BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation into the Coordination of State and Federal Regulatory Policies for Facilitating the Deployment of all Electric Customers of All Classes Consistent With the Public Interest	)))))	File No. EW-2010-0187

Response to Order Opening Case by NRDC, GRELC, MCE, MEEA, MVC and Sierra Club

On January 6, 2010, the Commission issued its order opening the present case, in which the Commission posed 26 preliminary questions and invited interested parties to respond. This filing is made on behalf of the Natural Resources Defense Council (NRDC), Great Rivers Environmental Law Center (GRELC), Missouri Coalition for the Environment (MCE), Midwest Energy Efficiency Alliance (MEEA), Missouri Votes Conservation (MVC) and the Sierra Club. We offer our answers to the first 11 questions.

1. Does the term "energy efficiency" include shifting demand to off-peak periods? See section 393.1124.2(4). Does "modify net consumption" as used in Section 393.1124.2(3) include shifting demand to off-peak periods? See Section 393.2(2).

The statutory language is extremely clear and unambiguous on this point. "Energy efficiency" is clearly defined in Section 393.1124.2(4) as "measures that reduce the amount of electricity required to achieve a given end use," and therefore would exclude measures that result in the same amount of electricity being used to achieve the end use at a different time of day. Furthermore, the drafters took another step to clearly differentiate energy efficiency from load-shifting by including a definition of "demand response" in Section 393.1124.2(2), namely "measures that decrease peak demand or shift demand to off-peak periods." So, energy efficiency lowers electricity use, while demand response shifts use among different times of a day. Finally, the General Assembly took yet a third step to ensure that demand response and energy efficiency were clearly understood to be different kinds of measures. Section 393.1124.2(3) clearly states that a demand side program may include energy efficiency or demand response, among other measures. Thus, energy efficiency and demand response, while different, each may be part of a "demand-side program." The key take-away from the totality of all three definitions is that "efficiency" measures result in less consumption for the same end use.

2. What does "load management" as used in Section 393.1124.2(3) mean?

Load management is a term that is typically used to describe measures or activities undertaken by the utility to reduce or shift peak demand to avoid or delay the need for additional generating capacity. The term would typically encompass a broad range of activities designed to reduce peak load, including interruptible load agreements, direct load control such as air conditioning cycling, and dynamic pricing programs that seek to incentivize customer use of power at off-peak times.

3. What is "demand savings" and how should "demand savings" be determined. See 393.1124.4.

Again, this section clearly differentiates energy savings from demand savings, in providing cost-recovery only for programs that achieve "energy or demand savings." Energy savings are the amount of MWh saved by a measure over the lifetime of the measure, while demand savings are the MW of peak generating capacity avoided by a given measure, both determined through appropriate evaluation and verification procedures.

4. How should energy savings be determined? See section 393.1124.4. Should there be a regular, standard process for determining whether a utility program achieves "cost-effective measurable and verifiable efficiency savings?" See Section 393.1124.3(3). If yes, what should be that process?

Yes, there should absolutely be a regular, standard process for determining both the cost-effectiveness of programs at the front-end of the program development, as well as a regular, standard process for verifying and measuring the actual results of programs after they are implemented. It is critical to the success of the program that the rules and assumptions are clearly understood and agreed upon by the utilities, staff and other stakeholders before expenditures are made, and it is equally important that everyone has confidence in the integrity of the evaluation that will take place both during and after program implementation. Demand-side programs promise great benefits to ratepayers, but in order to realize the value of those benefits, there must be an independent, credible process to confirm that the promised savings are actually delivered and at a cost that is less than meeting the same energy use with generation resources.

Typically, the process will include the following steps:

A. The utility submits an energy efficiency plan, which consists of a portfolio of energy efficiency programs, with a detailed analysis of the expected program costs and the expected benefits including avoided costs associated with providing an equivalent quantity of power, as well as quantifiable societal benefits. This analysis is based on previous experience with the same or similar programs in or outside the state. For example, utilities in Michigan use the Michigan Energy Measures Database as a common database of projected measure-level savings that is used as a planning tool for calculating benefits of a proposed program. The database was initially created using values from other nearby states, and will be updated as the utilities and regulators obtain data on the program performance in the state. The commission then considers the plan -- approving or rejecting it -- and authorizes recovery of reasonable and prudent costs associated with implementation of the plan.
B. Before or concurrent with the launch of the programs, independent, third-party evaluators should be hired either by the commission or by the utilities to monitor whether the programs are implemented as planned (process evaluation) and to verify the savings at the back end (impact evaluation).
C. Finally, there is usually an annual report and/or reconciliation process whereby the utility files the evaluated results of the programs, and whereby expenses approved in the plan

are compared to actual expenses, and adjustments to revenue requirements as well as adjustments to gross and net savings assumptions are made.

5. What is meant by the term(s) "rate design modification"/ "rate design modifications" as it appears in section 393.1124.5?

Rate design is the process for allocating a utility's revenue requirement among rate elements, such as a customer charge, demand charge, reactive power charge, and energy charge, in a particular tariff or for a particular customer class. Changing from declining block rates to inclining block rates would be an example of a rate design modification. There has been some discussion about whether adopting decoupling, whereby an annual true-up would ensure that no more and no less than the authorized revenues are actually collected, constitutes a change in rate design. Our view is that it does not, because it would not change the way in which the utility's authorized revenue requirement is allocated among rate elements, but rather would ensure that any under-recovery or over-recovery would be either collected or refunded, respectively. On the other hand, putting more or all of the fixed costs associated with serving a given class of customer in a customer charge or other fixed monthly charge would be a rate design change.

6. How does a "customer" "notify" an "electric corporation" that the customer elects not to participate in demand-side measures offered by an "electrical corporation?" See section 393.1124.7.

The commission should develop a common form by which a customer meeting the criteria specified in Section 393.1124.7(1)-(3) would notify the utility of its election not to participate in the programs. The essential content of this communication would be information necessary to enable the utility and the commission to verify that the customer meets the criteria. Given that the criteria include a demand threshold, for example, the customer must be able to demonstrate that its demand is above that threshold. The application should be signed by an official of the customer who can attest that the information provided is accurate.

7. Is there any significance to the fact that the term "electric corporation" appears in SB 376 in addition to the term "electrical corporation," and the term "electric corporation" is not a defined term is section 386.020?

No.

8. What is the definition of the term "customer" as that term is used in SB 376?

Any residential, commercial or industrial purchaser of services or energy from an "electrical corporation." If municipalities are not included with a residential, commercial or industrial customer class, then the definition of the word "customer" should be extended to include municipalities.

9. What is meant by the term "corporation-specific settlements" which appears in section 393.1124.11?

One reasonable interpretation would be that the goals articulated in sections 393.1124.3 and 393.1124.4 can be achieved by way of Commission action in the form of an order in response to a stipulation or settlement reached by the parties to a contested case to which one or more electrical corporations are parties.

10. How does, or how should, an electrical corporation propose a demand-side program pursuant to section 393.1124? See Section 393.1124.4. How does, or should, the Commission approve demand-side programs proposed pursuant to Section 393.1124?

The Commission should establish, by rule or order, a process by which a utility would file a demand-side resource plan. The plan should be considered through a process that allows any stakeholder to intervene and to present testimony in support of or in opposition to any element of the plan. Finally, there should be a clear timeline for the Commission to issue an order approving or disapproving the plan, and a process whereby the electrical corporation could refile and obtain approval on a timely basis. Among the things the plan should include are –

i. A description of the programs and measures proposed by the utility;
ii. Energy savings goals for each proposed program;
iii. Budget information for each proposed program;
iv. An assessment of whether the plan/portfolio achieves the statutory goal of capturing all cost-effective demand-side savings.
v. A detailed demonstration that the portfolio as a whole meets the total resource cost test, including a detailed description of the utility's avoided cost calculation and all underlying assumptions used in the calculation including the determination of capacity and energy components;
vi. A description of any strategies used to minimize free-riders;
vii. A description of any strategies used to maximize spillover;
viii. A measurement and evaluation plan including:
    1. The process for issuing an RFP for an independent third party evaluator;
    2. A process by which the selected evaluator will report evaluation results to the commission and to stakeholders;
    3. An evaluation budget not to exceed 5% of the portfolio budget;
    4. Evaluation goals;
    5. An evaluation schedule;
    6. An evaluation methodology, including approaches for calculating gross and net energy savings.
ix. A description of any efforts to coordinate programs with other utilities or between gas and electric utilities where a measure or program results in both gas and electric savings.
x. A listing of customers who have opted out of participating in the programs pursuant to Section 7 of the statute;
xi. A proposed method for recovering program expenses in a timely manner, which must fairly allocate program costs and benefits among the rate classes with the exception that low income customers may be exempt from any such expenses;

xii. Expenses for low-income programs shall be allocated fairly among all customer classes including those customers who opt-out of participating in the programs under section 7.
xiii. A proposed method for eliminating regulatory disincentives for the utility to encourage energy savings;
xiv. A proposed mechanism for creating earnings opportunities associated with cost-effective measurable and verifiable energy savings.

11. How should the determination be made whether a demand-side program is beneficial to all customers in a customer class regardless of whether or not the program is used by all customers?

The language of the statute, Section 393.1124.4 can reasonably be interpreted as requiring the use of the total resource cost test to assess whether the programs are beneficial and worthy of cost recovery, when it states: "Recovery for such programs shall not be permitted unless the programs 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, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test."

The total resource cost test takes into consideration benefits that are experienced by non-participants, including increased reliability, reduced need for expenses to build new generating capacity or new transmission or distribution facilities, avoided carbon costs, and societal benefits such as better air quality and reduced environmental impacts from the extraction and combustion of fossil fuels. Therefore, a portfolio of programs that meets the total resource cost test will have benefited all customers.

Certificate of Service

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