

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

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

THE OFFICE OF THE PUBLIC COUNSEL'S COMMENTS

COMES NOW the Office of the Public Counsel ("Public Counsel") and for its Comments states as follows:

Introduction

On October 24, 2014, the Missouri Public Service Commission ("Commission") opened the above stated file to gather input from interested stakeholders regarding a four-year review of the effectiveness of the Commission's rules to implement the Missouri Energy Efficiency Investment Act (MEEIA), specifically rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094, each of which became effective May 30, 2011.¹

On October 29, 2014, the Commission issued its *Order Opening A Working Case To Review The Effectiveness Of The Commission's Rules Implementing The Missouri Energy Efficiency Investment Act* ("MEEIA") which invited interested stakeholders to respond with comments to the following requests no later than November 14, 2014:

- a. Please comment as to the effectiveness of the MEEIA rules;
- b. Please suggest proposed changes to the MEEIA rules. These suggestions need not be in the form of a draft amendment, but should include citations to the language that would be amended if the proposed changes are effectuated, and should explain the policy or other rationale supporting the proposed change;

¹ Electronic Filing and Information System (EFIS) Item No. 1.

- c. Please comment as to any issues that should be addressed in proposed amendments to the MEEIA rules not presently included in the rules.²

Public Counsel's Comments

Public Counsel offers the following comments regarding the effectiveness of the current MEEIA rules and proposes changes that will address and improve: 1) the evaluation, measurement, and verification process, 2) reporting requirements and program design, and 3) state-wide cooperation among parties interested in energy efficiency.

Evaluation, measurement, and verification

The Commission's rules relating to the Evaluation, Measurement and Verification ("EM&V") process have been an area of dispute in one recent MEEIA case. In order to prevent future conflicts between the parties involved in measuring the results of demand-side programs, the following revisions should be made:

- (1) The rules should include a specific EM&V Change Request Process. Presently, the process for resolving disputes over the determination of annual energy savings to be credited to a utility for its MEEIA programs is unclear. So far, stakeholders have relied on the process outlined in stipulations and agreements that established each utilities' MEEIA program. The stipulations provide that when a party disputes the utility's EM&V of energy savings, they can file a "change request" that explains their disagreements with the calculation of the energy savings. The Commission then must determine the actual level of energy savings to be credited to the utility. In practice, resolving a change request has proved to be more contentious than anticipated. A uniform process in the rules to determine the annual energy savings when the EM&V results are disputed would provide simplicity and uniformity when determining the energy savings to be credited to a utility.

² EFIS Item No. 2.

(2) The rules should address the verification of the potential energy savings study performed by each utility. As written, the rules require the company to perform a potential study when they seek to establish a MEEIA program. The problem is that the rules do not provide for a process by which this potential study is verified to be accurate. Nor do the rules address how a party may challenge the results of a potential study performed by a utility. Ensuring an accurate potential study will allow utilities to more accurately set energy and demand savings targets that reflect the true value of the efficiency programs. Providing a way to verify a utility's potential study would be consistent with the treatment of other instances when utility reports measuring energy savings are examined. For example, in the case of measuring a company's achieved energy savings the rules provide for an EM&V Auditor to verify the results. Whereas the EM&V Auditor represents "backend" verification, the rules should also require "frontend" verification of any potential study. These changes could be included in the sections that discuss the market potential study 4 CSR 240-20.093(1)(GG) and 4 CSR 240-3.164(2)(A).

(3) Additionally, the rules on the potential study should state how and how often avoided costs from the utility's last preferred resource plan are to be updated. In particular, avoided costs should be updated and verified annually. A regular update would allow for a more accurate analysis of the potential energy and demand savings available at any given time.

(4) The MEEIA rules should set specific annual energy and demand savings targets that reflect a combination of the utility's most recent potential study and any appropriate changes resulting from the potential study verification (described above) and the statewide stakeholder collaborative process. The current MEEIA rule 4 CSR 240-20.094(2) merely specifies "soft" annual energy and demand savings targets to be met by the utility. Requiring specific savings

targets would provide more accurate and understandable energy and demand savings goals for the utilities to meet. This modification could be made at 4 CSR 240-20.094(2).

(5) Evaluating and measuring market transformation programs should be addressed more specifically in the rules. The rules should require that designating a program a “market transformation program” must be undertaken prospectively with agreement from stakeholders on the designated parameters and selected methodology. Requiring more specific plans prior to beginning a program would prevent potential conflicts when examining future EM&V Reports. Market transformation programs are mentioned in the rules at 4 CSR 240-3.163(5)(A)4 and 4 CSR 240-3.164(2)(C)12 and could be amended to include these recommendations.

(6) The MEEIA rules should be amended to state that the formula for determining Net-to-Gross must include the following inputs: Free rider (including leakage); spillover; rebound effect; and market effect (if applicable, see market transformation suggestion). This change would mitigate future EM&V conflicts over the appropriate formula to use when determining the Net-to-Gross and could be included at 4 CSR 240-3.164(2)(C)10 and 4 CSR 240-20.093(2)(H).

(7) The rules should be amended to include clear language requiring that the Total Resource Cost Test is to be utilized in determining the annual net shared benefits. The specific inputs used in the calculation of the total resource cost should be listed in the rules to ensure a clear understanding of the costs to be included. This could be accomplished by amending the definitions of annual net shared benefits at 4 CSR 240-3.163(1)(A), 4 CSR 240-20.094(1)(C), and 4 CSR 240-20.093(1)(C) to specifically state that the Total Resource Cost Test is to be used in determining the annual net shared benefits.

(8) Additionally, the definition of Annual Net Shared Benefits should be amended to change “incentive” to “utility performance incentive” in order to differentiate between the terms incentive and end-use measure. This change would require the rule to be amended at 4 CSR 240-3.163(1)(A), 4 CSR 240-20.094(1)(C), and 4 CSR 240-20.093(1)(C).

Reporting requirements and program design

In order to fulfill the intent of the MEEIA statutes, certain changes to the data reporting requirements and program design should be made to the Commission’s rules. Identifying certain information about the program participants and customers who opt-out will aid the utilities in designing and implementing demand side programs in order to maximize energy savings and benefit both customers and the utilities. To meet these goals, Public Counsel recommends the following:

(9) The rules should be amended to require utilities to identify all opportunities for joint-delivery of programs within their service area. A problem some utilities face is the inability to implement efficiency programs, in part, because the program costs and the particular size and circumstances of their service area make developing cost effective energy programs nearly impossible. An opportunity to ameliorate this problem is for utilities to share costs through the joint-delivery of programs. Requiring utilities to identify and pursue programs that can be co-delivered would minimize the program and administrative costs borne by each utility, enable more programs to be cost effective, and provide more opportunities for customers to participate in energy efficiency programs. The current rules mention joint demand-side programs at 4 CSR 240-3.164(2)(E) and could be amended to include more specific requirements.

(10) The energy and demand savings of customers opting out of MEEIA programs should be measured and submitted to the Commission. To ensure accurate reporting, the rules

should include a standard methodology that any opt-out customer must use to quantify and report their energy savings. Such a change would provide a more transparent and accurate picture of energy and demand savings achieved throughout the state. The additional requirements could be added to the provisions for customers to opt-out of participation in demand-side programs found at 4 CSR 240-20.094(6).

(11) The rules should require utilities to report participation rates and the cost impact of energy efficiency programs on nonparticipants. A problem with energy efficiency measures is that the program costs are often charged to customers who do not themselves participate in the program. In effect, the non-participants bear the cost but do not receive any benefit. Requiring the collection and reporting of data on customer participation by class and customer type will facilitate the design of demand-side programs so that all customers can benefit from energy efficiency efforts. A specific focus should be on measuring residential renters and low income ratepayers, two sub-sets of customers uniquely impacted by energy efficiency programs. These reporting requirements could be included in the rule sections on annual report requirements at 240-3.163(5) and 4 CSR 240-20.093(8).

Improving state-wide cooperation

During the state-wide collaborative meeting held on October 21, 2014, Chairman Kenney read the portion of the Commission's rules relating to the development of a state-wide Technical Resource Manual ("TRM"). The Chairman suggested that the rules certainly contemplate that the annual state-wide collaborative should develop a state-wide TRM. Public Counsel agrees; developing a TRM will aid all parties concerned with measuring energy efficiency in creating and evaluating effective demand-side programs. Further, in addition to working together to develop a TRM, the statewide collaborative can be a tremendous venue for the many

stakeholders to work together to create a workable and effective state-wide energy efficiency network and achieve common goals. Amending the Commission's rules to establish more frequent meetings and requiring specific objectives will benefit all parties. To further these goals, Public Counsel recommends the following:

(12) Require the development of a Statewide Technical Resource Manual and provisions for how the manual should be developed. Importantly, the rules should state who will take ownership of the manual once it is produced. Any TRM developed should include, at a minimum, the top twenty electric and top five gas measures by January 1, 2016. Public Counsel expects that, once developed, the benefits of such a statewide TRM would extend beyond regulated investor-owned utilities to other entities such as Co-ops and Municipal utilities. The proposed revisions could be inserted into the section of the rules where a technical resource manual is contemplated at 4 CSR 240-20.094(8)(B).

(13) Develop a formal statewide stakeholder collaborative process. The MEEIA rules should include a requirement for a formal statewide stakeholder collaborative process with the intention of forming functional working groups. A statewide stakeholder collaborative should be convened twice a year, for example, on the first Monday of November and the first Monday of April, to allow for statewide stakeholder discussion. Items to be discussed should include: the statewide Technical Resource Manual; creation of sub-committees to explore specific and more detailed relevant topics; joint delivery of electric and gas programs; statewide delivery of energy efficiency programs in conjunction with Co-Ops and Municipal utilities; developing building codes to increase energy efficiency; appliance efficiency standards; non-energy benefits; best practices for demand-side programs; market transformation programs; behavioral programs; programs aimed at low-income multifamily renters; and dynamic pricing and SmartMeter unified

marketing. These changes above could be also be included in the section of the rules on the state-wide collaborative at 4 CSR 240-20.094(8)(B).

(14) The development of a webpage to serve as a centralized location for all utility energy and demand savings information to aid the improvement of energy efficiency programs. The webpage should include items and information such as: applicable statutes and rules; active energy efficiency proceedings; market potential studies; EM&V reports; the DSM quarterly stakeholder meeting schedule and calendar; Net-to-Gross framework; links to other related websites; the statewide Technical Resource Manual; the program offerings throughout the state; contact information for trade allies and contractors; and Annual Reports. A webpage that includes the above information would allow the public as well as stakeholders to have open and transparent access to energy efficiency program information throughout the state. The requirements above could be included in the section of the rules on the state-wide collaborative at 4 CSR 240-20.094(8)(B).

Conclusion

The Commission's MEEIA rules could be greatly improved by incorporating lessons learned since the rules became effective on May 30, 2011. To that end, Public Counsel supports this working case and intends to participate fully in the rulemaking workshop to be held on January 15, 2015. Public Counsel has presented several items it wishes to include as discussion items in that workshop, but what Public Counsel has presented is by no means an exhaustive list. Public Counsel fully intends to consider the comments of other stakeholders and may in turn present other comments and suggestions for the Commission's consideration.

WHEREFORE, Public Counsel respectfully submits its comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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