

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

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

Comments of United for Missouri, Inc.

COMES NOW United for Missouri, Inc. (“UFM”), by and through the undersigned counsel, and for its comments in the above referenced working file, states as follows:

1. On October 24, 2014, the Staff (“Staff”) of the Missouri Public Service Commission (“Commission”) filed in the above reference file *Staff’s Motion to Open Working Docket* (“Staff’s *Motion*”). Stating that the Commission has promulgated rules to implement the Missouri Energy Efficiency Investment Act (“MEEIA”), Section 393.1075 RSMo (Supp. 2012), specifically rules 4 CSR 240.3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094, the Staff highlighted each section’s “Rule Review” requirement.

Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date of this rule and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

2. On October 24, in response to the Staff’s *Motion*, the Commission issued its *Order Opening a Working Case to Review the Effectiveness of the Commission’s Rules Implementing the Missouri Energy Efficiency Investment Act (MEEIA)* (“*Order*”). The *Order* invited interested stakeholders to respond with Comments by November 14 to the following requests:

a. Please comment as to the effectiveness of the MEEIA rules;

- b. Please suggest proposed changes to the MEEIA rules. These suggestions need not be in the form of a draft amendment, but should include citations to the language that would be amended if the proposed changes are effectuated, and should explain the policy or other rationale supporting the proposed change;
 - c. Please comment as to any issues that should be addressed in proposed amendments to the MEEIA rules not presently included in the rules.
 3. On November 14, a number of entities filed written comments, and on January 15, 2015, Staff conducted a workshop to discuss those comments.
 4. On January 16, 2015, Staff filed its “Notice of Workshops” (“Notice”). The Notice identified four future workshops to be held in the Governor Office Building Ballroom, on:
 - a. Tuesday, March 24, 2015
 - b. Tuesday, May 12, 2015
 - c. Friday, May 29, 2015
 - d. Friday, June 26, 2015 (if needed)
 5. For the most part, the filed comments and the agenda from the January 15 workshop have been devoted to proposed changes to the MEEIA rules. While useful, in many respects, this discussion has gotten the cart before the horse. UFM suggests that before proposed changes can be evaluated, it is necessary to evaluate the present rules. And before Staff can evaluate the effectiveness of the present rules, there must be a standard for evaluating the present rules. UFM believes that only by having a standard for evaluating the effectiveness of the present rules and evaluating the present rules against that standard can any attempt to be made to make the rule better.

6. While the rules themselves do not indicate how “effectiveness” is to be evaluated, UFM suggests they must be evaluated against the policy goal set forth in the MEEIA. UFM also concurs with the *Comments of Ag Processing Inc A Cooperative* that the effectiveness of the rules must be evaluated in the context of the Commission’s overriding objective to “serve as a substitute for the competition that would otherwise occur.”¹

7. The policy objective of MEEIA, as expressed in subsection 3, is “to value demand-side investments equal to traditional investments in supply and delivery infrastructure.” To achieve this policy, the Commission has three primary objectives: (1) provide timely cost recovery, (2) align utility and customers’ incentive to use energy more efficiently, and (3) provide earnings opportunities for cost-effective measures.

8. UFM recognizes that this evaluation is the responsibility of the Commission and its Staff. However, in anticipation of the next workshop, UFM would propose several guiding principles in formulating an evaluation standard.

9. First, the statute’s three primary objectives are formulated in such a way as to invite electric corporations to engage in a competitive analysis for improving their product and services so as to permit customers to more intelligently use the product and services versus the historic planning process of supply options. The three primary objectives, taken together, call for electrical corporations to have an opportunity for earnings and cost recovery aligned with customers’ desires to more effectively use the electrical services. In essence, the statute calls the utility company to offer a “new and improved” product which requires less to produce the same result. Think of “new and improved” Brand X. The statute is not designed to encourage energy efficiency for energy efficiency’s sake, but it is designed to align the utilities’ financial interest

¹ See *Comments of Ag Processing Inc A Cooperative*, p. 2.

with that of serving the customer more effectively by building a better mouse trap for the customer's benefit.

10. Second, UFM believes these three primary objectives are suggestive of free market principles. Profit motive drives competitors to build better products for their customers. In the free market, merchants sell and customers buy. How should the rules be evaluated in moving electric corporations toward conduct that resembles free market competition? UFM suggests there was a time when electric companies sold light bulbs and gas companies sold appliances. In those days, it could legitimately be said that the utility company was engaged in servicing the customers' usage expectations as well as undertaking the supply obligation. While UFM is not advocating a return to that paradigm--although, under the proper conditions, it could--the paradigm is instructive for suggesting the questions to ask in this evaluation. Is the marketplace being affected in such a way as to give all customers the opportunity to engage new and improved services? And is marketplace being affected in such a way as to give the utility company the incentive to market new services to all customers or are those services being managed by the utility company or regulatory authority?

11. Third, the statute is permissive in that it mandates the Commission permit electric corporations to develop services consistent with the requirement set forth in the statute. The Commission is not authorized to mandate the services. Again, the statute is designed to cause the Commission to look to the marketplace and not to regulatory management.

12. UFM recognizes that this is not an exhaustive list of guiding principles and that it is not a complete formulation of an evaluation standard. Rather, these principles are a starting point for discussing such a standard. UFM encourages the Commission Staff to further develop these ideas for discussion at the upcoming workshops.

13. In one sense, the rules are already a success. The three electric utilities have filed and are administering energy efficiency programs. The next step is to make those programs economically sustainable by structuring them in such a way as to make them to simulate the free market.

Respectfully submitted,

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