

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

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.            )

**RENEW MISSOURI’S RECOMMENDED  
REVISIONS TO THE COMMISSION’S MEEIA RULES**

The below are Renew Missouri’s recommendations for changes, additions, and revisions to the Commission’s MEEIA rules at 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094. Our comments include recommendations and proposed rule language (new language in bold).

Renew Missouri would like to commend the Commission for giving stakeholders the opportunity to provide feedback and suggest changes to the MEEIA rules through this informal workshop procedure. We believe all of the below recommendations fall under the Commission’s authority under the MEEIA statute at Section 393.1075, RSMo. In addition, the below recommendations may provide a more streamlined statewide approach to efficiency programs in Missouri and reduce the need for contested proceedings over issues like net-to-gross, evaluation of savings, the conducting of potential studies, and others. Finally, implementing the below recommendations may enable utilities to reach greater levels of cost-effective savings, and may allow smaller electric utilities to implement efficiency programs where none currently exist.

Renew Missouri is open to provide additional background or resources regarding its recommendations, and we would welcome the opportunity to discuss changes to the MEEIA rules in later in-person workshops or meetings in the course of this proceeding.

**RECOMMENDATIONS AND PROPOSED LANGAUGE**

**A. Cost-Effectiveness**

1. The TRC Test: Including Avoided Probable Environmental Compliance Costs

RECOMMENDATION: Although the definition of “total resource cost test” in Section 393.1057.2(6), RSMo provides the Commission flexibility to define how the test should be administered, the statute does give some guidance on the TRC. Specifically, the statute requires the TRC to account for “avoided probable environmental compliance costs,” which is absent in the current MEEIA rules. Accordingly, the Commission should amend the rule to require such costs to be accounted for and to give further guidance as to what specific “avoided environmental compliance costs” should be estimated.

PROPOSED LANGUAGE: 4 CSR 240-3.163(1)(T), 4 CSR 240-3.164(1)(X), 4 CSR 240-20.093(1)(DD), 4 CSR 240-20.094(1)(Y) – “Total Resource Cost test, or TRC, means the test of the cost-effectiveness of demand-side programs that compares the avoided utility costs **and avoided probable environmental compliance**

**costs to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus utility costs to administer, deliver, and evaluate each demand-side program. In estimating its avoided probable environmental compliance costs, the utility shall consider factors including, but not limited to: reductions in emissions liability under the Clean Air Act; reduction in transmission and distribution costs; reductions in the utility's load factor or peak load; reductions in fuel costs, [etc]. Utilities shall update their avoided probable environmental compliance costs annually, following evaluation, measurement and verification of the previous year's savings."**

## 2. Non-Energy Benefits Adder

RECOMMENDATION: the Commission should adopt a provision that allows utilities to value non-energy benefits (NEBs) in cost-effectiveness measure screenings for purposes of the TRC. NEBs include such benefits as: increased customer satisfaction and ability to pay, reduced collection calls and termination/reconnection costs, improved health and reduced health care spending, increased comfort, reduced property maintenance costs, reduced water bills, and reduced environmental and emissions liability (if not already accounted for in the TRC; see above). While NEBs are difficult to measure accurately, there is wide agreement and decades of research regarding their existence, and therefore they are natural targets for consideration in cost-effectiveness testing. Many states have already adopted a NEBs adder in cost-effectiveness testing, often including an additional percentage adder for measures targeted to low-income and/or multifamily customers, for whom non-energy benefits are often more significant. Most recently, Illinois utilities began including a NEBs adder of 10% in 2014. (Please refer to the attached report prepared by Dr. Lisa A. Skumatz, Ph.D for the State of Maryland, detailing the role of NEBs in cost-effectiveness testing. See Appendix A.)

In learning from the successful experiences of other states, the Commission's rule should require or suggest the inclusion of a percentage addition (or NEBs Adder) to the estimated customer benefits of each measure when utilities perform the TRC. The Adder should be set at a level agreed upon by stakeholders and approved by the Commission that reasonably reflects the estimated NEBs associated with the utility's efficiency portfolio. By adopting a NEBs Adder in its rules, the Commission can both ensure that Missouri is more realistically assessing the benefits of energy efficiency and increase the number of measures that pass cost-effectiveness testing.

### PROPOSED LANGUAGE:

- 4 CSR 240-3.163(1)(T), 4 CSR 240-3.164(1)(X), 4 CSR 240-20.093(1)(DD), 4 CSR 240-20.094(1)(Y) – ***In conducting measure screenings for proposed programs, utilities shall increase the estimated customer benefits of all measures in the amount of XX% to account for the non-energy benefits (NEBs) associated with such measures. For measures specifically targeted to customers of multifamily units and low-income customers, utilities shall increase the estimated customer benefits of these measures by an additional amount of X% to account for the additional non-energy benefits associated with such multifamily unit and low-income measures. The Commission may increase or decrease the level of such percentage adders upon request from stakeholders.***

- 4 CSR 240-3.163(1), 4 CSR 240.164(1), 4 CSR 240-20.093(1), and 4 CSR 240-094(1) – Definition of Non-Energy Benefits: ***“Non-Energy Benefits, or NEBs means those benefits that accrue to participants, ratepayers, the utility, or society that are not part of the costs, or the avoided costs, of the energy efficiency provided by the utility, and that include but are not limited to reduced operation and maintenance (O&M) costs, improved comfort, improved health and safety, increased worker and student productivity, reduced tax burdens, environmental benefits, reduced health care costs, economic development impacts, national security impacts and utility-related benefits (e.g., reduced termination and reconnection).”***

### 3. Provide Mechanism for Using Other Cost-Effectiveness Tests

RECOMMENDATION: Although the MEEIA statute clarifies that the TRC is the preferred test (§ 393.1075.4, RSMo.), the Commission is not prevented by law from allowing the use of other cost-effectiveness tests, such as the Utility Cost Test (UCT), the Participant and Non-Participant Tests, and the Societal Cost Test. Each test presents its own advantages and disadvantages, and one test may be more appropriate depending on a utility’s motivation or need for achieving additional efficiency savings. For example, certain efficiency measures may not pass the TRC but may nevertheless be the most cost-effective way for a utility to achieve future emissions reductions pursuant to federal regulations. In this case, it may be in all stakeholders’ best interests to allow the utility to incorporate those measures into its portfolio if they are cost effective under various alternative tests. Accordingly, Renew Missouri invites the Commission to consider allowing utilities to use alternatives to the TRC upon being presented with an appropriate rationale. Renew Missouri has no particular language to propose; we instead leave it to the Commission and other regulators to decide what sort of showing utilities must make in order to use such alternative tests.

## **B. Collaboratives**

### 1. Missouri Energy Efficiency Statewide Collaborative

RECOMMENDATION: The Commission should amend its current rule on the Statewide Collaborative to provide more guidance to agencies, utilities and other stakeholders. By directing a statewide approach to designing, evaluating, and reporting energy efficiency programs, the Commission can allow stakeholders to avoid contentious, time-consuming disagreements. Such statewide approaches would also allow regulators to function with greater economies of scale, and would reduce the number of contested cases that routinely come before the Commission. Rather than regulators arguing with each utility individually about net-to-gross values, evaluation results, and the reliability of potential studies, these issues could be dealt with on a statewide basis. This would relieve regulators of a complicated, time-consuming burden and would leave utilities free to focus solely on achieving as much participation in their programs as possible.

As a first step, the Commission could order that stakeholders participate in a half-day workshop to decide on the structure, role, and mission of the Statewide Collaborative. Staff has already made efforts to establish the Statewide Collaborative, drafting a Charter for the group and receiving comment from various stakeholders. See Appendix B attached.

The Commission should amend its rule at 4 CSR 240-20.094(8) as follows:

- First, the rule should require the creation of a **Statewide TRM**, which not only includes values for deemed savings but which also addresses all sectors of energy efficiency (including the multifamily and low income sectors, in addition to the residential and commercial sectors). Not only would a statewide TRM allow for common program designs to be shared amongst utilities, but it could help enable smaller utilities (e.g. MUNIs, Co-ops) to implement their own efficiency programs without having to develop an expensive TRM themselves.
- Second, the rule should also require the statewide collaborative to create and implement a **statewide EM&V Protocols** document. As we have seen recently, regulators and utilities spend large amounts of time arguing over the results of EM&V, primarily because the parties do not have a shared methodology for how to count savings for particular measures. Missouri utilities do not even conduct EM&V on similar schedules or in the same time intervals, creating an inefficient and time-consuming pile of work for Staff and other regulators. States like Arkansas have developed Statewide EM&V Protocol documents that solve this problem. These are living documents that get updated every year after completion of statewide EM&V processes, allowing all parties to suggest changes if they feel savings are being recorded unfairly.
- Next, the rule should require the development and use of an **Online Statewide Reporting Tool** for utilities to submit their annual reports. This will eliminate formatting differences and disparate reporting timelines between utilities, aggregating all utility program data in one place.
- Finally, the rule should encourage the establishment of **Work Groups** to accomplish the above deliverables, which should meet at least quarterly. The Commission should consider requiring the larger statewide collaborative group to meet twice a year rather than once, in order to give more direction to the work groups and allow for work groups to present decision points to the larger collaborative group. The work groups should address the following topics, in addition to whatever other areas the Commission finds appropriate: 1) Statewide TRM, 2) EM&V Protocols, 3) Statewide Online Reporting Tool, 4) Cost-Effectiveness testing and inclusion of NEBs.

PROPOSED LANGUAGE: 4 CSR 240-20.094(8) –

*“(B) Electric utilities and their stakeholders shall form a state-wide advisory collaborative to **accomplish the following tasks:** 1) ~~address the creation of~~ **create and implement a statewide** technical resource manual that includes values for deemed savings **and addresses measures in all sectors, including Commercial & Industrial, Residential, Residential Multifamily, and Residential Low-Income;** 2) **create and implement statewide protocols for evaluation, measurement, and verification of energy efficiency savings;** 3) **create and implement an online statewide reporting tool to be used by utilities in submitting their annual reports;** 4) **establish individual working groups to address the creation of the specific deliverables of the collaborative;** and 5) **create an annual forum for discussing and resolving statewide policy issues, wherein utilities may share lessons learned from demand-side program planning and implementation and wherein stakeholders may reach resolution on how to implement the recommendations of the individual working groups. Meetings of the state-wide Collaborative ~~meetings are encouraged to~~ must occur at least ~~once~~ **twice** each calendar year, **while meetings of the individual working are encouraged to occur at least quarterly.** Staff shall provide notice of the statewide collaborative meetings and interested persons may attend such meetings.”***

## 2. Greater Transparency in Utility-Specific Collaboratives

RECOMMENDATION: The Commission should amend its current provision on Utility-Specific Collaboratives to require disclosure of program-level data to stakeholders and the public on a quarterly basis. In the past, some utilities have claimed program-level budget and savings data as highly-confidential, restricting many stakeholders and members of the public from access.

PROPOSED LANGUAGE: 4 CSR 240-20.094(8)(A) – *“Each electric utility and its stakeholders shall form a utility-specific advisory collaborative for input on the design, implementation, and review of demand-side programs as well as input on the preparation of market potential studies. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are ~~encouraged~~ **required** to occur at least once each calendar quarter. **Utilities shall make available to stakeholders and the public all program-level data for energy savings and budgets expended on a quarterly basis, either in connection with collaborative meetings or otherwise.***

### C. Co-Generation and Distributed Generation as “Demand-Side Measures”

RECOMMENDATION: The Commission should revise the definition of “demand-side program” to allow for measures that reduce the customer’s demand for utility-provided electricity by utilizing technologies including, but not limited to: combined heat and power (CHP), photovoltaic solar electric systems, and other forms of distributed generation or co-generation. The current rule does not expressly prohibit or allow these technologies from being considered demand-side programs. Although CHP and distributed generation (DG) may not necessarily modify the customer’s *net* consumption of electricity, these technologies nevertheless reduce the customer’s demand for *utility-provided* electricity. In this sense, CHP and DG accomplish the same goal as utility demand-side energy efficiency programs, while also providing benefits beyond traditional efficiency programs, such as demand response and offsetting system peak. The below proposed language would allow for such co-generation or distributed generation to count as “demand-side programs” or measures, while staying within the statute’s definition. Note: the Commission may also consider requiring the savings from CHP and distributed generation to count separately from other demand-side programs, so as not to confuse savings totals.

PROPOSED LANGUAGE: 4 CSR 240-3.163(1)(E), 4 CSR 240-3.163(1)(E), 4 CSR 240-20.093(1)(L), 4 CSR 240-20.094(1)(I) – *“Demand-side program means any program conducted by the utility to modify the net consumption of **utility-provided** electricity on the retail customer’s side of the meter including, but not limited to, energy efficiency measures, load management, demand response, ~~and~~ interruptible or curtailable load, **combined heat and power, and distributed generation;**”*

### D. Market Potential Studies

#### 1. General Recommendation for Stakeholder Input

RECOMMENDATION: Over the past few years, utilities and stakeholders have spent much time and effort on reviewing and critiquing utility market potential studies. There is wide disparity between the

levels of potential identified in studies from other jurisdictions and the potential that utilities have identified in Missouri. Some of this disparity may be due to differences in how states count savings; however, this disparity may also be explained by the specific assumptions and methodologies that Missouri utilities and their contractors have applied in their recent potential studies. In revising these rules, the Commission has an opportunity to provide specific direction on how potential studies should be conducted. By setting clear guidelines and expectations, the Commission could save stakeholders considerable time and increase parties' trust in the results of market potential studies. Rather than a specific recommendation, Renew Missouri would like to make the general recommendation that the Commission provide opportunity for detailed discussion on the issue of market potential studies.

## 2. Utilizing Census Data and GIS Analysis in Assessing Market Size

RECOMMENDATION: Where possible, the Commission should require utilities to use census data and GIS mapping analysis when conducting market potential studies, especially when assessing the size of certain market segments. In Ameren Missouri's recent potential study, it is likely that the utility drastically underestimated the size of the multifamily market in its service territory by relying on survey data rather than more accurate and already-available data. See Appendix 3 attached. Utilizing direct census data and comparing with GIS mapping analysis may be a cheaper and more accurate method for estimating market size. In addition, the Commission should require utilities to study all sectors of energy efficiency when conducting their market potential studies, including residential, commercial & industrial, residential multifamily, and residential low income.

PROPOSED LANGUAGE: at 4 CSR 240-3.164(2)(A), insert line – ***“Where possible utilities shall assess market potential by utilizing census data and GIS analysis. In particular, the current market potential study shall utilize census data and GIS analysis when estimating the number of customers in each sector (including residential, commercial & industrial, residential multifamily, and residential low-income).”***

## E. Customer Opt Out

RECOMMENDATION: The Commission should ensure that stakeholders and the public have access to all important details of the energy efficiency measures that opt out customers have taken in order to qualify for opt out under 4 CSR 240-20.094(6)(A)(3) (i.e. aggregate demand of between 2,500 and 5,000 kW). Details should include the measures installed and savings achieved. Such transparency will allow stakeholders to more accurately assess the efficiency savings being achieved in Missouri, and may be instrumental in tracking the State's emissions reductions needed to comply with federal regulations.

PROPOSED LANGUAGE: Annual reports, 4 CSR 240-3.163(4)(A)9 – ***“For each program where one (1) or more customers have opted out of demand-side programs pursuant to section 393.1075.7, RSMo, a listing of the customer(s) who have opted out of participating in demand-side programs, and for those customers opting out under 4 CSR 240-20.094(6)3, details regarding energy efficiency measures installed and savings achieved that are at least equal to those expected from utility-provided programs.”***

## **F. Low Income Customers**

RECOMMENDATION: The Commission should amend the rules to reflect recent statutory amendments to the MEEIA statute, at § 393.1075.14(4), RSMo. In 2013, the Missouri state legislature passed legislation (A.L. 2013 H.B. 142) allowing properties that have received Low Income Housing Tax Credits (LIHTC) to participate in utility MEEIA programs (LIHTC referenced in RSMo 135.352). The language in 4 CSR 240-20.094 (7) should be updated to reflect this change. Additionally, Section 253.561, RSMo, also referenced in the statute, was repealed by S.B. 613, 2007.

PROPOSED LANGUAGE: 4 CSR 240-20.094(7)(A) – ***“The provisions of this subsection shall not be applied to prevent participation in demand-side programs benefitting low-income customers if a customer, property owner or property manager would otherwise be eligible to participate in the program if not for receiving state tax credits under sections 135.350 to 135.362 or sections 253.545 to ...”***

## **G. Definitions of Multifamily, Low Income**

RECOMMENDATION: Utilities and stakeholders could benefit from common, agreed-upon definitions for certain terms, in particular the definitions for residential multifamily and low income customers. Such streamlining of terms may allow for more effective sharing of program design and for more efficient approaches to evaluation, among other benefits.

PROPOSED LANGUAGE:

- 4 CSR 240-3.163(1), 4 CSR 240.164(1), 4 CSR 240-20.093(1), and 4 CSR 240-094(1) – Definition of Residential Multifamily Building: ***“Residential Multifamily Building means the residential units and common areas of a building with 4 (?) or more residential units, not excluding mixed use buildings.” [or as agreed upon by stakeholders]***
- 4 CSR 240-3.163(1), 4 CSR 240.164(1), 4 CSR 240-20.093(1), and 4 CSR 240-094(1) – Definition of Low Income Customer: ***“...” [as agreed upon by stakeholders]***

## **CONCLUSION**

Accordingly, Renew Missouri submits these comments, recommendations, and suggested language for consideration by the Commission and other stakeholders regarding revisions to the Commission’s rules at 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094.

Respectfully Submitted,

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