

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

PROPOSED AMENDMENT

4 CSR 240-20.090 ~~Electric Utility~~ Fuel and Purchased Power ~~Cost-Recovery~~Rate Adjustment Mechanisms

PURPOSE: This ~~rule sets forth~~ proposed amendment modifies the definitions, structure, operation, and procedures relevant to the filing and processing of applications to ~~reflect prudently incurred~~ allow fuel and purchased power costs ~~through~~ and fuel-related revenues in an interim energy charge or a fuel adjustment clause which ~~allows~~ 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. Empire: Which utility tariff sheets does this apply to?

~~(1) Definitions. As used in this rule, the following terms mean as follows:~~

~~(A) Electric~~ (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 permanent rates as determined by the commission in a general rate case and that when divided by kWh at the generator ~~(Ameren – at transmission, not at generator)~~ equals the base factor (BF); ~~OPC - Equation should be revised for accuracy. KCPL/GMO – The comparison should be the same so the base factor is calculated the same as the FAC adjustment.~~

(D) Base factor (BF) means base energy costs per kWh 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;

~~(B)~~ (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; ~~OPC: do we want to do rate design in this rulemaking? FAC rate would be kWh charge.~~

(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 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. ~~If not inconsistent with a commission approved incentive plan, fuel~~ Fuel and purchased power costs ~~also may~~ Ameren – by deleting also, does it remove hedging costs from the FAC? 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. Find what off system sales means or replace with a new paradigm (Empire)

2. ~~If off system sales revenues are reflected in the RAM, fuel~~ Ameren questions if 2. should be taken out. Fuel and purchased power costs reflect both:

A. ~~The prudently incurred fuel and purchased power costs necessary to serve the electric utility's Missouri retail customers; and~~

B. ~~The prudently incurred fuel and purchased power costs associated with the electric utility's off system sales;~~

(C) ~~Fuel adjustment clause (FAC) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect increases and decreases in an electric utility's prudently incurred fuel and purchased power costs. The FAC may or may not include off-system sales revenues and associated costs. The commission shall determine whether or not to reflect off system sales revenues and associated costs in a FAC in the general rate proceeding that establishes, continues or modifies the FAC; 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);~~

(~~D~~) (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;

~~(E) Initial RAM rules means the rules first adopted by the commission to implement Senate Bill 179 of the Laws of Missouri 2005;~~

~~(F) (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 charge 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 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 ~~off-system sales and revenues and associated costs. The commission shall determine whether or not to reflect off-system sales~~fuel-related revenues and ~~associated costs in an IEC in the general rate proceeding that establishes, continues or modifies the IEC; costs related to those revenues.;~~

~~(GO) 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; Ameren: Generator vs. Load should be defined. OPC: would like the rules to reflect the actual trueup process that happens. What is the final NBEC in the true-up filing? Should NSI be describing this rule?~~

~~(P) 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;

~~(H)(R) Rebase base energy costs means the resetting of the base energy cost in the FAC equal to the base energy cost in the base energy cost established as part of the total revenue requirement test year total revenue requirement- (Ameren & KCPL) 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

~~(I) True up year means the twelve (12) month period beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true up year begins on the effective date of the commission order. The first annual true up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the RAM. Subsequent true up years shall be the succeeding twelve (12) month periods. If a general rate proceeding is concluded prior to the conclusion of a true up year, the true up year may be less than twelve (12) months.~~

(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 / billed during recovery period? (OPC) are less than the FPA, the true-up amount will be positive; OPC: Clarification

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, Continue or Modify a RAM. Pursuant to the provisions of this rule, 4-CSR-240.2-060 and section 386.266, RSMo, only an An electric utility in a general rate proceeding ~~may may only~~ file an application with the commission to establish, continue or modify a RAM ~~by filing tariff schedules in a general rate proceeding~~. Any party in ~~the~~ general rate proceeding ~~in which a RAM is effective or proposed~~ may seek to continue, modify or oppose the RAM. The commission shall approve, modify or reject such ~~applications to establish a RAM 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 ~~rate schedules~~ 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 ~~rate schedules~~ 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 shall consider 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. Volatile in amount, causing significant swings in income and cash flow if not tracked. Ameren opposed to 1-3, not appropriate to put in a rule. KCPL and Empire agrees. OPC would like a requirement to balance the interest of the rate payer and utility. – Ameren opposes. Keep bounded by scope of law, and not create new law – KCPL.

(B) The commission may take into account any change in business risk ~~to 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 ~~cost components~~ 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 ~~the costs~~ each cost or revenue, the ability of the utility to manage

~~the cost~~each cost or revenue, the volatility of ~~the each~~ cost ~~component~~or revenue and the incentive provided to the utility as a result of the inclusion or exclusion of ~~the each~~ cost ~~component~~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 basepermanent rates. Ameren, KCPL opposes – completely get rid of C. Increases the burden. OPC does not agree with removing C.

(D) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description ~~of how the costs passed through the proposed RAM requested shall be applied to monthly bills~~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 initial notice to customers shall also include the amount of the proposed change to the base energy costs and the impact on customers' bills resulting from the proposed change to the base energy costs.

(E) Any party to the general rate proceeding may oppose ~~the establishment, continuation or modification of any~~ RAM and/or may propose alternative RAMs for the commission's consideration ~~including but not limited to modifications to the electric utility's proposed RAM.~~

(F) The RAM ~~and periodic adjustments thereto, including the fuel adjustment rates,~~ shall be based on historical fuel and purchased power costs and fuel-related revenues.

(G) The electric utility shall meet/comply with the filing requirements in 4 CSR 240-3.161(2) in conjunction with an application to establish a RAM and 4 CSR 240-3.161(3) in conjunction with an application to continue or modify a RAM. OPC – what happens if they don't meet requirements? KCPL - Do not need to specify a remedy. Ameren-Specify the remedy, the utility should have a chance to respond and fix it. OPC agrees with Ameren.

~~(H)~~(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 permanent rates. However, non-FAC fuel-related costs and revenues may be included in the revenue requirement used in setting 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 an 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.

(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. OPC-kWh may change in the true-up. How much of a change?

(K) Any party to the general rate proceeding may propose a cap on the ~~change in the FAC~~, reasonably designed 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. Empire: Why is this in the FAC rules?

OPC – cost types in revenues included should not differ between rate cases. KCPL – what constitutes a new type? Ameren agrees with KCPL. Charge types change frequently. KCPL- What is the intent? Empire agrees with KCPL & Ameren.

(3) Application for Discontinuation of a RAM. The ~~commission shall allow or require the rate schedule~~ tariff sheets that define and implement a RAM ~~to~~ shall only be discontinued and withdrawn only after providing 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. OPC-ratepayers interest should also be included.

(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 ~~off-system sales~~ 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 ~~rate schedule~~ tariff sheets filed to implement the RAM must conform to the RAM approved by the commission. Any RAM and periodic adjustments ~~thereto~~ 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 ~~to~~ of the ~~corporation~~ 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 ~~experienced by the electric utility.~~

(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 (C), (F) and (G)(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) Periodic Adjustments of FACs, 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) Maintain for review by staff at its corporate headquarters, or some other place mutually agreed upon by the electric utility and staff, a copy of each and every nuclear fuel, coal, natural gas and fuel transportation contract (Ameren- used for generation flow through the FAC), including every amendment and modification to each contract, that was in effect during a 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 (KCPL – 30 days isn't always enough time) of the effective date of the contract, amendment or modification. The notification shall include where the contracts, amendments and modifications may be reviewed.

Ameren – too broad. OPC-propose it'd be a non-case related submission in EFIS.

(5) Applications–(Ameren doesn't think they're applications) ~~for~~– Ameren – do a search on application. Periodic Changes to Fuel Adjustment Rates. An electric utility that has a FAC shall file proposed ~~rate schedule~~tariff sheet(s) to adjust its ~~FAC rates between~~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. OPC-change in kWh for net base energy cost in true-up? KCPL – separate case for all corrections?

(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 ~~proceedings~~proceeding establishing, continuing or modifying the staff FAC. Empire-not sure how this will work with the filing of a rate case. 2 months after the end of the accumulation period.

(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 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 its tariff schedules to adjust its FAC rates. If the FAC rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the FAC mechanism established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the FAC rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect~~

~~sixty (60) days after the tariff schedules were filed. If the FAC rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the FAC mechanism established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).utility's most recent general rate proceeding. Within thirty (30) days after the electric utility files its application and tariff sheets to adjust its FARs, the staff shall submit a recommendation regarding its examination and analysis to the commission.~~

~~(A) An electric utility with a FAC shall file one (1) mandatory adjustment to its FAC in each true up year coinciding with the true up of its FAC. It may also file up to three (3) additional adjustments to its FAC within a true up year with the timing and number of such additional filings to be determined in the general rate proceeding establishing the FAC and in general rate proceedings thereafter.~~

~~(B) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its monthly reporting requirements as required by 4 CSR 240-3.161(5) in order for the commission to process the electric utility's requested FAC adjustment increasing rates.~~

~~(C)(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 application and tariff sheet(s) to adjust its FARs.~~

~~(G) Within sixty (60) days after the electric utility files its application and tariff sheet(s) to adjust its FARs, the commission shall 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: If a compliant filing is made, it will take effect. (Ameren) If a filing is not compliant, it will not take effect? (OPC)~~

~~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. 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 may order the electric utility to file tariff sheet(s) to implement interim FARs.~~

(H) If the staff, ~~Office of the Public Counsel (OPC)~~ OPC or other party which receives, pursuant to ~~a protective order~~ 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 ~~RAM~~ 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 an application ~~or tariff schedules~~ to adjust the ~~FAC rates~~ 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. ~~OPC- if information is withheld, the company cannot accumulate interest during that time period. Ameren opposes they believe it's outside commissions authority.~~

1. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase ~~FAC rates~~ 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 ~~FAC rates~~ the FARs. For good cause shown the commission may further suspend this timeline. ~~Any delay in providing sufficient information in compliance with 4 CSR 240 3.161 in a request to decrease FAC rates shall not alter the processing timeline.~~

(5) True-Ups of RAMs. An electric utility that files for a RAM shall include 2. Any delay in its ~~tariff schedules and application, if filed~~ providing sufficient information in addition to tariff schedules, provision for true ups on at least an annual basis which shall ~~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 (Ameren – not an application) for the ameren– Ameren – do a search on application.~~ True-Ups of RAMs. The purpose of a true-up case is to accurately and appropriately remedy any over-collection or under-collection ~~through subsequent rate adjustments or refunds during a recovery period, including the interest accrued at the utility's short-term interest rate.~~

(A) ~~The subsequent true up rate~~ Determinations of imprudence, adjustments ~~or refunds shall include interest at the to FARs and any corrections shall be made in a true-up case – separate cases, not in a true-up case.~~ Why can't filings be in one case – Ameren.

(B) The ~~electric utility's short term borrowing rate~~ utility shall initiate a new case with an EO designation for each true-up application.

(B) The true up adjustment shall be the difference between the historical fuel and purchased power costs intended for collection during the true up period and billed revenues associated with the RAM during the true up period.

(C)

(D) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (4011) and its monthly reporting requirements as required by 4 CSR 240-3.161(5) 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 ~~annual~~ true-up of any under-collection.

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~~(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 ~~its tariff schedules for a true up. The commission shall either issue an order deciding the true up within sixty (60) days of the electric utility's filing, suspend the timeline of the true up in order to receive additional evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect by operation of law sixty (60) days after the utility's filing for a true-up amount.~~

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

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

1. 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.

(H) If the staff, OPC or other party which receives, pursuant to ~~a protective order~~ 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. OPC- if information is withheld, the company cannot accumulate interest during that time period. Ameren – does commission have the authority to do that? Ameren opposes they believe it's outside commissions authority.

1. While the commission is considering the motion to compel, the processing timeline for the ~~adjustment to determination of~~ the ~~FAC rate~~ 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 ~~adjustment~~ true-up amount shall result in a reduction in the ~~FAC rates~~ FAR, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the ~~RAM~~ FAR shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

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(67) 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 ~~FAC rates~~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.

1. The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the ~~adjustment mechanism~~RAM, or any period for which charges collected under the ~~adjustment mechanism~~RAM must be fully refunded. In the event a court determines that the ~~adjustment mechanism~~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.

(78) 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 ~~the staff initiates~~initiating its prudence ~~audit. The timing and frequency of review. Parties to the prudence audits for each RAM shall be established in the general rate review proceeding in which the RAM is established. The staff shall file notice within shall have ten (10) days ~~of starting~~after the staff files its prudence audit recommendation to request a hearing. The commission shall issue an order not later than ~~two hundred ten (210)~~thirty (30) days after the staff ~~commences~~files its prudence audit recommendation if no party ~~to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for~~requests a hearing.~~

1. If the staff, OPC or other party 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.

(8C) 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. Ameren – saying that allegations of imprudence confuses things, C. is unnecessary.

(9) Disclosure on Customers' Bills. Any amounts charged under a ~~RAM approved by the 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.

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(910) 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. ~~Therefore, as determined through the periodic conduct of Missouri jurisdictional system loss studies. When the electric utility shall conduct a~~ 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 prior to the general rate proceeding in which it requests its initial RAM. The electric utility immediately preceding the date the utility shall conduct a Missouri jurisdictional loss study no less often than every four (4) years thereafter, on a schedule that permits the study to be used in the general rate proceeding necessary files its application for the general rate case requesting a RAM. When the electric utility seeks to continue to utilize a RAM 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 (Ameren- why four years) before the beginning (PSC) 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.

(4011) Submission of Surveillance Monitoring Reports. Each electric utility with an approved RAM shall submit to staff, OPC and parties ~~approved by the commission as defined in 4 CSR 240-3.161(11)(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 ~~environmental~~ cost recovery mechanism(s) which requires submission of surveillance monitoring reports, the electric utility ~~must~~ shall submit a single Surveillance Monitoring Report ~~for both that incorporates the environmental requirements of the surveillance monitoring report requirements for all~~ cost recovery ~~mechanism and the RAM 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.

(412) 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 fuel and purchased powerbase 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. ~~For this purpose, Customer rates shall include the cost of an incentive mechanism or performance-based program shall include any increase in expense or reduction in revenue credit that increases rates to customers~~ 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.

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

(A) Any adjustment mechanism, ~~rate schedule~~, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to ~~the effective date of this rule~~ January 2015 (Ameren-date may change); and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to ~~the effective date of this rule~~ January 2015.

(414) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, ~~(Ameren) on the grounds that an electric utility 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 it is earning more than a fair return on equity~~. If a complaint is filed on the grounds that an electric utility 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 (OPC – language should be modified and not neccesarily struck). Ameren – allegations of FAC tariff violations can be persued in a prudence review.

(14) Rule Review. ~~The commission shall review the effectiveness of this rule by no later than December 31, 2010, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.~~

(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.*