BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Evergy Missouri Metro and Evergy Missouri West's Notice of Intent to File Applications for Authority to Establish a Demand-Side Programs Investment Mechanism	)))))	**<u>File No. EO-2019-0132</u>**

REPORT AND ORDER

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REPORT AND ORDER

APPEARANCES

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Regulatory Law Judge: John T. Clark

Procedural History

On November 29, 2018, Evergy Missouri Metro[1] and Evergy Missouri West[2] (collectively, "Evergy Missouri or the Companies") each applied to the Commission for approval of certain demand-side programs, a Technical Resource Manual (TRM), and a Demand-Side Investment Mechanism (DSIM) (collectively, "MEEIA Cycle 3") as contemplated by the Missouri Energy Efficiency Investment Act (MEEIA) and the Commission's implementing regulations. Those applications resulted in the opening of File Nos. EO-2019-0132 and EO-2019-0133, respectively. The Commission provided notice and set a deadline for applications to intervene in both files.

The Missouri Division of Energy; Midwest Energy Consumers Group; Renew Missouri Advocates d/b/a Renew Missouri; Natural Resources Defense Council; the City of St. Joseph; Spire; The National Housing Trust; and the West Side Housing Organization (collectively "Intervening Parties") timely filed intervention requests in each file. The Commission granted those requests.

On December 27, 2018, the Commission granted an unopposed motion to consolidate EO-2019-0133, Evergy Missouri West's MEEIA application, into EO-2019-0132, Evergy Missouri Metro's MEEIA application, as the two cases involve related questions of law and fact.

Commission Rule 20 CSR 4240-20.094(4)(H) states that the Commission shall approve, approve with modification acceptable to the company, or reject MEEIA applications within 120 days of their filing. The parties were unable to reach an agreement

[1] At that time, known as Kansas City Power & Light Company.
[2] At that time, known as KCP&L Greater Missouri Operations Company.

regarding the applications within the Commission's allotted period and on February 27, 2019, sought to suspend the procedural schedule to allow discussions to continue and consider pursuing an agreement to extend MEEIA Cycle 2 programs for an additional year.[3] The Commission approved the motion to suspend the procedural schedule until February 13, 2019[4] and a subsequent motion to extend the deadline to allow adequate time for parties to file stipulation.[5] On February 15, 2019, the parties filed an unopposed stipulation and agreement requesting an extension of the Companies' MEEIA Cycle 2 programs which would allow the Companies to continue offering demand-side programs for an additional year and provide continuity between cycles while parties continue to conduct additional discussions regarding a potential MEEIA Cycle 3.[6] The Commission issued an order approving a stipulation and agreement between the parties extending MEEIA Cycle 2 until December 31, 2019, and rejecting the tariffs filed concurrently with the Companies' application.

On August 7, 2019, the Commission issued an order setting a procedural schedule. That order also granted Evergy Missouri a variance from filing a 2019 Integrated Resource Plan annual update required by Commission Rule 20 CSR 4240-22.080(3), because of uncertainty regarding the status of the MEEIA Cycle 2 and 3 programs. Evergy Missouri will next file an Integrated Resource Plan update in 2020.

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[3] *Motion to Suspend Procedural Schedule,* page 1, File No. EO-2019-0132, filed January 28, 2019.
[4] *Order Granting Motion to Suspend Procedural Schedule,* page 2, filed January 28, 2019.
[5] *Order Extending Time to File Stipulation or Pleading,* page 1, filed February 14, 2019.
[6] *Stipulation and Agreement Regarding Extension of MEEIA 2 Programs During Pendency of MEEIA 3 Case,* page 2, filed February 15, 2019.

On September 23 and 24, 2019, the Commission held an evidentiary hearing. During the hearing, the parties presented evidence relating to the following unresolved issues previously identified by the parties:

1. When it developed MEEIA Cycle 3, did the Companies' value demand-side investments equal to traditional investments in supply and delivery infrastructure?

2. Is the proposed MEEIA Cycle 3, as designed by the Companies, expected to provide benefits to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers?

3. Should the Commission approve, reject, or modify the Companies' MEEIA Cycle 3, along with the waivers in the Companies' application intended to enable its implementation?

    a. If MEEIA Cycle 3 should be modified, how should the plans be modified?

4. If the Commission approves or modifies MEEIA 3, what DSIM provisions should be approved to align recovery with the MEEIA statute?

5. Should Opt-Out Customers be eligible to participate in Business Demand Response programs?

    a. Should Evergy Missouri West be required to publish in its tariff the participation payment to customers that participate in the Business Demand Response programs?

The Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (OPC) contested Evergy Missouri's MEEIA applications. The Intervening Parties supported Evergy Missouri's MEEIA Cycle 3 applications.

Initial post-hearing briefs were filed on October 11, 2019. Reply briefs were filed on October 21, 2019, and the case was deemed submitted for the Commission's decision on that date and the record closed.[7]

[7] "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 20 CSR 4240-2.150(1).

I. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

1. Evergy Missouri Metro is a Missouri corporation with its principal office located in Kansas City, Missouri. Evergy Missouri Metro is engaged in the generation, transmission, distribution, and sale of electricity in western Missouri, operating primarily in the Kansas City metropolitan area.[8]

2. Evergy Missouri West is a Delaware corporation with its principal office located in Kansas City, Missouri. Evergy Missouri West is engaged in the business of providing electric utility service in Missouri to the public in its certificated areas.[9]

3. Evergy Missouri Metro and Evergy Missouri West are in the Southwest Power Pool (SPP), a Regional Transmission Organization, and the Companies have an Joint Network Integrated Transmission Service Agreement with the SPP.[10] The SPP treats them as a single load serving entity.[11]

4. Staff is a party in all Commission investigations, contested cases, and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.[12] Staff participated in this proceeding.

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[8] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0132, filed November 29, 2018.
[9] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0133, filed November 29, 2018.
[10] Dietrich Rebuttal, Exhibit 100, page 6.
[11] Transcript, pages 388.
[12] Commission Rules 20 CSR 4240-2.010(10) and (21) and 2.040(1).

5. OPC is a party to this case pursuant to Section 386.710(2), RSMo,[13] and by Commission Rule 20 CSR 4240-2.010(10).

6. In 2009, the Missouri general assembly passed MEEIA. Participation under MEEIA is voluntary and companies do not have to offer demand side programs.[14] Utilities participate in MEEIA because it authorizes cost recovery that allows utilities to value demand-side efficiency equal to traditional investments as an incentive to participate in energy efficiency programs.[15]

7. On November 29, 2018, the Companies filed applications and accompanying tariffs with the Commission requesting approval of demand side programs, TRMs, and DSIMs under the MEEIA statute.[16]

8. Evergy Missouri Metro and Evergy Missouri West have proposed separated demand side portfolios that contain the same programs, with the exception that only Evergy Missouri Metro's portfolio has an Income Eligible Home Energy Report.[17]

9. The applications indicate that the Companies are planning to invest $96.3 million with the anticipation of achieving 185.9 megawatts of capacity reduction in the first year of MEEIA Cycle 3's implementation.[18]

10. A successful MEEIA application is dependent on multiple program offerings in the categories of energy efficiency, demand response, low-income, and pilot

[13] All statutory references are to the 2016 Missouri Revised Statutes, as supplemented, unless otherwise indicated.
[14] Section 393.1075, RSMo.
[15] Evergy Missouri Surrebuttal Report, Exhibit 4, page 1.
[16] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 2, File No. EO-2019-0132 and EO-2019-0133, filed November 29, 2018.
[17] Dietrich Rebuttal, Exhibit 100, page 3.
[18] Staff Surrebuttal Report, Exhibit 101, page 3.

programs.[19] Evergy Missouri has program offerings in all of those categories, including both business and residential programs.[20]

11. Evergy Missouri's MEEIA Cycle 3 programs are similar to the ones approved by the Commission in its MEEIA Cycle 1 and MEEIA Cycle 2.[21]

12. Evergy Missouri's portfolio of MEEIA Cycle 3 programs consists of a three-year plan for specific demand-side programs and a six-year plan for the income-eligible multi-family program, recovery of program costs and an offset of the throughput disincentive at the same time energy efficiency investments are made, and an opportunity to earn an incentive amount based upon demand and energy savings achieved.[22]

13. Evergy Missouri asks the Commission to approve MEEIA Cycle 3 for a three year period from the date of approval.[23]

Avoided Costs

14. Avoided costs are the cost savings obtained by substituting demand side programs for existing and new supply side resources.[24] The importance of avoided costs is that they are used to calculate whether a demand side program is cost-effective as part of the Total Resource Cost test (TRC test).[25]

15. The TRC test compares the costs to deliver the program (including incentives paid to customers, administrative costs, the costs to do the evaluation, measurement and verification, and any out of pocket expenses paid by the customer) to

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[19] Marke Rebuttal, Exhibit 200, page 21.
[20] MEEIA Cycle 3, Exhibit 2, pages 16 and 17.
[21] Caisley Surrebuttal, Exhibit 5, page 3.
[22] *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule,* page 5, File No. EO-2019-0132 and EO-2019-0133, filed November 29, 2018.
[23] Transcript, page 167.
[24] Commission Rule 20 CSR 4240-20.092(1)(C).
[25] Transcript, pages 393-394

the value of the program benefits (calculated as any energy savings in kWh, times the avoided cost of energy plus any capacity savings times the avoided costs of capacity equals the present value of the benefits). If the TRC results for a program are greater than one, the benefits are greater than the costs and the program is determined to be cost-effective.[26]

16. The TRC test is a preferred cost-effectiveness test under MEEIA. The Commission allows recovery under MEEIA for cost-effective programs as determined utilizing the TRC test.[27]

17. The Commission's Integrated Resource Plan (IRP) rule requires that Evergy Missouri analyze combinations of demand-side management programs and supply side resources to look for the lowest net present value of revenue requirement.[28]

18. Evergy Missouri used the levelized cost of a hypothetical Combustion Turbine (CT) to calculate avoided costs because of how it interprets the term "traditional investment" and because the SPP uses the avoided cost of a CT to value capacity.[29]

19. Using Evergy Missouri's proposed avoided costs based upon a hypothetical CT, the programs are cost effective as a whole,[30] but those avoided costs overstate the benefits as calculated using the TRC test.[31]

20. Using Evergy Missouri's proposed avoided costs overstates the avoided costs of generation transmission and distribution facilities.[32]

[26] Transcript, pages 393-394.
[27] Section 393.1075.4 RSMo.
[28] Transcript, pages 141-142. See also: Commission Rule 20 CSR 4240-22.050.
[29] Evergy Missouri's Surrebuttal Report, Exhibit 4, page 11.
[30] Evergy Missouri's Surrebuttal Report, Exhibit 4, page 30.
[31] Transcript, page 381.
[32] Transcript, page 380.

21. Evergy Missouri's avoided costs calculations relies on outdated data from 2015.[33]

22. Evergy Missouri's capacity exceeds the needs of its customers and the resource adequacy requirements of SPP. Evergy Missouri would not need to build a CT to meet capacity needs until 2033. It would need to build a CT in 2033 regardless of the implementation of MEEIA Cycle 3.[34]

23. Using the levelized cost of a hypothetical CT to value avoided costs in this instance is not appropriate because Evergy Missouri is not actually avoiding the cost of building a CT. A hypothetical CT is a representative valuation and has no link to an actual avoided "existing or new supply-side resource."[35]

24. Evergy Missouri's demand-side programs do not defer any specific identifiable supply-side resource.[36]

25. Staff's position on avoided costs changed from prior MEEIA cycles to when it evaluated the Evergy Missouri's MEEIA Cycle 3. Staff's new position focused on avoided costs and the postponement of new supply-side resources and early retirement of existing supply-side resources.[37]

26. OPC supports Staff's position that avoided costs should be valued at zero for failing to defer a supply-side investment.[38]

27. Staff's use of zero for avoided costs is inappropriate because the MEEIA statute does not require deferral of capacity.[39]

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[33] Transcript, Page 486.
[34] Staff Surrebuttal Report, Exhibit 101, page 17.
[35] Transcript, pages 303-304.
[36] Staff Surrebuttal Report, Exhibit 101, page 25.
[37] Transcript, page 272.
[38] Marke Rebuttal, Exhibit 200, pages 5-10, and Transcript 487-488.
[39] Evergy Missouri's Surrebuttal Report, Exhibit 4, pages 10-11.

28. Demand-side programs that produce capacity savings have an avoided cost greater than zero even if the subject utility is long on capacity. Valuing avoided costs at zero, as Staff suggests, will make it difficult for utilities to design cost-effective demand-side programs. This will reduce the number of cost effective programs offered by companies that have excess capacity.[40]

29. MEEIA is not a program for managing generation and providing supply-side power. MEEIA is designed to compensate the utility for promoting energy efficiency as it encourages its customers to save money by using less of the product the utility sells.[41]

30. In 2017, Evergy Missouri West issued a Request for Proposal (RFP) for generating capacity. The company received seven offers to supply capacity, with terms ranging from four to ten years. Evergy Missouri now offers to use the average price of those bids as an alternative market-based equivalent with which to value avoided costs.[42]

31. The Commission's IRP rules permit the use of a market-based equivalent for calculating avoided costs.[43]

32. Staff did not analyze Evergy Missouri's market-based alternative avoided costs.[44]

33. Using Evergy Missouri's 2017 market-based approach to calculate avoided costs, all but one of the Companies' MEEIA Cycle 3 programs would be cost effective.[45]

[40] Caisley Surrebuttal, Exhibit 5, page 6.
[41] Owen Surrebuttal, Exhibit 452, page 4.
[42] Transcript, pages 423-425.
[43] Commission Rule 20 CSR 4240-22.050(5)(A)1.
[44] Transcript, pages 404 and 422.
[45] Transcript, pages 424-425.

Benefit All Customers

34. MEEIA requires that all customers in the class for which MEEIA programs are offered benefit, regardless of whether they participate in the programs.[46]

35. Under Evergy Missouri's market-based approach calculations, the only program that would not be cost-effective is the business thermostat program.[47] Evergy Missouri is willing to make changes to that program so that it is cost-effective.[48]

36. Valuing avoided generation as the means to show benefits to all customers overlooks the purpose of MEEIA, which is to encourage energy efficiency. Utilities should be endeavoring to increase customer participation in energy efficiency programs. Non-participating customers will benefit from Evergy Missouri's MEEIA Cycle 3 because the programs will be cost-effective, but participating customers save money on their bills and experience direct benefits. Simply put, all customers benefit, but participating customers benefit more.[49]

37. All of Evergy Missouri's customers will benefit because the Company's proposed MEEIA programs will result in the lowest net present value of revenue requirements or minimization of the present worth of long-run utility costs over the long term.[50]

38. Customers participating in MEEIA energy efficiency programs will get the benefit of a lower bill because they will have less usage than non-participants.[51]

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[46] Transcript, page 307, and Section 393.1075.4 RSMo.
[47] Transcript, pages 424-425.
[48] Evergy Missouri Surrebuttal Report, Exhibit 4, page 18
[49] Owen Surrebuttal, Exhibit 452, page 7.
[50] Evergy Missouri's Surrebuttal Report, Exhibit 4, pages 15-16 and 26.
[51] Transcript, page 349.

39. Benefits from a reduction in a customer's bill is not the only benefit to customers. There are also societal benefits, such as improved health and safety, investment in local economies, and local job creation.[52]

40. If all utilities in SPP were to work toward energy efficiency there would be benefits for all customers in the SPP area, including Missouri. There would be a reduction in the number of hours that fossil fuel plants would run, a decrease in the amount of time that higher margin units would run, and fewer emissions.[53]

Pay As You Save Program

41. Pay As You Save (PAYS) is a system that allows utilities to invest in efficiency upgrades on the customer's side of the meter and recover their costs through a tariffed charge on the participant's bill. It is not a consumer loan or individual debt.[54] As a tariffed program, it is tied to the meter.[55] PAYS enables deeper energy efficiency and demand savings by customers who do not have thousands of dollars of disposable income to make energy-related investments, including many residential customers.[56]

42. Under PAYS, the utility collects payments through a tariff to recover its investments from customers at the locations where the upgrades were installed. If any money needs to be borrowed, it is borrowed by the utility. Payment obligations are tied to the location, so whoever is a customer at a location where upgrades are installed makes the payments for only as long as they are a customer there, or until the upgrade costs are recovered.[57]

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[52] Staff Surrebuttal Report, Exhibit 101, Page 10.
[53] Transcript, pages 328-330.
[54] Marke Rebuttal, attachment GM-10, PAYS Questions for KCPL MEEIA, Exhibit 200, page 1.
[55] Marke Rebuttal, attachment GM-9, Response to PAYS Feasibility Study, Exhibit 200, page 3.
[56] Marke Rebuttal, exhibit 200, page 45.
[57] Marke Rebuttal, attachment GM-9, Response to PAYS Feasibility Study, Exhibit 200, page 3.

43. In ER-2016-0285, the Commission ordered Evergy Missouri Metro to consider incorporating the Pay As You Save (PAYS) program into its next MEEIA filing.[58]

44. Evergy Missouri complied with that order by hiring the Cadmus Group to complete a feasibility study, which was completed on September 28, 2018.[59] The Cadmus Group is a consulting firm based in Waltham, Massachusetts.[60]

45. The Cadmus Group's feasibility study recommended that Evergy Missouri consider a PAYS program that targets low-income and multifamily populations.[61]

46. OPC recommends that Evergy Missouri offer a PAYS program as part of its MEEIA Cycle 3 program portfolio. While OPC would like to see a full PAYS program, it is agreeable to a one-year pilot program to show that the program is feasible.[62]

47. Renew Missouri also recommends inclusion of a PAYS program in Evergy Missouri's MEEIA Cycle 3 as a way to increase customer participation and expand the scope of benefits.[63]

48. The position of Evergy Missouri has not changed from the position it expressed in ER-2016-0285. Evergy Missouri is not interested in being a financial institution that holds loans or liens on equipment on the customer's side of the meter.[64]

49. PAYS starts with an analysis of the property to determine what energy efficiency measures would pay for themselves.[65] Generally, that means any upgrade that

[58] File No. ER-2016-0285, Report and Order, May 3, 2017, page 14.
[59] Marke Rebuttal, attachment GM-9, Response to Pay As You Save Feasibility Study, Exhibit 200.
[60] Owens Rebuttal, Exhibit, page 451.
[61] Marke Rebuttal, attachment GM-9, Response to Pay As You Save Feasibility Study, Exhibit 200.
[62] Marke Rebuttal, Exhibit 200, page 43.
[63] Owen Surrebuttal, Exhibit 452, page 8.
[64] Evergy Missouri Surrebuttal Report, Exhibit 4, page 74.
[65] Transcript, page 188

is a proven technology and can provide immediate net savings to the customer after it has been installed.[66]

50. PAYS does not require credit checks because it is not a loan program.[67] The payback of the costs of the upgrades are tied to the structure that receives the improvement. The funding for each project is capped at a level that is no more than 80% of the savings from the energy efficiency measures being installed. The customer's bill will be less, even though the customer is paying back the costs of the upgrades because the energy efficiency savings are higher than the fixed monthly charge for the upgrades.[68]

51. PAYS is also available to renters with the building owner's consent.[69]

52. PAYS allows customers without the necessary upfront capital to make energy-related investments to take part in energy efficiency projects they could not otherwise afford.[70]

53. Mark Cacye, the general manager for Ouachita Electric Cooperative in Camden Arkansas, testified that the cooperative is averaging 15 percent lower bills for every house participating in the PAYS program.[71]

54. It is appropriate to fund the PAYS program through MEEIA and provide an earnings opportunity for Evergy Missouri for successful implementation of the PAYS program.[72]

[66] Marke Rebuttal, attachment GM-10, PAYS Questions for KCPL MEEIA, Exhibit 200, page 2.
[67] Transcript, page 188
[68] Cayce Rebuttal, Exhibit 450, page 2.
[69] Transcript, page 198.
[70] Marke Rebuttal, Exhibit 200, page 45.
[71] Transcript, page 191.
[72] Transcript, page 502.

Business Demand Response Opt-Out Customers

55. The Business Demand Response program is primarily intended to build potential capacity for use in peak reduction to meet SPP capacity margin requirements.[73] One of the advantages of the business response program is that during peak demand periods the Companies can ask those customers in the Business Demand Response program to curtail or interrupt their load to take pressure off the system. Those customers are paid a financial incentive for allowing this interruption. The main benefit to Evergy Missouri is the ability to interrupt load to avoid paying higher SPP prices for electricity during peak demand.[74]

56. Interruptible or curtailable rates are voluntary on behalf of the customer.[75]

57. Evergy Missouri's largest interruptible customer is willing to interrupt approximately six megawatts of load.[76]

58. The business demand response program is an interruptible or curtailable program.[77]

II. Conclusions of Law and Discussion

Evergy Missouri Metro is an electrical corporation and a public utility, as those terms are defined by Section 386.020(15) and (43), RSMo. As such, the Commission has jurisdiction over Evergy Missouri Metro pursuant to Sections 386.250(1), RSMo, and 393.140, RSMo.

[73] Staff Surrebuttal Report, Exhibit 101, page 65.
[74] Transcript, page 219-220.
[75] Transcript, page 496.
[76] Transcript., page 220.
[77] Transcript, page 173.

Evergy Missouri West is an electrical corporation and a public utility, as those terms are defined by Section 386.020(15) and (43), RSMo. As such, the Commission has jurisdiction over Evergy Missouri West pursuant to Sections 386.250(1), RSMo, and 393.140, RSMo.

In making its determination, the Commission may adopt or reject any or all of any witnesses' testimony.[78] Testimony need not be refuted or controverted to be disbelieved by the Commission.[79] The Commission determines what weight to accord to the evidence adduced.[80] "It may disregard evidence which in its judgment is not credible, even though there is no countervailing evidence to dispute or contradict it."[81] The Commission may evaluate the expert testimony presented to it and choose between the various experts.[82]

Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. Where the evidence conflicts, the Commission determines which evidence is most credible.

Commission Rule 20 CSR 4240-20.094(3) requires that the Commission must approve Evergy Missouri Metro's and Evergy Missouri West's MEEIA Cycle 3 plans, approve the plans with modifications acceptable to Evergy Missouri Metro and Evergy Missouri West, or reject the plans. The Commission will consolidate Evergy Missouri Metro's and Evergy Missouri West's applications, because the SPP treats Evergy Missouri Metro and Evergy Missouri West as a single load serving entity, and the parties

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[78] *State ex rel. Associated Natural Gas Co. v. Public Service Commission,* 706 S.W.2d 870, 880 (Mo. App., W.D. 1985).
[79] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[80] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[81] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).
[82] *Associated Natural Gas, supra,* 706 S.W.2d at 882.

who addressed that question in post-hearing briefs all encouraged the Commission to take the applications together. Furthermore, consolidation will ultimately make it easier for customers who might otherwise be confused if MEEIA programs were only available for one company.

Avoided Costs

The MEEIA statute does not define avoided costs, and nowhere in the MEEIA statute does it say that a supply-side resource must be avoided or deferred. Avoided costs are the foundation of whether a MEEIA program is cost-effective under the TRC test, and the MEEIA statute only allows for recovery for cost-effective programs (excluding low-income or general education programs determined by the Commission to be in the public interest).

The Commission permits electric corporations to implement Commission approved demand-side programs, but recovery for such programs is not allowed unless they result in energy or demand savings.[83] The Commission must consider the TRC test a preferred cost-effectiveness test.[84] While the TRC test is not the only test for evaluating cost-effectiveness, it is the test used by the parties. The TRC test compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the program.[85]

Avoided costs are defined in 20 CSR 4240-20.092(1)(C) which states in part: "Avoided costs or avoided utility costs means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources." In this case, Staff's

[83] Section 393.1075.4 RSMo.
[84] Section 393.1075.4 RSMo.
[85] Section 393.1075.2(6) RSMo.

proposal assumes that the only acceptable measure of avoided costs is the substitution of demand-side programs for specific identifiable and physical supply side resources. Staff has concluded that for avoided costs to exist, a specific identifiable supply side resource must be either retired or avoided. The difficulty with this position is that MEEIA is not just about saving ratepayers money, and it is not a program for managing supply side generation.

Section 393.1075.3 states that: "It shall be the policy of the state to value demand-side investments equal to traditional investments…" Ultimately, equivalent valuation is both a technical and a policy decision. Demand-side programs may not be essential when a utility has excess capacity, but state policy is to encourage energy efficiency,[86] and it is not practical to wait until a company is short of capacity to start acclimating customers to the idea of using energy more efficiently.

Commission Rule 20 CSR 4240-22.010(2)(A) and (B), concerning electric utility resource planning, does not support Staff and OPC's view of avoided costs in this instance. The rule says that a utility should use minimization of the present worth of long-run utility costs as the primary selection criteria in choosing a preferred resource plan, which is what the Companies testify they have done. Evergy Missouri contends that its demand-side portfolio as a part of its IRP, produces the lowest 20-year net present value revenue requirement. However, as OPC noted in testimony, Evergy Missouri is relying on outdated data from 2015. Also, Evergy Missouri was granted a variance from filing its

[86] "…it is also the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity." Section 393.1040 RSMo.

2019 IRP update, and will file its next IRP update in 2020, so Evergy Missouri's original position on avoided costs is not supported by the evidence.

The Commission's Rule 20 CSR 4240-22.050, which dictates how potential demand-side resources are developed and analyzed for cost-effectiveness, states that "avoided demand costs include the capacity costs of generation, transmission, and facilities. . . or the corresponding market-based equivalent." An advantage to the market-based approach is that future profiles of available resources are uncertain, but a market-based approach can always be applied. Evergy Missouri has said it is agreeable to a market-based avoided cost approach based upon the average of bids Evergy Missouri West received for capacity in 2017. Although less than Evergy Missouri's hypothetical CT valuation for avoided costs, this approach will produce avoided costs sufficient to encourage Evergy Missouri to continue to offer energy efficiency demand-side programs. Thus, a market-based approach will value demand-side investments equal to traditional investments.

Benefit All Customers

Section 393.1075.4 RSMo says that recovery for demand-side programs will only be allowed if the programs result in energy or demand savings and benefit all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

There are two ways to examine benefits to all customers, monetary benefits and non-monetary benefits. Using a market based equivalency for avoided costs, Evergy Missouri calculates that all but one of its MEEIA Cycle 3 programs is cost-effective, and Evergy Missouri is willing to modify that program so it becomes cost effective. Once that is done, the projected costs will be outweighed by the savings benefits and all customers will monetarily benefit from the programs within the class the programs are offered. Further, all customers across all classes will benefit from the non-monetary general benefits of energy efficiency related to less energy consumption, such as reduced emissions.

The MEEIA statute does not indicate the level of benefits non-participants are to receive, and it is apparent that the customers who participate in energy efficiency programs will receive most of the benefits of those programs, but all customers will receive some benefit.

Pay As You Save Program

Participation in MEEIA is voluntary and no company is required to offer demand-side programs under MEEIA. As stated above the Commission can approve the applications with modifications so long as those modifications are acceptable to Evergy Missouri. Evergy Missouri has stated that it has no interest in having a PAYS program as part of its MEEIA Cycle 3 portfolio. However, the Commission finds that the PAYS program offers unique opportunities to broaden participation in MEEIA programs to customers who might not otherwise engage in energy efficiency programs.

This pilot program appropriately belongs in MEEIA Cycle 3 because the Commission wants to give Evergy Missouri an appropriate earnings opportunity for offering the program, as proposed by Dr. Marke in rebuttal testimony. Evergy Missouri may not find offering a PAYS program to be an acceptable condition for approval of the Companies' MEEIA Cycle 3 applications, and Evergy Missouri may exercise its prerogative and not offer a MEEIA Cycle 3 portfolio if it does not find this addition acceptable.

Business Demand Response Opt-Out Customers

Section 393.1075.10 RSMo states that customers opting not to participate in funding MEEIA programs shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs.

The Company has testified that the program is in fact a curtailable or interruptible program. This section of the MEEIA statute applies to the tariff or schedule. The Commission rejected Evergy Missouri's MEEIA Cycle 3 tariffs when it approved a stipulation and agreement between the parties extending MEEIA Cycle 2. Thus, there are no schedules or tariffs for the Commission to examine.

Variances

Evergy Missouri has requested variances be granted to five Commission rules:

1. Variances related to the incentive to be implemented and based on prospective analysis rather than achieved performance verified by EM&V, the proposed utilization of a Technical Resource Manual for purposes of calculating Throughput Disincentive: 20.092(1)(HH);20.092(1)(M); 20.092(1)(R); 20.093(2)(I) 20.093(2)(I)3; 20.092(1)(N)

2. Variances related to allowing adjustments to Demand-Side Investment Mechanism (DSIM) rates for the Throughput Disincentive DSIM utility incentive revenue requirement as well as the DSIM cost recovery: 20.093(4); 20.093(4)(C)

3. Variances related to "revenue requirement" where the Throughput Disincentive is excluded from the cost recovery revenue requirement: 20.092(1)(Q); 20.092(1)(UU); 20.092(1)(P); 20.092(1)(R); 20.093(2)(J); 20.092(1)(F)

4. Variances related to allowing flexibility in setting the incentives and changing measures within a program: 14.030.

5. Variances related to the methodology for calculating avoided costs, 20.092(1)(C).

All of the Intervening Parties support granting Evergy Missouri's MEEIA Cycle 3 applications and associated variances. Staff opposes only the granting of a variance of Commission Rule 20 CSR 4240-20.092(1)(C), which defines avoided costs. Evergy Missouri requests the variance of the avoided cost definition because it say that the Companies have interpreted the rule to mean that the methodology for calculating avoided costs would be consistent with the most recently filed IRP at the time of the MEEIA application filing.

III. Decision

The Commission will approve Evergy Missouri's MEEIA Cycle 3 subject to certain conditions. The Commission determines that a market-based approach is the most appropriate way to calculate avoided costs for this MEEIA application and that a market-based approach best values demand-side investments equal to traditional investments in supply and delivery infrastructure. Therefore, the Commission will direct the parties to use the average of bids Evergy Missouri West received for capacity in 2017 for purposes calculating avoided costs.

The Commission determines that Evergy Missouri's MEEIA Cycle 3 programs are beneficial to all customers in the customer class in which the programs are proposed. The Company's proposed MEEIA programs will result in the lowest net present value of revenue requirements or minimization of the present worth of long-run utility costs over the long term, as well as improved health and safety, investment in local economies, and local job creation.[87]

The Commission determines that if Evergy Missouri implements a MEEIA Cycle 3, it shall offer a PAYS pilot program as described in the rebuttal testimony of Dr. Marke, with the exception that, the budget for the pilot program shall be reduced to no less than $10 million, and no more than $15 million. Evergy Missouri Metro and Evergy Missouri West may administer the pilot program themselves or may employ a third-party operator with experience to operate the Pay As You Save program. The program should be appropriately scaled down to accommodate the reduced budget, as the purpose of the one-year pilot program is to determine the feasibility and desirability of the PAYS program.

Testimony supports the Business Demand Response program as being interruptible or curtailable. The Commission determines from the description of the program that it is an interruptible or curtailable program and that opt-out customers shall be allowed to participate in the Business Demand Response program. If Evergy Missouri files tariffs to implement the approved revised MEEIA Cycle 3, those tariffs will appropriately represent the Commission's determination that the programs are interruptible or curtailable within the meaning of the statute.

The Commission will grant the four unopposed variance requests, because the variances are necessary to successfully implement Evergy Missouri's MEEIA Cycle 3, and gain at-will participation. The Commission will grant the fifth variance even though the Commission is not approving Evergy Missouri's avoided costs. The Commission is

[87] Companies' Surrebuttal Report, Exhibit 4, page 26.

approving the Companies MEEIA Cycle 3 applications with a market-based approach to calculating avoided costs. As modified, the variance is still needed. For this reason the Commission is granting a variance of Commission Rule 20 CSR 4240-20.092(1)(C).

THE COMMISSION ORDERS THAT:

1. The MEEIA Cycle 3 Plans, as put forth by Evergy Missouri Metro and Evergy Missouri West, and modified by the Commission, are approved for a period of three years from the effective date of this order. Avoided costs shall be calculated using the average cost of the seven bids to supply capacity which Evergy Missouri West received in response to a 2017 Request for proposal and described in testimony.

2. If Evergy Missouri Metro and Evergy Missouri West offer a MEEIA Cycle 3 plan, the companies shall modify their respective MEEIA Cycle 3 portfolios to include a one-year Pay As You Save pilot program. The Companies and parties shall file within 60 days of the effective date of this order the proposed pilot program. The Pay As You Save pilot program shall include the following:

   a. The budget for the pilot program shall be no less than 10 million dollars, and no more than 15 million dollars.

   b. Evergy Missouri Metro and Evergy Missouri West may administer the pilot program themselves or may employ a third party operator with experience to operate the pilot program.

   c. The pilot program shall identify a goal for the number of participants living in neighborhoods designated by the parties as predominately low or moderate-income customers or renters in multifamily housing with five or more units where the renter is responsible for paying their energy bills. The pilot program shall allow owners of multifamily units in participating buildings to use the program to install upgrades in common areas.

d. The pilot program shall have an appropriate earnings opportunity component for the Companies to be agreed upon by the parties.

e. The pilot program shall include customer protections by capping administrative costs (including total advertising costs as allocated to the total number of projects) for each individual customer project to a percentage of the total loan costs. Energy audit costs are a separate project Component and will not be included with administrative costs.

f. The utilization of Pay As You Save to fund participation in any MEEIA program shall be recovered under the Pay As You Save tariff and shall not be recovered under any other MEEIA tariff.

g. Evergy Missouri Metro and Evergy Missouri West will notify the Commission of the pilot program's expected starting date, as selected by the Companies.

h. Evergy Missouri Metro and Evergy Missouri West shall submit progress reports both six months and one year after the Pay As You Save pilot program begins. The reports shall provide information based on benchmarks established by the parties to help identify the long-term feasibility and desirability of a Pay As You Save program, including participation rates.

3. Opt-out customers shall be allowed to participate in Evergy Missouri Metro's and Evergy Missouri West's business response program. The Companies are not required to publish compensation in their tariffs.

4. Evergy Missouri Metro and Evergy Missouri West are granted variances from the following Commission rules for the purpose of facilitating their MEEIA Cycle 3 Plans:

- 20 CSR 4240-20.092(1)(HH)
- 20 CSR 4240-20.092(1)(M)
- 20 CSR 4240-20.092(1)(R)
- 20 CSR 4240-20.093(2)(I)3
- 20 CSR 4240-20.092(1)(N)
- 20 CSR 4240-20.093(4)(C)
- 20 CSR 4240-20. 20.092(1)(Q)
- 20 CSR 4240-20.092(1)(UU)
- 20 CSR 4240-20.092(1)(P)
- 20 CSR 4240-20.092(1)(R)
- 20 CSR 4240-20.093(2)(J)
- 20 CSR 4240-20.092(1)(F)
- 20 CSR 4240-14.030
- 20 CSR 4240-20.092(1)(C)

5. If Evergy Missouri Metro and Evergy Missouri West want to offer a MEEIA Cycle 3 plan, they shall file tariff sheets in compliance with this order no later than December 16, 2019.

6. The Staff of the Missouri Public Service Commission shall file its recommendation on the sufficiency of the companies' compliance tariff sheets no later than December 20, 2019, at 10:00 a.m.

7. Any other party wishing to respond or comment on the Companies' compliance tariff sheets shall file a response or comment or recommendation no later than December 20, 2019, at 10:00 a.m.

8. This Report and Order shall become effective on January 1, 2020.

BY THE COMMISSION

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, and
Coleman, CC., concur.

Clark, Senior Regulatory Law Judge