

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

In the Matter of Kansas City Power & Light )  
Company’s Notice of Intent to File an )  
Application for Authority to Establish a Demand- ) **File No. EO-2015-0240**  
Side Programs Investment Mechanism )

In the Matter of KCP&L Greater Missouri Operations )  
Company’s Notice of Intent to File an )  
Application for Authority to Establish a Demand- ) **File No. EO-2015-0241**  
Side Programs Investment Mechanism )

**STAFF POSITION STATEMENTS**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through undersigned counsel, and files its position statements in the above-captioned cases as stated below:

**Issues:**

- A. *Should the Missouri Public Service Commission (“Commission”) approve the MEEIA Cycle 2 programs and demand-side programs investment mechanism as agreed on in the joint position and articulated in the Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings filed November 23, 2015 (“Stipulation”)?*

**Staff Position:** Yes. The MEEIA Cycle 2 programs and demand-side programs investment mechanism (“DSIM”) agreed to by the Stipulation signatories<sup>1</sup> should be approved because the joint position articulated in the Stipulation meets the requirements of the Missouri Energy Efficiency Investment Act<sup>2</sup> (“MEEIA”). Specifically the Stipulation reasonably meets all three MEEIA plan objectives identified by the Commission in its October 22, 2015 Report and Order in the Ameren Missouri MEEIA Cycle 2 application case (Case No. EO-2015-0055) in that the Stipulation:

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<sup>1</sup> Signatories to the Stipulation include: Staff of the Missouri Public Service Commission, KCPL, GMO, the Office of the Public Counsel, National Housing Trust, West Side Housing Organization, Natural Resources Defense Council, Earth Island Institute d/b/a Renew Missouri, Missouri Department of Economic Development – Division of Energy, and United for Missouri, Inc.

<sup>2</sup> Section 393.1075 RSMo 2013 as supplemented.

1. Includes retrospective evaluation, measurement and verification (“EM&V”) to be used to determine energy savings that actually occurred for the true-up of the throughput disincentive (“TD”)<sup>3</sup>;
2. Provides an earnings opportunity (“EO”) to Company shareholders that is comparable to the EO the shareholders would have had from a future supply-side investment<sup>4</sup>; and,
3. Provides a benefit to customers not participating in MEEIA programs by helping other customers reduce usage rather paying the Company to build a power plant.<sup>5</sup>

Only Brightergy, LLC has raised an objection to the Stipulation, limiting its objection specifically to Issues B. and C. below.

*B. Should the Commission approve the Commercial and Industrial (“C & I”) Custom Rebate program in the Stipulation over the objection of Brightergy?*

Staff Position: Yes. The C & I Custom Rebate program in the Stipulation provides the Company with the flexibility to decrease or increase customer incentives within a range of \$0.06 per kWh to \$0.40 per kWh. The Company may make changes to the incentive levels within the range at its discretion to achieve its energy-efficiency savings objectives under its MEEIA Cycle 2 plan.

In further support, Staff has determined that an increased level of customer incentives for C & I customer rebate programs, as Brightergy has requested, do not correlate directly with MEEIA’s objective of achieving benefits for all customers. Based on a comparison of the Company’s Cycle 1 C & I customer rebate programs (which Brightergy seeks to continue in Cycle 2), the Company’s Cycle 1 C & I program underperformed in the performance metric of achieving net benefits per dollar of program costs when compared to the savings achieved by Ameren Missouri which offered much lower customer incentives than KCPL/GMO did in its richer Cycle 1 program.<sup>6</sup>

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<sup>3</sup> Sect. 393.1075.3(2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers’ incentives to use energy more efficiently.

<sup>4</sup> Sect. 393.1075.3 It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall: ... (3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

<sup>5</sup> Sect. 393.1075.4 The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

<sup>6</sup> See Staff witness John Rogers’ Surrebuttal Testimony, pp. 2-4.

In addition, KCPL/GMO's proposed Cycle 2 C & I Custom Rebate program is supported by (1) extensive research with its third party implementer CLEAResult; (2) "floating a trial balloon" to Company trade allies in July 2015 regarding the flat rate incentive structure of its proposed C & I program; (3) discussions with the DSM Advisory Group during quarterly meetings in 2015; and (4) analyses and discussions with its consultant, Applied Energy Group during the Company's design phase for Cycle 2.<sup>7</sup>

Brightergy incorrectly seeks to have the Commission order its preferred C & I Program which the Company has rejected. As the Commission demonstrated in Case No. EO-2015-0055, it will not issue an order directing the Company to implement a program that the Company has not accepted. The MEEIA statute is permissive in nature and by its express language does not require utilities to offer demand-side programs. That energy efficiency is optional is evidenced by the statute that says "The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings."<sup>8</sup>

*C. Should the Commission approve the regulatory flexibility provisions in the Stipulation over the objection of Brightergy?*

Staff Position: Yes. The Stipulation provisions allow the Company to terminate all programs, and not selected program(s), only after the Company makes a demonstration that changed factors or circumstances have materially negatively impacted the economic viability of such programs. These provisions are just and reasonable for customers because the Company must notify customers of discontinuance by publication not less than thirty (30) days prior to the effective date of such discontinuance in newspaper(s) and will honor commitments made to MEEIA Cycle 2 program participants prior to the effective date of the discontinuance. Also, the Company will forfeit any recovery of its earnings opportunity in connection with the discontinuance of such programs. It will, however, continue to collect through the DSIM mechanism its programs costs incurred prior to the effective date of discontinuance and the TD (throughput disincentive) related to energy savings delivered through the discontinued MEEIA Cycle 2 programs through the date such savings have been rebased in a general rate case. The Company will take action as soon as reasonably practicable to adjust rates consistent with the discontinuance of the portfolio to ensure that the Company neither over- nor under-recovers actual program costs and actual TD.

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<sup>7</sup> See *Direct Testimony In Support of Stipulation of Kimberly H. Winslow*, p. 7.

<sup>8</sup> See *Report and Order* in Case No. EO-2015-0055, Ameren Missouri's MEEIA Cycle 2 application case, pp. 6 and 16.

To enact these provisions the Commission should approve a variance to the applicable Commission rule, 4 CSR 240-20.094(5). Several considerations support the Commission's finding of good cause for granting this variance. First, as described in the Stipulation provisions (paragraph 13) the Company has agreed to meet or exceed all of the requirements of 4 CSR 240-20.094(5) prior to discontinuing all of its programs with the following exception: the requirement for a formal hearing and a Commission order approving discontinuance of all programs. Also, the Commission has recognized, as discussed in Issue B above, that the MEEIA statute is permissive in nature and that electric utilities are not required to offer demand-side programs. Demand-side programs are a voluntary offering of an electric utility and cannot be compelled by Commission order.

**WHEREFORE,** the Staff files its position statements as directed by the Commission.

Respectfully submitted,

**/s/ Robert S. Berlin**

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been electronically mailed this 6th day of January, 2016 to all counsel of record in this proceeding.

**/s/ Robert S. Berlin**