BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed Amendments to the Missouri Public Service Commission's Rules Relating to the Missouri Energy Efficiency Investment Act	))))	**File No. EX-2016-0334**

RENEW MISSOURI'S COMMENTS ON
PROPOSED AMENDMENTS TO MEEIA

Renew Missouri offers these comments on the Commission's proposed revisions to the administrative rules implementing the Missouri Energy Efficiency Investment Act ("MEEIA") at 4 CSR 240-20.092, 093 and 094.

Renew Missouri is a non-profit policy advocate for best-practices energy efficiency and renewable energy policy. Our mission is to transform Missouri into a top-20 state in renewables and efficiency by 2020. Renew Missouri has contributed to the implementation of MEEIA since 2012, and has been closely involved during the informal and formal processes of amending the administrative rules. All communication involving this case should be sent to the following:

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Renew Missouri congratulates the Commission and Commission Staff in proposing many beneficial changes to the rules that will strengthen MEEIA, streamline state implementation, and expand energy efficiency savings statewide. In the below comments, Renew Missouri offers its approval of proposed changes where applicable. In addition, Renew Missouri recommends further changes or additions that we believe will improve the administration of the MEEIA statute and bring Missouri more in line with other states who've seen success in electric energy efficiency. Finally, Renew Missouri lends its full support behind the "Consensus Comments" submitted by the Division of Energy concerning the Statewide TRM and EM&V. We also fully support the comments of the National Housing Trust and other low-income advocates.

[NOTE: New language in addition to the proposed rules is indicated by *italics*, while suggested deletions from the proposed rule is indicated by ~~strikethrough~~.]

4 CSR 240-20.092: Definitions

1. **"Demand-side Program"**: 092(1)(N)

Renew Missouri supports the change to the definition of demand-side program at 092(1)(M), as this will broaden the technologies capable of qualifying under MEEIA and help to encourage their adoption to. In particular, CHP and distributed generation are both "demand-side strategies" within the spirit of the law, and their inclusion will allow Missouri's IOUs to be more creative with ways to encourage customers to lower their utility demand.

2. **"Maximum Achievable Potential" "Realistic Achievable Potential"**: 092(1)(EE) & (OO)

Renew Missouri is in agreement with NRDC that MAP should not be seen as "ideal" or as a "hypothetical upper boundary." Rather, MAP should reflect an estimate of what a utility should expect to achieve from a program or set of programs given particular parameters. The purpose of estimating MAP is to recognize the real world barriers that are not reflected in technical or economic potential.[1] The goal stated in the MEEIA statute of "achieving all cost-effective demand-side savings" (§393.1075, RSMo) is met only when a utility's portfolio attempts to pursue MAP. Setting a goal at a lower potential level (i.e. "realistic") frustrates this central goal of MEEIA, and arguably removes the Commission's ability to approve the plan. Therefore, Renew Missouri recommends using the below definition for MAP and deleting the definition of RAP entirely.

092(1)(EE):

> "Maximum achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and ideal implementation conditions~~ and ideal implementation conditions~~. Maximum achievable potential establishes a *best estimate of the* maximum target for *all cost-effective* demand-side savings that a utility can expect to achieve through its demand-side programs and *often* involves incentives that represent a very high portion of total programs costs and very short customer payback periods. ~~Maximum achievable potential is considered the hypothetical upper-boundary of achievable demand-side savings potential, because it presumes conditions that are ideal and not typically observed."~~

092(1)(OO):

> ~~"Realistic achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting~~

[1] For more information see: U.S. EPA, *Guide for Conducting Energy Efficiency Potential Studies: A Resource of the National Action Plan for Energy Efficiency*, November 2007, produced by Optimal Energy for U.S. EPA.

~~from expected program participation and realistic implementation conditions. Realistic achievable potential establishes a realistic target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a moderate portion of total program costs and longer customer payback periods when compared to those associated with maximum achievable potential."~~

3. **"Non-Energy Benefits"**: 092(1)(II)

Renew Missouri supports inclusion of the "Non Energy Benefits" definition – as well as the concept of NEBs in general – in the MEEIA rules. The core concept with NEBs is that cost-effectiveness testing can and should include the measurable economic benefits that result from energy efficiency measures beyond simply the avoided costs of energy. But while enabling the use of NEBs (as the proposed rule does) is a good step forward, Renew Missouri urges the Commission to anticipate more of a uniform approach to NEBs. We and other efficiency advocates believe that a "NEBs Adder" has proven to be the simplest and fairest approach. To that end, we suggest the following language be added:

092(1)(II)4.: [add after existing proposed language]

> "*If a Missouri state administrative agency has conducted or caused to be conducted a study to assess or estimate the level of Non Energy Benefits resulting from common demand-side programs, the commission may approve an adder at a specific percentage level that will be deemed to account for Non Energy Benefits and that utilities may use in cost effectiveness testing of demand-side programs.*"

4 CSR 240-20.093

1. **Approval of DSIM**: 093(2)(D), (see also 094(2) below)

Renew Missouri believes it is essential for the Commission to remain focused on ensuring that approved plans are designed to achieve "all cost-effective demand-side savings." §393.1075.4, RSMo. In addition, it may be necessary to clarify the phrase "beneficial to all customers," as parties have differed on this point. We believe that "beneficial" should apply to long-term cost savings as a result of demand-side management investments, rather than simply meaning an immediate reduction in rates. The Commission has previously approved MEEIA portfolios that wouldn't result in immediate rate reductions but nevertheless were the most cost-effective investment over the IRP timescale. With respect to the above two points, we suggest the below language:

093(2)(D):

> "The commission shall approve the establishment, continuation, or modification of a DSIM and associated tariff sheets if it finds the electric utility's approved demand-side programs are expected to result in *all cost-effective* energy and demand savings and *long-term benefits for* all customers in the customer class in which the programs are proposed, ~~regardless of whether the programs are utilized by all customers~~ and will assist the commission's efforts to implement state policy contained in section 393.1075, RSMo…"

2. **Throughput Disincentive**: 093(2)(H)

Renew Missouri agrees with the comments of Midwest Energy Efficiency Alliance (MEEA) regarding the necessity for an annual true up of the throughput disincentive. In the event that the Commission approves a DSIM that allows for a deemed throughput disincentive, such amount should be trued up annually based on the actual throughput disincentive as determined through EM&V. To the extent that the Commission's rule does not explicitly require this, we urge the Commission to correct its rule.

3. **Demand-Side Program Annual Report**: 093(8)

While Renew Missouri agrees with the new proposed language included in this section, we believe it is important to ensure that utilities' annual reports are readily available to members of the general public. We suggest that MEEIA annual reports be handled in similar ways to how the RES compliance reports and Net Metering reports are handled now, by posting the public versions of the reports on the Commission's website. We suggest the following language:

<u>093(8)</u>:

> "Each electric utility with one (1) or more approved demand-side programs shall file an annual report by no later than ninety (90) days after the end of each program year, *make a public version available for publication on the commission's website,* and serve a copy on each party to the case in which the demand-side programs were last established, modified, or continued."

<u>4 CSR 240-20.094</u>

1. **Guideline to Review Progress Toward "All Cost-Effective"**: 094(2)

Renew Missouri first commends the Commission for maintaining the percentage benchmarks for savings found in 094(2)(A) and (B). These benchmarks should function as backstops for making sure that MEEIA is properly driving utilities to treat energy efficiency as a meaningful and expanding resource, rather than simply a profit center or a customer satisfaction tool.

As stated above, MEEIA has the primary goal of capturing "all cost-effective demand-side savings," and the function of 094(2) should be explicitly tied to ensuring that goal is met. Specifically, we agree with NRDC that the Commission should retain the authority to mandate that a utility's MEEIA application meet specific goals or thresholds, consistent with the Commission's MEEIA authority and its general authority to provide safe, reliable, and affordable service. Finally, we also agree that "MAP should be referred to here, as per our above comment. For 094(2), we suggest the following language:

<u>094(2)</u>:

> "The goals established in this section are not mandatory and no penalty or adverse consequence will accrue to a utility that is unable to achieve the listed annual energy and demand savings goals*, except where ordered by the commission.*

(A) The commission shall use the greater of the annual ~~realistic~~ *maximum* amount of achievable energy savings and demand savings as determined through a market potential study or the following incremental annual demand-side savings goals as a guideline to review progress toward ~~an expectation that the electric utility's demand-side programs can achieve a~~ *the* goal of all cost-effective demand-side savings.

(B) The commission shall also use the greater of the cumulative ~~realistic~~ *maximum* amount of achievable energy savings and demand savings that is determined to be cost-effectively achieved through a market potential study or the following cumulative demand-side savings goals as a guideline to review progress toward ~~an expectation that the electric utility's demand-side programs can achieve a~~ *the* goal of all cost-effective demand-side savings."

2. **Market Potential Studies**: 094(3)

Renew Missouri agrees with NRDC and the many parties that have long argued that market potential is best assessed on a statewide basis rather than by each utility independently. The benefits of a statewide approach would be: savings to ratepayers; greater levels of independence and objectivity; and avoidance of time-consuming disputes between parties regarding savings potential. At a minimum, the Commission should provide itself with the power to order a statewide potential study be conducted, and that it be relied upon as the measure of progress toward the goal of all cost-effective per section 094(2).

3. **Industrial Opt-Out**: 094(7)

Renew Missouri recognized the interest of large C&I customers to opt out from paying for MEEIA if they cannot receive enough incentive to justify the rate increase. However, the ability to opt out is a luxury that not all customers have; only those customers with sufficient political power have secured that right. Thus, it is not unreasonable to insist that C&I customers make self-directed efficiency investments and disclose those investments to regulators, stakeholders and the public. Currently, customers between 2,500-5,000 kW submit documentation of self-directed investments only to the Commission, but that documentation is withheld from all other entities. Moreover, it is unclear what is meant by "at least equal to those expected from utility-provided demand-side programs." For these reasons, we propose the following language:

<u>094(7)(A)3.</u>:

"The customer has accounts within the service territory of the electric utility that have, in aggregate across its accounts, a coincident demand of two thousand five hundred (2,500) kW or more in the previous twelve (12) months, and the customer has a comprehensive demand-side or energy efficiency program and can demonstrate an achievement of savings at least equal to *the percentage of annual energy savings the utility expects from its approved* ~~those expected from utility-provided~~ demand-side programs. The customer shall submit to commission staff sufficient documentation to demonstrate compliance with these criteria, including the amount of energy savings*, and such documentation shall be made publicly available on the commission's website.*"

4. **Statewide Collaborative**: 094(9)(B)

Renew Missouri is very appreciative of the added language in section 094(9)(B). Along with many other groups, we see tremendous value in having an organized, meaningful Statewide Collaborative organization formally established in Missouri. While quarterly meetings may be preferable, we believe a minimum of two annual meetings is an improvement. The establishment of working groups (e.g. for Statewide TRM updates, EM&V, Statewide Potential Study, etc.) should prove to be particularly fruitful. We agree with MEEA's recommendations that the meetings of the Statewide Collaborative should be public, and its work product should be provided publicly as well. Finally, we believe an independent facilitator could prove useful to assist the Collaborative in solving contentious issues. Many of these issues can be solved in the drafting and approval of the Collaborative's "charter." We encourage the Commission to retain its proposed language, and to consider the individual proposals of the parties as well.

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Renew Missouri thanks the Commission and Commission Staff for allowing the opportunity to comment on these proposed rules. We look forward to the hearing on May 4, 2017, and we welcome questions or feedback regarding our proposals.

Respectfully Submitted,

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