

From: Jim Lowery
Sent: Tuesday, June 23, 2015 2:54 PM
To: Dietrich, Natelle* (natelle.dietrich@psc.mo.gov)
Cc: 'Berlin, Bob'
Subject: EW-2011-0139

Natelle:

Attached are tracked-changes (with comments) versions of the Staff mark-up of the current FAC rules. We accepted all of Staff's changes and then tracked against those.

These edits/comments are supported by Ameren Missouri and Empire. I have reason to believe they are/generally are supported by KCP&L/KCP&L-GMO, but cannot so state because they have just not been able to review given the pending rate case hearings.

Also please note that in terms of the reporting provisions in Chapter 3, we are not providing suggested edits at this time. As noted in the document, the utilities plan to work together to come up with specific suggestions, but that's going to take some time.

We will also submit these in the workshop docket in EFIS, and will be prepared to discuss at the next workshop. If you have questions please don't hesitate to contact me. Thanks.

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**Rules of
Department of Economic Development
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements**

PROPOSED AMENDMENT

**4 CSR 240-3.161 Electric Utility Fuel and Purchased Power Rate Adjustment Mechanisms
Filing and Submission Requirements**

PURPOSE: This proposed amendment modifies the information that an electric utility must provide when it seeks to establish, continue, modify, or discontinue and/or true-up its rate adjustment mechanism (i.e., fuel adjustment clause or interim energy charge). It also sets forth the requirements for the submission of Surveillance Monitoring Reports as required for electric utilities that have a rate adjustment mechanism.

(1) Definitions.

~~(A) Chapter 22 filings mean an electric utility's most recent 4 CSR 240-22 Electric Utility Resource Planning triennial compliance filing and most recent annual update report to that triennial compliance filing, if any, to which staff and other parties to the utility's resource planning case have filed their reports or comments;~~

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

~~(BC)~~ MMBtu is equal to one million (1,000,000) Btus;

(2) The following terms used in this subsection are defined in subsection (1) of 4 CSR 240-20.090 Fuel and Purchased Power Rate Adjustment Mechanisms:

1. Accumulation period;
2. Fuel adjustment clause (FAC);
3. Fuel adjustment rate (FAR)
4. Fuel and purchased power adjustment (FPA)
5. Fuel and purchased power costs;
6. Fuel-related revenues;
7. General rate proceeding;
8. Interim energy charge (IEC);
9. Net base energy costs;
10. ~~Base~~Permanent rates;
11. Recovery period; and
12. Staff.

(3) ~~Applications Requesting~~ Establishment of a Rate Adjustment Mechanism (RAM). When an electric utility files to establish a RAM as described in 4 CSR 240-20.090(2), the electric utility shall file the following supporting information, in electronic format where available (with formulas intact), as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.090(2) ~~(CD)~~;

(B) An example customer bill showing how the proposed RAM shall be separately identified on affected customers' bills in accordance with 4 CSR 240-20.090(9);

Commented [JL1]: Inappropriate to tie IRP to RAM.

Commented [JL2]: No rate is "permanent" since from time-to-time (via a rate increase filing or complaint case) the Commission changes the rates.

Commented [JL3]: This triggers specific requirements for "applications" under Chapter 2 of the rules that are not needed in this context. Rate case are initiated by filing tariffs.

(C) Proposed RAM tariff sheets ~~and rate schedules~~;

(D) A reasonably detailed description of the design and intended operation of the proposed RAM;

(E) A reasonably 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;

(F) A reasonably detailed explanation of how the proposed FAC shall be trued-up for over-and under-collections, or how and when the refundable portion of the proposed IEC shall be trued-up;

(G) A reasonably detailed description of how the electric utility's monthly short-term interest rate will be defined and how it will be applied, during the accumulation period and the recovery period, to true-up amounts and prudence disallowances;

(H) A reasonably detailed description of how the proposed RAM is compatible with the requirement for prudence reviews in 4 CSR 240-20.090(8);

(I) A reasonably detailed explanation of ~~fuel and purchased power cost~~ each cost that ~~are~~ is to be recovered under the proposed RAM with identification of the specific account ~~and sub-account~~ where ~~the~~ each costs will be recorded on the electric utility's books and records;

(J) A reasonably detailed explanation of ~~the each~~ each fuel-related revenues that ~~are~~ is to be considered in determining the amount to be recovered under the proposed RAM with identification of the specific account ~~and sub-account~~ where that revenue will be recorded on the electric utility's books and records;

(K) A reasonably detailed explanation of ~~any each~~ each 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;

(L) A reasonably detailed explanation of ~~any each~~ each rate volatility mitigation feature in the proposed RAM;

(M) A reasonably detailed explanation of ~~any each~~ each feature of the proposed RAM and ~~each~~ each of any existing electric utility policy, procedure, or practice that ensures only prudent fuel and purchased power costs and fuel-related revenue shall be recovered through the proposed RAM;

(N) If the proposed RAM includes incorporating fuel and purchased power costs and fuel-related revenue in the electric utility's ~~base permanent~~ base permanent rates, a reasonably detailed explanation of the methodology used to allocate fuel and purchased power costs and fuel-related revenue to specific customer classes in the ~~base permanent~~ base permanent rates and in any subsequent rate adjustments during the term of the proposed RAM;

(O) A reasonably detailed explanation of the rate design of the RAM for each customer class, including at a minimum the electric utility's justification for the methodology chosen for determining the rate design and how that methodology is consistent with the methodology used to allocate fuel costs, purchased power costs and fuel-related revenue in ~~base permanent~~ base permanent rates;

(P) A reasonably detailed explanation of ~~any the~~ each 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;

~~(Q) A detailed explanation of each risk to the electric utility's Missouri retail customers resulting from implementation of the proposed RAM, including the electric utility's estimated quantification of that risk and how the electric utility will reduce that risk;~~

~~(QR) The supply-side and demand-side resources, based on the resources it includes in its general rate proceeding, that the electric utility expects to use to meet its loads in the four (4) years following commission establishment of a RAM, the expected dispatch of those resources, the reasons why those resources are appropriate for dispatch and the heat rates and fuel types for each~~

Commented [JL4]: Chapter 3 of the Commission's rules define "tariff" to include rate schedules. The courts have said that a utility's "tariff" consists of all of its rates, rules, regulations, etc on file – tariff sheets captures everything and adding rate schedules confuses the issue.

Commented [JL5]: Fairly balances need for information with preventing misuse of the rules to gain litigation advantage, which was never the intention of the rules. Applies objectivity to the requirement, as is common in various legal contexts.

Commented [JL6]: Would turn rules into a sword for parties who generally oppose FACs to nit-pick line items of accounting even though the various costs are for fuel or purchased power or are a fuel-related revenue. E.g., the LMP has three components – energy, losses, congestion, and then there are also numerous other components of a bill from MISO arising from the purchase of power that MISO has chosen to break out. Someone may argue that "each" requires details on every single item that cannot practically be provided (without writing a treatise) on each component.

Commented [JL7R6]:

Commented [JL8]: Same as previous comment

Commented [JL9]: There might not be any incentive features built in – parties might argue that there should be – but the statute does not require it; just says the Commission can include.

Commented [JL10]: Same as previous comment

Commented [JL11]: Incredibly broad – as is the case throughout a utility's business, practices and procedures (not always necessarily formalized in some kind of document) exist to control budgets and otherwise minimize costs throughout the business – it's in the utilities' interest to explain the principal ways it goes about ensuring that it is prudent in managing fuel, PP and fuel-related revenue, but this language could be a trap for use by those who oppose FACs. The rules should be informational and not designed to enhance litigation positions.

Commented [JL12]: Language presupposes a change, which may or may not be true.

Commented [JL13]: This presupposes risks are imposed, and presupposes that just because customers may pay a RAM charge this is a transfer of risk. Utilities understand that some take that view, and they are entitled to do so, but a viewpoint should not be baked into the rules. Impossible to quantify as well. If this is the view others take it should be their burden to bring up the issue.

Commented [JL14]: How can the utility know what those 4 years are? Is it to assume that the first day starts on the day after the operation of law date in the rate case that is filed? Or the four years starting with the date the case is filed (or perhaps the first day of the calendar month following the date the case is filed). Vague as written and needs to be clarified.

supply-side resource. In submitting this information, it is recognized that supply- and demand-side resources and dispatch may change during the four (4) years following commission establishment of a RAM based upon changing circumstances, and that parties will have the opportunity to comment on this information after it is filed by the electric utility.

(RS) A base level of efficiency for each of the electric utility's generating units determined by the results of heat rate tests and/or efficiency tests that were conducted on each of the electric utility's steam generators, including nuclear steam generators, heat recovery steam generators, steam turbines and combustion turbines within the twenty-four (24) months preceding the establishment of the electric utility's proposed RAM. The electric utility may, in lieu of filing the foregoing results with the commission, provide them to the staff and to other parties granted intervention in the general rate proceeding as part of the workpapers it provides in connection with its direct case filing. If the electric utility submits the heat rate tests and/or efficiency tests, it will provide a statement in its testimony as to where the results can be found in -workpapers;

~~(T) The status and commission file number of the electric utility's Chapter 22 filings.~~

~~1. If the commission found the electric utility's Chapter 22 filings to be less than fully compliant, the electric utility shall provide:~~

~~A. A detailed explanation of why its proposed RAM should be established despite the electric utility's non-compliance with the commission's Chapter 22 resource planning requirements; and~~

~~B. A detailed description of each resource planning deficiency and concern that was not resolved and how that deficiency or concern will or will not impact fuel costs, purchased power costs or fuel related revenue in the time period until the electric utility must file its next general rate proceeding and over the twenty (20) year planning horizon required by Chapter 22; and~~

~~2. If a commission decision on the electric utility's Chapter 22 filing is pending the electric utility shall provide:~~

~~A. A detailed explanation of why its proposed RAM should be established, if the parties in that case have alleged deficiencies or concerns with the electric utility's resource planning; and~~

~~B. A detailed description of how each alleged resource planning deficiency or concern, if any, will or will not impact fuel costs, purchased power costs and fuel related revenue in the time period until the electric utility must file its next general rate proceeding and over the twenty (20) year planning horizon required by Chapter 22.~~

(SU) 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 reasonably detailed explanation of its emissions management policy, and its forecasted environmental investments, emissions allowances purchases and emissions allowances sales;

~~(TV)~~ For each power generating unit the electric utility owns (in whole or in part) or controls, 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 historical monthly equivalent availability factor, the monthly equivalent forced outage rate, and the length and timing of each planned outage of that unit; and

~~(UW)~~ Authorization for the staff to release to all parties to the general rate proceeding in which the establishment of a RAM is requested, the previous five (5) years of historical surveillance monitoring reports the electric utility submitted in EFIS to the staff in compliance with 4 CSR 240-20.090(11).

Commented [JL15]:

Commented [JL16]: This provision may not make sense given the utilities' operations in RTO markets – need to discuss

Commented [JL17]: See above comment about IRP and FAC rules.

Commented [JL18]: All of the reports and in fact all FAC-related filings are submitted in EFIS – original rule has various inconsistent references to submissions to certain individuals that don't match-up with what is being done – much cleaner to reference EFIS each time.

(4) ~~Applications to C~~Continu~~atione~~ or Modification~~y~~ of a RAM. When an electric utility files a general rate proceeding following the general rate proceeding that established its RAM as described by 4 CSR 240-20.090(2) in which it requests that its RAM be continued or modified, the electric utility shall include in its filing updates of the information required by each subsection in subsection (3) of this rule to the extent that there has been a material change in such information since the electric utility's previous general rate proceeding ~~file with the commission, and serve on the parties, all information required in subsection (3) of this rule.~~ The electric utility shall also file ~~and~~ any additional information that, in the previous general rate proceeding, the commission ordered the electric utility to provide when seeking to continue or modify its RAM. With respect to the information required by sub-subsection (R) of section (3) of this rule, the electric utility will provide the results of heat rate tests and/or efficiency tests performed on its generating units since its last submission of heat rate test and/or efficiency test results under sub-subsection (R) of section (3) or under this subsection (4), as the case may be.

~~(W)~~
~~(Y)~~ and

(5) ~~Application to~~Discontinu~~ance of~~e a RAM. 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 formulas intact), as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.090~~(23)~~(C);

(B) A reasonably detailed explanation of how the electric utility proposes to discontinue its RAM.

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

- A. The ending date of the last FAC accumulation period;
- B. The beginning and ending dates of the recovery period for that accumulation period; and
- C. The procedure for the true-up associated with the recovery period for that accumulation period.

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

(C) A reasonably 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;

(D) A reasonably 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; ~~A detailed explanation of the 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

(E) Any additional information that, in the previous general rate proceeding, the commission ordered the electric utility to provide when seeking to discontinue its RAM.

Commented [JL19]: It is unnecessary to repeat the same information over and over if it has not materially changed from the prior case.

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Commented [JL20]: Language presupposes a change, which may or may not be true.

Commented [JL21]: Language changed so that it mirrors earlier language relating to business risk used in section above when RAM is established.

(65) Monthly Reports. So long as it has a RAM in effect, each electric utility shall submit a monthly report through the commission's electronic filing and information system (EFIS) and to the Office of the Public Counsel (OPC) and to other parties. Each monthly 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, which shall be provided in electronic format where available (with formulas intact). The information in the monthly report shall be submitted no later than sixty (60) days after the end of the reported month. The first monthly submission shall be made within sixty (60) days after the end of the first complete month after the electric utility's RAM goes into effect. Each monthly report shall contain the following information:

- (A) The billing month revenues billed pursuant to the RAM, by rate class and voltage level;
- (B) The billing month revenues billed through the electric utility's ~~base~~permanent rates, by rate class and voltage level;
- (C) The electric utility's actual calendar month fuel and purchased power costs, allocated by rate class and voltage level using commission approved allocation methods;
- (D) The electric utility's actual calendar month fuel-related revenue, allocated by rate class and voltage level using commission approved allocation methods;
- (E) Each significant factor that has affected the level of the electric utility's fuel-related revenues in the calendar month, along with workpapers documenting each of these significant factors;
- (F) Each significant factor that has affected the level of the electric utility's fuel and purchased power costs in the calendar month, along with workpapers documenting each of these significant factors;
- (G) Calendar month off-system megawatt-hours sold;
- (H) Calendar month megawatt-hours generated, fuel consumption, fuel expense and heat rate, by generating unit;
- (I) Calendar month megawatt-hours purchased, stating firm and non-firm purchases separately;
- (J) Prices of fuel purchased by fuel type during the calendar month, breaking out freight and transportation prices;
- (K) The following information, actual and budgeted, for the reported calendar month, as well as for year-to-date and prior calendar year:
 - 1. Actual fuel-related revenue, by account and sub-account number;
 - 2. Actual fuel costs included in the fuel and purchased power costs, by account and sub-account number;
 - 3. Actual fuel handling labor costs;
- (L) The following information for the calendar month, by generation unit, by fuel type and by total for the electric utility:
 - 1. Quantity of fuel burned, with designation of the units in which the quantity is reported (e.g. tons, MCF, MMBtu);
 - 2. Million British Thermal Units (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 units at each generation station, where net energy generated is the gross generation net of the station use; and
 - 5. Average cost of fuel per MWh;
- (M) A detailed description of each account and sub-account where each fuel and purchased power cost or fuel-related revenue is recorded;
- (N) Total fuel cost;

Commented [JL22]: Comments will be submitted separately – electric utilities intend to work to update requirements in light of need for information and its use, and given prevalence of RTO markets.

(O) Identification of each contract for nuclear fuel, coal, natural gas commodity and transportation the electric utility entered into or renewed during the reported month with identification of terms and parties of the contract. Identification of when and where staff may review each contract;

(P) A copy of each contract for capacity and/or energy purchase having a length of three (3) months or longer that the electric utility entered into during the reported month;

(Q) A copy of each contract for capacity and/or energy sales of a length of three (3) months or longer that the electric utility entered into during the reported month;

(R) Notice of any change(s) to the electric utility's hedging policy and, if changed, a statement or copy of the changed policy;

(S) Each revision to the electric utility's internal policy for participating in a Regional Transmission Organization (RTO) ancillary services market, if the RTO in which the electric utility participates has such a market;

(T) The electric utility's monthly short-term debt interest rate, along with:

1. An explanation of the how that rate was determined;

2. The calculation of the short-term debt interest rate;

3. Identification of any changes in the basis(es) used for determining the short-term debt interest rate from the previous monthly report; and

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

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

~~(6) Surveillance Monitoring Reports. So long as it has a RAM in effect, each electric utility shall submit, either to the manager—Resource Analysis Section or in electronic format where available (with formulas intact) through EFIS and to OPC and other parties, a Surveillance Monitoring Report, 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. 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, the information identified in this subsection. These Surveillance Monitoring Reports are highly confidential, as required by 4 CSR 240-20.090(10).~~

~~(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 form 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. 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;~~

Commented [JL23]: Surveillance monitoring is not a RAM issue.

~~F. Prepayments;~~
~~G. Other regulatory assets;~~
~~H. Customer advances;~~
~~I. Customer deposits;~~
~~J. Accumulated deferred income taxes; and~~
~~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 quantification 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 an approved demand side programs investment mechanism shall include all quarterly filing requirements of 4 CSR 240-20.093(9).~~

~~(B) Each Surveillance Monitoring Report shall include any additional information the commission has ordered be provided.~~

~~(77)~~ Budget Report. Annually the electric utility shall submit in EFIS to the manager of the energy resource analysis section of the commission, and provide to -OPC and other parties, its approved budget for the upcoming budget year, in electronic format (with 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 designated "highly confidential" and treated accordingly.

~~(88)~~ Periodic Change to Fuel Adjustment Rates (FAR) When an electric utility files with the commission a tariff sheet(s) schedule(s) to change its fuel adjustment rates as described in 4 CSR 240-20.090(5), and serves it upon parties, the filed tariff sheet(s) schedule(s) shall be accompanied by:

(A) Prefiled testimony that shall include:

1. A discussion that details the material factors which contributed to the FPA amount;

2. The change in the fuel adjustment rates;

3. The impact of the proposed fuel adjustment rates 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;

~~4. Either a statement that there have been no new, removal of, modification of, or clarification of a hedging policy of the electric utility, or, if there has been new, removal of, modification of or clarification of a hedging policy of the electric utility, a complete explanation of the change, including monetary impact for the review period and expected impact in future periods will be provided.~~

~~5. Either a statement that there has been no change in the electric utility's internal policy for participating in a Regional Transmission Organization (RTO) market, or if there has been a change in the electric utility's internal policy for participating in a Regional Transmission Organization (RTO) market, a complete explanation of the change, including monetary impact for the review period and expected impact in future periods will be provided.~~

~~6. A list of possible RTO charge types and RTO revenue types that are expected within the next twelve months; and~~

~~7. A separate list of every change in RTO charge types and revenue types with the effective date of each;~~

~~at the regional transmission organization's price node for the electric utility's load or, if the electric utility is not a participant in a regional transmission organization, when divided by kWh at (B) The following information in electronic format where available (with formulas intact):~~

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

A. The billing month and calendar month actual energy sales in kilowatt-hours, by rate class and voltage level;

Commented [JL24]: This may be a prudence or informational issue, but has nothing to do with the adjustment, and it is very broad.

Commented [JL25]: Same comment – this is informational, but has nothing to do with whether the adjustment the is being filed is in accordance with the tariff that authorizes it – the adjustment is automatic provided it complies with the tariff.

Commented [JL26]: Electric utilities will submit recommendations for sub-subsection (B) separately in conjunction with comments on periodic reporting under subsection (5)

B. The actual fuel costs of the types of fuel costs designated in the FAC, listed by generating unit and fuel type; and

C. The actual purchased power costs of the types of purchased power costs designated in the electric utility's FAC, differentiated by:

- (I) Short-term and long-term purchased power;
- (II) On-peak and off-peak costs; and
- (III) Demand costs and energy costs, separately stated;

D. The megawatt-hours and costs of purchased power of the type included in the electric utility's FAC, differentiated by:

- (I) Long-term purchased power, with a definition of long-term purchased power;
- (II) Short-term purchased power, with a definition of short-term purchased power; and
- (III) Spot market purchased power;

E. Revenues, expenses, and megawatt-hours of off-system sales;

F. Fuel-related revenues other than off-system sales revenues separated by type of fuel-related revenue;

G. Extraordinary costs not to be passed through the electric utility's FAC, if any, due to such costs being an insured loss, or subject to reduction due to litigation or for any other reason;

H. Net base energy costs collected in ~~base~~permanent rates; and

(I) Any additional requirements the commission ordered;

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

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

4. The electric utility's monthly short-term debt interest rate, along with:

A. An explanation of how that rate was determined;

B. The calculation of the short-term debt interest rate;

C. Identification of any changes in the basis(es) used for determining the short-term debt interest rate since the last FAC rate adjustment; and

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

5. Calculations underlying any seasonal variation in the FAC rate(s).

(C) Workpapers, in electronic format where available (with formulas intact), supporting all items in subsections (A) and (B) shall be submitted in EFIS and provided to ~~to the manager of the resource analysis section of the commission,~~ the Office of the Public Counsel (OPC) and other parties. ~~These workpapers may be submitted to the manager of the resource analysis section of the commission through EFIS.~~

(99) RAM True-Ups. When an electric utility files with the commission to true-up its an ~~application containing a RAM true-up~~, as described in 4 CSR 240-20.090(6), the ~~application~~ filing shall be accompanied by :

(A) Prefiled testimony that includes a discussion detailing the material factors which contributed to the true-up amount.

(B) The following information in electronic format where available (with formulas intact)

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

2. The electric utility's monthly short-term debt interest rate along with:

A. An explanation of how that rate was determined;

B. The calculation of the short-term debt interest rate;

Commented [JL27]: Factors is too broad – could mean every minute component, which is not the intent.

C. Identification of any changes in the basis(es) used for determining the short-term debt interest rate since the last RAM rate adjustment; and

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

3. Any additional information that the commission has ordered the electric utility to include in its RAM true-up filing application containing a RAM true-up.

(C) Workpapers, in electronic format where available (with formulas intact), supporting all items in subsections (A) and (B) shall be submitted in EFIS and provided to the manager of the resource analysis section of the commission, the Office of the Public Counsel (OPC) and other parties. ~~These workpapers may be submitted to the manager of the resource analysis section of the commission through EFIS.~~

~~(10) Information Provided to Other Parties. Information in this rule the electric utility is required to file with the commission or submit to the manager of the resource analysis section of the commission and to OPC shall also be served, in the same format, on, or respectively submitted to, each party to any of the proceedings listed below. If the electric utility designates any such information as highly confidential or proprietary the designated information shall be protected as provided by Rule 4 CSR 240 2.135, unless the commission has issued an order specifically providing for a different level of protection for that information in the pending or a prior proceeding.~~

~~(A) The most recent general rate proceeding in which the electric utility sought commission approval, modification or discontinuance of its RAM;~~

~~(B) The electric utility's last RAM rate adjustment proceeding;~~

~~(C) The electric utility's last RAM true up proceeding; or~~

~~(D) The electric utility's last RAM prudence review proceeding.~~

~~(104) Party status and party rights in RAM proceedings subsequent to the last general rate case where the commission establishes, continues or modifies the electric utility's RAM.~~

(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 entitled to receive the monthly reports and quarterly surveillance 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); -

~~(B) Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related RAM rate adjustment proceeding, RAM true up proceeding, RAM prudence review proceeding, or general rate proceeding where the electric utility is seeking to modify, continue or discontinue its RAM shall be concurrently served on, or submitted to, each party to one or more of the proceedings listed below. If the electric utility, or any other party, designates any such information as highly confidential or proprietary, the designated information shall be protected as provided by Rule 4 CSR 240 2.135, unless the commission has issued an order specifically providing for a different level of protection for that information in the pending or a prior proceeding.~~

- ~~1. The prior related general rate proceeding;~~
- ~~2. A RAM rate adjustment proceeding related to the prior general rate proceeding;~~
- ~~3. A RAM true-up proceeding related to the prior general rate proceeding; or~~
- ~~4. A RAM prudence review proceeding related to the prior general rate proceeding;~~ and

(B) Anyone may seek to intervene, pursuant to 4 CSR 240-2.075, in any RAM rate adjustment proceeding, RAM true-up proceeding, RAM prudence review proceeding, or general rate proceeding to modify, continue or discontinue a RAM. If no party objects to the intervention request within ten (10) days of when it is filed, then the applicant for intervention shall be deemed to have been granted intervention without a specific commission order, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(12) Discovery. Each discovery response that a party obtains in general rate proceedings where the electric utility seeks for the commission to approve, modify, reject, continue or discontinue a RAM and in related subsequent RAM rate adjustment proceedings, RAM true-up proceedings and RAM prudence review proceedings may be offered as evidence in any subsequent RAM rate adjustment proceeding, RAM true-up proceeding, RAM prudence review proceeding or general rate proceeding to modify, continue or discontinue its RAM as if the response were made to a discovery request in that proceeding without requiring the party who made the request to resubmit the same discovery request (data request, interrogatory, request for production, request for admission, or deposition), subject to commission ruling on any evidentiary objection(s). Unless the commission orders otherwise, sua sponte or on a party's motion, the discovery response shall have the same protection it was last afforded, by rule or by commission order.

(13) Supplementing and updating discovery responses in subsequent related proceedings. A party who provided a discovery response in a prior case as described in section (12) shall be under no obligation to supplement or update that response in a subsequent proceeding, unless the requesting party issues a discovery request in the subsequent case which clearly identifies the particular discovery requests to be supplemented or updated and the particular period to be covered by the updated response. A party responding to a request to supplement or update a prior proceeding discovery response shall supplement or update the discovery response where the responding party has learned or subsequently learns its response is in some material respect in detailed or incorrect.

(14) The commission shall establish a new case for each general rate proceeding, RAM rate adjustment proceeding, RAM true-up proceeding and RAM prudence review proceeding.

(15) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

(16) Variances. For good cause shown, the commission may grant variances from provisions of this rule.

Commented [JL28]: Deletion is simply to eliminate redundancy. If a party to the rate case where the RAM was established (or continued) then automatically a party to all RAM-related cases until the conclusion of the next rate case (and still a party even then, if they also intervened in that case). And, as a party, they are of course entitled to reports and any other filings or submissions, like a party to any other case.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 386.266, RSMo Supp. 2005.
Original rule filed June 16, 2006, effective Jan. 30, 2007.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991,
1993, 1995, 1996; 386.266, RSMo 2005 and 393.140, RSMo 1939, amended 1949, 1967.*

**Rules of
Department of Economic Development
Division 240 – Public Service Commission
Chapter 20 – Electric Utilities**

PROPOSED AMENDMENT

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

PURPOSE: This proposed amendment modifies the definitions, structure, operation, and procedures relevant to the filing and processing of ~~request applications~~ to allow fuel and purchased power costs and fuel-related revenues in an interim energy charge or a fuel adjustment clause which allow periodic rate adjustments outside general rate proceedings consistent with tariffs, commission orders and procedures that have been implemented since the effective date of the rule.

(1) This subsection defines various terms as used in this subsection and in subsection 4 CSR 240-3.161 Electric Utility Fuel and Power Rate Adjustment Mechanisms Filing and Submission Requirements:

(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 purpose of determining the actual net energy costs (ANEC);

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

(C) Base energy costs means that part of the fuel and purchased power costs minus fuel-related revenues of a RAM that are included in ~~base permanent~~ rates as determined by the commission in a general rate case and that when divided by kWh at the regional transmission organization's price node for the electric utility's load or, if the electric utility is not a participant in a regional transmission organization, when divided by kWh at the generator, equals the base factor (BF);

(D) Base factor (BF) means base energy costs per kWh at the regional transmission organization's price node for the electric utility's load or, if the electric utility is not a participant in a regional transmission organization, at the generator, which are established in a general rate proceeding, which may vary by season of the year, and which are included in the utility's fuel adjustment clause (FAC);

(E) Electric utility or utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(F) FAC charge means the positive or negative dollar amount on each utility customer's bill that is equal to the applicable FAR times the monthly kWh, which in the aggregate is to recover from or return to customers the fuel and purchased power adjustment (FPA) amount;

(G) 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 made outside a general rate proceeding;

(H) Fuel adjustment rate (FAR) means the dollar per kilo-watt hour (kWh) rate used to determine the FAC charge on each utility customer's bill during a recovery period of a FAC. The FAR shall

Commented [JL1]: No rate is permanent – Commission changes from time-to-time either as result of rate increase or complaint case.

be designed to recover from or return to customers the recovery period FPA. The FAR may be positive or negative;

(I) Fuel and purchased power adjustment (FPA) 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 net base energy cost ~~and~~ the fuel and purchased power costs minus fuel-related revenues actually incurred during 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. Interest;
4. Prudence adjustment(s) ordered by the commission since the last FAR adjustment; and
5. Any other adjustment ordered by the commission.

(J) 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. Fuel and purchased power costs may include prudently incurred actual costs of net cash payments or receipts associated with hedging instruments tied to specific volumes of fuel and associated transportation costs.

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. 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);

(K) Fuel-related revenues means those revenues related to the generation or purchase of energy. Fuel-related revenues may include, but are not limited to, off-system sales, emission allowance sales, and renewable energy credits or certificates;

(L) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;

(M) Interest means monthly interest at the utility's short term borrowing rate to accurately and appropriately remedy any over- or under-collections during a recovery period or any commission ordered refund of imprudently incurred costs;

(N) Interim energy charge (IEC) means a mechanism that includes a refundable fixed amount billed through an interim energy rate (IER) established in a general rate proceeding that permits an electric utility to recover some or all of its fuel and purchased power costs separate from the fuel and purchased power costs included in its base rates. Base energy cost in the ~~base permanent~~ rates is the floor of the IEC. The base energy cost plus the fuel and purchased power costs to be billed through the IER is the ceiling of the IEC. An IEC may or may not include fuel-related revenues and costs related to those revenues.;

(O) Net base energy costs means the product of the utility's base factor (BF) times the utility's actual ~~net system input in kWh at the generator for the accumulation period.~~ Net system input is that amount of energy, measured at a specified point on the system, needed to serve the utility's retail load obligation, including any applicable transmission or distribution losses from that specified point to the end use customer meter, and shall include appropriate adjustments for any behind the meter generation;

Commented [JL2]: Need to discuss

Commented [JL3]: NEEDS TO BE DEFINED – see below

(P) ~~Base~~Permanent rates mean the tariffed rates that do not change between general rate proceedings;

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

(R) Rebase base energy costs means the resetting of the base energy cost in the FAC equal to the base energy cost ~~established as part of the total in the test year total~~ revenue requirement in each general rate proceeding in which the FAC is continued or modified;

(S) Recovery period means the period over which the FAR is applied to retail customer usage on a per kilowatt-hour (kWh) basis in an effort to recover the FPA. A recovery period is determined in the general rate case and shall not be longer than twelve (12) billing months;

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

(U) 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 for a recovery period. If the aggregate FAC charges are more than the FPA, true-up amount will be negative. If the aggregate FAC charges are less than the FPA, the true-up amount will be positive;

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 and 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) ~~Applications to~~ Establish~~ment~~, Continu~~ation~~e or Modifi~~cation~~y a RAM. An electric utility may only file ~~an application with the commission~~ to establish, continue or modify a RAM in a general rate proceeding. Any party in the general rate proceeding may seek to continue, modify or oppose the RAM. The commission shall approve, modify or reject such ~~request~~application only after providing the opportunity for a full hearing in the 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 commission may approve the establishment, continuation or modification of a RAM and associated tariff sheets provided that it finds that the RAM it approves 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. During its determination of whether an electric utility should be allowed to establish, continue or modify a RAM, the commission ~~may~~shall consider such factors that in its judgment have a bearing on the request~~whether the fuel and purchased power costs and fuel-related revenues that would flow through the RAM are:~~

~~1. Substantial enough to have a material impact upon revenue requirements and the financial performance of the electric utility between rate cases;~~

~~2. Beyond the control of management, where utility management has little influence over experienced levels of fuel and purchased power costs and fuel-related revenues; and~~

~~3.1. Volatile in amount, causing significant swings in income and cash flow if not tracked.~~

Commented [JL4]: Commission's hands should not be tied by prescriptive requirements – Commission is capable of deciding (and parties are free to suggest) what it ought to consider.

(B) The commission may take into account 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.

~~(C) In determining which fuel and purchased power costs and fuel-related revenues to include in a RAM, the commission will consider, but is not limited to only considering, the magnitude of each cost or revenue, the ability of the utility to manage each cost or revenue, the volatility of each cost or revenue and the incentive provided to the utility as a result of the inclusion or exclusion of each cost or revenue. The commission may, in its discretion, determine what portion of prudently incurred fuel and purchased power costs and fuel-related revenues may be recovered in a RAM and what portion shall be recovered in permanent rates.~~

~~(D) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how its proposed RAM shall be applied to monthly bills. This description shall include the electric utility's estimate of the total requested rate change and the portion of the total requested rate change that is due to changes in fuel and purchased power costs and fuel-related revenues of the proposed RAM. The description shall include the electric utility's estimate of initial notice to customers shall also include the amount of the proposed change in rates arising from changes in the base energy costs and the estimated impact on a typical residential customer's bills resulting from the proposed change to the base energy costs.~~

~~(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, including the fuel adjustment rates, shall be based on historical fuel and purchased power costs and fuel-related revenues.~~

~~(G) The electric utility shall comply with the filing requirements in 4 CSR 240-3.161(2) in conjunction with an request application to establish a RAM and 4 CSR 240-3.161(3) in conjunction with a request application to continue or modify a RAM.~~

~~(H) For a FAC, the base energy costs will be the fuel and purchased power costs minus fuel-related revenues for the general rate proceeding as determined by the commission. The electric utility must rebase base energy costs whenever it makes an application to establish, continue or modify a RAM. The base energy costs shall also be used to set base permanent rates. However, non-FAC fuel-related costs and revenues may be included in the revenue requirement used in setting base permanent rates.~~

~~(I) The electric utility must conduct heat rate tests and/or efficiency tests on each of the electric utility's nuclear and non-nuclear steam generators, heat recovery steam generators (HRSGs), steam turbines and combustion turbines within twenty-four (24) months preceding the filing of a request application to establish, continue or modify a RAM.~~

1. The results of those tests shall be provided to the staff, Office of Public Counsel (OPC) and to intervenors in the general rate proceeding as part of the workpapers it provides in connection with the filing of its direct case filing and shall be presented in a table format by generating unit, unit type, rated megawatt (MW) output rating, the numerical value of the latest heat rate test and the date of the latest heat rate test; and

2. The electric utility shall provide a statement in its testimony where the heat rate test results, the actual heat rate test documentation, the heat rate testing schedule for all generating units and the heat rate test procedures can be found in its workpapers.

Commented [JL5]: Same comment as above.

Commented [JL6]: Same as previous comment – already covered by above language

Commented [JL7]: Isn't this what is intended to be captured?

(J) True-ups. For an electric utility with a FAC, the utility shall include in its proposed tariff sheets ~~and application~~ 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; and
2. How and when the true-up amount will be recovered.

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.

(K) 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.

~~(L) If the electric utility has a commission approved environmental cost recovery mechanism (ECRM) and revenue to be collected through the ECRM tariff sheets exceed two and one half percent (2.5%) of the electric utility's Missouri annual gross jurisdictional revenues, the electric utility cannot subsequently request that any cost the commission identified as an environmental cost be recovered through a RAM.~~

(3) ~~Application to 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 that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of a RAM on the grounds that the utility is opportunistically discontinuing the RAM due to declining fuel or purchased power costs and/or increasing fuel-related revenues. If the commission finds that the utility is opportunistically seeking to discontinue the RAM for any of these reasons, the commission shall not allow the RAM to be discontinued, and shall order its continuation or modification. To continue or modify the RAM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity and the tariff sheets filed to implement the RAM must conform to the RAM approved by the commission. Any RAM and periodic adjustments to the FAR shall be based on historical fuel and purchased power costs and fuel-related revenues.

(B) The commission may take into account any change in business risk of the electric utility resulting from discontinuance 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 the electric utility's business risk.

(C) The electric utility shall include in its initial notice to customers, regarding the general rate case, a commission approved description of why it believes the RAM should be discontinued.

(D) Subsections (2)(A), (C), (F) through (H) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.161(4).

(4) Requirements for Electric Utilities That Have a RAM. If the commission grants, modifies or continues an electric utility's RAM, the electric utility shall:

~~(A) Upon 30 days prior written notice to the electric utility, provide for Maintain for review by staff at its corporate headquarters, or some other place mutually agreed upon by the electric utility~~

Commented [JL8]: Rule already excludes environmental costs so this seeks to address a situation that cannot happen – should not include non-operative provisions in rules because court is supposed to give all provisions effect somehow – leads to confusion.

and staff, a copy of each and every nuclear fuel, coal, natural gas and fuel transportation contract (to the extent related to generation of electricity), including every amendment and modification to each contract, that was in effect during a particular period of the operation of the RAM for the electric utility. ~~and~~

~~(B) Notify the manager of the commission's energy resource analysis section of every new nuclear fuel, coal, natural gas and fuel transportation contract and every new amendment and every new modification to currently existing contracts within 30 days of the effective date of the contract, amendment or modification. The notification shall include where the contracts, amendments and modifications may be reviewed.~~

Commented [JL9]: Aside from reviewing all such contracts (which include amendments since any prior review) during rate cases or prudence reviews, the electric utilities are not aware of the Staff ever wanting to see all such contracts at any time, or ever needing a notice of "every" amendment/modification.

(5) ~~Applications for~~ 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) Determinations of imprudence amounts, true-up amounts and any corrections shall be made in separate cases in EFIS, not in a FAR adjustment case.

(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 consecutive twelve (12) month period after the effective date of the FAC. It may also file up to three (3) additional adjustments to its FARs within each twelve (12) month time period, with the timing and number of such additional filings to be determined in the general rate proceeding establishing, continuing or modifying the FAC.

(D) The electric utility must be current on its submission of its Surveillance Monitoring Reports required by section (11) and its monthly reporting requirements of 4 CSR 240-3.161(5).

(E) Staff shall review the information filed by the electric utility in accordance with 4 CSR 240-3.161 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 in the utility's most recent general rate proceeding. Within thirty (30) days after the electric utility files ~~testimony its application~~ and tariff sheets to adjust its FARs, the staff shall submit a recommendation regarding its examination and analysis to the commission.

(F) OPC and intervenors may file a response to the electric utility's proposed FAR adjustment within forty (40) days after the electric utility files its ~~testimony application~~ and tariff sheet(s) to adjust its FARs.

(G) Within sixty (60) days after the electric utility files its ~~testimony application~~ and tariff sheet(s) to adjust its FARs, the commission shall ~~either: determine if the adjustment to the FARs accord 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. The commission shall:~~

1. Issue an interim rate adjustment order approving the tariff sheets and the adjustments to the FARs;

2. Allow the tariff sheets and the adjustments to the FARs to take effect without commission order; or

3. If it determines that 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. ~~r~~Reject the proposed rate schedules, suspend the timeline of the FAR adjustment filing, set a prehearing date and order the parties to propose a procedural schedule. The commission ~~shall allow~~~~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.

Commented [JL10]: To make clear the circumstances under which rejection can occur (non-compliance) but to also be clear that otherwise the sheets take effect.

(H) If the staff, OPC or other party which receives, pursuant to 4 CSR 240-2.135, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the FAC has not been submitted in compliance with that rule or order, it shall notify the electric utility within ten (10) business days of the electric utility's filing of ~~tariff sheets to an application 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 4 CSR 240-3.161 and the commission order establishing 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.

Commented [JL11]: So only disputed amount is held-up.

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. For good cause shown the commission may further suspend this timeline.

2. Any delay in providing sufficient information in compliance with 4 CSR 240-3.161 and the commission order establishing the FAC in a request to decrease the FARs shall not alter the processing timeline.

(6) ~~Applications for the~~ True-Ups of RAMs. The purpose of a true-up case is to accurately and appropriately remedy any over-collection or under-collection during a recovery period, including the interest accrued at the utility's short-term interest rate.

(A) Determinations of imprudence, adjustments to FARs and any corrections shall be made in separate cases, not in a true-up case.

(B) The electric utility shall initiate a new case with an EO designation for each true-up of its RAM application.

~~(C)~~ The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (11) and its monthly reporting requirements as required by 4 CSR 240-3.161~~(65)~~ at the time that it files its ~~application for a~~ true-up of its RAM in order for the commission to process the electric utility's requested true-up of any under-collection.

~~(D)~~ The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.161 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. 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.

~~(E)~~ OPC and intervenors may file a response to the proposed true-up amount within forty (40) days of the electric utility true-up filing.

~~(FG)~~ Within sixty (60) days of the electric utility's true-up filing the commission shall ~~either issue an order:~~

~~1. Allow the tariff sheet(s) reflecting the true-up amount to take effect without commission order; or~~

~~3. If it determines that the true-up amount reflected in the tariff sheet(s) is incorrect, reject the proposed tariff sheet(s) containing the true-up amount, suspend the timeline of the true-up filing, and set a prehearing date and order 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.~~

~~-Deciding the true-up amount; or~~

~~2. Suspending the timeline of the true-up filing. If the commission's order suspends the timeline,~~

~~A. It may order an interim true-up amount; and~~

~~B. It shall include in its order a date for a prehearing for the parties to propose a procedural schedule.~~

~~(GH)~~ If the staff, OPC or other party which receives, pursuant to 4 CSR 240-2.135, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted or 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. 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 shall 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.

(7) 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 earlier authorizes the modification, extension, or discontinuance of the RAM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its FARs between general rate proceedings.

(A) If the commission approves a RAM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the RAM, assuming the maximum statutory suspension of the rates so filed.

Commented [JL12]: To make clear the circumstances under which rejection can occur (non-compliance) but to also be clear that otherwise the sheets take effect.

1. The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the RAM, or any period for which charges collected under the RAM must be fully refunded. In the event a court determines that the RAM is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a general rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in fuel or purchased power costs minus fuel-related revenues or prudence adjustments.

(8) Prudence Reviews Respecting RAMs. A prudence review of the fuel and purchased power costs and fuel-related revenues subject to the RAM shall be conducted by staff no less frequently than at eighteen (18)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate.

(B) The staff shall file notice within ten (10) days of starting its prudence review -and shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after initiating its prudence review. Parties to the prudence review proceeding shall have ten (10) days after the staff files its recommendation to request a hearing. The commission shall issue an order not later than thirty (30) days after the staff files its recommendation if no party requests a hearing.

1. If the staff, OPC or other intervenor auditing the RAM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's RAM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline 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. For good cause shown the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate.

~~(C) Alleged imprudence with respect to any aspect of a RAM may be filed at any time as a formal complaint consistent with the commission's rule regarding complaints 4 CSR 240-2.070 Complaints. Violation of the RAM tariff sheets may be considered imprudence.~~

Commented [JL13]: See subsection (14) below

(9) Disclosure on Customers' Bills. Any amounts charged under a commission-approved RAM shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval in the general rate proceeding establishing, modifying or continuing the RAM.

(10) 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 through the periodic conduct of Missouri jurisdictional system loss studies. 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 the twenty-four (24) months immediately preceding the date the utility files its ~~application for the~~ general rate case requesting a RAM. 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 ~~beginning-end~~ of the twelve (12)-month period the utility uses for developing the general rates it proposes the Commission approve in that general rate proceeding.

Commented [JL14]: Believe this is the intent

(11) Submission of Surveillance Monitoring Reports. Each electric utility with an approved RAM shall submit to staff, OPC and parties as defined in 4 CSR 240-3.161(10)(A) a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.161(6).

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

(B) If the electric utility also has any other approved cost recovery mechanism(s) which requires submission of surveillance monitoring reports, the electric utility shall submit a single Surveillance Monitoring Report that incorporates the requirements of the surveillance monitoring report requirements for all cost recovery mechanisms.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.161(6), after notice and an opportunity for a hearing, the commission may suspend a fuel adjustment mechanism or order other appropriate remedies as provided by law.

(12) 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 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, designed to provide the electric utility with incentives to improve the efficiency and cost-effectiveness of its fuel and purchased power procurement and/or off-system sales activities.

(B) Any incentive mechanism or performance-based program shall be structured to align the interests of the electric utility's customers and shareholders. The anticipated benefits to the electric utility's customers from the incentive or performance-based program shall equal or exceed the anticipated costs of the mechanism or program to the electric utility's customers. Customer rates shall include the cost of an incentive mechanism or performance-based program in any time period above what they would be without the incentive mechanism or performance-based program.

(C) If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance-based program shall be binding on the commission for the

entire term of the incentive mechanism or performance-based program. If the commission approves an incentive mechanism or performance-based program, such incentive mechanism or performance based program shall be binding on the electric utility for the entire term of the incentive mechanism or performance-based program unless otherwise ordered or conditioned by the commission.

(13) Pre-Existing Adjustment Mechanisms, Tariffs and Regulatory Plans. The provisions of this rule shall not affect:

(A) Any adjustment mechanism, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to January 2015; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to January 2015.

(14) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that the electric utility is acting in violation of its approved RAM tariff sheets or on the grounds that an electric utility's rates have become unjust and unreasonable-is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existences of its RAM as a defense to a complaint case based upon an allegation that its rates have become unjust and unreasonable-is earning more than a fair return on equity. If a complaint is filed on the grounds that an electric utility is acting in violation of its approved RAM tariff sheets or on the grounds that it rates have become unjust and unreasonable, -is earning more than a fair return on equity, the commission shall issue a procedural schedule that includes a clear delineation of the case timeline no later than sixty (60) days from the date the complaint is filed.

Commented [JL15]: The rule should have always used the statutory standard instead of purporting to create a new one.

(15) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 386.266, RSMo Supp. 2005. Original rule filed June 15, 2006, effective Jan. 30, 2007.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.266, RSMo 2005; and 393.140, RSMo 1939, amended 1949, 1967.*