

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

In the Matter of a Proposed Amendment to)
4 CSR 240-20.092, 20.093, and 20.094,)
the Commission's Demand-Side Programs) File No. EX-2016-0334
Investment Mechanism Rules.)

**COMMENTS OF UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI**

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and for its Comments regarding the Missouri Public Service Commission's ("Commission") proposed amendments to Rule 4 CSR 240-20.092, 20.093, and 20.094, states as follows:

BACKGROUND

1. The Notice of Proposed Rulemaking ("Notice") published in the *Missouri Register* required that comments be filed on or before April 27, 2017, and scheduled a hearing for May 4, 2017. These Comments are filed in response to that Notice.

2. Ameren Missouri appreciates the efforts that have gone into the proposed revisions to 4 CSR 240-20.092, 20.093, and 20.094. For example, the proposed revisions positively reflect and incorporate many of the lessons learned through the MEEIA cycles to date, such as:

- Modifications to the throughput disincentive;
- Changes regarding earnings opportunity;
- Inclusion of deemed savings (to which the Company proposes additional refinements below); and
- An overall simplification of the rules' structures.

3. That being said, certain additional revisions and clarifications are needed to account for lessons learned from the past five-plus years of operation of Missouri

Energy Efficiency Investment Act, § 393.1075, RSMo. (2016) (“MEEIA”) programs, to address practical concerns arising from some of the rule provisions, as proposed, and to ensure consistency and accuracy (e.g., the proposed rules contain defined terms that are not used, and at times contain inconsistent provisions). Revisions to the rules as proposed will also provide greater maturation in light of the experience we have now gained with MEEIA. Ameren Missouri accordingly provides comments regarding three general topic areas, as well as specific comments on the current rule drafts. The Company’s comments are divided into two sections:

- I. General Topics
 - A. New Application Filing Guidance
 - B. Technical Reference Manual
 - C. Variance Provisions
- II. Specific Suggested Revisions
 - A. 4 CSR 240-20.092
 - B. 4 CSR 240-20.093
 - C. 4 CSR 240-20.094

4. Please note that Section II of this pleading contains descriptions of specific modifications Ameren Missouri suggests be made to the proposed rules. For clarity, Ameren Missouri has also included redlined copies showing its recommended edits to 4 CSR 240-20.092, 20.093, and 20.094 as Attachments A, B, and C, respectively.

I. GENERAL TOPICS

5. This section summarizes the general topics into which most of the Company's proposed edits fall. Additional support for certain edits also appear in Section II of these Comments. Finally, please note that typos and simple grammatical errors are generally not discussed below, but do appear in the redlined Attachments.

A. New Application Filing Guidance

6. The proposed revisions add new provisions to 4 CSR 240-20.094 that require utilities to file modification requests for demand-side programs when:

- re-allocating funds;
- dealing with an under-performing demand-side program; and
- changing incentive amounts paid to customers.

As written, the impact of these changes would be unnecessarily restrictive and impair the utility's ability to cost-effectively gain the greatest possible savings from its demand-side programs. Utilities need the flexibility to manage their program offerings. Requiring an application for approval of these management functions could cause unnecessary implementation delays to program updates that the utility would be making to more cost-effectively gain savings from the programs it is operating.

7. The Commission already provides guidelines within which utilities are to operate to meet budget and cost-effectiveness goals. As long as these guidelines remain in place and utility decisions remain within those guidelines, the need for application modification approvals is, at best, redundant and, at worst, impairs program operation. If during a prudence review, the Commission discovers that a utility has not stayed within these guidelines or has otherwise made imprudent decisions, the Commission already has the authority to take action at that time. As discussed further in Section II, the current

process utilized across both the Company's MEEIA Cycle I and II programs has worked well; there is no need to handcuff utilities with a more prescriptive rule now.

B. Technical Reference Manual

8. The initial draft of a state-wide Technical Reference Manual ("TRM") was developed by a diverse State-Wide Collaborative. A TRM, if done correctly, could:

- Add value state-wide through the promotion of consistency in practices used by the different Missouri utilities and their energy efficiency administrators;
- Provide a common reference document to facilitate planning by all utilities;
- Establish deemed net-to-gross values, deemed incremental energy savings, and deemed incremental energy costs for energy efficiency measures; and
- Provide a reduction in the level of Evaluation, Measurement and Verification ("EM&V") controversy and costs.

These measures, if appropriately implemented in a statewide TRM, could increase the availability of utility resources for energy efficiency program implementation. The deemed values in the statewide TRM would be updated annually based upon the most recent EM&V results to reflect current savings associated with the demand-side programs. This means that appropriately updated information would be used in the calculation of the throughput disincentive, any applicable performance incentive, and any calculation of energy efficiency savings that might be relevant to utility's compliance with existing or future federal legislation.

C. Variance Provisions

9. Each rule should, as the current rules do, have a variance provision to afford the parties and the Commission flexibility to design and adopt programs, program portfolios, or Demand-Side Investment Mechanisms ("DSIM") that may not match the static terms of the rules, but which nonetheless promote MEEIA's goals and objectives.

Variance provisions are a mainstay of Commission rules; the Commission consistently recognizes the necessity of such flexibility because utilities are unable to foresee changes in markets, evolving or new industry policies, and other such externalities with absolute certainty. While the proposed 4 CSR 240-20.094 contains a variance provision, the other two rules proposed for revision do not. Accordingly, the Company has added a variance provision to both 4 CSR 240-20.092 (Attachment A) and 4 CSR 240-20.093 (Attachment B).

II. Specific Suggested Revisions

A. 4 CSR 240-20.092

10. Please see Attachment A for redlines of this proposed rule.

*4 CSR 240.20-092(1)(F)[New].*¹

11. The phrase “combined heat and power” is used in proposed 4 CSR 240-20.094. For that reason, and because it is gaining additional discussion as a viable technology in Missouri, the Company suggests the addition of a definition for combined heat and power: “Combined heat and power (“CHP”) is the simultaneous production of electricity with the recovery and utilization of heat.”

4 CSR 240.20-092(1)(Q)[New].

12. Given the growing presence of distributed generation, especially given greater access to customer-owned renewable energy, Ameren Missouri suggests that the addition of a definition for distributed generation is warranted: “Distributed generation (“DG”) means power produced at the point of consumption.”

¹ Here, and at other locations where the Company has indicated it is providing a new subsection to a rule (i.e., “[new]”), subsections should be re-lettered and any references to definition subsections in 44 CSR 240-20.092, 4 CSR 240-20.093, and 4 CSR 240-20.094 will need to be updated accordingly. Ameren Missouri did not undertake this task in its redlined Attachments.

4 CSR 240.20-092(1)(S).

13. Ameren Missouri suggests that the final sentence added to this definition of the earnings opportunity component of the DSIM is too limiting for the Commission and should be deleted; earnings opportunity could, in fact, be a prospective determination and need not be based purely on energy or demand savings as other situations warrant.

14. The earnings opportunity component of the DSIM is one that is specifically approved by the Commission. So, establishing in the regulation that the earnings opportunity can only be used on a retrospective basis unduly limits the Commission's ability to examine the appropriate use of earnings opportunity on a case-by-case basis. For example, parties are currently working on a state-wide TRM that would allow the use of state-wide deemed values. The TRM is being developed from EM&V results, so it would be appropriate to consider and use the TRM for the earnings opportunity.

15. The Company suggests that each earnings opportunity proposal should be examined with full consideration of the surrounding circumstances and that these rules should not lock-in either a retrospective or prospective approach to any such proposal.

4 CSR 240.20-092(1)(Y).

16. Ameren Missouri offers two comments regarding this regulation. First, the proposed revision adds the word “actual” in the following phrase: “...to estimate and/or verify the estimated actual annual energy and demand savings.” The Company suggests that “to measure and verify the estimated annual energy and demand savings” is more accurate because the actual savings can never truly be known.

17. Second, Ameren Missouri notes that the language appearing at the end of this section: “demand savings, benefits, cost effectiveness, and other effects from demand-side programs,” seems redundant. However, clarifying that this sentence is intended to address the reporting of information removes that redundancy. The Company has redlined this section according to these suggestions.

4 CSR 240.20-092(1)(HH).

18. While the phrase “net shared benefits” was defined and used in the existing MEEIA rules, it is not used in these proposed rules. Consequently, the definition should be deleted.²

4 CSR 240.20-092(1)(II)4.

19. The statement in this subsection, as currently written, is somewhat confusing. To state that non-energy benefits “may” be included “unless they cannot” be confidently calculated appears to suggest this type of calculation is typically manageable. In fact, the opposite is true. It is extremely difficult to even determine what sets of data can effectively and appropriately drive a non-energy benefits calculation. Accordingly, the Company has re-phrased this sentence to read, “Non-Energy Benefits ~~may~~ shall not be included in cost-effectiveness tests unless they ~~cannot~~ be calculated with a reasonable degree of confidence.”

² Even if there were a need for a definition of this phrase, a more appropriate definition would be: “Net shared benefits means the present value of the lifetime benefits of a demand-side program less the present value of the program cost recovery amount.” This definition would be more appropriate because it is consistent with how it has been implemented and utilized in MEEIA plans to date.

4 CSR 240.20-092(1)(MM).

20. The term “probable environmental compliance cost” is also defined at 4 CSR 240-22.020. Accordingly, Ameren Missouri has revised the definition here to match the existing definition.

4 CSR 240.20-092(1)(PP).

21. Ameren Missouri suggests that the following definition would be more consistent with not only usage in this rule, and with the other energy efficiency rules, but also with industry usage in general: “Societal cost test means the total resource cost test with the addition of non-energy benefits.” This is particularly true since the proposed rule now has a definition of “non-energy benefits.”

4 CSR 240.20-092(1)(##) [New – inserted after QQ.].

22. Currently, the rules do not define the term “stakeholder.” The lack of a definition for this term could cause confusion in who is deemed to be a “stakeholder” for, among other things, the collaborative process that occurs during an active MEEIA cycle. While Ameren Missouri agrees that all parties who helped shape the DSIM should be allowed to participate in the stakeholder process addressing that DSIM’s execution, the Company also acknowledges that some parties may (and often do) become inactive at a docket’s conclusion. Accordingly, the Company has added the following definition:

Stakeholder means a party, as defined by 4 CSR 240-2.010(10), to the most recent docket addressing a utility’s demand-side portfolio approved by the commission, in accordance with 4 CSR 240-20.094, who affirmatively state upon the DSIM’s approval that they wish to continue as stakeholders for the DSIM portfolio’s implementation.

4 CSR 240.20-092(1)(RR).

23. Ameren Missouri suggests that this definition be deleted, and that a single TRM definition be included as suggested in the comments on 4 CSR 24.20-092(1)(TT) below.

4 CSR 240.20-092(1)(TT).

24. Ameren Missouri suggests that a single TRM definition encompassing both state-wide and utility-specific purposes is appropriate, and will eliminate any potential confusion over the appropriate definition to use. Specifically, the Company suggests the Commission adopt the following definition:

Technical resource manual or TRM means a document used to quantify ~~assess~~ energy savings and demand savings attributable to energy efficiency and demand response programs. The TRM may be a statewide or utility-specific document that is approved by the commission.

4 CSR 240.20-092(1)(XX).

25. The phrase “Total resource cost test” is already defined by Section 393.1075.1.2(6) RSMo., and that is the definition that should be used here to maintain consistency. The Company suggests that the definition contained in the regulations is duplicative, and that much of the additional detail is comprised of a non-exclusive list that could be easily addressed on a case-by-case basis. The Company has redlined the definition in Attachment XX to reflect these suggestions.

4 CSR 240.20-092(1)(YY).

26. A more concise definition of the term can be phrased as follows: “Utility cost test (“UCT”) means a test that compares the sum of the avoided utility cost to the sum of all ~~utility costs~~ cost recovery amounts.” This revised definition acknowledges

that both “avoided utility cost” and “cost recovery amount” are defined elsewhere in this section.

B. 4 CSR 240-20.093

27. Please see Attachment B for redlines of this proposed rule.

4 CSR 240.20-093(2)(A).

28. Several revisions to this portion of the rule are warranted, and are both shown and justified as follows:

3. A reasonably detailed ~~complete~~ description and explanation...
 - This revision recognizes that a “complete” description, if such term were applied in its most literal sense, may never be attainable. “Reasonably detailed” is a more realistic criterion. This is particularly true given that in the context of the Commission’s fuel adjustment clause rules, at least one party has attempted to use the term “complete” to gain advantage in support of larger fuel adjustment clause-related positions it desired to advance in rate cases. In practice, the Commission has interpreted the term “complete” to equate to descriptions containing an objectively reasonable level of detail. What that is of course is ultimately up to the Commission, but that practice should be reflected in the language of the Commission’s rules.
5. Estimates of the effect of the ~~earnings opportunity component of~~ DSIM on earnings and key credit metrics for each of the next three (3) years including the level of earnings and key credit metrics is expected to occur for each of the next three (3) years with and without the ~~earnings opportunity component of DSIM.~~
 - All components of the DSIM (cost recovery, throughput, and earnings opportunity) have an effect on earnings and key credit metrics; focusing on only the earnings opportunity disregards too much valuable data regarding the DSIM’s effect.
6. A reasonably detailed ~~complete~~ explanation...
 - See above comments for Item 3.
67. A reasonably detailed ~~complete~~ explanation of any change in business risk to the electric utility resulting from implementation of ~~an earnings opportunity component a~~ DSIM...
 - See above comments for Items 3. With respect to the second edit, in addition to the comments provided for Item 3, it should be noted that business risk can be impacted not just by the earnings opportunity component, but by pursuing demand-side

programs at all. There could be risks associated with program cost recovery or the adequacy of the throughput amounts, to name a few.

78. A proposal for how the commission can determine if ~~the any-earning opportunity component of a~~ DSIM is aligned...

- The statute does not say anything about the “earnings opportunity component” being aligned. Instead, the Commission is charged with ensuring three things in support of the state policy reflected in MEEIA. Those three things roughly correspond with the program cost component, the throughput disincentive component, and the earnings opportunity component. See § 393.1075.3, subdivisions (1), (2), and (3), respectively. The question should be whether the DSIM is aligned, not just one component of the DSIM.

89. If the utility...

- This revision simply changes the item number to reflect the re-numbering of other sections due to changes.

910. If the utility proposes to adjust the DSIM amount between general rate proceedings, a reasonably detailed ~~complete~~ explanation...

- See above comments for Item 3.

4 CSR 240-20.093(2)(B).

29. Only one revision is necessary to this portion to make it consistent with the revisions explained in 4 CSR 240.20-093(2)(A):

3. A reasonably detailed ~~complete~~ explanation of any change in business risk to the electric utility resulting from modification of ~~an earnings opportunity component of a~~ the DSIM in setting...
 - See above comments for Item 3 and Item 5 within the discussion of 4 CSR 240-20.093(2)(A) above.

4 CSR 240.20-093(2)[(D)](E).

30. The Company acknowledges that changes in business risk may occur. However, the rule should not pre-determine that a business risk change depending upon the DSIM factors listed in the rule *will* exist. To avoid this, the following change is appropriate:

In addition to any other changes in business risk experienced by the electric utility, the commission shall consider changes in the utility's business risk, if any, resulting from establishment, continuation, or

modification of the DSIM in setting the electric utility's allowed return on equity in general rate proceedings.

4 CSR 240.20-093(2)[(G)](H).

31. An additional revision is appropriate to this section in order to acknowledge that use of a Commission-approved TRM corresponds with the use of an EM&V (see Paragraph 14 above):

Any throughput disincentive component of DSIM shall be based on energy or demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and will be determined as a result of energy savings determined through EM&V-or a commission approved TRM.

4 CSR 240.20-093(2)[(H)](I).

32. The language in this section requires revision for two reasons. First, the language should acknowledge that the earnings opportunity component may not be based on individual programs within a DSIM portfolio, but on the *entirety* of a DSIM portfolio. Second, the overly-restrictive language of 3 should be deleted. Adopting [(H)](I)3 as proposed disregards the fact that a TRM is developed and updated through EM&V. As a result, savings in a TRM are measurable and verifiable as required by statute, which importantly, does not require retrospective implementation of the earnings opportunity. This frees up the Commission to determine, in a given instance, whether prospective or retrospective implementation is appropriate given the Commission's obligations under the statute and the circumstances existing in each individual case. Accordingly, the following revisions are appropriate:

[(H)] (I) Any [utility] earnings opportunity [incentive] component of a DSIM shall be based on the performance of demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and shall include a methodology for determining the utility's earnings opportunity amount based upon the commission-approved performance metrics....

...

~~3. Any [utility] earnings opportunity [incentive] component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM [utility] earnings opportunity [incentive revenue requirement] amount must be measured and verified through EM&V.~~

4 CSR 240.20-093(2)[(I)](J).

33. Ameren Missouri suggests that the last portion of the section be revised as follows: "...as well as the impact on the DSIM ~~cost recovery~~ [revenue requirement] amount as a result of..." The Company recommends this change because the DSIM rates include more than just the DSIM cost recovery. The DSIM amount is more appropriate because it includes multiple factors that could play into that amount, cost recovery, throughput disincentive, and earnings opportunity.

4 CSR 240.20-093(2)[(K)](L).

34. The changes Ameren Missouri recommends to this section address the reasons also reflected in Paragraphs 28 and 29 above: These revisions accomplish two goals. First, the revisions recognize that it is more appropriate to provide for a "reasonably detailed" explanation, for the reasons earlier discussed. Second, proposed revisions provide the more relevant information necessary to identify and understand the impact of the total DSIM:

2. If the utility's DSIM allows adjustments of the DSIM rates between general rate proceedings, a reasonably detailed ~~complete~~ explanation of how the over-recovery or under-recovery of the DSIM amount that the electric utility is proposing to discontinue shall be handled.

3. A reasonably detailed ~~complete~~ explanation of why the DSIM is no longer necessary to provide the electric utility a sufficient opportunity to recover demand-side programs costs, throughput disincentive, and/or to receive an earnings opportunity.

4. A reasonably detailed ~~complete~~ explanation of any change in business risk to the electric utility resulting from discontinuation of ~~an earnings opportunity related to the DSIM~~ in setting the electric utility's allowed

return on equity, if any, in addition to any other changes in business risk experienced by the electric utility.

4 CSR 240.20-093(4).

35. Consistent with its prior comments, Ameren Missouri suggests that simplifying the language of this section to read:

(4) ... and may include adjustments to the DSIM ~~cost recovery~~ [revenue requirement] amount [and shall not include and adjustment to the DSIM utility lost revenue requirement], ~~the DSIM throughput disincentive amount, and/or the DSIM~~ [utility] earnings opportunity [incentive revenue requirement] amount....

4 CSR 240.20-093(4)(B).

36. Logically, it makes sense to revise this section to be consistent with the comparable recovery allowed with regard to fuel adjustment clauses. In other words, rate adjustment mechanisms like an FAC or a purchased gas adjustment (“PGA”) or MEEIA rider are by their very nature intended to be interim (but routine) because if needed they can be appropriately corrected later. This is not true of base rates which, once effective, are final even if a mistake were to be found. For decades (in the case of the PGA) and for more than a decade (in the case of FACs) the adjustments have either been approved by the Commission or simply allowed to take effect by operation of law after the review period for the filing has been completed. There is no reason to change the process for MEEIA. To continue the process the Commission has used for FACs and PGAs, Ameren Missouri has made the following revisions to the latter half of this section:

...If the adjustments to the [DSIM cost recovery revenue requirement and] DSIM rates are in accordance with the provisions of this rule, section 393.1075, RSMo, and the DSIM established, modified, or continued in the most recent filing for demand-side program approval, the commission shall either issue an interim rate adjustment order approving the tariff sheets within sixty (60) days of the electric utility’s filing or, if no such order is issued, and the adjustments to the DSIM rates shall take effect sixty (60) days after the tariff sheets were filed. ... the commission shall

reject the proposed tariff sheets within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate ~~the filing of interim tariff sheets that implement its decision and approval.~~

4 CSR 240.20-093(4)(C).

37. This section is a repeat of 4 CSR 240.20-093(2)(J) and should be deleted.

4 CSR 240.20-093(5)(A).

38. Ameren Missouri made two changes to this section. First, the section provides that the Commission will allow a utility full recovery of all DSIM amounts, unless the Commission later modifies or discontinues the DSIM. This ignores the voluntary nature of the MEEIA statute. If the utility is not allowed full recovery of the DSIM amount, it faces a great risk in implementing demand-side programs. Moreover, the entire approval scheme reflected in 4 CSR 240-20.094(2)(H) only allows the Commission to modify a demand-side program plan filed by the utility if the modification is acceptable to the utility.

39. Second, the last two sentences of this section provide that, during the term of the DSIM, any party to the DSIM docket may propose modifications to the DSIM. This too, however, contradicts 4 CSR 240.20-093(2)(K). Ameren Missouri has deleted the last two sentences in order to avoid confusion with the conflicting rule and to ensure that a system that has been working well for two cycles – a system in which the DSIM remains binding – remains in place. And please note that, even though the current process results in a binding DSIM, stakeholders have multiple opportunities during the process to voice any concerns. Deleting these two sentences deprives no party of the ability to provide input to the process. Allowing them to remain ignores the voluntary nature of MEEIA, and further, would create significant uncertainty regarding a DSIM's

implementation. Again, such uncertainty could discourage the pursuit of programs in the first place. After revision, the section should read as follows:

(A) Duration of DSIM. Once a DSIM 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] to allow full recovery of all DSIM amounts ~~or for the term otherwise ordered by the commission. The commission may authorize the modification or discontinuance of the DSIM [although an], or change the duration previously approved.~~ The electric utility shall submit proposed tariff sheets to implement interim [semi-annual] adjustments to its DSIM rates between general rate proceedings. ~~During the term of an approved DSIM, any party to the application for a utility's filing for demand-side program approval may propose modifications to the DSIM. The utility may apply to modify the DSIM per subsection (2).~~

4 CSR 240.20-093(7)(D)B.

40. Currently, subsection (7)(D)1.B.(I) provides for the reporting of both annual and lifetime gross and net demand savings and energy savings achieved. However, first year savings are more relevant for reporting purposes. The benefits of reporting lifetime savings are merely formulaic based on the inputs from the Company and the savings determined by EM&V. Because of their minimal (if any) value, the Company does not report lifetime savings at any point. Unless a clear reason can be stated and sufficiently justified, the Company suggests it is best to delete the lifetime reporting requirement.

4 CSR 240.20-093(7)(E).

41. Currently, the rules anticipate both a state-wide and a utility-specific TRM. This section, however, appears to require EM&V contractors to use a state-wide TRM in their reviews. At this stage, however, this requirement is inappropriate and unreasonably limits the options available. In other words, it would preclude the use altogether of a TRM that was tailored to a specific utility. It would also prohibit any potential of a combination of state-wide and utility-specific TRMs for any purposes. The

rules should retain flexibility to use a utility-specific TRM if the Commission approves. Accordingly, the majority of this section should be deleted and only this phrase, with the following modifications, should be retained: “Shall utilize the TRM methodology approved with the utility’s application for its DSIM and demand side portfolio.”

4 CSR 240.20-093(8)(B).

42. Subsection 8 requires correction in order to reflect that net shared benefits are no longer utilized, and therefore, are not useful or relevant for reporting purposes. Rather, the reporting of net benefits from the utility cost test will provide the best available information for reporting purposes. Accordingly, this section should be revised to state: “The estimated utility cost test net ~~economic~~ benefits ~~and net shared benefits~~ of the demand-side portfolio...”

4 CSR 240.20-093(9).

43. Ameren Missouri suggests three revisions to this section. First, this proposed section provides for a quarterly progress report “in a format determined by the staff...” This, however, provides the utility no opportunity for input into the format of the report. Given that the utility best knows what information it has available and the manner in which it can gather and provide that information, there is potential that only allowing one party to determine the format could result in significant work to re-configure and re-format the information. The Company therefore suggests this revision, which will provide more input into an appropriate format.

44. Second, the Company suggests revising the rule to reflect the new definition of “stakeholder”: “...in a format agreed upon by the utility and determined by

~~the staff...~~ The report shall be submitted to the Staff, Public Counsel, and other Stakeholders.~~parties approved by the commission.~~”

45. Third, given the anticipated collaboration between the utility and Staff regarding the report format, it is advisable to provide a mechanism to resolve any dispute that may arise. Therefore, the Company suggests this addition: “(D) Disagreements about the report content will be settled by the commission.”

4 CSR 240.20-093(14).

46. Because semi-annual DSIM rate adjustments are not required, the following phrase can be deleted from the rule: “...in connection with a subsequent related ~~semi-annual~~ DSIM rate adjustment proceeding...”

C. 4 CSR 240-20.094

47. Please see Attachment C for redlines of this proposed rule.

4 CSR 240.20-094(2).

48. As it is currently published in the Code of State Regulations, this rule provides for the determination of achievable energy savings and demand savings through “the utility’s market potential study...” The proposed revision to this rule would change the phrase simply to “a market potential study.” This revision appears to be unnecessary, and potentially problematic.

49. Regardless of how this rule reads, the utility is still required to perform the market potential studies. Even though the words “the utility’s” are removed from the phrase, the utility’s obligations to perform the market potential study remain in place because of other regulations. Rather than broadening the potential for other market potential studies, this rule revision creates the potential for redundancy and, because this

may key several parties to create their own market studies for litigation, may end up over-complicating MEEIA proceedings. That said, there is a revision that, through utility involvement, would ensure other market potential studies could be utilized, without redundancy, and with the assurance that they will comply with existing rules. The Company urges the Commission to retain the currently published and effective language, and add additional phrasing so that it reads: “the utility’s or a utility-sponsored state-wide market potential study...” This language, which will appear in both (2)(A) and (2)(B), should remove any ambiguity that might allow the utilization of a study that is not already required pursuant to the rules.

4 CSR 240.20-094[(3)](4).

50. While the provision's header addresses “Demand-Side Programs or Program Plans,” the terminology in the remainder of this provision sometimes shifts to other terms, such as “demand-side portfolio.” Additionally, the Company also revised phrasing that addresses “a market potential study” for the same purposes described in the preceding paragraph, i.e., to acknowledge the relationship between the market potential study and the utility using it and to clarify which study to use; that is, the “most recently completed” study since the term “current” could be interpreted in various ways. The Company has also revised this section to keep that phrasing internally consistent.

4 CSR 240.20-094[(4)](5)(A)2.

51. This new rule is unduly restrictive and should be deleted because it is a solution in search of a problem. The utilities require the flexibility to efficiently manage their programs; requiring an application filing to perform these management functions does not make sense. The MEEIA program approval process results in a Commission

order that establishes the boundaries within which the utility may operate, including guidelines for total budget and cost effectiveness. As long as the utility's decisions remain within those constraints, further filings and approvals become unnecessary and unduly burdensome, especially when considering existing protections and oversight already in place.

52. The added burden of the revision would come at a price, but does not appear to produce any commensurate benefits. The re-allocation of funds has been done at least twice during the MEEIA I Cycle, and neither time has resulted in any issues of merit. Additionally, the-11 step change process in Ameren Missouri's tariffs is in place to address any necessary adjustments to incentives paid to customers and many other customer-facing issues. This 11-step change process has been implemented many times over the last four years, has involved stakeholder interface, and has worked very well as a way to communicate with stakeholders and customers to make these adjustments. The DSIM programs themselves provide additional opportunity for interactions between the Company or its Program Administrators and the customers who participate in the programs.

53. Between the stakeholder and customer interactions, interested entities and individuals are provided information regarding incentives paid directly to customers, available measures, measure ranges, availability of programs, eligibility, and application and completion requirements. As cause is identified, these requirements may be adjusted through the 11-step change process. Adding another layer of oversight will produce no additional value, but will make appropriate programming changes cumbersome, will

delay those changes and, ultimately, increase program costs and likely decrease program savings that can be achieved.

4 CSR 240.20-094[(4)](5)(A)3.

54. Consistent with prior comments in Paragraphs 28, 29, and 34 above, the word “complete” should be replaced with the phrase “reasonably detailed.”

4 CSR 240.20-094[(5)](6)(B).

55. This section should be clarified so that it is clear how “cost-effective” is determined: “If the TRC calculated for a demand-side program, not targeted to low-income customers or a general education campaign, subject to the TRC is determined not to be cost-effective...”

4 CSR 240.20-094[(6)](7)(A).

56. The section currently designated as “4” appears to more appropriately fit as “G” under section 3. Additionally, the Company notes that a MEEIA Cycle may not always align with the period in which a program is actually implemented. In order to match up the time periods, this provision should be revised to read:

G. Opt-out in accordance with subsection (7)(A)(3) shall be valid for the term of the implementation period ~~the MEEIA cycle~~ approved by the commission. Customers who opt-out consistent with subsection (7)(A)(3) may apply to opt-out again in successive implementation periods ~~MEEIA cycles~~, consistent with the requirements of subsection (7)(A)(3).

4 CSR 240.20-094[(6)](7)(F) and (H).

57. The Company has revised the phrase “program year” to read “calendar year” in subsections 1 and 2 to better align with the time period in which the events actually occur and to maintain consistency within the regulations.

4 CSR 240.20-094[(7)](8)(B).

58. This section requires participating customers to make certain attestations regarding non-receipt of certain tax credits, as well as acknowledge that the penalty for providing false documentation is a class A misdemeanor. The Company notes that often an affirmative attestation is difficult, if not impossible, to obtain. For example, certain programs rely on contractors and private businesses to actually offer the programs. Additionally, many programs already have onerous paperwork requirements which the Company has already been working to streamline. However, the Company suggests that including a disclaimer in the Terms and Conditions means that the customer is providing this documentation by submitting the application.

59. Accordingly, Ameren Missouri proposes that Subsection B be deleted and replaced by the following:

For programs that offer a monetary incentive, the Utility shall include in the application Terms and Conditions that prior receipt of Low Income state tax credits under sections 13.350 through 135.362, RSMo or Historical state tax credits under sections 253.545 through 253.5 [61]59 and participation in a program offering a monetary incentive is not permitted. As a condition of participation in any demand-side program offered by an electric utility under this section, when such demand-side program offers a monetary incentive to the customer, the customer shall attest to non-receipt of any tax credit listed in subsection (7)(A) and acknowledge that t~~The penalty for a customer who provides false documentation is a class A misdemeanor. The electric utility shall maintain documentation of customer attestation and acknowledgement for the term of the demand-side program and three (3) years beyond.~~

4 CSR 240.20-094[(8)](9).

60. The Company is concerned that the proposed revisions to the collaborative process could inappropriately take much of the responsibility for the collaborative itself from the utilities. The utilities, as the entities responsible for the execution and results of the demand-side programs, are: (a) the most intimately familiar with these programs'

implementation needs; and (b) accountable for their operation. Given that familiarity and responsibility, it is appropriate for primary collaborative responsibility to remain with the utilities.

4 CSR 240.20-094[(8)](9)(B)1.

61. While the Company felt that this section was sufficient as originally phrased, it has no serious objection to the addition of the language added to outline the collaborative's function. That said, the proposed language could use some refinement in order to avoid imposing additional requirements that are unnecessary. The Company has been encouraged by the free-flowing function of the collaborative to date, which allows sufficient flexibility to establish meetings and discuss programs and trends, as well as to explore issues that arise. The added language, however, creates new standards for collaborative interactions that may be overly burdensome and internally inconsistent with other rules. For instance, Item A provides for a new EM&V process without acknowledging the voluntary nature of MEEIA. Any best practices developed by the state-wide collaborative may be adopted as they make sense and fit into the regulatory framework. To step these guidelines back to an appropriate level, the Company suggests that Item A be revised as follows: “~~Create and implement~~ Explore statewide protocols for evaluation, measurement, and verification of energy efficiency savings, no later than July 1, 2018,~~and update annually thereafter...~~”

4 CSR 240.20-094(10).

62. Ameren Missouri suggests that the word "initial" be inserted before the phrase, “state-wide TRM” or replace the word “proposed” throughout, to reflect the phrase “the initial state-wide TRM” as appropriate.

4 CSR 240.20-094(10)C.

63. In addition to adding “the initial” as appropriate, Ameren Missouri suggests the following changes to this provision: 1) insert the phrase “instruct the collaborative to” before “begin the process of securing a vendor”; 2) insert the words “web-based” before the word “platform”; and 3) add the phrase “and the tracking of the updates” at the end of the sentence. With these revisions, the section will read:

Upon approval of the initial statewide TRM, the commission may instruct the collaborative to begin the process of securing a vendor to provide an electronic, web-based platform that will facilitate annual updates and the tracking of the updates.

The Company’s understanding of how this rule applies is that investor-owned utilities providing electric service will bear the entirety of this cost.

4 CSR 240.20-094(10)D.1.

64. The proposed section presents two primary issues. First, it establishes hard deadline dates, which is not practical since program years could change, meaning EM&V results may not be available by the deadline contained in the rule. Second, if the utilities are responsible for utilizing the state-wide TRM, they should also be the parties responsible for updating the TRM. The utilities’ responsibility for the TRM implementation means that it will have the greatest insights into necessary updates. Accordingly, this provision should be revised as follows:

(D) The statewide TRM shall be updated annually ~~by December 31 of each year~~ following commission approval of the initial statewide TRM;

1. Within 90 days of the approval of the initial Statewide TRM, the utilities, through the Statewide Collaborative process, shall be responsible for establishing a process and schedule for updating the Statewide TRM.
~~Staff shall be responsible for updating the statewide TRM—~~

A. The utilities shall convene one or more statewide stakeholder meetings annually to seek input on revisions to the TRM ~~No later than July 1 of each year, Staff shall convene one or more stakeholder meetings to seek input on revisions to the TRM;~~

2. Annual updates shall be submitted to the commission for review ~~no later than September 1 of each year~~

A. The commission may either approve or reject the proposed revisions ~~no later than October 1 of each year~~;

B. If the commission rejects the updates to the proposed statewide TRM, utilities and stakeholders shall address the commission concerns and submit a revised statewide TRM within 30 days of an order rejecting;

(E) The commission may consider the appropriateness of using an approved statewide TRM in each utility's application for approval of demand-side programs.

WHEREFORE, for the foregoing reasons, the undersigned respectfully requests that the Commission accept these comments and amend the MEEIA rules accordingly.

Respectfully submitted,

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