

DATE: 19 March 2020

TO: Missouri Public Service Commission

FROM: Jakob Puckett

SUBJECT: Case No. AW-2018-0385: Request for Party Submissions Regarding Promotional Practices Rules Revisions

My name is Jakob Puckett, and I am a policy analyst for the Show-Me Institute, a nonprofit, nonpartisan, Missouri-based think tank that advances sensible, well-researched, free-market solutions to state and local policy issues. The ideas presented here are my own.

Current Rules

Promotional practices are activities a utility undertakes to encourage some form of action by their customers. Examples include educational programs or financial incentives offered to customers who buy energy-efficient products or convert from electric to gas heating. The current rules operate as a prohibition on using ratepayer funds for promotional practices. However, some activities that would be commonly understood as promotional, such as educational programs or making emergency equipment repairs, are excluded from the definition of “promotional practices” so that utilities can recover prudently incurred costs for such activities. Compromising the accuracy of the definitions (rather than adjusting the law to allow desirable practices even if they are promotional in nature) produces convoluted rules that make compliance more difficult.

Purpose of Changes

The rules regarding promotional practices in Missouri should serve four purposes: providing clarity about what is allowed, allowing utilities more flexibility, injecting market forces into a monopoly structure, and reducing the captivity of ratepayers.

Provide Clarity

To be effective, rules must be clear and consistent. The current rules concerning promotional practices are convoluted, attempting to work around a prohibition by altering definitions. Revisions to the rules should maintain consistent, precise definitions and should state explicitly any exceptions to the prohibition of ratepayer funding for promotional practices. All parties would be better served by an accurate description, and the law would better serve its purposes.

Utility Flexibility

Utilities should have the flexibility to engage in what they deem worthwhile promotional practices, provided that they use shareholder money rather than funds from ratepayers. If a utility wants to enact a program that would not fall under the narrowed definition of promotional practices, perhaps because it would only benefit some ratepayers, the utility should be free to do so as long as the program is funded with investors’ money. Further, the time from the inception of the idea to the enactment of the program could be reduced, as the utility would not have to change its tariff or file a petition for each promotional practice enacted.

Inject Market Forces

Market forces (specifically the alignment of risk and reward) should be integrated into utilities' capital operations to the extent possible. Given that gas and electric utilities are among the few industries currently operating under a monopoly format, ensuring that they bear the costs of efforts from which they stand to profit is especially important.

Reduce Captivity of Ratepayers

Ratepayers should benefit from every dollar they spend and not be captive to utility programs that would encourage free riding or are outside of the traditional cost of service operations. These principles underpin the current promotional practices rules but are undermined when those rules can be skirted by playing with the definitions of the terms used. The rules should be precise and consistent about what is and is not a promotional practice, and any activity that does not meet this definition should be ineligible for ratepayer funding.

Example

Consider a hypothetical promotional practice – an electricity provider that wanted to construct electric vehicle charging stations (EVCS). A provider might justify using ratepayer funds for EVCS construction by arguing that such an expense is necessary as electric vehicles represent an increased demand for electricity. But why should all ratepayers bear the construction costs?

With rules serving the four purposes outlined above, this matter could be easily resolved. Clear and concise rules would provide direct guidance as to whether or not this constitutes allowed activity. Utilities that predict a future surge in electric vehicle sales would be free to make a prudent investment with shareholder money to construct such facilities. Since they stand to benefit from future usage, they should also bear the cost. In addition, the large number of captive ratepayers who do not own an electric vehicle would not be forced to subsidize the construction of charging stations for the few who do.

Conclusion

In the case of promotional practices, policies that serve the four principles outlined above this mean better-protected ratepayers and utilities that operate more prudently. A proposal such as that offered by the Missouri Office of the Public Counsel could help achieve these goals.

Respectfully submitted,

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