



July 21, 2010

Mr. Steven C. Reed
Secretary of the Commission
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

RE: Case No. EX-2010-0368, MEDA Comments & Recommended Changes to
Proposed Rules to Implement the Missouri Energy Efficiency Investment Act (SB 376)

Dear Steve:

On June 30, 2010, the Staff of the Missouri Public Service Commission (Staff) filed proposed rules (Proposed Rules) for implementation of the Missouri Energy Efficiency Investment Act (MEEIA). The rules implementing MEEIA are very important to the electric utilities in Missouri, as they have the potential, if properly written, to promote Energy Efficiency programs in the State of Missouri. However, the proposed rules fall short and should be modified by the Commission prior to sending them for publication by the Secretary of State. Attached to this letter are the Missouri Energy Development Association's (MEDA) suggested edits¹ (shown as tracked changes) to the Proposed Rules.

There are several areas covered by the language changes, most of which can be grouped into seven different types. MEDA considers all seven of these areas to be important and asks the Commission to make these modifications prior to sending the rule to the Secretary of State for publication to begin the formal rulemaking process.

1. Simultaneous Program and Recovery Approval. MEDA does not believe it is good practice for a utility to commit to the implementation of demand-side programs without knowing what type of recovery mechanism (DSIM) will be allowed by the Commission. For this reason, MEDA has made changes to 4 CSR 240-20.093(2)(G)(1) and (5) as well as 4 CSR 240-20.094(e)(E)² in order to make it clear that the Commission would

¹ The Commission will need to renumber certain subsections of the Proposed Rules, as MEDA did not renumber for additions in order to avoid confusion when comparing versions of the rules. As an illustration, MEDA might have labeled an addition as FF instead of new G, which would then require it to relabel old G as new H, etc.

² There are also several scattered references throughout the rules which clarify that analysis and proposals need to be in the program approval filing rather than in a general rate proceeding.

approve a utility's DSIM at the time it approves a utility's demand-side programs. This is appropriate even if the Commission does not believe MEEIA allows for rate adjustments outside of a rate case. In the event that the Commission approves the DSIM at the time of program approval, the DSIM would not go into effect until the utility's next rate case. MEDA's proposal is consistent with the optional procedure available in the active Integrated Resource Planning rules.

2. **Lost Revenues.** As outlined in the Joint Memorandum filed on June 25, 2010, in File No. EW-2010-0265 there are three key areas that must be addressed to properly align utility financial incentives with helping customers use energy more efficiently. The Proposed Rules are missing one of those key elements, lost revenues. MEDA added language to provide explicit recovery of lost revenues concurrent with the recovery of other demand side program costs. MEDA's additional language can be found in 4 CSR 240-20.093(1)(M), (P) and (PP); 093(2)(FF); and 4 CSR 240-20.094(1)(JJ); 4 SCR 240-3.163(1)(E), (H) and (O).
3. **Collaborative Guidelines.** The collaborative guidelines language has been expanded to encourage both utility-specific and statewide collaboratives. The changes can be seen by referencing 4 CSR 240-20.094(8).
4. **Prudence Reviews.** Without changing the language of 4 CSR 240-20.093(10), which deals with Prudence Reviews, MEDA has italicized and underlined that section as it is only necessary if the Commission determines that MEEIA authorizes a rider where rates may be adjusted outside of a rate case. If the Commission determines that MEEIA does not provide for adjustment of rates outside a rate case, this additional prudence language is not necessary and those costs would be reviewed in a rate case just as other costs are reviewed at that time.
5. **Cost Effectiveness and Prudency.** MEDA modified the language of 4 CSR 240-3.163(7)(B)(2)(B) slightly. The Proposed Rule would allow the mere fact that a program proves not to be cost effective to be sufficient grounds for disallowing cost recovery. It is possible that the utility would take all prudent action and the program turn out to be not cost effective. In that situation, there is no imprudence and those costs should not be disallowed. Instead, there needs to be a demonstration that the utility acted imprudently, in addition to the fact the program was not cost effective, before a disallowance should be imposed by the Commission. MEDA's modification makes that distinction clearer.

6. Auditor Budget. MEDA provided a suggested budgetary limit for expenditures on the commission's evaluation, measurement, and verification (EM&V) contractor. That suggested budget can be found in CSR 240-20.093(7)(B)3. It is not the intention to limit the oversight of the Commission but rather to protect customers from additional administration costs.
7. Targets. MEDA's edits remove the annual and cumulative targets from 4 CSR 240-20.094 and any accompanying references throughout the rules. The specific positions of each MEDA member have been set forth previously and will not be repeated in this letter. Please refer to the Joint Letter filed today in this docket, which signatories include AmerenUE and Empire. Also refer to the Joint Memorandum, which signatories include KCPL, filed on June 25, 2010, in File No. EW-2010-0265.

If you have any questions regarding these comments or the attached recommended changes, please do not hesitate to call me at (573) 634-8678 or e-mail me at Warren@missourienergy.org.

Sincerely,



Warren T. Wood

Attachments:

MEDA Mark-Up of 4 CSR 240-3.163

“ “ 4 CSR 240-3.164

“ “ 4 CSR 240-20.093

“ “ 4 CSR 240-30.094

cc:

Chairman Robert M. Clayton III & Advisor Richard Moore

Commissioner Jeff Davis & Advisor Mark Hughes

Commissioner Terry M. Jarrett & Advisor Janet Wheeler

Commissioner Kevin Gunn & Advisor Cherlyn Voss

Commissioner Robert S. Kenny & Advisor Joshua Harden

Natelle Dietrich, Utility Operations Director

Lena Mantle, Energy Dept. Manager

John Rogers, Utility Regulatory Manager