

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

In the Matter of a Working Case to Review)	
The Commission's Missouri Energy)	
Efficiency Investment Act (MEEIA) Rules)	File No. EW-2015-0105
4 CSR 240-3.163, 4 CSR 240-3.164,)	
4 CSR 240-20.093, and 4 CSR 240-20.094)	

COMMENTS AND SUGGESTIONS OF AMEREN MISSOURI

Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "the Company") hereby submits its response to the Missouri Public Service Commission's ("Commission") October 29, 2014, order inviting interested stakeholders to 1) comment on the effectiveness of rules the Commission adopted to implement the Missouri Energy Efficiency Investment Act ("MEEIA"), 2) propose changes to those rules, and 3) identify issues the Commission should address through amendments to its current MEEIA rules. These comments are not intended to be comprehensive; instead, they represent Ameren Missouri's initial thoughts on the three questions identified by the Commission for stakeholder consideration during the workshop process. The Company reserves the right to identify and address additional issues throughout the workshop process.

EFFECTIVENESS OF CURRENT MEEIA RULES

Ameren Missouri's experience with the Commission's current MEEIA rules suggests significant changes to those rules are necessary. This is evident from the fact Ameren Missouri had to obtain numerous waivers of those rules in order to secure Commission approval of the Company's MEEIA filing for the 2013-2015 period. Those same waivers likely will be required to secure approval of Ameren Missouri's filing for the 2016-2018 period.

In its 2013-2015 MEEIA filing, Ameren Missouri also addressed the need for implementation flexibility. Key elements of implementation flexibility identified in that filing included:

- Reallocation of funds among program elements;
- Tariff flexibility that allowed greater latitude for changes not requiring Commission approval;
- Program delivery flexibility based on expert implementation contractor input;

- Portfolio flexibility to adjust program costs, targets, and incentives in addition to starting and stopping programs; and
- Adjust annual kWh load reduction targets to reflect the number of customers who elect to opt out of participation in Ameren Missouri Demand Side Management (“DSM”) programs.

For the future, Ameren Missouri believes it is important – and desirable – to continue the implementation flexibility approved in the Company’s 2013-2015 MEEIA filing. Changes to the Commission’s current rules likely will be required to ensure implementation flexibility for all utilities subject to MEEIA, and to avoid requiring each of those utilities to request waivers and other measures on a case-by-case basis. These flexibility needs include, but are not limited to (i) the ability to adjust MEEIA program designs between the time an implementation plan is filed and the start of program implementation, and (ii) the ability to annually adjust both the Technical Resource Manual (“TRM”) and annual load reduction targets to better reflect available individual measures of energy savings estimates from the most current evaluation, measurement and verification (“EM&V”) impact analyses of all programs.

Timelines and schedules in the current rules also have proved to be problematic. For example, Ameren Missouri will be forced to rely on energy efficiency data from 2013 to prepare discrete energy efficiency objectives and targets in its upcoming filing for the 2016-2018 period. Relying on such stale data does not allow the Company to accurately and realistically estimate energy efficiency targets that are relevant to, and consistent with, the objectives of MEEIA. The Company also must rely on data developed through the MEEIA process for resource planning projections filed as part of the Commission’s Integrated Resource Planning (“IRP”) process. But those data oftentimes are also less current than would be considered optimal. Modifying the timelines and filing cycles prescribed in the current rules should be among the topics considered in the workshop.

More generally, Ameren Missouri also believes the workshop should consider whether the Commission’s current rules allow utilities and other interested stakeholders the freedom to expand energy efficiency programs beyond the types of demand-side management measures that have been

pursued in the past. Traditional demand-side management programs are susceptible to the effects of the “law of diminishing returns,” which will limit future energy efficiency gains achievable from such programs. Workshop participants therefore should consider possible changes to the current MEEIA rules that would enable utilities and their customers to pursue potential future gains in energy efficiency from non-traditional sources.

PROPOSED CHANGES TO CURRENT MEEIA RULES

The preceding section of these comments described several problems with current MEEIA rules and made several general suggestions for possible changes to those rules. Ameren Missouri has no specific rule changes related to those general suggestions to propose at this time, preferring to defer specific proposals until other stakeholders have had an opportunity to express their thoughts and ideas through the collaborative workshop process. But the Company has specifically identified several current rules that should be considered for revision. As noted in the preceding section, Ameren Missouri’s 2012 MEEIA filing requested variances from several current rules, and the Company expects it will be required to request the same variances in its filing for 2016-2018. Revising rules that made variance requests necessary in those filings would obviate similar requests in the future.

The following rules only allow retrospective recovery of net shared benefits. Ameren Missouri believes it would be advisable to revise these rules to allow prospective recovery through Rider EEIC.

- 4 CSR 240-20.093(1)(C)
- 4 CSR 240-20.093(1)(M)5
- 4 CSR 240-20.093(1)(EE)
- 4 CSR 240-20.093(2)(H)
- 4 CSR 240-20.093(2)(H)3
- 4 CSR 240-20.094(1)(C)
- 4 CSR 240-20.094(1)(J)
- 4 CSR 240-20.094(1)(Z)
- 4 CSR 240-3.163(1)(A)
- 4 CSR 240-3.163(1)(F)5

Several current rules include the phrase “annual net shared benefits.” The word “annual” in that phrase appears to restrict the sharing of net benefits to individual years. Revising rules identified below to allow sharing of lifetime net benefits should be considered.

- 4 CSR 240-20.093(1)(C)
- 4 CSR 240-20.093(1)(Q)
- 4 CSR 240-20.093(1)(EE)
- 4 CSR 240-20.093(2)(H)
- 4 CSR 240-20.094(1)(C)
- 4 CSR 240-20.094(1)(Z)
- 4 CSR 240-3.163(1)(A)
- 4 CSR 240-3.163(1)(J)

The following rules require a utility’s incentive to be calculated utilizing annual demand and annual energy savings targets as a baseline. Ameren Missouri believes the rules should be revised to allow the incentive to be calculated based on net shared benefits.

- 4 CSR 240-20.093(1)(A) and (B)
- 4 CSR 240-20.093(2)(H)
- 4 CSR 240-20.094(1)(A) and (B)

Under 4 CSR 240-20.093(7)(E), a utility’s EM&V contractor must use a statewide TRM to perform its work. No statewide TRM currently exists, and it is not anticipated a statewide TRM will be available in the near-term future.

The demand-side programs that will be included in Ameren Missouri’s 2016-2018 MEEIA filing must be those that were included and reviewed in the Company’s IRP preferred plan. Revisions should be made to 4CSR 240-20.094(3)(A)(3) to allow a utility to also include demand-side programs that have not yet gone through the IRP process.

The following rules should be amended to allow for annual adjustments to the demand side investment mechanism (“DSIM”) instead of just semi-annual adjustments, as the rules currently require.

- 4 CSR 240-20.093(1)(N)
- 4 CSR 240-20.093(2)(I)
- 4 CSR 240-20.093(4)
- 4 CSR 240-20.094(1)(L)

Under 4 CSR 240-20.093(5)(A), once a DSIM is approved it remains in effect for a term or not more than four years. The rule should be amended to allow a utility to request a DSIM of more than four years.

Several current rules define “DSIM rate” and “DSIM revenue requirement” to allow only charges from a MEEIA-approved DSIM to be shown as a separate line item on a customer’s bill. Ameren Missouri believes the following rules should be revised to allow a utility to also include in that line item costs associated with current and historical energy recovery (including the unamortized portion of Commission-approved regulatory assets). Such amendments would allow a utility to effectuate “opt out” requests available to certain customers under MEEIA regardless of whether the cost was incurred under a MEEIA-approved DSIM or under some other authority.

- 4 CSR 240-2.093(1)(O) and (P)
- 4 CSR 240-3.163 (1)(H) and (I)

Under 4 CSR 240-20.093(4), semi-annual adjustments to DSIM rates can only include adjustments to the DSIM cost recovery revenue requirement. The Commission should consider amending this rule to allow program costs, throughput disincentive, and performance incentive costs to also be included, and to allow the adjustment requests to be filed at the same time a utility files for rate adjustments related to its approved fuel adjustment clause.

Current MEEIA rules allow interested parties 60 days to file comments concerning a utility’s Demand-Side Program Annual Report. Ameren Missouri believes quicker resolution of issues related to the annual report is necessary to allow a utility to update its TRM based on the prior year’s EM&V. To allow for more expeditious resolution, 4 CSR 240-20.093(8) should be amended to shorten the comment period to 30 days.

Two rules concerning customers’ ability to opt-out also could benefit from additional clarification. The word “customer” is used in 4 CSR 240-20.094(6)(I), but Ameren Missouri believes changing that designation to “site” or “customer site” would better describe that fact that a program participant cannot opt-out of the program just because the participant sold his or her

business. In addition, 4 CSR 240-20.094(F) provides neither an expiration for a customer's opt-out decision or a timeframe for a utility to review customer notices to ensure customers still qualify to opt-out. Amending the rule to address either or both of those issues should be considered.

Stakeholders and the Commission also should review the cost-effective demand-side savings goals in 4 CSR 240-20.094(2) to determine if adjustments to those goals are warranted or if the goals should be removed altogether. This would include, but not be limited to, a review of the validity of the 1.9% total load reduction requirement included in 4 CSR 240-20.094(2)(A)9.

In addition, although the Commission's promotional practices rules are not technically a part of MEEIA, because Ameren Missouri had to request a waiver of those rules in order to make its 2012 MEEIA filing and expects to include a similar waiver request as part of its 2016-2018 filing, the Commission or the stakeholders should consider expanding the scope of the current workshop to include a review of 4 CSR 240-14.030(3) to ensure the promotional practices rules and MEEIA rules are appropriately aligned.

POSSIBLE ADDITIONS TO CURRENT MEEIA RULES

In addition to the comments and suggestions provided in the preceding two sections of this filing, Ameren Missouri believes the MEEIA rules could be improved by expanding the definition of "avoided cost or avoided utility cost" to include "non-energy benefits" of demand-side management programs. These non-energy benefits represent direct benefits to participants in utility DSM programs, such as increased property values, decreased water and sewer bills, and increases to the comfort, health, and safety of participants and their families. Non-energy benefits also would include indirect benefits to society at large, such as job creation, reduced emissions and emission-related health care costs, and other environmental benefits.

In conjunction with a more expanded definition of "avoided cost or avoided utility cost," the Commission also should consider the scope of demand-side programs to include any modification to the net use of electricity that contributes to an overall reduction in greenhouse gases. An example of such an activity not currently captured under the MEEIA rules would be electric vehicles.

Ameren Missouri further notes the current rules do not include an explicit definition of “all costs effective” in promoting MEEIA’s objectives. The Commission should consider adding such a definition, which should use as a guideline a utility’s market potential study, which reflects what a utility reasonably can expect to achieve in the “real world.” The Commission also should consider adding a definition for “realistic available potential,” which would measure all cost-effective energy efficiency that could be achieved based on realistic assumptions regarding customer behavior.

The stakeholders and the Commission also should consider revising the current rules to ensure that “lost costs” include full recovery of all costs lost by a utility as a result of its MEEIA compliance efforts. In the short run, this can be accomplished by expanding the definition of “lost costs” to include throughput disincentive. A longer term solution would include implementing rate decoupling for electric utilities.

Respectfully submitted,

/s/ L. Russell Mitten

Wendy K. Tatro, #60261
Director - Assistant General Counsel
Matt Tomc, #60261
Associate General Counsel
1901 Chouteau Avenue,
P.O. Box 66149, MC-1310
St. Louis, Missouri 63101-6149
(314) 554-2514 (Telephone)
(314) 554-4014 (Facsimile)
amerenmoservice@ameren.com

L. Russell Mitten, # 27881
Brydon, Swearengen & England, P.C.
P.O. Box 456
312 East Capitol Avenue
Jefferson City, Missouri 65102
(573) 635-7166 (Telephone)
(773) 634-7431 (Facsimile)
rmitten@brydonlaw.com

**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2014, a copy of the foregoing was served via e-mail on all parties of record in File No. EW-2015-0105.

/s/L. Russell Mitten

L. Russell Mitten