

**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)	Case No. AW-2018-0385
Electric and Gas Promotional Practices)	
Rules Into One Rule)	

INITIAL COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL

COMES NOW the Office of the Public Counsel (“OPC”) and submits the following initial comments:

Introduction

In an order dated June 27, 2018, the Public Service Commission (“Commission”) invited interested parties to submit informal comments concerning a proposed revision and consolidation of the Commission’s rules on promotional practices, which currently appear in 4 CSR 240-3.100(13), 4 CSR 240-3.150, 4 CSR 240-3.200(15), 4 CSR 240-3.255, 4 CSR 240-14.010, 4 CSR 240-14.020, and 4 CSR 240-14.030. Attached to the Commission’s order was a copy of a draft rule proposed by the Staff of the Commission (“Staff”). The OPC has reviewed the draft rule proposed by Staff and has prepared these comments which it now submits in accordance with the Commission’s order. In addition, the OPC has attached to these comments two versions of the draft rule proposed by Staff and edited by the OPC for consideration by the Commission.

Underlying Policy Considerations

Before considering any proposed revisions to a rule, it is first prudent to review the underlying policy considerations that give rise to the need for that rule. Doing so ensures that any proposed revisions will not hamper the rule’s ability to function and will instead help the rule achieve the goals for which it was first implemented. Applying this principle to the Commission’s

prohibition on promotional practices, it is fairly obvious that the rules exist to ensure that a public utility's ratepayers are not forced to subsidize the utility's efforts to build load by either increasing the number of customers using their service or increasing the amount of service being supplied to existing customers. Preventing this form of subsidization serves to accomplish a number of important policy goals such as matching cost bearing to cost causation, preventing discrimination between ratepayers, and prompting public utilities to make prudent business decisions similar to those made in traditional competitive markets.

Allowing a public utility to recoup promotional practice costs from their captive ratepayers jeopardizes all three of the principles outlined above. For example, a promotion that encourages users to switch from consuming one type of energy to another often has the effect of shifting the allocation of costs away from the cost causers. This is because the cost of the promotion is ultimately assigned not to the new users alone, but rather to all of the public utility's customers. Similarly, such practices can easily result in discrimination between ratepayers as they are often restricted by a number of factors, including location, and thus inadvertently provide preference to some ratepayers over others. Finally, allowing public utilities to recover promotional practice costs from their captive customers may result in the utilities engaging in imprudent practices that end up costing more to run than the offsetting benefit they create for ratepayers in the form of decreased rates.

It is perhaps this last concern that presents the biggest problem. This is because many of the promotional practices developed by Missouri's public utilities are presented as benefiting customers by spreading fixed costs over a larger customer base thus creating long-term downward pressure on rates. As a result, the utilities often demand that the ratepayers carry the cost of implementing the programs. However, this proposed benefit to the ratepayers can only ever

realized during general rate proceedings when rates are adjusted to account for the wider customer base. During the time between rate cases, it is the utilities themselves (or more accurately, the utilities' shareholders) who reap the benefit of promotional practices in the form of increased revenues. Moreover, because the ratepayers pay all the costs for the promotional practices, they bear all of the risk if the practices fail to generate a decrease in rates great enough to offset the cost to run them. The utilities and their shareholders by contrast are always able to benefit from the increased revenue generated by the promotional practices and thus always stand to gain despite not bearing any risk. This creates a perverse system wherein when the promotional practice does well, both ratepayers and shareholders benefit; but if the promotional practice does poorly, then shareholders still get some benefit while ratepayers suffer.

The OPC's Proposed Rule

While the policy considerations outlined above make clear the need for a rule that prohibits public utilities from recouping promotional practice costs from their customers, the OPC sees little reason to prohibit public utilities from engaging in promotional practices if the costs to implement those practices are instead borne by their shareholders. Allowing public utilities to engage in promotional practices but denying recovery of their costs through rates shifts the associated risks from the ratepayers, who have no choice in deciding what risks the company takes on, to the shareholders, who do, while at the same time preserving the benefits that come with allowing public utilities to openly compete against each other.¹ This sentiment is consistent with the declaration of public policy found in the Commission order that first promulgated the rules and which sought to permit "the employment of promotional practices which will stimulate fair and vigorous competition among utilities and others." *Promulgation of rules concerning certain*

¹ In particular, the OPC approves of utility sponsored promotional practices designed to promote energy efficiency.

promotional practices of public utilities, 16 Mo. P.S.C. (N.S.) 67, 68. Consequently, the OPC proffers the modified version of Staff's proposed draft rule (included as Attachments A and B), which the OPC will refer to as the "simplified" rule.

The simplified rule eliminates both the prohibition on promotional practices and the filing requirements found in Staff's current draft version and replaces them with a single, simple requirement that any costs arising from what would otherwise be a prohibited promotional practice not be passed along to ratepayers. As stated previously, this will force utilities to act prudently when considering promotional practices, as the risk of such practices failing will be on their shareholders as opposed to their ratepayers, without limiting – and in fact expanding – the range of promotional practices in which they may engage. In addition, the OPC has acknowledged that Staff's draft version of the rule includes specific carve-outs for some utility practices and has made sure that these carve-outs are included in the simplified rule. The OPC has also added new language designed to ensure that programs aimed at improving energy efficiency or reducing demand-side investment are protected and recoverable by the utilities as well.

The OPC believes that the simplified rule is has proffered provides several significant benefits to ratepayers, regulators, and utilities alike. For example, the simplified rule has the benefit of reducing both the length and complexity of Staff's current draft version of the rule while simultaneously simplifying its implementation. This in turn reduces the overall level of regulation currently in place in compliance with recent gubernatorial mandates. In addition, the simplified rule eliminates the need for additional filings by public utilities and hence also decreases the need for administrative oversight by the commission. The simplified rule similarly cuts down on the number of tariff sheets that will need to be included in the public utilities tariffs thus lessening their overall complexity. It also has the benefit of encouraging public utilities to engage in more

rational decision making based on traditional free-market business models because it allows them greater freedom to experiment and engage competitively, especially in the area of promoting energy efficiency. Finally, the simplified rule provides a greater level of protection to utility consumers than exists under the current version, by reducing the need for utilities to seek a variance to the rule, while also sending better price signals to encourage consumers to consider the long-term costs associated with any given practice.

Application of the OPC's proposed rule

The benefits to the OPC's simplified rule laid out above can easily be seen by considering how the rule would apply to a number of recent PSC cases that have concerned promotional practices. For example, in EE-2013-0511 Ameren Missouri ("Ameren") applied for a variance to the Commission's current version of the promotional practice rule in order to provide "the developer of a subdivision the installation of underground electric facilities at no cost to those developers." *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for a Variance From the Provisions of Commission Rule 4 CSR 240-14 to Meet Unregulated Competition in a Subdivision in Cole County, Missouri*, 2013 Mo. PSC LEXIS 625, *1. Ameren argued that this variance was necessary to allow it to compete with an unregulated local electrical cooperative, who was offering to cover the cost of installing the necessary underground electrical facilities without charge to the developers, despite Ameren already having a power distribution system in place immediately adjacent to where the subdivision was being built. *Id.* Moreover, Ameren had to ask for expedited treatment of the case because it believed that the developer was going to make up their mind by within a month. *Id.* Ameren thus would clearly have benefited had the OPC's simplified rule been in place, as it would have removed the need for Ameren to file at all. Instead, Ameren could offer the developers a discount, and thus compete with the unregulated

cooperative, without ever having to notify the Commission. Ameren's only concern would be determining whether, in the long run, its shareholders, who would both absorb the cost of the discount and reap the benefit of the added revenue, would be better off with these customers on its system.

Another case where the OPC's simplified rule would have been beneficial is GT-2012-0170. That case concerned Missouri Gas Energy's ("MGE") effort to implement a program designed to help the victims of the tornado that struck Joplin Missouri in 2011. *In the Matter of Southern Union Company d/b/a Missouri Gas Energy's Tariff Sheets Designed to Implement an Experimental Pilot Program to Assist Rebuilding in the Area of Joplin, Missouri*, 2011 Mo. PSC LEXIS 1448, *1. Specifically, MGE sought to amend its tariff to include a program that offered the people of Joplin financial aid in the form of energy efficiency incentives. *Id.* Had the OPC's simplified rule been in place, however, there would not have been a need for MGE to file new tariff sheets. On the contrary, MGE would have been free to act in any way it saw fit and would be constrained only to determining whether the costs incurred would be less than the benefits generated for its shareholders. Further, because MGE would not have needed any form of Commission approval, it would have been able to act quicker in offering aid to the people of Joplin.

As a final example, the OPC points to the GE-2006-0189 case filed by the Southern Missouri Gas Company (SMGC) who sought to amend its tariff to allow for a promotional natural gas conversion program. *In the Matter of the Application of Southern Missouri Gas Company, L.P. for a Variance from O4 CSR 240-14.020(1)(E), (F) and (H)*, 2005 Mo. PSC LEXIS 1714, *1. SMGC's program was designed to encourage consumers, especially those with low-income or fixed-income, to convert from other sources of energy to natural gas. *Id.* As before, the OPC's simplified rule would have been beneficial to SMGC in that it would have prevented SMGC from

needing to file the case in the first place (as well as removing the need for new tariff sheets) and instead would have allowed SMGC to act unilaterally if it determined that it was a prudent business decision, i.e. beneficial to its shareholders, to do so.

Conclusion

The three examples laid out above represent the wide variety of cases that could easily be avoided (without any corresponding loss of opportunity to Missouri's regulated utilities) if the Commission adopts the OPC's simplified version of the promotional practices rule. They also demonstrate some of the other benefits to the simplified rule including the promotion of competition between regulated utility providers and other regulated and non-regulated providers, the reduction in the amount of filing required of the utilities, and the elimination of unnecessary tariff sheets. At the same time, however, the OPC's simplified rule still provides a greater level of protection for the public utilities' customers who are not required to cover the risks related to the promotional practices being implemented. This in turn will ensure that the utilities are making prudent business decisions as any losses suffered or profits realized from their promotional practices will ultimately belong to their shareholders. For all these reasons, the OPC argues that the commission should adopt its proffered simplified version of the promotional practices rule.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 27th day of July 2018.

/s/ John Clizer

**Title 4 — DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240 — Public Service Commission
Chapter 10 — Utilities**

PROPOSED RULE

4 CSR 240-10.XXX Promotional Practices

PURPOSE: This rule ~~bars a public utility from recovering the costs associated with engaging in or performing promotional practices from its ratepayers in order to ensure that the public utility's ratepayers are not being used to subsidize the public utility's efforts to build load~~prescribes standards governing promotional practices of electric and gas utilities and sets forth promotional practices which are prohibited by the Public Service Commission.

(1) Definitions:

(A) ~~For purposes of this rule p~~Promotional practices shall mean any consideration offered or granted by a public utility ~~or its affiliate~~ to any person for the purpose, express or implied, of inducing the person to select and use the service or use additional service of the public utility or to select or install any appliance or equipment designed to use the public utility service, or for the purpose of influencing the person's choice or specification of the efficiency characteristics of appliances, equipment, buildings, utilization patterns, or operating procedures; ~~but does not include the following activities:~~

- ~~1. Making any emergency repairs to appliances or equipment of customers;~~
- ~~2. Providing appliances or equipment for demonstrations of sixty (60) days or less;~~
- ~~3. Providing light bulbs, street or outdoor lighting service, wiring, service pipe or other service equipment or appliances, in accordance with tariffs filed with and approved by the commission;~~
- ~~4. Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of the appliances or equipment;~~
- ~~5. Merchandising appliances or equipment at retail and, in connection therewith, the holding of inventories, making and fulfillment of reasonable warranties against defects in material and workmanship existing at the time of delivery and financing;~~
- ~~6. Inspecting and adjusting of appliances or equipment by an electric or gas utility;~~
- ~~7. Repairing and other maintenance to appliances or equipment by an electric or gas utility if charges are at cost or above;~~
- ~~8. Providing free or below cost energy audits or other information or analysis regarding the feasibility and cost effectiveness of improvements in the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures;~~
- ~~9. Offering to present or prospective customers by an electric or gas utility technical or engineering assistance; and~~
- ~~10. Advertising or publicity by an electric or gas utility which is under its name and on its behalf and which does not in any manner, directly or indirectly, identify, describe, refer to, mention or relate to any architect, builder, engineer, subdivider, developer or other similar person, or which mentions no less than three (3) existing projects, developments or subdivisions.~~

~~(B) Affiliate shall include any person who, directly or indirectly, controls or is controlled by or is under common control with a public utility;~~

ATTACHMENT A: OPC SIMPLIFIED PROMOTIONAL PRACTICE RULE REDLINE VERSION

~~(B)~~ Appliance or equipment shall mean any device ~~which that~~ consumes electricity, ~~or gas, or water-energy~~ and any ancillary device required for its operation;

~~(C)~~ Consideration shall ~~be interpreted in its broadest sense and shall include~~ mean any cash, donation, gift, financing, allowance, rebate, discount, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right or other thing of value;

~~(E)~~ Cost-effective is determined by the Utility Cost Test, 4 CSR 240-20.092(1)(XX);

~~(D)~~ Demand response measure shall mean any measure taken by a utility to decrease current peak demand or shift current demand to off-peak periods ~~Demand-side resource means any inefficient energy-related choice other than those choices approved by the Commission under its Missouri Energy Efficiency Investment Act rules that can be influenced cost-effectively by a utility. The meaning of this term shall not be construed to include load-building programs;~~

~~(E)~~ Demand-side program shall mean any program conducted by the utility to reduce the load demand of any given customer or group of customers (including energy efficiency measures, demand response measures, and interruptible or curtailable load) which is also beneficial to all customers within the effected customer class, regardless of whether the program is utilized by all customers of that class ~~Energy service means the need that is served or the benefit that is derived by the ultimate consumer's use of energy;~~

~~(F)~~ Energy efficiency measure shall mean any measure taken by a public utility that reduces the net consumption of that public utility's services that are needed or would be needed to achieve a given end use;

~~(G)~~ Financing shall include acquisition of equity or debt interests, loans, guarantees of loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts or other investments or extensions of credit;

~~(H)~~ Interruptible or curtailable rate shall mean a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withhold services under certain specified conditions ~~Inefficient energy-related choice means any decision that causes the life-cycle cost of providing an energy service to be higher than it would be for an available alternative choice;~~

~~(J)~~ Life-cycle means the expected useful lifetime of appliances, equipment or buildings;

~~(K)~~ Load-building program means an organized promotional effort by a utility to persuade energy-related decision makers to choose the form of energy supplied by that utility instead of other forms of energy for the provision of energy service or to persuade customers to increase their use of that utility's form of energy, either by substituting it for other forms of energy or by increasing the level or variety of energy services used. This term is not intended to include the provision of technical or engineering assistance, information about filed rates and tariffs or other forms of routine customer service.

~~(L)~~ Person shall include any individual, group, firm, partnership, corporation, association or other organization;

~~(J)~~ Public utility ~~or utility~~ shall mean any electrical corporation, ~~or gas corporation, water corporation, or sewer corporation~~ as defined in section RSMo. § 386.020, ~~RSMo.~~;

(2) Cost recovery of promotional practices ~~Filing Requirements:~~

~~(A)~~ A public utility may include in its revenue requirement the prudently incurred cost of only the following promotional practices as provided for in its tariff. ~~Any promotional practices~~

~~offered by an electric or gas utility must meet the promotional practices requirements set out in this rule:~~

- ~~1. Making any emergency repairs to appliances or equipment of customers;~~
- ~~2. Providing appliances or equipment for demonstrations of sixty (60) days or less;~~
- ~~3. Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of the appliances or equipment;~~
- ~~4. Inspecting and adjusting of appliances or equipment by a public utility;~~
- ~~5. Offering of technical or engineering assistance to present or prospective customers by a public utility;~~
- ~~6. Advertising or publicity by public utility which is under its name and on its behalf and which does not in any manner, directly or indirectly, identify, describe, refer to, mention or relate to any architect, builder, engineer, subdivider, developer or other similar person, or which mentions no less than three (3) existing projects or developments; and~~
- ~~7. Commission approved pilot projects designed to evaluate if a demand-side program meets the Total Resource Cost Test as defined in RSMo. § 393.1075 or commission approved demand-side programs which the public utility demonstrates do meet said test.~~

~~(B) A public utility shall not include in its revenue requirement any cost associated with any other promotional practice. No electric or gas utility or its affiliate shall offer or grant any additional promotional practice or vary or terminate any existing promotional practice, directly or indirectly, or in concert with others, or by any means whatsoever, until a tariff filing showing the addition or variation or termination in the form prescribed by this rule has been made with the commission and a copy furnished to each other electric or gas utility providing the same or competing utility service in any portion of the service area of the filing utility.~~

~~(C) The utility shall provide the following information on the tariff sheets:~~

- ~~1. The name, number or letter designation of the promotional practice;~~
- ~~2. The class of persons to which the promotional practice is being offered or granted;~~
- ~~3. Whether the promotional practice is being uniformly offered to all persons within that class;~~
- ~~4. A description of the promotional practice and a statement of its purpose or objective;~~
- ~~5. A statement of the terms and conditions governing the promotional practice;~~
- ~~6. If the promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of the affiliate or person and the nature of their participation; and~~
- ~~7. Any other information relevant to a complete understanding of the promotional practice.~~

~~(D) The utility shall provide the following supporting information for each promotional practice:~~

- ~~1. A description of the advertising or publicity to be employed with respect to the promotional practice;~~
- ~~2. For promotional practices that are designed to evaluate the cost-effectiveness of potential demand-side resources, a description of the evaluation criteria, the evaluation plan and the schedule for completing the evaluation;~~
- ~~3. For promotional practices that are designed to acquire demand-side resources, documentation of the criteria used and the analysis performed to determine that the demand-side resources are cost-effective; and~~
- ~~4. The utility filing the application shall show proof of service of a copy of the application on each public utility providing the same or competing utility service in all or any portion of the service area of the filing utility.~~

~~5. On written application by a utility the commission may grant variances from the rules contained in this chapter for good cause shown.~~

~~(3) A public utility may engage in or perform any promotional practice as a non-regulated service, provided that the public utility shall follow the commission's affiliate transaction rules as defined in 4 CSR 240-10.XXX. Prohibited promotional practices. No utility may offer the following activities:~~

~~(A) The financing of real property, including the construction of any building, when the property is not owned or otherwise possessed by the utility or its affiliate;~~

~~(B) The furnishing of consideration to any architect, builder, engineer, subdivider, developer or other person for work done or to be done on property not owned or otherwise possessed by the utility or its affiliate, except for studies to determine comparative capital costs and expenses to show the desirability or feasibility of selecting one (1) form of energy over another;~~

~~(C) The acquisition from any builder, subdivider, developer or other person of any easement, right-of-way, license, lease or other property for consideration in excess of the reasonable cost or value;~~

~~(D) The furnishing of consideration to any dealer, architect, builder, engineer, subdivider, developer or other person for the sale, installation or use of appliances or equipment;~~

~~(E) The provision of free, or less than cost or value, wiring, piping, appliances or equipment to any other person; provided, that a utility, engaged in an appliance merchandising sales program, shall not be precluded from conducting legitimate closeouts of appliances, clearance sales and sales of damaged or returned appliances;~~

~~(F) The provision of free, or less than cost or value, installation, operation, repair, modification or maintenance of appliances, equipment, wiring or piping of any other person;~~

~~(G) The granting of a trade-in allowance on the purchase of any appliance or equipment in excess of the market value of the trade-in as well as the granting of an allowance for the appliance or equipment when the allowance varies by the type of energy consumed in the appliance or equipment;~~

~~(H) The financing of the acquisition of any appliance or equipment at a rate of interest or on terms more favorable than those generally applicable to sales by nonutility dealers in the appliances or equipment, except sales to company employees;~~

~~(I) The furnishing of consideration to any person for any advertising or publicity purpose of that person, except for payments not exceeding one-half (1/2) of the reasonable cost or value for joint advertising or publicity with a dealer in appliances or equipment for the sale or other provision of same if the utility is prominently identified as a sponsor of the advertisement; and~~

~~(J) The guaranteeing of the maximum cost of electric or gas utility service, except the guaranteeing of the cost of space heating or cooling for a single season, when the cost is at or above the cost of providing service and when the guarantee is for the purpose of improving the utility's off-peak season load factor.~~

~~(4) Nothing contained in this rule shall be construed to prohibit any activity, practice or business otherwise allowed by statute and particularly those businesses exempt from the jurisdiction of this commission as provided under section 393.140(12), RSMo or employee benefit programs approved by the commission and consistent with the provisions of this rule.~~

ATTACHMENT A: OPC SIMPLIFIED PROMOTIONAL PRACTICE RULE REDLINE VERSION

~~(5) No public utility or its affiliate, directly or indirectly, in any manner or by any device whatsoever, shall offer or grant to any person any form of promotional practice except as is uniformly and contemporaneously extended to all persons in a reasonable defined class. No public utility or its affiliate, in the granting of a promotional practice, shall make, offer or grant any undue or unreasonable preference or advantage to any person or subject any person to any undue or unreasonable prejudice or disadvantage. No public utility or its affiliate shall establish or maintain any unreasonable difference in the offering or granting of promotional practices either as between localities or as between classes to whom promotional practices are offered or granted.~~

~~(6) All promotional practices of a public utility or its affiliate shall be just and reasonable, reasonable as a business practice, economically feasible and compensatory and reasonably calculated to benefit both the utility and its customers.~~

~~(7) The promotional practices of a public utility or affiliate shall not vary the rates, charges and rules of the tariff pursuant to which service is rendered to a customer. No new promotional practice which has not been previously filed with the commission shall be made or offered unless first filed on a tariff with the commission.~~

**Title 4 — DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240 — Public Service Commission
Chapter 10 — Utilities**

PROPOSED RULE

4 CSR 240-10.XXX Promotional Practices

PURPOSE: This rule bars a public utility from recovering the costs associated with engaging in or performing promotional practices from its ratepayers in order to ensure that the public utility's ratepayers are not being used to subsidize the public utility's efforts to build load.

(1) Definitions:

(A) Promotional practices shall mean any consideration offered or granted by a public utility to any person for the purpose, express or implied, of inducing the person to select and use the service or use additional service of the public utility or to select or install any appliance or equipment designed to use the public utility service, or for the purpose of influencing the person's choice or specification of the efficiency characteristics of appliances, equipment, buildings, utilization patterns, or operating procedures;

(B) Appliance or equipment shall mean any device that consumes electricity, gas, or water and any ancillary device required for its operation;

(C) Consideration shall mean any cash, donation, gift, financing, allowance, rebate, discount, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right, or other thing of value;

(D) Demand response measure shall mean any measure taken by a utility to decrease current peak demand or shift current demand to off-peak periods;

(E) Demand-side program shall mean any program conducted by the utility to reduce the load demand of any given customer or group of customers (including energy efficiency measures, demand response measures, and interruptible or curtailable load) which is also beneficial to all customers within the effected customer class, regardless of whether the program is utilized by all customers of that class;

(F) Energy efficiency measure shall mean any measure taken by a public utility that reduces the net consumption of that public utility's services that are needed or would be needed to achieve a given end use;

(G) Financing shall include acquisition of equity or debt interests, loans, guarantees of loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts or other investments or extensions of credit;

(H) Interruptible or curtailable rate shall mean a rate under which a customer receives a reduced charge in exchange for agreeing to allow the utility to withhold services under certain specified conditions;

(I) Person shall include any individual, group, firm, partnership, corporation, association or other organization;

(J) Public utility shall mean any electrical corporation, gas corporation, water corporation, or sewer corporation as defined in RSMo. § 386.020.

ATTACHMENT B: OPC SIMPLIFIED PROMOTIONAL PRACTICE RULE CLEAN VERSION

(2) Cost recovery of promotional practices:

(A) A public utility may include in its revenue requirement the prudently incurred cost of only the following promotional practices as provided for in its tariff:

1. Making any emergency repairs to appliances or equipment of customers;
2. Providing appliances or equipment for demonstrations of sixty (60) days or less;
3. Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of the appliances or equipment;
4. Inspecting and adjusting of appliances or equipment by a public utility;
5. Offering of technical or engineering assistance to present or prospective customers by a public utility;
6. Advertising or publicity by public utility which is under its name and on its behalf and which does not in any manner, directly or indirectly, identify, describe, refer to, mention or relate to any architect, builder, engineer, subdivider, developer or other similar person, or which mentions no less than three (3) existing projects or developments; and
7. Commission approved pilot projects designed to evaluate if a demand-side program meets the Total Resource Cost Test as defined in RSMo. § 393.1075 or commission approved demand-side programs which the public utility demonstrates do meet said test.

(B) A public utility shall not include in its revenue requirement any cost associated with any other promotional practice.

(3) A public utility may engage in or perform any promotional practice as a non-regulated service, provided that the public utility shall follow the commission's affiliate transaction rules as defined in 4 CSR 240-10.XXX.