

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

In the Matter of an Investigation of the Effects     )  
of Rate Design Modifications Associated with     )     **File No. EW-2011-0372**  
Demand-Side Cost Recovery                             )

**STAFF’S PROPOSED REGULATORY LANGUAGE**

**COMES NOW** Staff of the Missouri Public Service Commission (“Staff”), by and through the undersigned counsel, and files this proposed regulatory language with the Missouri Public Service Commission (“Commission”) stating the following:

1. The last sentence of Section 393.1075.5, RSMo (Supp. 2012), of the Missouri Energy Efficiency Investment Act (“MEEIA”) states that “Prior to approving a rate design modification associated with demand-side cost recovery, the commission shall conclude a docket studying the effects thereof and promulgate an appropriate rule.”

2. On May 13, 2011, Staff filed a motion to open a docket to explore the meaning of the last sentence of Section 393.1075.5 and how the Commission could best carry out the legislative directive contained therein.

3. On May 26, 2011, the Commission established this case “...as a repository for documents and comments regarding the effects of rate design modifications associated with demand-side cost recovery.”

4. On January 11, 2013, after several discussions and meetings with the workshop participants, as well as review of the filed comments, Staff filed its *Staff Report* in this matter.

5. On January 30, 2013, the Commission issued its *Order Directing Filings and Scheduling A Conference* allowing interested utilities and other stakeholders to

“...submit specific proposed regulatory language to assist the Commission in meeting the [MEEIA] statute’s requirement to promulgate an appropriate rule or rules, accompanied by written arguments in support of their proposed regulatory language.”

6. While Staff is only a facilitator in this matter, Staff is filing this Response to assist the Commission.

7. On various occasions, Staff has provided the Commission updates and memoranda on the status of the workshops and comments related to this docket. In one of its Agenda meetings, the Commission correctly alluded to the fact that one can interpret the last sentence of Section 393.1075.5 many ways, and that reasonable minds can come to different conclusions on its meaning. One only has to look at the *Staff Report* to view many different possible meanings. Some of the stakeholders suggest the Commission has done all that is necessary to meet the MEEIA rate design modification statutory requirements, except perhaps modify its rule to acknowledge this understanding. Other stakeholders indicate the Commission must still study the effects of various rate design modifications before it promulgates a rule that adopts the rate design modifications. Staff continues to propose the hybrid approach contained in its *Staff Report* filed on January 11, 2013.

8. In its various memoranda to the Commission, Staff has suggested the Commission could identify rate design modification proposals that have been previously studied and incorporate those in a rulemaking, then conduct further study of rate design modification proposals that have not yet been fully vetted to potentially add in subsequent rulemakings.

9. Staff suggests the Commission could include rate design modifications that it believes it has studied sufficiently and promulgate a new rule, Rule 4 CSR 240-20.095, to include the following regulatory language: The Commission has concluded a docket studying the effects of, and approved, the following rate design modifications for use with demand-side cost recovery that an electric utility may propose in conjunction with its application for approval or modification of DSM programs under rules 4 CSR 240-3.164 and 4 CSR 240-20.094: [*Commission determines what rate design modifications to include here*].

10. Should the Commission adopt Staff's suggestion, Staff recommends the Commission also adopt minimum filing requirements as part of a new rule Rule 4 CSR 240-20.095. The minimum filing requirements could include the minimum filing requirements as set out in Rule 4 CSR 240-3.163 (2)-(6), and (8)-(12) for Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission.

11. Some comments received from stakeholders suggest that the Commission could approve a rate design modification as part of an electric utility's application under the Missouri Energy Efficiency Investment Act, or as part of an electric utility's general rate case proceeding. If the Commission determines that such an approach is lawful and reasonable, the Commission could promulgate a new rule, 4 CSR 240-20.095, with the following regulatory language: In conjunction with an electric utility's application for approval or modification of DSM programs under rules 4 CSR 240-3.164 and 4 CSR 240-20.094, an electric utility may file an application to establish, continue or modify a rate design modification submitted pursuant to rules 4 CSR 240-3.163 and 4 CSR 240-20.095 or as part of a general rate proceeding. Nothing in this rule

precludes anyone from challenging a proposed rate design modification. Commission approval of the application to establish, continue or modify a rate design modification shall be conclusive that the Commission has studied and approved the proposed rate design modification as submitted in the application or as subsequently revised.

12. Staff's written argument in support of its proposed regulatory language is being filed concurrently with this pleading.

**WHEREFORE**, Staff submits its proposed regulatory language and alternative regulatory language to address other stakeholder statements for the Commission's information and consideration in this matter.

Respectfully submitted,

**/s/Jennifer Hernandez**

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically on this **3<sup>rd</sup> day of April 2013**, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

**/s/Jennifer Hernandez**