

## Memo re: Proposed Revisions to MEEIA Rules

On Behalf of: Renew Missouri, Natural Resources Defense Counsel, Sierra Club  
File No. EW-2015-0105  
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This memo is submitted by Renew Missouri, NRDC, and Sierra Club and is intended to accompany the redline edits for the Commission's rules at 4 CSR 240-20.092, 240-20.093, and 240-20.094. The below are some clarifying explanations for what our parties view as the most significant revisions we have proposed in this case. We encourage the Commission to take action on the below issues, which we believe will enable Missouri to achieve deeper savings and administer more sustainable DSM programs.

Please contact the following attorneys for each party for any further explanations or information:

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### Issues

#### 1. Statewide Potential Studies

We believe it is crucial going forward for potential studies to be conducted on a statewide basis in Missouri. The MEEIA statute sets the goal of achieving "all cost-effective" energy efficiency savings, but gives little definition as to how such a standard should be determined. It is largely left to market potential studies to define the range of investment to be made. As we have seen over the previous years, utility potential studies can differ drastically, both within Missouri and compared to other regions. There currently exists a strong incentive for utilities to undervalue potential, particularly given the current framework of cost recovery: utilities receive a greater performance incentive for exceeding their own goals, and therefore have a strong interest in identifying a low level of potential. Consideration of what constitutes "all cost-effective" should be driven by potential studies conducted by neutral parties (either a regulator or the Statewide Collaborative) on a statewide basis, taking into account geographic differences between utility service territories. There are several reliable models for these types of studies, which our organizations would be happy to provide at the proper opportunity.

In Section (3) of 4 CSR 240-20.094, our organizations support the inclusion of a "Statewide Market Potential Study" subsection, replacing the existing "Utility Market Potential Study" subsection. In addition, we support including a Statewide Market Potential Study as a deliverable of the Statewide Collaborative in Section (8) of 240-20.094.

## 2. Maintain MEEIA savings targets and strengthen their application

We strongly support maintaining the energy and demand savings targets found in rule 4 CSR 240-20.094(2). Furthermore, we support full enforcement of the rule, which directs the Commission to use the savings targets as a minimum floor when determining whether a utility's proposal will capture all cost-effective energy efficiency: *"The commission shall use the greater of the annual maximum amount of achievable energy savings and demand savings as determined through the utility's market potential study or the following incremental annual demand-side savings goals as a guideline to review and approve demand-side plan and progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand-side savings."* This rule has not been enforced as written so far; utilities have instead treated their potential studies as what should be considered "all cost-effective." We support any revisions that will aid in the full implementation of the above concept.

We strongly oppose any proposal to erase the energy and demand savings targets from the rule, as doing so would leave the Commission with less guidance as to what should be considered "all cost-effective."

## 3. Inclusion of Non-Energy Benefits in cost-effectiveness testing:

The proposal to include non-energy benefits ("NEBs") in cost-effectiveness testing has been supported by nearly all parties during this workshop process. The Commission may consider several different ways of including non-energy benefits, including "adders" of various levels. At a minimum, utilities should be able to consider NEBs when conducting measure screenings for cost-effectiveness. Accordingly, we support the Commission revising its definition of the Total Resource Cost Test to allow for the inclusion of NEBs.

## 4. Meaningful, Enforceable language for the Statewide Collaborative:

We support revision Subsection (8)(B) of the Commission's rule at 4 CSR 240-20.094 to require the establishment of a Statewide Collaborative entity. The rule should also require defined deliverables that include: a statewide TRM (and EM&V Protocol), a Statewide Potential Study to be conducted by a date certain, the establishment of working groups that meet at defined intervals, and provision for a semi-annual forum to discuss statewide issues.

## 5. Additional, secondary issues

### a. Clarification of MAP and RAP definitions: [Phil Mosenthal, NRDC]

MAP should be seen as an estimate of something that *can be realistically achieved with programs*. It is the estimated amount that *would be achieved from unconstrained budgets and aggressive and well-designed efforts* to save energy. MAP is not an upper bound, in the sense that it is a *best estimate* of what could be achieved, and any uncertainty contains symmetric probabilities of it being higher or lower. Actual achievements could be higher or lower. It is not a theoretical construct like technical and economic potential. *MAP is not "unrealistic"* despite the fact that a lower scenario is labeled this way.

Rather, *MAP is the best estimate of what would happen if utilities actually pursued the goal of capturing all cost-effective efficiency, without artificially constraining program budgets or designs.* MAP does not assume “idealistic” conditions in the market. It still recognizes all the barriers to efficiency and estimates achievable penetration rates with well designed and implemented programs. It is only “idealistic” in the sense that it assumes no artificial budget constraints and that the utility is indeed pursuing all cost-effective. We support a revision to 4 CSR 240-20.094(2) that defines “all cost-effective” to be the greater of the soft targets or what is identified in the statewide potential study to be “maximally achievable.” Many jurisdictions are doing this.

While RAP is certainly realistic to achieve, so is MAP and anything in between. RAP is by definition a subset of what could be captured, based on a particular and less aggressive portfolio scenario. It in no way estimates the most a utility can pursue as a goal. That is MAP. It is artificially constrained by other policy criteria, like a desire for low rate impacts, belief that utilities should not pay very aggressive incentives, choices not to pursue all markets in all customer sectors, etc.

b. Enabling CHP as “demand-side measure”

Under a strict interpretation of the current definition in the current rule at 4 CSR 240-20.092(1), a “demand-side program” must “modify the net consumption of electricity on the retail customers side of the meter.” While combined heat and power measures may not necessarily alter a customer’s end-use consumption of electricity, it nevertheless accomplishes the goal of reducing the customer’s demand by doing more with less. The MEEIA statute is clearly intended encourage the efficient use of energy, and utilities should not be prohibited from incenting potential savings for purely semantic reasons. We support enabling CHP through a slight clarification in the definition of “demand-side program.” Further, the rules should articulate that all cost-effective efficiency can include fuel switching so long as it is cost-effective under the TRC test.