

yet been discussed from perspectives that Ameren Missouri believes are important: the historical applicability of the current rules to energy efficiency activities, and the consistent need for waivers for energy efficiency program implementation.

3. Ameren Missouri appreciates the efforts Staff has undertaken to consolidate multiple rules into one proposed rule to promotional practices. The Company notes that the consolidated rule only appears to contain two substantive changes from the current rules: 1) The consolidated rule exempts MEEIA¹ from the definition of demand-side resource; and 2) the consolidated rule removes the qualification that prohibitions are only applicable in situations where a utility is trying to induce someone to take or increase service. However, the Company questions whether more could be done to specifically exempt MEEIA programming from these rules. After all, the legislature has specifically stated that, "It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure," and has allowed electric corporations "to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings."² The Company also questions whether exemption simply under MEEIA is sufficient, or if the exemption should also extend to natural gas energy efficiency programs. So long as an energy efficiency program is cost-effective, it should not be inadvertently prohibited by the promotional practices rule.

4. While very few substantive revisions were made to the consolidated rule, there are still energy efficiency implications that should be addressed. For example, the removal of a qualifying statement from the prohibited promotional practices rule makes

¹ Missouri Energy Efficiency Investment Act.

² Section 393.1075.3 RSMo .and Section 393.1075.4 RSMo

those prohibitions applicable to a broader range of activities than they had been previously. The draft of the consolidated rule eliminates from rule 20 CSR 4240-14.020(1), the statement limiting the prohibitions to situations where the utility intends to "induc[e] any person to select the service and use the service or use additional service of the utility." That qualification was an important one when it comes to energy efficiency programming since energy efficiency is designed to encourage a customer to utilize *less* of a utility's services, not to select a service or use *more* of a utility's services, as the existing rule anticipates. Additionally, the way "demand-side resource" has been defined in this rule creates a conflict with how that term is defined in the Commission's resource planning rules found at 20 CSR 4240-22.020(13).

5. By removing the qualifying statement, the prohibitions appear have much broader applicability. Yet many of the prohibited activities listed in the rule could be aspects of an effective energy efficiency program. For example, these prohibitions may not allow Ameren Missouri to offer a program through which it paid a contractor to install an energy efficient appliance. And while it has not yet identified a workable implementation of such a program, this rule could prohibit Ameren Missouri from developing and implementing an on-bill financing program that had a better interest rate than a non-utility dealer could offer. Given the original and currently effective wording of the rule, Ameren Missouri does not believe that this increase in prohibitions on energy efficiency activities is the intended result.

6. Additionally, Ameren Missouri notes that for all of its MEEIA Cycle filings, the Company has either requested, or has been granted, a variance from 20 CSR 4240-14.030(3), which prohibits a utility from implementing any new promotional

practice until after a tariff related to that practice has been filed with the Commission. The Company has consistently requested – and has typically be granted – an exemption from this provision to allow it sufficient flexibility to revise certain elements of its promotional practices to appropriately reflect marketplace changes. Specifically exempting energy efficiency from the promotional practices rule will alleviate the current steps necessary to gain approval of electric and natural gas energy efficiency plans with the flexibility that effective plans require.

7. For these reasons, Ameren Missouri suggests specifically exempting energy efficiency from the applicability of the promotional practices rule. This could be accomplished by adding an exemption from the definition of promotional practices as a new 20 CSR 4240-10.XXX(1)(A)1, with the remaining exemptions re-numbered appropriately, as follows:

(A) For purposes of this rule promotional practices shall mean any consideration offered or granted by a public utility or its affiliate to any person for the purpose, express or implied, of inducing the person to select and use the service or use additional service of the utility or to select or install any appliance or equipment designed to use the utility service, or for the purpose of influencing the person's choice or specification of the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures; but does not include the following activities:

1. Offering energy efficiency programming through a commission-approved energy efficiency plan;

WHEREFORE, for the foregoing reasons, the undersigned respectfully requests that the Commission accept these comments for consideration in determining the next steps regarding the proposed rule revisions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the parties of record on this 17th day of December, 2019.

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