

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

In the Matter of the Proposed Rule 20 CSR)
4240-23.040 State Reliability Mechanism) Case No. EX-2026-0171
(SRM))

COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL

Pursuant to the Public Service Commission of the State of Missouri’s (the “Commission”) *Notice of Hearing and Comment Period* filed in the above styled case on January 23, 2026, the Office of the Public Counsel (the “OPC”) submits these comments.

I. Introduction

Newly-enacted § 393.1080 RSMo. gives the Commission the discretion to require electrical corporations to provide documentation “reflecting its plan to own or have rights to sufficient capacity to meet its capacity obligations for the upcoming planning year and each of the three subsequent planning years.” § 393.1080.1 RSMo. The statute also grants the Commission the discretion to promulgate rules in furtherance of the statute. § 393.1080.5 RSMo. In promulgating 20 CSR 4240-23.040, it is the OPC’s understanding that the Commission is mandating the filing of these reports and providing a template that electrical corporations must use to make the reports. The OPC has seven suggestions for changes to the rule as proposed. Each of these changes is described below and reflected in track changes in the attached Attachment A.

II. The OPC’s Suggested Modifications to the Proposed Rule

1. Add the word “appropriate” in the definition of “Accredited capacity” in 20 CSR 4240-23.040(1)(A) to match the defined term from § 393.1080.4(1) RSMo. and 20 CSR 4240-23.040(1)(C)

(1)(A) Accredited capacity means the deliverable or firm capacity value as determined and assigned to a resource by the appropriate regional transmission organization or independent system operator for determining resource adequacy

Explanation: The definition of “[a]ccredited capacity” includes a reference to “regional transmission organization or independent system operator.” To match the defined term in § 393.1080.4(1) RSMo. and 20 CSR 4240-23.040(1)(C) the OPC suggests adding the word “appropriate” before this reference so that the definition refers to an “appropriate regional transmission organization or independent system operator.”

2. Strike definitions not used in either the proposed rule or in the updated SRM Reporting Template¹ (20 CSR 4240-23.040(1)(E), (N), (R), (BB), (DD), and (JJ))

~~(1)(E) Battery energy storage system (BESS) means an energy storage system where energy is stored in batteries;~~

~~(1)(N) Effective load carrying capability (ELCC) means an accreditation method by which a capacity value is assigned to a capacity resource based on the ability of the capacity resource to dependably and reliably serve as measured against a reliability metric;~~

~~(1)(R) Installed capacity (ICAP) means an accreditation method by which a capacity value is assigned to a generation resource based on the demonstrated output of the generation resource or the contracted output of the generation resource~~

~~(1)(BB) Pumped storage hydroelectric system means an ESS² where water is pumped to a reservoir at a higher elevation during times of lesser demand, and then the water is released to a reservoir at a lower elevation with the water passing through turbines to generate electricity at times of increased demand;~~

~~(1)(DD) Seasonal accredited capacity (SAC) means an accreditation method by which a capacity value is assigned to a capacity resource based on the availability of the capacity resource during times of increased demand during the relevant season;~~

¹ All references to the proposed SRM Reporting Template are to the version dated March 20, 2026, which Staff references in its Comments filed on March 24, 2026, and that is available here: <https://psc.mo.gov/CMSInternetData/Electric/SRM%20Reporting%20Template%20-%20Draft%20vG3%20-%20ADA%20Revisions.xlsx>.

² The OPC notes that as proposed the definition of pumped storage hydroelectric system includes a reference to the acronym “ESS.” This is the only time that the acronym is used in either the proposed rule or in the SRM Reporting Template. This acronym is not defined in the proposed rule. The OPC believes this is a reference to energy storage system, which is a defined term in subsection (1)(P). If the Commission does not strike the proposed definition in subsection (1)(BB), then the OPC suggests that the Commission include the preferred acronym in the definition of energy storage system in subsection (1)(P).

~~(1)(JJ) Unforced capacity (UCAP) means an accreditation method by which a capacity value is assigned to a generation resource after adjusting the ICAP for the expected availability or historical availability of the generation resource or fuel availability;~~

Explanation: The rule as proposed includes definitions for “[b]attery energy storage system,” “[e]ffective load carrying capability,” “[i]nstalled capacity,” “[p]umped storage hydroelectric system,” “[s]easonal accredited capacity,” and “[u]nforced capacity,” however these terms are not used in either the proposed rule or the SRM Reporting Template. Because these terms are not used, the OPC suggests striking them from the definitions section of the proposed rule.

3. Modify the reference to energy storage resource in the definition of “Capacity resource” to match the defined term (20 CSR 4240-23.040(1)(H))

(1)(H) Capacity resource means a generation resource, demand response resource, or energy storage ~~resource~~ system owned, partially owned, or contracted by an electrical corporation for providing resource adequacy;

Explanation: The definition of “[c]apacity resource” includes a reference to an “energy storage resource.” However, “energy storage resource” is not a defined term in the rule. The OPC interprets the term “[c]apacity resource” to refer to the various types of resources that an electrical corporation can rely on to meet its resource adequacy requirements. The rule defines “[e]nergy storage system” in part saying that the resource is “accredited by the appropriate RTO/ISO in resource adequacy determinations.” 20 CSR 4240-23.040(1)(P). Therefore, the OPC suggests that the definition of “[c]apacity resource” be modified so that it refers to the defined term (“energy storage system”) as opposed to the undefined term (“energy storage resource”).

4. Clarify or strike the definition of “Demand-side resources” (20 CSR 4240-23.040(1)(J))

(1)(J) Demand-side resources means resources or programs that are included in resource adequacy determinations submitted to the appropriate RTO/ISO and may be considered a capacity resource in accordance with the rules of the appropriate RTO/ISO or may be included in an electrical corporation’s peak forecast but not both that reduce or shift demand

Explanation: The OPC’s concern with subsection (1)(J) of the proposed rule, the definition of “[d]emand-side resources” is two-fold. First, the definition as proposed does not identify what demand-side resources are. Specifically, the definition as proposed includes, at a high level, only two components: (1) that the resource or program is “included in resource adequacy determinations submitted to the appropriate RTO/ISO” and (2) is “considered a capacity resource in accordance with the rules of the appropriate RTO/ISO or” is “included in an electrical corporation’s peak forecast but not both.” 20 CSR 4240-23.040(1)(J). Neither of these components directly address what a demand-side resource is or what role it plays in an electrical corporation’s resource plan.

The term “[d]emand-side resources” is used only once in the SRM Reporting Template in cell B24 on the worksheet entitled “Ex. 2 Forecast Demand.” It is the OPC’s understanding that an electrical corporation will use this worksheet to report what it forecasts its demand will be for the next four years. The reference to the term is included in the Notes section and states in full “Any adjustments based on demand-side resources will be clearly delineated by resource type by season and by year for the service territory.”

It is the OPC’s understanding that electrical corporations include demand-side resources in their resource plans not because they directly contribute capacity that the electrical corporation can use to meet its customers’ load (*i.e.* such as a natural gas plant that can be dispatched to create electricity to provide to customers),³ but because the demand-side resources reduce the amount of electricity that the electrical corporation needs to provide (*i.e.* incentivizing customers to install additional insulation in their homes should reduce the amount of electricity needed to cool that

³ The OPC notes that the definition as proposed states that the demand-side resource may be considered a capacity resource. However, the definition of a capacity resource does not include demand-side resources. *See* 20 CSR 4240-23.040(1)(H). The OPC agrees that demand-side resources are not capacity resources and agrees that the definition of a capacity resource should not refer to demand-side resources. However, the OPC is concerned that confusion could result from the term’s exclusion in the definition of capacity resource when its own definition states that it may be considered a capacity resource.

customer’s home on a hot summer day). In this way the demand-side resources can reduce or shift customers’ demand for electricity. To recognize this, the OPC suggests adding the phrase “that reduce or shift demand” at the end of the definition.

The OPC is also concerned about including demand-side resources in any calculation of an electrical corporation’s future demand or capacity. As discussed throughout the Commission’s dockets considering both Union Electric Company d/b/a Ameren Missouri, Case No. EO-2023-0136, and Evergy Missouri West, Inc. d/b/a Evergy Missouri West and Evergy Metro Inc. d/b/a Evergy Missouri Metro, Case Nos. EO-2023-0369 and EO-2023-0370, Missouri Energy Efficiency Investment Act (“MEEIA”) Cycle 4 programs parties will likely dispute the effectiveness of many demand-side resources, such as energy efficiency programs. It also is not possible to measure the effectiveness of the programs or resources until after they have been implemented, which makes their use in forecasting not only difficult but problematic. For at least these reasons, the OPC believes it would be prudent to exclude the consideration of demand-side resources from the resource adequacy calculations covered by the proposed rule. To accomplish this, the Commission could strike the definition of “[d]emand-side resources” from the proposed rule and the reference to the term in cell B24 on the worksheet entitled “Ex. 2 Forecast Demand.”

5. Modify the defined term in 20 CSR 4240-23.040(1)(M) from “Distribution system losses” to “Distribution losses” to match the term used in the SRM Reporting Template

(1)(M) Distribution ~~system~~-losses means the amount of power that is lost across an electrical corporation’s system that is included in the electrical corporation’s forecast peak demand

Explanation: The defined term as proposed is “[d]istribution system losses.” This term is not used in either the proposed rule or the SRM Reporting Template. However, the SRM Reporting Template refers to the term “distribution losses” in cell B23 on the worksheet entitled “Ex. 1 Actual Demand” and in cell B23 on the worksheet entitled “Ex. 2 Forecast Demand.” To match the

defined term to the term used in the SRM Reporting Template, the OPC suggests striking the word “system” in the definition in 20 CSR 4240-23.040(1)(M). Alternatively, the two references to the term “distribution losses” in the SRM Reporting Template could be updated to refer to “distribution *system* losses.”

6. Modify the definition of “Sufficient capacity” to refer to the defined term “planning reserve margin required capacity” (20 CSR 4240-23.040(1)(FF))

(1)(FF) Sufficient capacity means owned or contracted-for capacity that meets the planning reserve margin required capacity or successor metric established by the RTO/ISO or established by the commission if the electrical corporation is not a participant in a regional transmission organization or independent system operator;

Explanation: The definition of “[s]ufficient capacity” as proposed in subsection (1)(FF) refers to “planning reserve margin.” That is not a defined term within the rule. The rule defines “[p]lanning reserve margin required capacity” in subsection (1)(W). To match the defined term, the OPC suggests adding the phrase “required capacity” in the definition of “[s]ufficient capacity” as shown.

7. Modify the “Winter season” defined term to match the term used in subsection (3)(B) of the proposed rule (20 CSR 4240-23.040(1)(KK))

(1)(KK) Winter planning season, for electrical corporations that take part in the SPP resource adequacy process, means December 1 through March 31 each year.

Explanation: The definition as proposed at subsection (1)(KK) is for a defined term “[w]inter season.” The proposed rule also includes a defined term for “[s]ummer planning season” in subsection (1)(GG). It then refers to a “winter planning season” in subsection (3)(B). To mirror the defined term in subsection (1)(GG) and to match the term used in subsection (3)(B), the OPC suggests adding the word “planning” to the defined term, so that the term is “[w]inter planning season.”

III. Conclusion

The OPC appreciates the opportunity to provide its suggested modifications to the proposed rule, 20 CSR 4240-23.040. The OPC offers these modifications for the Commission’s consideration and looks forward to the opportunity to respond to other parties’ comments and to answer any questions at the Commission’s rulemaking hearing.

WHEREFORE, the OPC respectfully requests that the Commission consider these comments and make the changes suggested throughout.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 25th day of March 2026.

/s/ Lindsay VanGerpen