BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of a Working Case	)	
to Explore the Ratemaking Process	)	**File No. AW-2019-0127**
	)	

RENEW MISSOURI AND PACE ENERGY AND CLIMATE CENTER'S COMMENTS ON PROPOSED CHANGES TO THE RATEMAKING PROCESS

COMES NOW Renew Missouri Advocates ("Renew Missouri"), pursuant to the Commission's November 29th, 2018 *Request for Comments Concerning Staff's Proposed Rule and the Rulemaking*, and submits the attached comments on the issued raised by the proposed rule, the rulemaking process, and based on comments raised during the December 5th, 2018 workshop.

Respectfully submitted,

Renew Missouri

/s/ James Owen

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CERTIFICATE OF SERVICE

I certify that copies of the attached comments have been mailed, emailed, or hand-delivered to all counsel and parties of record this 15th day of January, 2019.

/s/ James Owen

MEMORANDUM

To: Missouri Public Service Commission,
File No. AW-2019-0127

From: James Owen, Executive Director
Renew Missouri

Subject: Renew Missouri Comments on the Ratemaking Process

Date: January 15, 2019

Renew Missouri is pleased to submit the following comments in Missouri Public Service Commission ("Commission") Working Case AW-2019-0127 relating to issues of the ratemaking process as proposed by a draft of the rules created by Staff as a part of this docket. Renew Missouri was supported in preparing these comments by the Pace Energy and Climate Center, a project of the Pace University Elisabeth Haub School of Law, White Plains, New York. In these comments, Renew Missouri provides responsive commentary to the PSC Staff's ("Staff") *Request for Comments Concerning Staff's Proposed Rule and the Rulemaking* filed on December 5th of 2018. We wish to thank the PSC Staff in advance for the opportunity to discuss these issues in an open and public venue so that, even if these recommendations are not followed, this will allow Renew Missouri to help fulfill its mission as a not-for-profit corporation in educating regulators and fellow shareholders, as well as the general public, on these concepts.

I. ABOUT RENEW MISSOURI AND PACE ENERGY AND CLIMATE CENTER

Renew Missouri, is a 501(c)(3) committed to promoting renewable energy and energy efficiency in Missouri. Since 2006, Renew Missouri has represented these policy interests before the Missouri General Assembly, the PSC, and in the hallways of local government all throughout the state. In this work, Renew Missouri works closely with businesses, residential consumer groups, and utility companies to develop practical solutions to these very real issues. Renew

Missouri has successfully championed and advocated for laws including the creation of renewable energy standards as well as protections for the customers of solar, wind, and energy efficiency programs. All of these activities are geared towards Renew Missouri's stated message of making this state a leader in renewable energy and energy efficiency policy in the nation.

Pace Energy and Climate Center ("Pace") is a project of the Elisabeth Haub School of Law at Pace University. Pace's offices are located in White Plains, NY. As a non-partisan legal and policy think tank, Pace develops cost-effective solutions to complex energy and climate challenges, seeking to positively transform the way society supplies and consumes energy. For more than thirty years, Pace has been providing legal, policy, and stakeholder engagement leadership in New York, the Northeast, and other jurisdictions. Located on the campus of the Elisabeth Haub School of Law, Pace engages and leverages a strong legal faculty and student body in its work, particularly through the internationally recognized Environmental Law Program and the Pace Land Use Law Center. Pace has many years of success in working with and supporting the New York State Energy Research and Development Authority, the New York Public Service Commission, and the New York Department of Environmental Conservation. Pace's work also includes strategic engagement with state legislative and executive officials, as well as in key New York Public Service Commission proceedings. In these capacities, Pace has had the opportunity to form long-lasting partnerships within the community of non-governmental organizations that work in the field of energy. Pace is actively involved in the New York Reforming the Energy Vision ("NY REV") process, and in grid modernization processes in Maryland, Massachusetts, and other states. Pace's Executive Director, Karl R. Rábago, is a former Texas public utility commissioner and utility executive, and has appeared before the PSC in several capacities over the past seven years. Most recently, Pace supported Renew Missouri in the merger proceedings, and Mr. Rábago participated in a presentation on distributed energy resources (“DER”) before the Commission, in his private capacity as principal of Rábago Energy LLC.

II. INTRODUCTION

These comments are designed to introduce a range of issues arising in electric utility rate cases that may have an impact on market opportunities for energy efficiency and renewable energy, or that may create an incentive or disincentive for utilities to advance market growth in DER in general. One important fundamental issue is that the economics of investment in distributed energy resources are impacted by electric service rates in many ways. High rates encourage investment in DER as a way of avoiding utility charges, but if the rates are too high, customers may not be able to afford investments. Trade-offs are frequently involved.

As a prelude, Renew Missouri is supportive to the current rate case process. While many parties' emphasize regulatory lag as a substitute for competitive market forces amongst monopolistic, investor-owned utilities as the primary benefit of the process, Renew Missouri sees the rate case as an opportunity to introduce innovative concepts into the management of resources and as an opportunity to direct energy policy in a direction that is beneficial not simply for the general public but also for the companies' and related stakeholders. However, Renew Missouri is aware that any process can be improved and will never pass on an opportunity to point out ways that the process can be improved.

With that said, the following issues and topics arise or are fair game in most typical general rate cases and will be included in our commentary. Generally speaking, the utility bears the burdens of production and persuasion for advancing its proposed rates as just and reasonable. A party seeking an alternative to the proposed rates assumes these burdens. For this reason, most intervenors with limited resources use their intervention to focus on assertions that the utility failed in its burden and to recommend that the utility be ordered to remedy the defect or refile the rate application.

Further, this memorandum uses the term DER to include all manner of demand- and supply-side resources operating within the distribution grid to provide electricity services. The terms “energy efficiency” and “distributed generation” describe subsets of DER and will be used where the broader DER scope is not appropriate. These comments also use “GRC” as an acronym for a general rate case.

III. ISSUES AND TOPICS

1. Process Issues

a. Speedy, efficient case prosecution and implementation—Predictability and business climate stability are important to DER providers as well as customers, regulators, and utilities. Protracted rate case litigation can create regulatory risk for competitive service providers. In addition, protracted rate case processes impose increased regulatory participation costs on DER providers and public interest intervenors with an interest in promoting DER growth, who often have interest in only a limit set of specific issues. Finally, in addition to time and resource constraints, DER providers are sometimes also data-constrained in rate cases. Excessive utility claims of business confidentiality regarding data can make it difficult for competitive service providers to participate effectively in regulatory proceedings.

b. Historical vs. Future test years—Historical test years are better at capturing costs in relatively stable market environments. Future test years are better suited for estimating costs in dynamic markets where even recent test year data is likely not reliable as a basis for setting rates. This impacts DER issues such as rebate fund levels, lost revenue calculations, and other impacts and costs associated with implementing DER.

c. Duration of rate approval—Long periods without rate cases are generally an indicator of over-earning by the utility. Rate approvals for longer terms (e.g., setting rates for a long or indeterminate term) can disadvantage DERs because there are fewer opportunities to implement new rates or adjust rates that are adverse to DER. Unless trackers or approvals outside GRCs are used to adjust rebate or incentive budgets, long terms between rate cases can also act as de facto caps on DER market growth.

d. Multi-year rate plans coupled with performance-based regulation—Utility sector transformation advocates have been generally supportive of concepts like increased stay-out periods under multi-year rate plans, provided that there are defined annual inflation adjustments and strong performance-based criteria in place for DER market growth.

2. Earning Return—Most utilities today are concerned about their ability to earn authorized returns in the years after a rate case is approved because electricity usage levels are flat or falling across most of the U.S. As a result, utilities will seek and may condition rate case support for DER incentives and programs on lost revenue adjustment and decoupling mechanisms.

3. Rate of Return—Rate cases are the forum for setting and reconciling performance-based regulation incentives, such as performance incentive mechanisms ("PIMs") that award bonus (or impose penalty) return on equity adjustments relating to specific performance metrics. For example, the utility could be authorized one or two extra basis points on return on equity ("ROE") for reducing interconnection processing time by 50%, or penalized on earnings for increases in application processing time. Traditionally, these incentives have been applied to utility-wide return on equity. A new idea recently introduced in legislation in Hawaii is the differentiation of return on equity levels by function—functionalized return on equity. For example, investments (possibly including both capital and operating spending) on energy

efficiency programs could earn bonus ROE enhancements only for the spending on those programs, and set at much higher levels than enterprise-wide ROE.

<u>4. Cost Classification</u>—One of the first steps in developing a rate case filing is the classification of test-year costs for allocation and rate recovery. Once the total proposed revenue requirement is identified; the rate case becomes a zero-sum game—a battle over which customers bear which costs and how those costs are recovered. While some costs are fairly obviously classified as "customer" or "demand" or "energy" costs, there is a good deal of subjectivity and bias associated with classifying joint and common costs. The implications of classification are significant. Costs classified as "customer costs" typically end up in the customer charge, and fixed customer charges negatively impact DER investment and operating economics. In addition, costs classified as per-customer costs by definition increase the fraction of costs imposed on residential customers—because there are so many more residential customers than customers in other classes (e.g., commercial and industrial). Conversely, costs classified as energy-related will impact high energy-using industrial customers more than small users.

Utilities across the country have been filing rate cases with cost-classification and rate design proposals designed to increase the share of costs assigned to the customer category and the level of non-bypassable charges. Two notable example methods are the "minimum system" method for allocating joint and common costs of the distribution system, and straight fixed variable rate design.

<u>5. Cost Allocation</u>—Once the costs have been identified and classified, they have to be allocated to customers. The objective is allocation according to cost causation, but as with the classification task, there is significant room for subjectivity. For example, sub-transmission distribution system costs may not be fairly allocable to customers taking transmission-level

service. On the other hand, all customers, including the largest industrial customers, get benefits from improved efficiency of use by any other customer.

Various allocators are used in an effort to assign costs to customers according to assumptions about which costs are driven by which kind of usage. For example, since residential customers often have the peakiest load as a class, non-residential customers typically argue that joint and common costs should be allocated according to the single highest peak hour of the year. Residential customers would prefer the average consumption level across many hours (like the 12 peak hours of the year), to reduce costs allocated to residential customers.

In recent years, utilities and some commissions have been arguing "price signals could be improved" (perhaps the most mischief-freighting term of the last ten years) by allocating more demand-related costs to residential customers. This usually appears as a rate design issue, but it also appears when it is proposed to use non-coincident peak usage levels as a basis for cost allocation. Because of load diversity, allocating costs for infrastructure used by multiple rate classes almost certainly over- collects for those costs.

6. Rate Design—The biggest issues in rate design relate to whether allocated revenue requirement will be recovered through fixed monthly charges, demand charges, or volumetric charges for energy (and demand). High fixed charges weaken the economics for DER because these charges cannot be avoided through reductions in energy use. For larger DER customers, such as those investing in combined heat and power systems, stand-by rates, back-up rates, maintenance service rates, and other charges can be critical to project economics and can also incentivize efficient DG operation.

7. Program Management & Staffing—Rate cases are where utilities seek authority for staffing increases. Utilities must have adequate staff to manage DER programs and activities. This staff may appear in accounting for energy efficiency programs, rebate processing,

interconnection processing, customer engagement programs, and program marketing. These costs may also appear as expenses relating to contractors. At the same time, many utilities using the minimum system method for cost classification attempt to classify all labor costs as customer costs under the fiction that the staff of the utility must be at work even if customers demand no energy at all.

IV. CONCLUSION

Renew Missouri appreciates the opportunity to submit these responses and comments and looks forward to participation in the Commissions workshop meetings on this matter

V. REFERENCES

- For references to how other states' utilities operate, we relied on the ACEEE – Utility Business Model by State: https://database.aceee.org/state/utility-business-model.
- In 2011, the PSC promulgated rules that authorize utilities to file for recovery of lost revenues (See 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094).
- In 2012, the PSC approved a demand-side investment mechanism ("DSIM") allowing Ameren Missouri to collect $80 million in an annual revenue requirement (Case No. ER-2012-0166) for recovery of demand-side programs' costs, recovery of fixed operating costs, and a future performance incentive award based on after-the-fact verified energy savings from the programs (See Case No. EO-2012-0142).
- KCP&L Greater Missouri Operations Company ("GMO") has an investment mechanism that allows collection of an $18 million annual revenue requirement for recovery of demand-side programs' costs, recovery of fixed operating costs, and a future performance incentive award based on verified energy savings. Lost revenues are recovered through a

rider or tracker mechanism until the full amount, including carrying charges, is recovered.

- The rule implementing SB 376 provides for more timely cost recovery of DSIM program costs by allowing adjustments to the funds collected between rate cases. Prior to SB 376, implementation program costs were recovered over a 6-year period. The SB 376 rule allows a regulated electric utility to propose performance incentives that are based on net shared benefits from the DSM programs it implements. Any utility 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 portion of annual net shared benefits achieved and documented through EM&V reports for approved demand-side programs. Each utility incentive component of a DSIM shall define the relationship between the utility's portion of annual net shared benefits achieved and documented through EM&V reports, annual energy savings achieved and documented through EM&V reports as a percentage of annual energy savings targets, and annual demand savings achieved and documented through EM&V reports as a percentage of annual demand savings targets. Utilities may also propose recovery of lost revenues as measured and verified through EM&V prior to recovery on a retrospective basis.
- In early 2016, the PSC approved DSM programs and DSIM programs for Ameren Missouri (Case No. EO-2015-0055), KCP&L (Case No. EO-2015-0240), and GMO (Case No. EO-2015-0241), which allow each utility to bill customers for estimated lost revenues due to the programs and to true-up the billed lost revenues as a result of energy savings determined through retrospective net-to-gross EM&V performed by each utility's independent EM&V contractors and reviewed by the Staff's EM&V auditor.

- The Missouri Legislature passed a provision allowing for electric utility revenue decoupling in Missouri as a part of SB 564 during the 2018 Legislative session. Thus far, no electric company has sought to take advantage of this provision since it became law in August of 2018.
- Missouri Gas Energy has straight-fixed variable ("SFV") rate design. Laclede Gas and Ameren Missouri Gas both have a weather-mitigated rate design similar to SFV in principle.
- The approved DSM programs and DSIMs for Ameren Missouri (Case No. EO-2015-0055), KCP&L (Case No. EO-2015-0240), and GMO (Case No. EO-2015-0241) also allow each utility to receive an earning opportunity determined after the completion of the 3-year plan period and to recover any approved earnings opportunity over a two-year period. The earnings opportunity amount for each utility is based upon the achievement of each DSM program relative to established performance metrics for the DSM program, which metrics are most commonly 3-year cumulative annual energy targets and/or 3-year cumulative annual demand savings targets.
- Actual 3-year cumulative annual energy and/or demand savings for programs are determined through retrospective net-to-gross EM&V performed by each utility's independent EM&V contractors and reviewed by the Staff's EM&V auditor.
- In October 2017, the PSC promulgated 4 CSR 240-20.092 Definitions for Demand-Side Programs and Demand-Side Programs Investment Mechanisms; revised 4 CSR240 20.093 Demand-Side Programs Investment Mechanisms and 4 CSR 240-20.094 Demand-Side Programs; and rescinded 4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements (now incorporated in

revised 4CSR 240-20.093) and 4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements (now incorporated in revised 4 CSR 240-20.094).