net of the station use;

5. Average cost of fuel per MWh;

6. Excluding nuclear fuel, the cost of fuel purchased by fuel type and, a breakdown between the cost of the commodity, cost of freight and cost of transportation by fuel type; and

7. Other fuel cost types designated in the RAM.; and

(I) A detailed description of the accounts or other designations utilized by the electric utility or ordered by the commission, where each fuel and purchased power cost or fuel-related revenue is recorded. The report shall identify any changes since the last periodic report to accounts or other designations of costs and revenue types utilized by the utility or otherwise ordered to be used by the commission in the general rate proceeding where the RAM was approved;

(J) Each revision to the electric utility's internal policy for participating in—

1. RTO ancillary services market, if the RTO in which the electric utility participates has such a market;

2. RTO energy markets by RTO;

3. RTO capacity markets by RTO;

4. Financial swaps or other financial-only transactions (if such financial transactions are included in the electric utility's RAM);

(K) Any additional information that the commission has ordered the electric utility to provide in its periodic reports.

(6) Surveillance Monitoring Reports. So long as it has a RAM in effect, each electric utility shall submit in EFIS and submit to staff, OPC, and other parties, a surveillance monitoring report with all links and formulas intact, within fifteen (15) days after each of the electric utility's United States Securities and Exchange Commission (SEC) 10-Q and 10-K filings are due. If an electric utility with foreign ownership has a RAM but does not file with the SEC, then the surveillance monitoring reports shall be filed in quarterly intervals as identified in the electric utility's general rate proceedings. The surveillance monitoring report shall be verified by the affidavit of an electric utility representative(s) who has knowledge of the subject matter and who attests to both the veracity of the information and his/her knowledge of it. These surveillance monitoring reports are confidential.

(A) There are six (6) parts to the electric utility surveillance monitoring report. Each part, except Part I—Rate Base Quantifications, shall contain information for the last twelve- (12-) month period and the last quarter based on total company electric operations data and on Missouri jurisdictional operations data. Part I—Rate Base Quantifications, shall contain only information as of the ending date of the period being reported. The content of the surveillance monitoring report follows:

1. Part I—Rate Base Quantifications. The quantification of rate base items in Part I shall be consistent with the methods and procedures used in the electric utility's most recent rate proceeding before the commission, unless otherwise specified by the commission. Part I shall consist of specific quantifications of the following rate base items:

A. Plant-in-service;

B. Reserve for depreciation;

C. Materials and supplies;

D. Cash working capital;

E. Fuel inventory;

F. Prepayments;

G. Other regulatory assets;

H. Customer advances;

I. Customer deposits;

J. Accumulated deferred income taxes;

K. All other items included in the electric utility's rate base

from its most recent general rate proceeding before the commission;

- L. Net operating income from Part III; and
- M. Calculation of the overall return on rate base;

2. Part II—Capitalization Quantifications. Part II shall consist of specific quantifications of the following capitalization-related items:

- A. Common stock equity (net);
- B. Preferred stock (par or stated value outstanding);
- C. Long-term debt (including current maturities);
- D. Short-term debt; and
- E. Weighted cost of capital including component costs;

3. Part III—Income Statement. Part III shall consist of an income statement containing specific quantifications of—

A. Operating revenues, including revenues from sales to industrial, commercial, and residential customers, sales for resale and all other components of total operating revenues;

B. Operating and maintenance expenses in fuel expense, production expense, purchased power energy, and purchased power capacity;

- C. Transmission expense;
- D. Distribution expense;
- E. Customer accounts expense;
- F. Customer service and information expense;
- G. Sales expense;
- H. Administrative and general expense;
- I. Depreciation, amortization, and decommissioning expense;
- J. Taxes other than income taxes;
- K. Income taxes; and
- L. Quantification of heating degree and cooling degree days, both actual and normal;

4. Part IV—Jurisdictional Allocation Factors. Part IV shall consist of a list of the jurisdictional allocation factors used for determining the electric utility's rate base, capitalization quantification, and income statement;

5. Part V—Financial Data Notes. Part V shall consist of notes to the reported financial data including, but not limited to:

- A. Out-of-period adjustments;
- B. Specific quantification of material variances between actual and budget financial performance;
- C. Specific identification and quantification of material variances between current twelve- (12-) month period and prior twelve- (12-) month period revenue;
- D. The expense levels of each item the commission has ordered be tracked in the RAM;
- E. Budgeted capital projects; and
- F. Events that materially affect debt or equity surveillance components;

6. Part VI—Missouri Energy Efficiency and Investment Act (MEEIA). An electric utility with approved MEEIA demand-side management programs and/or an approved demand-side programs investment mechanism shall include all filing requirements of 4 CSR 240-20.093(10) for the entire period of program delivery approved by the commission, the last twelve- (12-) month period, and the last quarter.

(C) If the electric utility has any other approved cost recovery mechanisms that require submission of surveillance monitoring reports, the electric utility shall submit a single surveillance monitoring report incorporating these reporting requirements for all cost recovery mechanisms.

(7) Budget Report. Annually the electric utility shall submit in EFIS and provide to staff, OPC, and other parties, its approved budget for the upcoming budget year, in electronic format with all links and formulas intact and in a layout similar to its surveillance monitoring report. The budget submission shall provide a quarterly and annual quantification of the electric utility's income statement. The budget report shall be submitted within thirty (30) days of when the electric utility's budget is approved by the electric utility's management or within sixty (60) days of the beginning of the electric utility's fiscal year, whichever is earliest. The budget submission shall be designat-

ed "confidential" and treated accordingly.

(8) Periodic Changes to Fuel Adjustment Rates. An electric utility that has a FAC shall file proposed tariff sheet(s) to adjust its FARs following each accumulation period. The FARs shall be designed to bill the electric utility's customers, in the aggregate, the FPA if the FPA is positive, or return the FPA to the utility's customers if the FPA is negative.

(A) When an electric utility files with the commission tariff sheet(s) to change its fuel adjustment rates and serves it upon parties, the filed tariff sheet(s) shall be accompanied by—

1. Prefiled testimony that shall include:

- A. The proposed FARs;
- B. The change in the FARs;
- C. The impact of the proposed FARs on the monthly bill of the electric utility's typical residential customer, together with the definition of typical residential customer used to determine that impact;
- D. The accumulation period NBEC, ANEC, and FPA; and
- E. An explanation that details the factors which contributed to the FPA amount.

2. The following information in electronic format, where available, with formulas intact:

A. For the period of historical costs which are being used to propose the fuel adjustment rates—

- (I) The calendar month actual energy sales in kWh by rate class and voltage level;
- (II) The actual fuel costs designated in the FAC, listed by generating station and fuel type;
- (III) The MWh and actual purchased power costs, as purchased power is defined in the electric utility's FAC, differentiated between energy costs and demand costs;
- (IV) Transmission costs designated in the electric utility's FAC;

(V) Net off-system sales revenues;

(VI) Fuel-related revenues other than off-system sales revenues separated by type of fuel-related revenue;

(VII) Net base energy costs collected in permanent rates;

(VIII) Any additional requirements the commission ordered;

(IX) Calculation of each of the proposed fuel adjustment rates;

(X) Calculations of the voltage differentiation in the proposed FAC rates, if any, to account for differences in line losses by service voltage level; and

(XI) Extraordinary costs not to be passed through, if any, due to such costs being an insured loss, or subject to reduction due to litigation or for any other reason;

B. The electric utility's monthly short-term borrowing rate, along with—

(I) An explanation of how that rate was determined;

(II) The calculation of the short-term borrowing rate;

(III) Identification of any changes in the basis(es) used for determining the short-term borrowing rate since the last FAC rate adjustment;

(IV) If there is a change in the basis(es) used for determining the short-term borrowing rate, a copy(ies) of the changed basis(es) or identification of where it/they may be reviewed;

3. Workpapers, in electronic format, where available, with all links and formulas intact, supporting all items in paragraphs (8)(A)1. and (8)(A)2. that are not provided in the electric utility's section (5) periodic monthly report submissions shall be submitted through EFIS and provided to staff, OPC, and other parties;

(B) The electric utility shall initiate a new case with an ER designation for each periodic adjustment of its FARs;

(C) An electric utility with a FAC shall file an adjustment to its FARs within two (2) months of the end of each accumulation period after the effective date of the FAC;

(D) The tariff sheets reflecting the RAM define the costs and revenues that can be included in the RAM, subject to the following:

1. If an RTO implements a new market settlement type or schedule covering a cost or revenue that the electric utility or another party believes possesses the characteristics of, and is of the nature of, an RTO revenue or cost approved by the commission for inclusion in the electric utility's FAC in the previous general rate proceeding, the costs or revenues covered by the new market settlement type or schedule will be included in the utility's FAC if the following requirements are met:

A. The party proposing the inclusion of costs or revenues covered by a new market settlement type or schedule shall make a filing before the commission in the case in which the electric utility's then-current FAC was approved giving notice of the new market settlement type or schedule no later than sixty (60) days prior to the due date for the electric utility's next FAR filing made to adjust the electric utility's FAR;

B. The filing shall include, but is not be limited to:

(I) Identification of the account affected by the change;

(II) A description of the new market settlement type or schedule demonstrating that the cost or revenue it covers possesses the characteristics of, and is of the nature of, a cost or revenue allowed in the electric utility's FAC by the commission in the most recent general rate proceeding; and

(III) Identification of the preexisting schedule, or market settlement type which the new settlement type or schedule replaces or supplements;

C. To challenge the inclusion of a new market settlement type or schedule, a party shall make a filing before the commission including the reasons why it believes the electric utility did not show that the cost or revenue covered by the new market settlement type or schedule possesses the characteristics of, and is of the nature of, a cost or revenue included in the electric utility's FAC that was approved by the commission in the preceding general rate proceeding.

(I) The filing shall be made within thirty (30) days of the electric utility's filing.

(II) The party requesting the inclusion of costs or revenues covered by a new market settlement type or schedule shall bear the burden of proof to show that the costs or revenues possess the characteristics of, and are of the nature of, costs or revenues allowed in the electric utility's FAC by the commission in the most recent general rate proceeding.

(III) If a party challenges the inclusion of the costs or revenues covered by the new market settlement type or schedule, the challenge will not delay the FAR filing schedule.

(IV) If the challenge is upheld by the commission, the costs will be refunded or revenues returned along with interest in the next periodic adjustment;

(E) The electric utility must be current on its submission of its surveillance monitoring reports;

(F) Staff shall review the information filed and submitted by the electric utility in accordance with this rule and additional information obtained through discovery, if any, to determine if the proposed adjustment to the FARs is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established, continued, or modified in the utility's most recent general rate proceeding. In filings to adjust the FAR, the twenty- (20-) and ten- (10-) day time limits in 4 CSR 240-2.090(2) shall be reduced to fifteen (15) and seven (7) days, respectively. Within thirty (30) days after the electric utility files its testimony and tariff sheet(s) to adjust its FARs, the staff shall submit a recommendation regarding its examination and analysis to the commission;

(G) OPC and other parties may file a response to the electric utility's proposed FAR adjustment within forty (40) days after the electric utility files its testimony and tariff sheet(s) to adjust its FARs;

(H) Within sixty (60) days after the electric utility files its testimony and tariff sheet(s) to adjust its FARs, the commission shall either—

1. Issue an interim rate adjustment order approving the tariff

sheet(s) and the adjustments to the FARs;

2. Allow the tariff sheet(s) and the adjustments to the FARs to take effect without commission order; or

3. If it determines the adjustment to the FARs is not in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the electric utility's most recent general rate proceeding, reject the proposed rate sheets, suspend the timeline of the FAR adjustment filing, set a prehearing date, and order the parties to propose a procedural schedule. The commission may order the electric utility to file tariff sheet(s) to implement interim adjusted FARs to reflect any part of the proposed adjustment that is not in question;

(I) If the staff, OPC, or other party which receives the information that the electric utility is required to submit by this rule and as ordered by the commission in a previous proceeding, believes the information is insufficient to make a recommendation regarding the electric utility's proposed FAR, it shall notify the electric utility within ten (10) business days of the electric utility's filing of tariff sheet(s) to adjust the FARs and identify the information required and not submitted in compliance with that rule or order. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of this rule and the commission's most recent order establishing, continuing, or modifying the FAC, within ten (10) business days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission.

1. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase the FARs shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing timeline for the adjustment to increase the FARs. If the commission issues an order compelling discovery, interest will not be accrued by the utility from the time the commission receives a motion to compel until the time that the utility provides the requested information. For good cause shown the commission may further suspend this timeline.

2. Except as provided herein, any delay in providing sufficient information in compliance with this rule and the commission's most recent order establishing, continuing, or modifying the FAC in a request to decrease the FARs shall not alter the processing timeline.

(9) True-Ups of RAMs. The purpose of a true-up case is to accurately and appropriately remedy any over-billing or under-billing during a recovery period, including the interest accrued at the utility's short-term borrowing rate to be returned to or collected from customers through a periodic change to FAR under section (8).

(A) When an electric utility files with the commission to true-up its RAM the filing shall be accompanied by—

1. Pre-filed testimony that includes a discussion detailing the material factors which contributed to the true-up amount;

2. The following information in electronic format, where available, with all links and formulas intact:

A. Any revision to the calculation of the net base energy cost for the accumulation period;

B. Any other proposed adjustments or refunds not related to the calculation of the net base energy cost for the accumulation period;

C. The calculation of the monthly amount that was over-billed or under-billed through its RAM;

D. The electric utility's monthly short-term borrowing rate along with—

(I) An explanation of how that rate was determined;

(II) The calculation of the short-term borrowing rate;

(III) Identification of any changes in the basis(es) used for determining the short-term borrowing rate since the last RAM rate adjustment; and

(IV) If there is a change in the basis(es) used for determining

the short-term borrowing rate, a copy(ies) of the changed basis(es) or identification of where it/they may be reviewed;

E. Any additional information that the commission has ordered the electric utility to include in its RAM true-up filing;

3. Workpapers, in electronic format, where available, with all links and formulas intact, supporting all items in this subsection, shall be submitted in EFIS and provided to staff, OPC, and other parties.

(C) The electric utility must be current on its submission of its periodic reporting requirements as required by section (5) and surveillance monitoring reports at the time that it files its true-up of its RAM in order for the commission to process the electric utility's requested true-up of any over- or under-billing.

(D) The staff shall examine and analyze the information filed and submitted by the electric utility pursuant to this rule and additional information obtained through discovery and as ordered by the commission, to determine whether the true-up amount is in accordance with the provisions of this rule, section 386.266, RSMo, and the RAM established in the electric utility's most recent general rate proceeding. In filings to adjust the FAR, the twenty- (20-) and ten- (10-) day time limits in 4 CSR 240-2.090(2) shall be reduced to fifteen (15) and seven (7) days, respectively. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files for a true-up amount.

(F) Within sixty (60) days of the electric utility's true-up filing the commission shall issue an order—

1. Approving the true-up filing and the true-up amount; or
2. If it determines that the true-up amount is incorrect, rejecting the proposed tariff sheet(s) containing the true-up amount, suspending the timeline of the true-up filing, setting a prehearing date, and ordering the parties to propose a procedural schedule. The commission shall allow the electric utility to file tariff sheet(s) to implement interim FARs reflecting any part of the true-up amount that is not in question, and questions about the correctness of the true-up amount will not delay adjustments to FAR rates unrelated to the true-up.

(G) If the staff, OPC or other party which receives the information that the electric utility is required to submit by this rule and as ordered by the commission in a previous proceeding, believes the information is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission.

1. While the commission is considering the motion to compel, the processing timeline for the determination of the true-up amount 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 timeline. If the commission issues an order compelling discovery, interest will not be accrued by the utility from the time the commission receives a motion to compel until the time that the utility provides the requested information. For good cause shown the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that the true-up amount will result in a reduction in the FAR, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the FAR shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

(10) Duration of RAMs and Requirement for General Rate Case. Once a RAM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission ear-

lier authorizes the modification, extension, or discontinuance of the RAM in a general rate proceeding, although an electric utility may submit proposed rate sheets to implement periodic adjustments to its FAC rates between general rate proceedings.

(11) Prudence Reviews Respecting RAMs. A prudence review of the costs and revenues subject to the RAM shall be conducted no less frequently than at eighteen- (18-) month intervals.

(13) Rate Design of the RAM. The design of the RAM rates shall reflect differences in losses incurred in the delivery of electricity at different voltage levels for the electric utility's different rate classes as determined by periodically conducting Missouri jurisdictional system loss studies.

(A) When the electric utility initially seeks authority to use a RAM, the end of the twelve- (12-) month period of actual data collected that is used in its Missouri jurisdictional system loss study must be within twenty-four (24) months of the date the utility files its general rate proceeding first requesting a RAM.

(B) When the electric utility seeks to continue or modify its RAM, the end of the twelve- (12-) month period of actual data collected that is used in its Missouri jurisdictional system loss study must be no earlier than four (4) years before the date the utility files the general rate proceeding seeking to continue or modify its RAM.

(14) Incentive Mechanism or Performance-Based Program. During a general rate proceeding in which an electric utility has proposed establishment or modification of a RAM, or in which a RAM may be allowed to continue in effect, any party may propose for the commission's consideration incentive mechanisms or performance-based programs to improve the efficiency and cost effectiveness of the electric utility's fuel and purchased power procurement activities and/or off-system sales activities.

(A) The incentive mechanisms or performance-based programs may or may not include some or all components of base energy costs.

(17) Party status and rights in RAM proceedings.

(A) Each party to the most recent general rate proceeding in which the commission established, continued, or modified the electric utility's RAM shall be a party to each subsequent related RAM rate adjustment proceeding, RAM true-up proceeding, and RAM prudence review proceeding, without applying to the commission for intervention, and shall be provided access to the periodic reports and surveillance monitoring reports required by this rule during the period of time when they are entitled to be a party to such proceedings without applying for intervention. 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 and to consequently be a party, without seeking and being granted status as an intervenor to RAM-related proceedings initiated after that case.

(22) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 40—Gas Utilities and Gas Safety Standards

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 386.310, and 393.140, RSMo 2016, the commission amends a rule as follows:

4 CSR 240-40.020 Incident, Annual, and Safety-Related Condition Reporting Requirements is amended.