Exhibit No.: 201
Issue(s): Promotional Practices/ Fuel Adjustment Clause (FAC)/ Self-Dispatch
Witness/Type of Exhibit: Mantle/Rebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2019-0335

REBUTTAL TESTIMONY

OF

LENA M. MANTLE

Submitted on Behalf of the Office of the Public Counsel

UNION ELECTRIC COMPANY
D/B/A AMEREN MISSOURI

FILE NO. ER-2019-0335

** **

Denotes Highly Confidential and Confidential Information that has been Redacted

January 21, 2020

NON-PROPRIETARY

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Union Electric Company d/b/a Ameren Missouri's Tariffs to Decrease Its Revenues for Electric Service	)))	File No. ER-2019-0335

AFFIDAVIT OF LENA M. MANTLE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Lena M. Mantle, of lawful age and being first duly sworn, deposes and states:

1. My name is Lena M. Mantle. I am a Senior Analyst for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

Lena M. Mantle
Lena M. Mantle
Senior Analyst

Subscribed and sworn to me this 21st day of January 2020.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2021
Cole County
Commission #13754037

Jerene A. Buckman
Jerene A. Buckman
Notary Public

My Commission expires August 23, 2021.

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OF

LENA M. MANTLE

UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI
CASE NO. ER-2019-0335

Q. Would you please state your name and business address?

A. My name is Lena M. Mantle. My business address is P.O. Box 2230, Jefferson City, Missouri 65102. I am a Senior Analyst for the Office of the Public Counsel ("OPC").

Q. Are you the same Lena M. Mantle that filed direct testimony in this case?

A. Yes, I am.

Q. What is the purpose of your rebuttal testimony?

A. In this my rebuttal testimony, I respond to the direct testimony of the following witnesses:

1) Ameren Missouri witness Mark C. Birk regarding his request to spend up to $600,000 a year on prohibited promotional practices in areas with unregulated competition;
2) Ameren Missouri witness Marci L. Althoff regarding her requests to:
    a. Add ash disposal costs and revenues and fuel additive costs to Ameren Missouri's fuel adjustment clause ("FAC");
    b. Change the FAC tariff sheet to require FAC rates to go into effect on calendar days; and
    c. Keep unnecessary language in Ameren Missouri's FAC tariff sheets;
3) Ameren Missouri witness Andrew Meyer regarding Ameren Missouri's normalized off-system energy sales revenues estimate;
4) Staff witness Shawn E. Lange regarding Staff's normalized off-system energy sales revenues estimate; and
5) Sierra Club witness Avi Allison regarding his economic analysis of Ameren Missouri's Labadie, Rush Island, and Sioux power plants and his analysis of of Ameren Missouri's self-scheduling of its coal units.

Q. What recommendations do you make to the Commission in this testimony?

A. In this testimony, I recommend the Commission:

1) Deny Ameren Missouri's request and work on a more holistic way to deal with new customers in areas of unregulated competition;
2) Not accept the addition of these ash disposal costs and revenues and fuel additive costs into Ameren Missouri's FAC;
3) Not change the effective dates of FAC rate changes from billing months to calendar months.
4) Remove the language that is duplicative of Commission rule 20 CSR 424-20.090(8)(D) from Ameren Missouri's FAC tariff sheets;
5) Use caution when interpreting Mr. Allison's economic analysis of Ameren Missouri's Labadie, Rush Island and Souix plants that show the plants to be uneconomic.
6) Order its Staff to do a thorough review of Ameren Missouri's dispatch decsions of all of its units in its next FAC prudence review to determine an appropriate amount to return to customers due to these imprudent decisions; and
7) Order Ameren Missouri to provide the information recommended by Mr. Allison in its future monthly FAC submissions for all units for which Ameren Missouri bids into the MISO market so that Staff and other parties have this information available for future prudence reviews of Ameren Missouri's dispatch decisions.

Rebuttal of Ameren Witness Mark C. Birk

Q. To what in Mr. Birk's testimony are you providing rebuttal?

A. I am responding to Mr. Birk's request for the Commission to approve changes to Ameren Missouri's tariff sheet 161, Pilots, Variances and Promotional Practices, E. Unregulated Competition Waivers and Other Variances to allow Ameren Missouri the ability to spend up to $600,000 a year on prohibited promotional practices to compete with rural electric cooperatives and city municipal utilities for new customers.

Q. What does the current tariff sheet allow?

A. The current tariff sheet does not allow Ameren Missouri to do anything. This tariff sheet merely contains a listing of all the cases in which Ameren Missouri has requested and received a waiver from the promotional practices rule that allowed Ameren Missouri to provide incentives that would otherwise have been prohibited promotional practices.

Q. Is Ameren Missouri asking the Commission to allow it to offer incentives that would otherwise violate the promotional practices rule through a change in a tariff sheet?

A. Yes.

Q. Should the Commission approve change to the tariff sheets as proposed by Mr. Birk?

A. No. Again, Ameren's proposed tariff sheets would constitute a clear violation of the promotional practice rules.

Q. Is OPC against Ameren Missouri offering incentives to capture customers in areas where there is unregulated competition?

A. No. OPC has proposed, in file no. AW-2018-0385, *In the Matter of the Establishment of a Working Case for the Review and Consideration of a Rewrite of the Existing Electric and Gas Promotional Practices Rule Into One Rule,* a rule that would allow utilities to offer promotional practices such as this. The proposed simplified rule eliminates both the prohibition on promotional practices and the filing requirements found in the current rule and Staff's current draft rule 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. This will force utilities to act prudently when considering promotional practices because 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. I have attached OPC's filing that describes OPC's position on promotional practices and our proposed rule to this testimony as LMM-R-1.

Q. What is your recommendation regarding Ameren Missouri's request for a change to its tariff sheet to allow offering incentives in areas with unregulated competition?

A. I recommend the Commission deny Ameren Missouri's request and work on a more holistic way to deal with new customers in areas of unregulated competition. If the Commission would adopt a rule substantially the same as the rule OPC is proposing in docket AW-2018-0385, neither waivers from this rule nor this tariff sheet would be necessary.

<u>Rebuttal to Ameren Missouri Witness Marci Althoff</u>

Q. To what in Ms. Althoff's testimony are you providing rebuttal?

A. I am providing rebuttal to two modifications of the FAC recommended by Ms. Althoff. The first is Ms. Althoff's recommended modification to Ameren Missouri's FAC that would add ash disposal costs and revenues and fuel additive costs to Ameren Missouri's FAC.[1] The second is Ms. Althoff's recommendation that the FAC tariff sheet be changed to require FAC rates to go into effect on a calendar month basis whereas currently FAC rates are effective on a billing month basis.[2] I also respond to unnecessary language contained on the FAC tariff sheets 71.6 through 71.8 proposed by Ms. Althoff in her schedule MLA-D3.

[1] Page 11.
[2] Page 13.

Q. Would you first address the proposed modification that would add ash disposal costs and revenues and fuel additive costs back in Ameren Missouri's FAC?

A. Yes. I recommend that the Commission not accept the addition of these costs and revenues into Ameren Missouri's FAC.

Q. Why?

A. Ms. Althoff has provided no rational justification for doing so.

Q. Would you elaborate?

A. In her direct testimony, Ms. Althoff provides the three factors the Commission considers when reviewing FAC requests:[3]

> Specifically, these factors hold that the changes in costs or revenues that would be included in the FAC must be:
>
> 1. Substantial enough to have a material impact upon revenue requirements and the financial performance of the business between rate cases;
> 2. Beyond the control of management, where the utility has little influence over experienced revenue or costs levels; and
> 3. Volatile in amount, causing significant swings in income and cash flows.

Q. Did Ms. Althoff show that ash disposal costs and revenues and fuel additive costs are substantial enough to have a material impact on revenue requirement?

A. No. She provides neither the magnitude of these costs and revenues nor anything that shows these costs and revenues have an impact on the financial performance of Ameren Missouri.

Q. Has the removal of these costs and revenues from the FAC had a material impact on the financial performance of Ameren Missouri?

[3] Page 5, lines 4 – 11.

A. No, it has not. The graph below shows the return on equity for the 12 months ending June 2017 ("2Q 2017") through September 2019 ("3Q 2019) as provided by Ameren Missouri in its quarterly FAC surveillance reports submitted to the Commission.

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This graph shows that that out of the last ten quarterly submissions, Ameren Missouri has reported that it earned below its authorized return over the previous twelve months only once. In each of the other nine submissions, Ameren Missouri was earning more than its authorized rate of return over the previous twelve months. This graph therefore clearly shows that the removal of ash disposal costs and revenues and fuel additives from Ameren Missouri's FAC has not had a material impact on Ameren Missouri's financial performance.

Q. Regarding the next factor, did Ms. Althoff provide any testimony showing that Ameren Missouri has little influence on ash disposal costs and revenues and fuel additive costs?

A. No.

Q. With respect to the final factor provided by Ms. Althoff, did she show that these costs and revenues are volatile in amount, causing significant swings in income and cash flows?

A. No. While the above graph shows fluctuations in Ameren Missouri's earning, Ms. Althoff provided no testimony to the magnitude or the volatility of the costs. She provided no testimony on why the changes in these costs would cause significant swings in Ameren Missouri's income and cash flow.

Q. Has the OPC provided a recommendation on this issue in the past?

A. Yes. OPC recommended that ash disposal costs and revenues and fuel additive costs not be included in Ameren Missouri's FAC in its last case.

Q. Why did OPC propose these costs not be included in Ameren Missouri's FAC in the last case?

A. It was OPC's recommendation in the last case that the Commission use the same definition of fuel costs employed by the Federal Energy Regulatory Commission ("FERC") when setting FACs for wholesale customers. This definition is very concise and captures the fuel cost categories which are most likely to meet the factors that Ms. Althoff lists in her testimony as costs that the Commission considers when determining what to include in the FAC in Missouri.

Q. Is your recommendation in this case primarily the same?

A. Yes. I can see no reason to depart from the logic of the OPC's previous argument.

Q. What is FERC's definition of fuel costs?

A. As provided in Ameren Missouri's current FAC tariff sheet 74.1, FERC defines fuel costs as:

> Fuel costs and revenues associated with the Company's generating plants that are listed in Federal Energy Regulatory Commission ("FERC") Account 151 and recorded in FERC Accounts 501 or 547, and all costs and revenues that are recorded in FERC Account 518.

The tariff sheet then continues with a long list of costs that can be in the FAC including coal commodity, railroad transportation, natural gas, and oil costs.

Q. Does Ameren's ash disposal costs and revenues and fuel additive costs meet this definition?

A. No. While these costs are recorded in account 501 they are not listed in account 151. The FERC definition of fuel costs allowed in its FAC for wholesale customers does include costs recorded in account 501. However, the costs must also be able to be recorded in account 151.[4] For example, coal commodity and transportation costs are recorded in account 151 when it is purchased. When the coal is burned the costs are then moved to account 501. Therefore the commodity cost of coal is allowed in FERC's FAC. Fuel additive costs are recorded directly in account 501 so they are not included in FERC's FAC.

Q. If ash disposal and fuel additive costs are not included in the FAC, does it mean that Ameren Missouri receives no cost recovery of the costs?

A. No. Normalized amounts for the ash disposal costs and revenues and fuel additives are included in the revenue requirement that rates will be set on. Not including these costs in the FAC simply means that variations from this normalized amount will not flow through the FAC; neither cost increases to be recovered from the customers nor cost decreases that flow back to the customers.

Q. To summarize, what is your recommendation regarding Ameren Missouri's request to modify its FAC to include ash disposal costs and revenues and fuel additive costs?

A. I recommend the Commission not modify Ameren Missouri's FAC to include these costs and revenues. Ameren Missouri has not shown that these costs meet the

[4] FERC Uniform System of Accounts, Account 151 – Fuel Stock. "This account shall include the book cost of fuel on hand."

factors it testifies is necessary for costs to be included in its FAC and these costs do not meet the FERC definition of fuel costs. A normalized value for these costs and revenues are already included in Ameren Missouri's revenue requirement and Ameren Missouri should simply continue to absorb any cost increases or keep any costs decreases going forward as it has since Ameren Missouri's last rate case.

Q. What is your response to Ms. Althoff's recommendation that the FAC tariff sheet be changed to require FAC rates to go into effect on a calendar month basis instead of a billing month basis?

A. OPC understands Ameren Missouri's rationale to be that "this change is to ensure that rates are published in effective tariff sheets prior to the provision of service that will be subject to those rates"[5] But this reason seems to be esoteric. This change will just make a bill that is already almost impossible for customers to understand somehow even more difficult to understand. For this reason, OPC recommends that the Commission not change the effective dates of FAC rate changes from billing months to calendar months.

Q. How is it more confusing for the FAC rates to change on a calendar month instead of a billing month?

A. This change would mean that three times a year when the FAC rate changes, a portion of every bill will include two FAC rates. The FAC charge will be based on an average daily amount of energy will be calculated for each customer's billing month and then FAC rates will be applied based on the number of days in the billing month for which that particular FAC rate applied.

As shown in the sample residential bill provided on Schedule MLA-D1, Attachment A of Ms. Althoff's direct testimony, the customer is provided information on their usage, the number of days in the billing cycle, and the FAC charge on their bill. The following table gives an example of the how the FAC rate

[5] Althoff direct, page 13.

observed by a customer would vary across three billing months as it currently is charged (Billing Mon) and as Ameren Missouri is proposing (Cal Mon).

Customer on Billing Cycle A Using 1,200 kWh in Each Billing Cycle						
Billing	Read		FAC Charge		Rate Calc by Customer	
Month	Date	# of days	Billing Mon	Cal Mon	Billing Mon	Cal Mon
Jan	11-Jan	30	$1.20	$1.20	$0.0010	$0.0010
Feb	10-Feb	30	$2.40	$1.60	$0.0020	$0.0013
Mar	10-Mar	28	$2.40	$2.40	$0.0020	$0.0020

In this example, the tariffed FAC rate is $0.001/kWh in January and changes to $0.002/kWh in February. Then when applied on a billing month basis, the FAC charge for January is $1.20 and is $2.40 for both February and March. This is shown in the column titled "Billing Mon" under the heading "Rate Calc by Customer." However, when applied on a calendar month basis the FAC charge is different all three months. This is shown in the column titled "Cal Mon" under the heading "Rate Calc by Customer." The customer, who does not have the tariff sheet in front of them to know they are being charged correctly, calculates the correct rate when it is applied on the billing month but, when the rate is applied on a calendar month, calculates the incorrect rate for February.

Now consider another customer that is on a different bill cycle. Like the first customer, they use 1,200 kWh a month, and because they are customers of the same electric utility, their FAC rates are the same as the other customer. However, if FAC rates change on a calendar basis, the FAC charge they see and the FAC rate they calculate for February is different from the first customer. Below is this customer's FAC charges and rate calculations.

Customer on Billing Cycle B Using 1,200 kWh in Each Billing Cycle						
Billing	Read		FAC Charge		Rate Calc by Customer	
Month	Date	# of days	Billing Mon	Cal Mon	Billing Mon	Cal Mon
Jan	21-Jan	30	$1.20	$1.20	$0.0010	$0.0010
Feb	20-Feb	30	$2.40	$2.00	$0.0020	$0.0017
Mar	20-Mar	28	$2.40	$2.40	$0.0020	$0.0020

When a customer on billing cycle A compares their bills with a customer who happens to be on billing cycle B they find that, although their usage is exactly the same, their bills are different. If they calculate the FAC rate, they will discover a completely different FAC rate from the customer on Billing Cycle A for the February billing month.

While the rates are applied correctly in both of these examples, applying the FAC rate change on the calendar days instead of billing days, will be confusing to the customer that attempts to try to figure out how their bill is calculated.

Q. In your opinion, is it more important that these rates be on the tariff sheets prior to the provision of service that will be subject to those rates or that these rates be understandable to customers?

A. In my opinion, it is more important for the rates to be understandable to the customers. While it is generally important for permanent rates to be on tariff sheets prior to the provision of service subject to those rates, it is less important for the FAC rate. This is because the FAC rate is a cost for services already provided and section 386.266.4(2) RSMo requires a true-up of the FAC to makes sure the amount actually billed customers for FAC cost equals the amount that was to be billed. While the customer could change their behavior based on the rate, the total amount collected does not change regardless of the customer's actions.

Because of this blurring of the rates to the actions that caused the rates, it is more important for the customer to understand their bills than the rates be published on a tariff sheet prior to the provision of service for which it will be charged. For this reason, I recommend the current tariff sheet language that applies the rate to a billing month to be retained.

Q. Now to the language on Ms. Althoff's proposed tariff sheets, why is there unnecessary language on these sheets?

A. Since the last Ameren Missouri rate case ended, the Commission combined and revised the FAC rules. The language on Ms. Althoff's proposed tariff sheets 71.6 through 71.8 that describe what Ameren Missouri must do if the cost that is listed in the tariff sheets for the Midcontinent Independent System Operator ("MISO") or another regional transmission organization changes is now addressed in 20 CSR 424-20.090(8)(D). This language was put in the revised rule so that it did not have to be in tariff sheets and so the procedure would be the same for all electric utilities with a FAC. It is not needed in both the tariff sheets and the Commission rule.

Q. What is your recommendation regarding tariff sheets 71.6 through 71.8 as proposed by Ms. Althoff?

A. I recommend the language that is duplicative of Commission rule 20 CSR 424-20.090(8)(D) be removed from Ameren Missouri's FAC tariff sheet.

<u>Rebuttal to Ameren Witness Andrew Meyer and Staff Witness Shawn Lange</u>

Q. To what in Ameren Witness Andrew Meyer's testimony are you responding?

A. Mr. Meyer provided testimony regarding how Ameren Missouri calculated the off-system sales revenues that it used in calculating revenue requirement and the FAC base. This normalized amount is not included in Mr. Meyer's testimony but is provided on Schedule LMM-D18 of the direct testimony of Laura M. Moore. My check of Ameren Missouri's off-systems sales revenues leads me to be concerned with the reasonableness of the annual revenue estimates provided by Mr. Meyer.

Q. To what testimony of Staff witness Shawn E. Lange are you responding?

A. Mr. Lange is Staff's witness that developed the normalized off-system sales used in Staff's revenue requirement.[6] This normalized amount can be found in Staff's *Class Cost of Service Report*, Appendix 2, Schedule LMW-d1. My check of the reasonableness of Mr. Lange's number also raises concerns.

Q. How did you check these estimates for reasonableness?

A. These are annual estimates of the amount of revenue Ameren Missouri will receive from off-system sales. As a check to the reasonableness of these estimates, I compared them to a rolling twelve-month total[7] of the actual revenues that Ameren Missouri has reported with its FAC rate change filings. The graph below shows the rolling twelve-month total of the off-system sales Ameren Missouri has reported and the estimates of Ameren Missouri and Staff in this case.

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[6] *Staff Report, Cost of Service*, page 60.

[7] The first data point is the total of off-system sales revenues for June 2017 through May 2018. The next data point is July 2017 through June 2018. In the next data point the month "rolls" by one month. I used data through Sept 2019 for this graph.

This graph shows that the off-system sales revenues of Ameren Missouri have ** **. Staff's normalized estimate is almost ** ** higher than the twelve months ending September 2019. Ameren Missouri's estimate is a little lower but still more than ** ** higher than the twelve months ending September 2019.

A look at the normalized off-system sales margin[8] of Ameren Missouri and Staff as compared to actual is equally disturbing. This graph is shown below.

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This graph shows the disparity between Ameren Missouri and Staff's estimates of off system sales revenue netted with their estimated costs to generate these sales. Staff's estimated margin is nearly ** ** times the actual of the twelve months ending September 2019 and Ameren Missouri's is almost ** ** times the actual.

Q. Do you have an estimate for normalized off-system revenues or margin?

[8] Off-system sales revenues net of the fuel and purchased power costs used to generate these sales.

A. I do not. However, Ameren Missouri and Staff should provide the Commission with an explination as to why there is such a wide disparity between their modeled estimates and the actual off-system sales revenues and margins received.

Rebuttal to Sierra Club Witness Avi Allison

Q. To what in Mr. Allison's testimony are you responding?

A. There are two aspects of Mr. Allison's testimony that I am responding to. First, I want to make the Commission aware of a component of Mr. Alllison's economic status analysis of the Labadie, Rush Island, and Sioux power plants provided on pages 8 through 11 of his direct testimony. Then I provide rebuttal adding my support to Mr. Allison's recommendations regarding his analysis of Ameren Missouri's self-scheduling of its coal units and offer further recommendations regarding submission requirements that will aid in prudence audits of Ameren Missouri's dispatch decisions.

Q. Do you have any reason to believe that Mr. Allison's analysis on the economics of the Labadi, Rush Island and Sioux power plants is incorrect?

A. No. However, I have not done a similar independent analysis.

Q. What do you want to caution the Commission about when interpreting Mr. Allison's analysis?

A. His analysis of the costs of these coal units include the capital costs of these plants. If these plants are retired early because of his analysis, the customers would only see an economic benefit if the stranded costs of these power plants are not recovered in rates. In other words, the cost savings can only be achieved by the customers if the shareholders absorb the stranded cost of the plants.

Q. Should Ameren Missouri customers pay the stranded costs if Ameren Missouri retires these plants?

A. Not necessarily. This is a determination that should be based on the actions or inactions of Ameren Missouri management at the time of the plant retirements.

Q. If the capital costs are removed from the analysis, is it economic for Ameren Missouri to continue to operate these plants?

A. While I have not done an independent analysis on my own, my limited review shows that it is economic to continue to operate these plants. Using the information provided in Mr. Allison's testimony,[9] these plants provided a positive revenue margin of $152.4 million in 2018. This is the margin of revenue above fixed and variable operation and maintenance costs and fuel costs of these plants.

Q. So what would the impact be on customer rates if these plants were retired and customers were required to pay the stranded costs of thes plants?

A. Based of information from 2018, the customers rates would increase considerably. Currently, some of the capital costs of these plants are being off-set by revenue these units generate from MISO, i.e. the revenues that these units are providing are greater than their operating and maintenance costs and their fuel costs. Therefore, all else held equal, retiring these plants would only be economic to the customers if stranded costs were not included in customers' rates.

Q. What is your recommendation to the Commission regarding Mr. Allison's analysis of the economics of continuing to operate these power plants?

A. I recommend the Commission use caution when interpreting Mr. Allison's economic analysis of Ameren Missouri's Labadie, Rush Island and Souix plants that show the plants to be uneconomic. However, there are other concerns about these units. I am making no recommendation on the prudency of any action/inaction associated with historical environmental investments at this time but reserve the right to amend this in future testimony, as more information

[9] Information in Table 2 on page 8 and Table 3 on page 10.

becomes known. OPC witness Geoff Marke will provide testimony regarding the resource planning aspects of Mr. Allison's direct testimony.

Q. What in Mr. Allison's testimony are you supporting?

A. I agree with Mr. Allison that Ameren Missouri should take into account the MISO market prices when starting up a plant after a planned or forced outage. Mr. Allison provided testimony that Ameren Missouri returned its Souix Unit 1 and Labadie Unit 1 to a "must-run" status with MISO when market prices were below the variable costs of running the plant.[10] He also testified that Ameren Missouri brought the Rush Island Unit 1 up from an outage during a time of low market prices.[11]

Q. What is the impact on customers when Ameren Missouri designates these units as "must run" despite it not being economic for them to run?

A. Because Ameren Missouri has a FAC where only 5% of increased cost is absorbed by Ameren Missouri, it only sees the impact of 5% of the extra costs. The other 95% of these uneconomic decisions is paid for by Ameren Missouri's ratepayers through its FAC rate.

Q. In your opionion, would Ameren Missouri be designating these plants as "must run" if it did not have a FAC?

A. I do not believe that Ameren Missouri would be dispatching these units in this manner if it did not have a FAC.

Q. Then is this imprudent decision making by Ameren Missouri?

A. Yes.

Q. What is your recommendation regarding these actions of Ameren Missouri?

[10] Page 30, lines 12-14 and page 33, lines 1-7.
[11] Page 32, lines 3-11.

A. I recommend the Commission order its Staff to do a thorough review of Ameren Missouri's dispatch decsions of all of its units in its next FAC prudence review to determine an appropriate amount to return to customers due to these imprudent decisions. I also recommend the Commission order Ameren Missouri to provide the information recommended by Mr. Allison in its future monthly FAC submissions so that Staff and other parties have this information available for future prudence reviews of Ameren Missouri's dispatch decisions. Mr. Allison limits this information to thermal units but it should be provided for all units for which Ameren Missouri bids into the MISO market.

Q. What information is Mr. Allison recommending be provided?

A. Mr. Allison is recommending Ameren Missouri provide the following information for each thermal unit:

1) Hourly net generation;
2) Hourly energy offer quantities and prices;
3) Hourly energy revenues;
4) Hourly locational market prices ("LMPs");
5) Hourly commitment status;
6) Hourly economic minimum level;
7) Hourly dispatch status;
8) Hourly variable operations and maintenance costs;
9) Monthly fuel cost;
10) Monthly production costs;
11) All daily analysis used to inform commitment practices and generation offers.

In addition to providing this information, I recommend that the Commission order Ameren Missouri to supply with its monthly FAC submission the analysis underlying its unit commitment decisions for the month. This analysis should clearly specify the costs and revenues that are accounted for within its analysis.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

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

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;~~

(B~~C~~) 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~~D~~) 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~~F~~) 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~~G~~) 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~~H~~) 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;

(~~I~~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~~I) 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.~~

~~-(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.

(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.