BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Consideration and Implementation of Section 393.1075, the Missouri Energy Efficiency Investment Act	)))	File No. EW-2010-0265

Comments in Response to SB376 Workshops

1. Motivation

The Sierra Club appreciates the opportunity to provide these comments on rules to implement Senate Bill No. 376 (SB 376). These comments were prepared with the assistance of Dr. Ezra Hausman, vice president of Synapse Energy Economics. Dr. Hausman has over tens years experience in energy market design, environmental compliance and the quantification of the economic and environmental benefits of displaced emissions associated with energy efficiency and renewable energy initiatives. The adoption of SB 376 represented an historic opportunity to develop cost-effective energy efficiency and demand response resources, enabling the state and its citizens to realize the numerous economic, environmental, job creation, and cost-savings benefits that would accrue.

Given its environmental mission, the Sierra Club, through its state chapter, is specifically motivated by the environmental benefits of reducing Missouri's reliance on fossil fuels, including avoiding some of the greenhouse gas emissions that contribute to human-caused climate change. However, one does not need to invoke these substantial benefits to justify the Legislature's goal of achieving all cost effective demand side savings. By its very nature, this standard serves to lower costs for Missouri ratepayers and to benefit the state's economy. To the extent that this goal is not reached, residents and businesses in Missouri will pay too much for their electricity, and the resulting loss of efficiency will harm the potential for job creation and economic growth.

2. Sierra Club Recommendations

SB 376 declares the "policy of the state to value demand-side investment equal to traditional investments in supply and delivery infrastructure" [393.1124(3)]. Towards this goal, the law enumerates certain considerations that the Commission shall address to eliminate disincentives, and to provide incentives, to motivate utilities to pursue these low-cost resources aggressively. SB 376 further directs the Commission to "permit electric corporations to implement Commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings" [393.1124(4)].

A. Compelling Utilities to Comply

Although SB 376 articulates a state policy goal and directs the Commission to permit the implementation of Commission-approved demand-side programs, it does not, in itself, explicitly compel the utilities to develop or file plans for such programs. If the Commission has the authority to compel such filings under Missouri law, it should do so in the furtherance of this policy goal. If not, the Commission should make clear that the acquisition of all cost-effective demand-side savings is an inseparable part of providing least-cost electric service to Missouri ratepayers, and that utilities that fail to meet this standard shall be deemed to have been imprudent in their resource acquisition and shall be penalized in their cost recovery accordingly.

The purpose of utility filings pursuant to SB 376 and the proposed rule should be to demonstrate demand-side planning consistent to the "all cost-effective" standard, and to request cost recovery and incentives as allowed under SB 376. Failure to make such a filing should not exempt any utility from the responsibility to pursue all cost-effective savings consistent with least-cost planning and with the state policy goal.

B. Meeting the "All Cost-Effective" Standard

The purpose of the instant Docket is to develop rules for implementing SB 376. In setting these rules, the Commission is not required to determine *a priori* a level of demand-side savings that would meet the "all cost-effective" standard—indeed, it would be impossible to do so at this time. Thus, the Sierra Club does not support the setting of specific numerical goals for energy savings in the current rule-making. Specific numerical goals should be set based on independently researched and produced economic potential studies for the state and for each utility service territory, and should be subject to change as technology and experience continue to improve the opportunities for cost-effective savings. It should be the responsibility of each utility to demonstrate that its demand-side programs and plans satisfy the goal of achieving "all cost-effective" demand-side savings on an on-going basis.

C. Cost-Effectiveness Test

By declaring that the Total Resource Cost (TRC) test shall be considered "a preferred cost-effectiveness test" [Paragraph 4] the legislature left some latitude regarding how cost effectiveness should be determined. The Commission should make clear that, as the most comprehensive metric available, the TRC shall be the determinative test that utilities should use to determine the cost-effectiveness of each plan. Cost-effectiveness under the TRC should be demonstrated for each program, except for programs designed to achieve demand-side savings for low or limited income utility customers and, when authorized by the Commission, for pilot

programs. The Commission should require that each program include all cost-effective measures within its scope, and that a utility's portfolio of programs provide comprehensive services for all customer classes and end uses.
All reference materials, assumptions, spreadsheets, and other workpapers used in the preparation of cost-effectiveness tests should be clearly documented, transparent, and available for stakeholder review. This requirement should apply to measures, programs and portfolios that were considered, whether ultimately determined to be cost effective or not.

D. Baseline forecast

The baseline energy and demand forecasts, avoided costs, and other projections that form the basis of, and are used to determine compliance with, utility demand-side program plans should be subject to stakeholder review and Commission approval. The utilities should be required to make all underlying reference materials, assumptions, spreadsheets, and other workpapers used in the preparation of such forecasts an projections be clearly documented, transparent and available to other stakeholders to facilitate such review.

E. Corporation Specific Cost Recovery and Incentives

SB 376 does not require that the Commission promulgate specific cost-recovery and incentive mechanisms in the current rule, nor would it be appropriate or constructive to do so. Paragraph 11 of SB 376 states that "The Commission shall provide oversight and may adopt rules and procedures and approve *corporation-specific* settlements and tariff provisions…" (*emphasis* added) The Sierra Club supports and will continue to support reasonable and timely cost recovery, lost fixed-cost revenue recovery, and reasonable incentives that align utility interests with those of Missouri ratepayers. However, we believe that it would be better to allow utilities the flexibility to propose cost recovery and utility incentive mechanisms that will work best for their specific energy efficiency plans and customer makeup. Nevertheless, the rules should be clear that utility incentives and lost revenue adjustments are reserved for utility plans that significantly reduce customer energy use consistent with the "all cost-effective" standard. No utility incentives or lost revenue recovery should be available for plans that fail to acquire all achievable cost-effective demand-side savings resources over the program life.

Utility incentives should be tied specifically to performance goals. Utilities should set a goal of capturing 100% of achievable cost-effective "lost-opportunity" savings – that is, savings associated with new construction, renovations, point-of sale opportunities, and appliance and equipment replacement—after a brief ramp-up period. Utilities should further set an aggressive schedule for capturing all achievable cost-effective retrofit opportunities over a reasonable period of time. Full incentive payment should be dependent on meeting these goals and schedules. Incentives for partial success in meeting these goals should be reduced accordingly, and utilities that achieve little or no demand-side savings should be deemed imprudent and penalized accordingly.

F. Plan Submission and Approval

Each utility should be required to submit a DSM plan every three years, based on an up-to-date potential study. The initial DSM potential study and filing should be due within nine months of the effective date of these rules. The plan, and any cost recovery and/or incentives requested by the utility, should be approved by the Commission only if the Commission finds that the plan meets the following criteria:

- The plan demonstrates that the utility is likely to achieve all achievable cost effective lost opportunity savings and sets an aggressive schedule for capturing all achievable retrofit savings. (For the initial filing, this may be subject to a short ramp-up period.)
- The plan contains reasonable provisions for cost-recovery.
- The plan contains reasonable provisions to replace lost fixed-cost recovery revenues.
- The plan provides for a reasonable utility incentive that is (1) available to the utility only if it significantly reduces customer energy use consistent with the "all cost-effective" standard, (2) is tied specifically to performance goals approved by the Commission, and (3) will result in utility incentive payments that are no more than 10% of the implementation costs.
- The total of cost recovery, revenue recovery, and incentive payments should not exceed a reasonable fraction of the total savings under the plan.
- The plan provides comprehensive DSM services for each customer class, subject only to the opt out provisions of the Statute, including but not limited to customers with low or limited incomes in both rental housing and customer-owned housing.
- The plan provides for coordination of the design and delivery of DSM programs for customers with low or limited incomes with relevant low income weatherization programs.
- The plan makes appropriate provisions for regular updating and improvement of programs, including but not limited to best practices for program monitoring, verification and evaluation, as well as stakeholder review of program performance and planning.

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3. Conclusion

The Legislature's intent of setting a goal of all-cost effective demand-side savings will result in considerable cost savings for Missouri ratepayers, as well as job creation and environmental benefits for the state. Sierra Club believes that the recommendations set forth above will both compel and allow utilities to meet this goal in the manner that best suits their service territories and their customers, and to earn just and reasonable returns on their investment including reasonable incentives, consistent with the goals articulated in SB 376.

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