

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the 6<sup>th</sup> day of  
January, 2010.

In the Matter of an Investigation into the  
Coordination of State and Federal Regulatory  
Policies for Facilitating the Deployment of all  
Cost-Effective Demand-Side Savings to  
Electric Customers of All Classes Consistent  
With the Public Interest

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**File No. EW-2010-0187**

**ORDER OPENING A CASE TO INVESTIGATE IMPLEMENTATION OF  
VARIOUS DEMAND-SIDE PROGRAMS**

Issue Date: January 6, 2010

Effective Date: January 6, 2010

In Order 719 and Order 719-A issued by the Federal Energy Regulatory Commission ("FERC"), the FERC enacted new rules aimed at eliminating barriers to demand response while achieving comity between state and federal regulatory policy concerning demand response in areas served by organized wholesale electric markets. Those FERC orders require independent system operators to modify their federal tariffs to allow market participation of customer demand side resources facilitated by "Aggregators of Retail Customers" (ARCs) unless prohibited by the laws of the relevant electric retail regulatory authority.<sup>1</sup>

The FERC has stated that its intent in structuring its new requirements in this manner was to remove demand response barriers in wholesale markets while not to interfering with successful demand response programs, placing undue burdens on

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<sup>1</sup> Order 719 at ¶154; Order 719-A at ¶41.

regulators, or raising new federal-state jurisdictional concerns.<sup>2</sup> The Midwest Independent System Operator (“MISO”) and the Southwest Power Pool (“SPP”) are presently in the process of adopting changes necessary to implement the requirements of FERC Order 719 and 719-A.

In addition, Senate Bill 376, the Missouri Energy Efficiency Investment Act (MEEIA), declares that the policy of Missouri is to value demand-side investments equal to traditional investments in supply and delivery infrastructure. Among other provisions, the law requires the Commission to direct the implementation of demand-side programs “with a goal of achieving all cost effective demand-side savings,” coupled with timely cost recovery and alignment of utility financial incentives with energy efficiency. The law requires that Commission-approved programs result in energy or demand savings that are beneficial to all customers in the customer class that a demand side program is designed to serve, and further encourages the development of demand side programs targeted to low income customers that are in the public interest.

The Commission is opening this case to investigate how to achieve its new responsibilities under the MEEIA, within the background of FERC policies that eliminate barriers to demand response and that direct MISO and SPP to accommodate state policy regarding retail customer demand-side activity. The Commission will explore the best model or models to achieve the requirements of the MEEIA through state demand-side programs, wholesale market opportunities available in MISO or SPP, or possible hybrid approaches, and the implications for resource planning under various approaches. The Commission will investigate the roles for utilities, ARCs, customers in all classes, and other

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<sup>2</sup> Order 719 at ¶155

stakeholders in designing the appropriate means of achieving Missouri's policy objectives, and for interacting with MISO and SPP.

To that end, the Commission is opening this working case to address these matters. Initially, the Commission will invite the public and interested utilities to submit written comments. After those comments are collected, the Commission will schedule a workshop at which interested entities and persons can gather to discuss these matters. Ultimately, the Commission will develop a new rule to address these matters.

This file will serve as a repository for documents and comments. Using this file, any person with an interest in this matter may view documents pertaining to the investigation and may submit any pertinent responsive comments or documents. As this is not a contested case, any person may file a comment without counsel and without *ex parte* constraints (arising from this matter). Intervention requests are not necessary to submit comments or view documents.

The public is welcome to file comments by forwarding electronic communications through the electronic filing and information system (EFIS) or by mailing written comments. You may submit electronic comments by visiting the Commission's website at <http://www.psc.mo.gov>. (Click on the EFIS/Case filings link on the left side of the page. Scroll down and click on the public comment link. Please reference case number EW-2010-0187.) Written comments in hard copy should be addressed to the Commission at P.O. Box 360, Jefferson City, Missouri 65102 and should reference File No. EW-2010-0187. You can view the contents of the file by following the link at <http://www.psc.mo.gov>.

The Commission has numerous questions regarding MEEIA and ARCs that it will ask participants to address:

1. Does the term “energy efficiency” include shifting demand to off-peak periods?  
See Section 393.1124.2(4). Does “modify net consumption” as used in Section 393.1124.2(3) include shifting demand to off peak periods? See Section 393.1124.2(2).
2. What does “load management” as used in Section 393.1124.2(3) mean?
3. What is “demand savings”? How should “demand savings” be determined? See Section 393.1124.4
4. How should “energy savings” be determined? See Section 393.1124.4. Should there be a regular, standard process for determining whether a utility program achieves “cost-effective measurable and verifiable efficiency savings”? See Section 393.1124.3(3). If “yes,” what should be that regular, standard process?
5. What is meant by the term(s) “rate design modifications” / “rate design modification” as it appears in Section 393.1124.5?
6. How does a “customer” “notify” the “electric corporation” that the customer elects not to participate in demand-side measures offered by an “electrical corporation”? See Section 393.1124.7.
7. Is there any significance to the fact that the term “electric corporation” appears in SB 376 in addition to the term “electrical corporation,” and the term “electric corporation” is not a defined term in Section 386.020?
8. What is the definition of the term “customer” as that term is used in SB 376?
9. What is meant by the term “corporation-specific settlements” which appears in Section 393.1124.11?
10. How does, or how should, an electrical corporation propose a demand-side program pursuant to Section 393.1124? See Section 393.1124.4. How does, or show

should, the Commission approve demand-side programs proposed pursuant to Section 393.1124? See Section 393.1124.4.

11. How should the determination be made whether a demand-side program is beneficial to all customers in a customer class regardless of whether the program is utilized by all customers? See Section 393.1124.4.

12. Does any Missouri statute, case law, or regulation prohibit or restrict electric utility customers from participating directly or indirectly through aggregator of retail customers (ARCs) in demand response bidding programs, as discussed in FERC's Order Nos. 719 and 719(A)?

13. Does a single retail customer or an ARC act as a public utility subject to MoPSC regulation under Missouri statute, case law, or regulation if it bids demand response into SPP's or MISO's organized energy market?

14. Does the right to furnish retail electric service under Section 393.170 give a certificated utility an exclusive right to "benefit" from demand response activities of its retail customers either directly or indirectly through an ARC?

15. How would a certificated utility and its other retail customers be affected if a single retail customer or an ARC bid demand response directly into SPP's or MISO's organized energy market?

16. What would be the effect on utility rate design if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

17. What would be the effect on utility revenue collection if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

18. How would utility's long-term load forecasting process change if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

19. How would utility's budgeting process change if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

20. Are there any other consequences of allowing participation in demand response programs by a single retail customer or an ARC?

21. How would customers' demand rates be estimated if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

22. How would demand sales be transacted from an operation standpoint if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

23. Would existing or planned demand response programs, and the costs associated with implementation of these programs, be undermined or cause a loss in benefits to retail ratepayers if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

24. If the MoPSC has the authority to do so, what conditions would the MoPSC place on a single retail customer or an ARC if it bids demand response directly into SPP's or MISO's organized energy market?

25. How are efforts to encourage demand response by MoPSC jurisdictional electric utilities implicated if a single retail customer or an ARC bids demand response directly in SPP's or MISO's organized energy market?

26. How are efforts to encourage energy efficiency programs by MoPSC jurisdictional electric utilities implicated if a single retail customer or an ARC bids demand response directly into SPP's or MISO's organized energy market?

**THE COMMISSION ORDERS THAT :**

1. This case is established to investigate how the Commission may achieve its new responsibilities under the Missouri Energy Efficiency Investment Act, within the background of FERC policies that eliminate barriers to demand response and that direct MISO and SPP to accommodate state policy regarding retail customer demand-side activity.

2. The Commission's data center shall mail a copy of this notice to those potentially interested person or organizations listed in Appendix A.

3. The Commission's Public Information Office shall make this notice available to the news media of this state and to the members of the General Assembly.

4. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



**Steven C. Reed**  
**Secretary**

( S E A L )

Clayton, Chm., Davis, Jarrett, Gunn,  
and Kenney, CC., concur.

Woodruff, Chief Regulatory Law Judge