Talking Points for Staff's Opening Statements
December 21, 2010 Public Hearing
Proposed MEEIA Rules

I. INTRODUCTION

Staff would like to make a few opening remarks to supplement the comments which it has already submitted in File No. EX-2010-0368. These remarks are in response to written comments filed by other stakeholders and will focus on the areas of: 1) the relationship of the proposed Missouri Energy Efficiency Investment Act (MEEIA) rules to the Chapter 22 Electric Utility Resource Planning rules, and 2) recovery of lost revenues.

II. RELATIONSHIP OF MEEIA RULES AND CHAPTER 22 RULES

In formal comments filed by Missouri Department of Natural Resource (DNR), National Resource Defense Council (NRDC), Sierra Club, Renew Missouri and the Great Rivers Environmental Law Center, there is great concern expressed regarding the relationship between the Chapter 22 rules and the proposed MEEIA rules. This stakeholder group's focus is primarily on the assertions that:

1. Chapter 22 rules "mesh imperfectly" with the MEEIA rules;
2. Where there is conflict, MEEIA rules must prevail, because MEEIA, and not Chapter 22, is a legislative directive;
3. Chapter 22 uses numerous analyses and a decision making process that go beyond what is needed or desired for compliance with MEEIA; and
4. The demand-side portfolio that satisfies the criteria of the MEEIA should automatically become part of the Chapter 22 preferred resource plan, and not the other way around.

Staff does not agree with these concerns and assertions, and Staff supports the inclusion of the requirement that proposed demand-side programs be analyzed through the integration analysis process required by Chapter 22 for the following four reasons:

First reason ---- MEEIA states: "The commission shall consider the total resource cost test "a" preferred cost-effectiveness test." MEEIA does not state the total resource cost test shall be "the" cost-effectiveness test or even (as stated in the formal comments of the stakeholder group) "the primary" cost-effectiveness test. So, clearly there is additional opportunity for the Commission to choose a more comprehensive process to determine what demand-side resources constitute all cost-effective demand-side savings than simply using the total resource cost test. If the Commission stops with the results of the TRC, then demand-side analysis is given preferential treatment over supply-side analysis which is contrary to the MEEIA.

Second reason --- While "a" goal of MEEIA is to achieve all cost-effective demand-side savings, the stated fundamental objective of the proposed Chapter 22 rules is to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that serves the public interest. This objective further enhances the MEEIA, and is also consistent with sound public policy. This objective requires that the utility:

A. Consider and analyze demand-side resources and supply-side resources on an equivalent basis;

B. Use minimization of the present worth of long-run utility costs as the primary selection criterion in choosing the preferred resource plan; and

C. Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. … These considerations shall include, but are not necessarily limited to, mitigation of risks associated with critical uncertain factors (such as future electricity loads, future economic conditions, future fuel and purchased power prices, and future legal mandated including environmental regulations). Finally, Chapter 22 risk analysis also considers the mitigation of rate increases associated with alternative resource plans.

Third reason --- The stakeholder group is suggesting that the total resource cost test is the only analysis needed to determine all cost-effective demand-side savings. The TRC may use as few as a single avoided cost amount for a year. Chapter 22 uses the total resource cost test to screen demand-side resources. Chapter 22 then requires further analysis of all resources that have passed screening analysis (both supply-side resources and demand-side resources) through integration analysis. The integration process required by Chapter 22 requires the utilities to look at all 8,760 hours of the year. The demand-side and supply-side resources that best meet the load requirements of all 8,760 hours each year are included in the preferred resource plan. The integration process is followed by risk analysis and finally strategy selection by the utility's decision makers. The programs that survive this rigorous screening should be the programs for which the utilities' request the Commission's approval and receive "non-traditional" rate making treatment. These programs are also the most likely to be the best use of the rate payers' money.

Fourth reason ---- While this stakeholder group asserts that it is inappropriate that the judgment of utility decision makers be used for the determination of all cost-effective demand-side savings for its utility, ultimately, it is the utility decision makers who decide which alternative resource plan best meets the Chapter 22 objective for its utility. The utility decision makers (and not the total resource cost test) decide which DSM programs and demand-side programs investment mechanisms are proposed to the Commission. And these same utility decision makers will be accountable for the delivery and performance of their utility's Commission-approved DSM programs.

To summarize Staff's position on this issue: Chapter 22 rules and MEEIA rules can and should work "hand-in-glove" together to accomplish a goal of all cost-effective demand-side savings. Chapter 22's supply-side resource analysis, demand-side resource analysis, integration analysis, risk analysis and strategy selection process should be used to determine the demand-side resources which minimize the "expected" cost to customers while evaluating risk associated with critical uncertain factors. The total resource cost test cannot, by itself, provide such a robust analysis, and cannot, by itself, inform decision makers at the utilities and at the Commission on all of the information needed to make informed decisions to accomplish a goal of all cost-effective demand-side saving which minimize the "expected" cost to customers.

III. RECOVERY OF LOST REVENUES

The SB 376 statute is silent regarding the recovery of lost revenues. This is one of the reasons why the draft of the MEEIA rules which Staff created to start discussions was also silent on recovery of lost revenues.

Ultimately, Staff recommends that the throughput incentive be addressed through the utility incentive component of a DSIM due to the problems experienced by other states that have tried and abandoned the explicit recovery of lost revenues approach.

Staff is unable to support the proposed lost revenue language contained in the Missouri Energy Development Association's (MEDA) formal comments for the following reasons:

First reason --- At the August 4, 2010 Agenda meeting, the Commission directed Staff to draft language stating that the Commission may approve recovery of lost revenues. The language as drafted is "permissive" in nature and provides for the opportunity for recovery of lost revenues, rather than a guarantee. The proposed MEDA language is more explicit regarding the ability to recover lost revenues.

Second reason --- MEDA has provided an alternative definition for lost revenues in their comments based upon the definition used in the Chapter 22 rules. Staff opposes MEDA's proposed use of Chapter 22's definition of lost revenue, because the Chapter 22 definition is used exclusively to exclude lost revenues from the definitions of annualized costs for end-use measures, from the definition of costs for the utility cost test, and from the definition of costs for the total resource cost test. Chapter 22 does not contemplate the use of its definition of lost revenue for any other purposes and it should not be assumed to be an appropriate definition for the MEEIA rules.

Third reason --- The MEDA language also removes the requirements for evaluation measurement and verification (EM&V) of DSM program results prior to recovery of lost revenue and, therefore, allows for recovery of lost revenues on a prospective basis without any measurement and verification of DSM program results by an independent evaluator. Staff believes that if recovery of lost revenue is included in the MEEIA rules, measurement and verification of lost revenues should be required and should only be accomplished through independent EM&V on a retrospective basis. Lost revenues are based on energy usage that did not occur. In Staff's opinion, it is not appropriate to increase customer's rates on guesses as to what the customers who participated in the programs would have used absent the programs without a rigorous EM&V conducted by an independent evaluator.

Finally, I've prepared an illustration of Staff's interpretation of the definition of lost revenue contained in the proposed MEEIA rules. I can provide this illustration if that is desired by the Commission.

IV. CONCLUSION

This concludes my prepared remarks. I am happy to answer any other questions the Commission may have.