

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Establishment of a Working Case for the Review and Consideration of a Rewrite of the Existing Electric and Gas Promotional Practices Rules Into One Rule)
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)
) **File No. AW-2018-0385**

**MISSOURI DIVISION OF ENERGY’S RESPONSE TO
PUBLIC SERVICE COMMISSION STAFF’S PROPOSED REVISIONS TO
PROMOTIONAL PRACTICES RULES**

COMES NOW the Missouri Division of Energy (“DE”), by and through the undersigned counsel, and in response to the Missouri Public Service Commission (“Commission”) Staff’s (“Staff”) proposal in the above-captioned matter states as follows:

1. On June 19, 2018, Staff filed a *Motion to Establish Working Case* for purposes of discussing proposed revisions to the Commission’s rules on promotional practices, along with attached proposals that would consolidate these rules and rescind previous language. The Commission granted Staff’s request on June 27, 2018, and set July 27, 2018 as the deadline for comments on Staff’s proposal.
2. DE’s edits and comments regarding Staff’s proposal are attached to this pleading. DE will also highlight in this pleading some of the high-level issues addressed in the attachment.
3. The promotional practices rules serve to prevent destructive competition between Commission-regulated utilities, to avoid discrimination between similarly situated customers, and to ensure a level playing field in competitive markets. These goals are still relevant, but the current promotional practices rules (and Staff’s proposal)

should be modified to update and modernize the language in order to recognize changes and continuing evolution in the energy sector.

4. One aspect of this evolving landscape is the need to support additional applications of cogeneration, or combined heat and power (“CHP”). CHP allows customers to more efficiently produce energy for electric and thermal needs by using otherwise wasted heat. CHP can also support load shifting by customers, avoiding peak capacity needs by electric utilities, and can promote the resiliency of critical infrastructure (e.g., schools, hospitals, emergency services). DE notes that some stakeholders have cited to the promotional practices rules’ current prohibition against “load building” to oppose cogeneration, even though the technology can support more efficient energy use, enable customers better direct their load in response to system costs, and improve critical infrastructure resiliency. Consequently, DE proposes to clarify the promotional practices rules to exempt CHP from the definition of “load building.”

5. DE also proposes to exempt from the “load building” definition activities that can be beneficial to a utility system and its customers. One example of this needed exemption is support for electric vehicle (“EV”) charging. When charged during off-peak hours, EVs can improve system utilization and reduce rates for all customers by spreading the recovery of short-run fixed costs over more units of usage. EVs also provide other benefits, such as reduced dependence on fuel imports and reduced emissions. Missouri policies surrounding EVs should also be carefully examined in the broader context of state economic development trends.

6. Another proposed exemption relates to on-bill repayment, on-bill financing, and on-bill tariffs. These mechanisms generally allow customers to repay loans on

energy-efficient equipment through utility bills. On-bill financing works best at lower interest rates; however, the promotional practices rules currently prohibits offering interest rates below market rates. DE recommends exempting the financing of efficient customer equipment from this restriction.

7. Programs referred to as “red tag repair programs” should also not fall under the promotional practices rule. These programs allow utilities to assist with the repair or replacement of low-income customers’ equipment when such equipment is damaged to the point of preventing the provision of safe utility service. Red tag programs allow low-income customers to remain connected to the utility system and can avoid unsafe practices, such as using natural gas stoves for space heating. Energy efficiency provisions can also be incorporated into red tag programs in order to reduce low-income customers’ energy burdens. Further, such programs may actually serve to reduce costs to all customers as costly service disconnections and reconnections may be avoided. Red tag programs may serve to prevent customer energy insecurity that comes from disrupted utility service. DE recommends exempting these programs from promotional practices restrictions.

8. Generally, DE has also attempted to clarify the promotional practices rule offered by Staff to indicate that demand-side programs – particularly those under the Missouri Energy Efficiency Investment Act – should not be considered “promotional practices.” This clarification also indicates that natural gas energy efficiency programs filed in conformance with the requirements of the rule should not be considered promotional practices, either. DE added other clarifying exemptions regarding the

economic development rates and rate increase limitations provided for in Senate Bill 564 (2018).

9. DE also recommends moving the variance provision found in (2)(D)5 to a standalone part of the rule. While the Commission may always grant variances from its rules for good cause shown, DE's recommendation would clarify that such variances may be granted from any portion of the promotional practices rule, not just from (2)(D). Lastly, DE notes that some language seems to have been retained outside of Staff's proposed consolidated rule; DE recommends including this omitted language in the consolidated rule.

WHEREFORE, the Missouri Division of Energy respectfully files its response to Staff's proposed revisions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 27th day of July, 2018.

/s/ Marc Poston
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