

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

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

COMMENTS OF UNITED FOR MISSOURI, INC.

COMES NOW United for Missouri, Inc. (“UFM”), by and through the undersigned counsel, and submits the following comments in response to Staff’s second workshop in the above referenced docket.

On March 24, 2015, the Staff of the Missouri Public Service Commission (“Staff”) held its second in a series of public technical workshops intended to evaluate, review and revise the Commission’s MEEIA rule. Previously, on March 9, UFM filed comments proposing an evaluation analysis of the present MEEIA rule. UFM offers the following comments on specific proposed revisions to the MEEIA rule discussed at the March 24, 2015 workshop:

1. The Missouri Public Service Commission (“Commission”) must not elevate the value of demand-side programs beyond that which is expressed in MEEIA. Contrary to some comments, the goal of MEEIA is not “achieving all cost-effective demand-side savings.”¹ Rather, the policy of the state and the goal of MEEIA is to “value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”² The language in section

¹ Section 393.1075.4, RSMo.

² Section 393.1075.3, RSMo.

393.1075.4 must be harmonized with section 393.1075.3 and not made an independent basis for action by this Commission.

2. Section 393.1075.3 is the clear statement of state policy. Section 393.1075.4 is the standard by which the Commission must approve a program submitted by an electrical corporation. The Commission must permit an electrical corporation to implement demand-side programs under two conditions: first, it must be submitted pursuant to MEEIA, and, second, it must have a goal of achieving all cost effective demand-side savings. The Commission may not direct the electrical corporation to achieve all cost effective demand-side savings. However, it is sufficient for the Commission in approving utility proposed programs that it determines the goal of the programs are the achieving of such savings.

3. The rules should not make reference to or require the inclusion or calculation of any “non-energy benefits” or the “societal cost test.” The MEEIA explicitly refers to the “total resource cost test” as “a preferred cost-effectiveness test.” While MEEIA does not designate the “total resource cost test” as the exclusive test, MEEIA clearly expresses the preference that cost effectiveness be based on direct economic valuations. Not only are non-energy benefits and the resultant societal cost test difficult, if not impossible, to evaluate, they are outcome driven, evaluating only benefits from the demand-side and not the supply-side of the equation. The speculative, contrived, and selective values listed in “non-energy benefits” and the “societal cost test” are not consistent with the philosophy of MEEIA.

4. If a utility wants to include “non-energy benefits” and the “societal cost test” in its proposed plan, so be it. The utility should have to bear the burden of proof in its cases. First, it should prove that the test shows the goal of the programs to be “achieving all cost-effective demand-side savings.” Second, it must prove in order to obtain cost recovery that the test

actually establishes that all customers in the customer class in which the program is proposed will benefit. The Commission should not require its use and certainly should not suggest or elevate its use over the “total resource cost test.”

5. The Commission should minimize any and all continuing regulatory obligations on those entities that opt-out of the demand-side measures offered by an electrical corporation. There are three criteria for opting out of demand-side measures. First is any customer that has a demand of 5,000 kW or greater. Second is an interstate pipeline pumping station. Third is a customer that has a demand of 2,500 kW or greater and an effective energy efficiency program in place. An objective review of the first two criteria indicates that these criteria were intended as thresholds for obtaining status for opting out of the program. There is no justification in the first two criteria that there be some aspect of continuing oversight for the Commission or the utility to undertake for the customer to maintain the opt-out status. All three criteria speak to status and not regulation. There is no reason to believe the legislature considered the third criteria for opt-out any differently. Any customer of such lesser size that already has an energy efficiency program in place is doing what free market forces would suggest without marketing efforts on the part of the electrical corporation and should be permitted to follow its own self-interest without funding the self-interest of others through regulation. There is no policy or legislative directive that would justify the expansion of the regulatory regime of this Commission into the private energy efficiency decisions of such a customer.

6. The Commission rules should not mandate a standardized Technical Resource Manual or a standardized EM&V process. If anything is clear from MEEIA, it is that demand-side programs are permissive with electrical corporations. MEEIA encourages electrical corporations to align their financial interest with helping their customers use their product more effectively.

Electrical corporations should be allowed leeway within the constraints of the law, i.e. that demand-side programs are beneficial to all customers in a customer class in which the program is proposed, to study and evaluate their programs. Standardization stifles ingenuity. If MEEIA is to achieve its goals, ingenuity should not be stifled.

7. The Commission should eliminate 4 CSR 240-20.094(2), the Guideline to Review Progress Toward an Expectation that the Electric Utility Demand-Side Programs Can Achieve a Goal of All Cost-Effective Demand-Side Savings. As suggested by Staff and OPC, these guidelines are arbitrary. The standard for the Commission's approval of demand-side programs, as previously discussed, is whether the programs have a goal of achieving all cost-effective demand-side savings. The guidelines have no rational relationship to "all cost-effective demand-side savings." The guidelines should be eliminated.

8. The Commission should change the definition of "probable environmental compliance costs" as follows: "(AA) Probable environmental compliance cost means the expected cost to the utility of complying with new or additional environmental legal mandates, taxes, or other requirements that, in the judgment of the utility's decision-makers, ~~may~~ will likely be imposed at some point within the planning horizon which would result in environmental compliance costs that could have a significant impact on utility rates;" Quite simply, "may" does not capture the intent of the word "probable" in MEEIA.

9. UFM has no objection to streamlining the cost recovery methods for electrical corporations, including but not limited to, recovery prior to completion of an evaluation, measurement and verification process. The stated policy of MEEIA is to provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings. It appears that timely recovery is in conflict with the verification process. In order to accommodate

these two conflicting principles, it may be necessary to permit recovery with an after the fact adjustment. However, critical to this analysis is that ultimate recovery not be had unless the programs are directly economically beneficial to all customers in the customer class in which the programs are proposed.

10. UFM has two comments regarding low income programs. The key provision of the MEEIA law relating to low income programs is, “Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest.”³ So the question arises, what is the “public interest” in this sentence?

11. First, this sentence must be read in the context of the subsection as a whole. The subsection relates to cost recovery for the electrical corporation. And recovery shall not be permitted for MEEIA programs unless they are “approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed.” There are three conditions required for cost recovery. The “total resource cost test” is identified as “a preferred cost-effectiveness test” for the last of the three requirements. The subject sentence is then an exception to the third requirement for cost recovery. In this context, it must be observed that the burden of proof will be on the electrical corporation to propose and explain to the Commission that the low income program results in energy or demand savings and is in the public interest in a way that the statute contemplates.

12. Second, “public interest” within the Public Service Commission law is not to be interpreted in a vacuum. The term is not a wild card to be played for any outcome the stakeholders desire. “Public interest” in public utility law has come to mean that which is useful

³ Section 393.1075.4, RSMo.

for the safe and reliable provision of utility services at just and reasonable rates. “Public interest” must also be interpreted in the context of the purpose of MEEIA, “to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs.”

The Commission has gone on record as opposing subsidies in electric ratemaking in a recent case, Case No. EC-2014-0224. While strict compliance with the “total resource cost test” is not required, the electrical corporation must show that the program is prudent, consistent with just and reasonable rates, and consistent with the goals of MEEIA. Electrical corporations should not be made the vehicle to drive political environmental agendas. Neither should electrical corporations be made social welfare agencies. Care for the poor and low income should be handled by voluntary charitable giving. There are many local charitable organizations that provide these services.

Respectfully submitted,

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