

## **Missouri PSC EX-2010-0368**

### **Comments of the Missouri Industrial Energy Consumers on the Draft Rules Issued by the Staff of the Missouri Public Service Commission on July 1, 2010**

The Missouri Industrial Energy Consumers<sup>1</sup> appreciates the work of the Staff in conducting the workshops and preparing various versions of draft rules.

MIEC's comments fall into three areas. First, MIEC objects to the potential alternative of "single issue ratemaking" which is included as an option in the draft rule. Second, MIEC objects to the arbitrary annual energy and demand targets that are included. Third, MIEC makes recommendations concerning additional useful information that should be provided by the utilities. Red-lined versions of the rules with MIEC's proposed changes are also provided.

#### **Single Issue Ratemaking**

Portions of CSR 240-20.093, 240-20.094 and 240-3.163 contain language which would allow for utilities to adjust rates in between general rate proceedings in response to changes in the level of costs associated with operating their demand-side management (DSM) programs. Prior to the passage of Section 393.1075 RSMo there was nothing in the law to authorize utilities to change their rates in between general rate cases as a result of DSM programs. Nothing in Section 393.1075 RSMo changed that fact.

While we understand that Staff may have included this language to provide the Commission with an option, no party has pointed to any statutory provision which would allow the Commission to authorize such language in the rules, nor has anyone identified other provisions which would allow the utilities to make such filings and to increase their rates in between general rate case proceedings as a result of changes in the level of DSM costs.

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<sup>1</sup>Anheuser-Busch, BioKyowa, Boeing, Doe Run, Enbridge, Ford, GKN, Hussmann, Monsanto, Nestlé, Noranda, and St. Gobain.

In the draft rules, Staff had identified these provisions by underlining them. In MIEC's attached rules, all of these provisions have been stricken.

### **Annual Energy and Demand Reduction Targets**

CSR 240-20.094(2)(A) and (B) purport to capture all “cost-effective” DSM by setting an incremental annual DSM savings target and a cumulative DSM savings target as part of the identification of “all cost-effective” DSM. As explained in more detail in the comments that MIEC is jointly submitting with AmerenUE and other parties, neither Section 393.1075 RSMo, or any other provision of law, authorizes the Commission to adopt such targets. Moreover, these targets are completely arbitrary and without any foundation whatsoever. While it is possible that they may be relevant to, and make sense in the context of, other utilities in other parts of the country, they have absolutely no relationship to any utility in the state of Missouri. Nor, would it be reasonable to think, even if it were appropriate to have targets, that it would be logical for all utilities in Missouri, regardless of the status of their current DSM programs and regardless of their service territories, to have the same targets.

Moreover, even if the Commission were authorized to adopt such targets, and even if it could be shown that the targets should be the same for all utilities in the state, the provision in 240-20.094(2)(A) and (B) that the energy savings and demand savings should be the “...**greater** of the annual realistic achievable energy savings and demand savings as determined through the utility’s market potential study or the following incremental annual demand-side savings goals...” is patently unreasonable. The purpose of conducting a market potential study is to determine reasonable goals for a particular utility’s service territory. These are service area specific, and therefore provide the best estimate of realistic achievable potential. It is therefore completely arbitrary and without foundation to establish a target that is the “**greater**” of the results of the utility-specific market potential study or some arbitrary targets that have no basis in fact.

In the attached rules deletions are made in 240-3.164(2)(D), 240-20.093(2)(G)(1), and 240-20.094(2)(A) and (B) and an addition is made in 240-3.164.

### **Additional Information**

CSR 240-3.164 addresses information that an electric utility must provide when it seeks approval, modification or discontinuance of DSM programs. Among the provisions and definitions of this rule are the Participant test, the Societal cost test, the Total Resource Cost test (TRC) and the Utility cost test.

240-3.164(2)(B) requires the utility to supply the TRC results and certain other information. Utilities are required to report calculations of the Utility cost test, the Participant test and Societal cost test only if a program does not pass the TRC. The first change that MIEC suggests is to require that the utility automatically provide the accompanying calculations for the Utility cost test, the Participant test and the Societal cost test. These tests are routinely generated by the same programs that utilities use to calculate the TRC tests. Each of these tests provides different information to the decision maker and to the participants, and should be made available.

Furthermore, these tests are not all of the standard industry cost-effectiveness tests that are frequently performed. Curiously, the rule does not provide for the calculation of the Non-Participant test (sometimes referred to as the Ratepayer Impact Measure or RIM). This test, along with the others, is set forth extensively in the literature, appearing in the *California Standard Practice Manual* and many other DSM references and rules.

While the TRC test is a preferred test, and while the TRC test is generally the right test to use when evaluating whether to adopt particular DSM programs or measures, the other tests also provide relevant information. For example, the Participant test indicates the extent to which customers who participate in DSM programs are expected to benefit as a result of the reduced consumption, and the resulting reduced bill, that would be achieved by installation of the energy

efficiency measures on their residences or businesses. As such, the Participant test results are useful in establishing incentive levels and other program design features.

The Non-Participant or RIM test provides an indication of the extent to which the utility's rates would increase (or decrease) relative to a supply-side expansion strategy. As such, this test provides key information about the impact of DSM measures on customers who are not participating in the utility-sponsored (and customer financed) DSM measure. This is particularly relevant in the case of customers who have engaged in DSM practices that they have funded themselves, without financial support from utility-sponsored programs. MIEC believes it is important for the decision maker to have information that reveals these impacts when making decisions on cost recovery issues.

There is nothing to be gained, and much to be lost, if the rule does not require submission of this entire range of typically calculated and important tests. The Commission and the parties can receive this information without imposing any additional burden on the utilities because it was confirmed at the Integrated Resource Planning workshops that all of the Missouri utilities routinely calculate all of these DSM tests.

In the attached 240-3.164, MIEC has added the definition of the Non-Participant test as 240-3.164(1)(O), and has expanded the information to be supplied by slightly modifying 240-3.164(2)(B)(2).