

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

In the Matter of a Working Case to Review)
The Commission’s Missouri Energy)
Efficiency Investment Act (MEEIA) Rules) File No. EW-2015-0105
4 CSR 240-3.163, 4 CSR 240-3.164,)
4 CSR 240-20.093, and 4 CSR 240-20.094.)

**MISSOURI DIVISION OF ENERGY’S COMMENTS
IN RESPONSE TO THE FIRST MEEIA RULEMAKING WORKSHOP**

COMES NOW the Missouri Department of Economic Development – Division of Energy (“DE”)¹ and submits the following comments regarding the Commission’s rules implementing the Missouri Energy Efficiency Act (“MEEIA”)² following a workshop (“first workshop”) convened by the Commission Staff (“Staff”) on January 15, 2015:³

1. Cost effectiveness tests and non-energy benefits (NEBs) – DE expressed its support in its previous comments for the insertion of language at 4 CSR 240-3.164(2)(B)2 in order to provide for the consideration of the Societal Cost Test (SCT) in addition to the Total Resource Cost (TRC) Test; DE also supports the consideration of NEBs. Parties such as Wal-Mart and the Midwest Industrial Energy Consumers (MIEC) argued that certain NEBs are difficult to quantify at this point in time, but many others (including Renew Missouri, the National Housing Trust, and the Natural Resources Defense Council) pointed out that prior work demonstrates a non-zero value for many NEBs. As indicated by the American Council for an Energy-Efficient Economy, prior experience exists with the SCT or its variants in other states,⁴

¹ Effective August 29, 2013, Executive Order 13-03 transferred “all authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Division of Energy from the Missouri Department of Natural Resources to the Missouri Department of Economic Development”

² § 393.1075 RSMo.

³ Many of the comments below draw from previous comments submitted by DE prior to the first workshop.

⁴ See, for example, California Public Utilities Commission, “California Standard Practice Manual: Economic Analysis of Demand-Side Programs and Projects,” October, 2001.

and DE is aware that the Laclede Gas Company is using this test in Missouri when evaluating its programs.

2. MEEIA and integrated resource planning (IRP) – DE explained that linking the MEEIA and IRP rules allows for the selection of less than all cost-effective MEEIA portfolios so long as they fit within the multitude of other considerations factoring into the “preferred plan” under a utility’s IRP. Constraining MEEIA to preferred plans under the IRP runs contrary to the explicitly stated goal of MEEIA, namely that, “It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure ... ” (§ 393.1075.3 RSMo). In addition, Section 393.1075.4 establishes “a goal of achieving all cost-effective demand-side savings.” These are statutory strictures; the IRP rules are merely a regulatory construct based upon the Commission’s general oversight of electrical corporations. The Commission cannot interpret its rules to thwart the goals of MEEIA. The revisions to the MEEIA rules should make clear that “all cost-effective demand-side” measures must be pursued regardless of the IRP preferred plan.

3. Combined heat and power (CHP) –Sections 393.1075.2(4) RSMo, 4 CSR 240-3.163(1)(N), 4 CSR 240-3.164(1)(K), 4 CSR 240-20.093(1)(U), and 4 CSR 240-20.094(1)(Q) all define energy efficiency as “... measures that reduce the amount of electricity required to achieve a given end-use.” CHP offers energy efficiency savings; in his Direct Testimony for the recent Ameren rate case, Dr. Alex Schroeder discussed how CHP systems can achieve efficiencies of 60 to 80 percent, compared to just 45 percent efficiency from non-CHP

systems.⁵In its original comments DE explained that the MEEIA statute and rules enable CHP to count towards MEEIA on a kWh or kWh-equivalent basis. As indicated by questioning from Renew Missouri and DE during the workshop, CHP was widely accepted by stakeholders as acceptable under MEEIA; even Kansas City Power & Light indicated that there was no need for rule revision.

In addition to these energy efficiency gains, CHP also fits into MEEIA under the broader definitions of “demand-side program” at § 393.1075.2(3) RSMo, 4 CSR 240-3.163(1)(E), 4 CSR 240-3.164(1)(F), 4 CSR 240-20.093(1)(L), and 4 CSR 240-20.094(1)(I). In general, these definitions provide that a demand-side program is, “ ... any program conducted by the utility to modify the net consumption of electricity on the retail customer’s side of the meter including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load.” The broadly enabling words “any program” and “including, but not limited to” provide sufficient flexibility to include CHP; any applicable program must only “modify the net consumption of electricity on the retail customer’s side of the meter,” but the applicable language does not mandate a decrease in electricity consumption over a specified period of time. CHP, like load management and interruptible or curtailable load programs, allows for peak shaving and load shifting to off-peak periods, reducing the need for additional generation and transmission infrastructure to meet peaking requirements. While DE does not believe that any additional rulemaking is necessary in this instance, the Commission should clarify that CHP is an eligible demand-side measure.

4. Exemption of low-income programs from cost-effectiveness tests – DE wishes to clarify that low-income energy-efficiency programs are not required to pass any cost-

⁵ Missouri Public Service Commission Case No. ER-2014-0258, *In the Matter of Union Electric Company d/b/a Ameren Missouri’s Tariffs to Increase Its Revenues for Electric Service*, Direct Testimony of Alex Schroeder on Behalf of Missouri Department of Economic Development, Division of Energy, December 19, 2014, page 3.

effectiveness tests under MEEIA at the measure or program levels, nor are they required to pass such tests as part of a MEEIA portfolio. § 393.1075.4 unambiguously states:

Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is **in the public interest**. (Emphasis added.)

Since low-income programs are clearly in the “public interest” because of their benefits for recipients and general ratepayers (e.g., lowered rates through lowered arrearages), cost-effectiveness cannot be a consideration with regards to low-income programs. This is reinforced in the MEEIA rules at 4 CSR 240-20.094-3(B), wherein, “The commission shall approve demand-side programs having a total resource cost test ratio less than one (1) for demand-side programs targeted to low-income customers or general education campaigns, if the commission determines that ... the program or program plan is in the public interest” Additionally, to read the statute and rules such that low-income programs needed to contribute to portfolio-wide cost-effectiveness tests would impermissibly pressure such programs out of MEEIA portfolios (or substantially reducing them) *on the basis of cost* in order to preserve acceptable non-low-income portfolio TRC scores. Such a reading commits the dual blunders of (1) contradicting the statutory dictum that low-income programs are subject to public interest review, not cost-effectiveness review, and (2) applying downward drag on the cost-effectiveness of non-low-income portfolios such that, contrary to 4 CSR 240-20.094(3)(A), otherwise complying non-low-income portfolios with TRC greater than 1 would have no assurance of approval.

5. Statewide Technical Resource Manual (STRM) – A STRM is a worthwhile goal in order to encourage the standard measurement of energy savings; a collaborative should be formed to address the concerns raised at the workshop. It should be noted that stakeholders

including the Office of the Public Council (OPC) and Renew Missouri were favorable towards the prospect of an STRM. In the interim, as stated by DE at the workshop in response to one suggestion, no revision of 4 CSR 240-20.093(7)(E) is necessary given the condition therein that utility EM&V contractors must use a STRM “if available.”

In the event that utilities must certify greenhouse gas emissions reductions under the Environmental Protection Agency’s (EPA) Clean Power Plan (CPP), a STRM might provide a specific mechanism for utilities to verify energy efficiency-related reductions via deemed savings values.

6. Opt-outs – The process for determining opt-out eligibility under 4 CSR 240-20.094(6)(E) pursuant to 4 CSR 240-20.094(6)(A)3 should be recognized as ongoing and be made transparent by the Commission through a rule revision pursuant to the MEEIA statute at §§ 393.1075.7 and 393.1075.7(3) RSMo. The statute requires ongoing compliance by opt-out customers:

§ 393.1075.7. ... none of the costs of demand-side measures of an electric corporation offered under this section or by any other authority, and no other charges implemented in accordance with this section, shall be assigned to any account of any customer, including its affiliates and subsidiaries, **meeting** one or more of the following criteria:

§ 393.1075.7.(3) The customer has accounts within the service territory of the electrical corporation that have, in aggregate, a demand of two thousand five hundred kilowatts or more, and the customer **has** a comprehensive demand-side or energy efficiency program and **can demonstrate** an achievement of savings at least equal to those expected from utility-provided programs. (Emphasis added.)

The words “meeting,” “has,” and “can demonstrate” require continual demonstration of opt-out eligibility for customers with over 2,500 kW of total demand. This ongoing demonstration of eligibility could mirror the initial demonstration requirements to minimize any potential administrative burdens associative with additional compliance verification. In order to further minimize the administration burden, DE proposes an annual demonstration rather than a monthly or quarterly demonstration.

DE appreciates the opportunity to participate in the workshop process and provide comments.

Respectfully submitted,

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