BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Amendment of the Commission's Rule Regarding Applications for Certificates of Convenience and Necessity	)))	Case No. EX-2018-0189

MISSOURI DIVISION OF ENERGY'S COMMENTS
ON PROPOSED RULEMAKING 4 CSR 240-20.045

COMES NOW the Missouri Division of Energy ("DE"), by and through the undersigned counsel, and in response to the Missouri Public Service Commission's ("Commission") *Notice of Rulemaking Hearing* in the above-captioned matter states as follows:

1. On April 4, 2018, the Missouri Public Service issued its *Finding of Necessity and Order Directing that Proposed Rule Amendment be Filed for Publication;* and on May 15, 2018, the proposed rules regarding applications for certificates of convenience and necessity ("CCN") were published in the *Missouri Register*. The proposed rules included a *Notice to Submit Comments* that set the date to file written comments regarding this rulemaking for June 14, 2018.

2. The proposed rule revisions include considerable expansion from 4 CSR 240-3.105 (Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity), the rule proposed for rescinding. DE recognizes the significant effort made to address many considerations in the proposed rule.

There are several aspects to the new rule that DE supports including the general application requirements found in (5)(H) which would require an overview of plans

for the restoration of service after significant unplanned outages. Prolonged outages can have negative consequences on customers that may not only be life-impacting but life-threatening. Customers without heating or cooling, particularly during extreme temperatures, are more vulnerable. Outages may also have significant negative consequences on Missouri's economic development as they may force businesses to close or to alter their hours of operation. Further, consumer discretionary income to spend at businesses may also be restricted as funds must be redirected to address the effects of unexpected outages. Extended outages may result in any number of unanticipated expenses for utility customers (who also buy goods and services in their communities) including food spoilage, temporary home relocation, unexpected home repairs resulting from frozen water pipes, potential loss of work time, and other expenses.

Additionally, DE supports the requirement found at (5)(I) for the electric utility to demonstrate that it engaged in a "non-discriminatory, fair and reasonable process" to evaluate other options than the construction that it is proposing. Such other options would include distributed energy, energy efficiency, and renewable energy sources as potential reasonable alternatives. Consideration of these alternatives is important in order to support forward-thinking decisions that maximize economic benefits for the state of Missouri. DE also supports the land-owner notification provisions found in section (6)(1) that would have to be included during planned transmission line construction.

3. DE believes there are opportunities to improve the rule for clarification, including the need to define the term "non-incumbent electric providers" that is found in sections (5)(G), (5)(H), (6)(G), and (6)(H). Importantly, DE recommends that the rule should be clear that "non-incumbent electric providers" does not mean, and does not

apply to, individual residential, small commercial or industrial customers who own their own generating resources, such as in the case of distributed energy generation. DE offers that while distributed energy generation may be subject to local planning and zoning permits the rule should clarify that customer-owned resources will continue to be excluded from the current CCN process as they are presently. A definition for "non-incumbent electric providers" could be inserted as a new subsection (6) under the definitions section. DE welcomes the opportunity to work with all parties interested in clarifying the rule in this manner to jointly develop a definition for "non-incumbent electric providers".

4. DE also takes note of the language in the construction section of the rule in section (5)(J) that requires the production of evidence that the electric utility utilized a competitive bidding process to evaluate whether purchased power capacity or suppliers of alternative energy would be reasonable alternatives. DE does not oppose this rule language but offers that construction built, maintained, and operated in Missouri, by and for Missourians, can provide long-lasting economic development opportunities for our state and encourages such evaluation by all Missouri electric providers, interested stakeholders, and regulators. Such economic development opportunities resulting from "Missouri-built" construction may include increased employment opportunities, increased tax revenue for state and local communities, increased lease payments and new personal income.

5. The proposed rule as written also does not appear to incorporate the recently passed legislation, Senate Bill 564 (2018), which removes from Section 393.170, RSMo. the requirement for Commission approval of the construction of an energy generation unit that has a capacity of 1 MW or less. The rule as drafted should

include a provision to acknowledge this change, as well as to clarify whether the proposed rule also applies to construction resulting from an “improvement or retrofit” of 1 MW or less (see part 5. under the definitions).

WHEREFORE, the Missouri Division of Energy respectfully files these comments on the Commission’s proposed rule changes and prays that the Commission consider the suggestions herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 14th day of June 2018.

Marc Poston