

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

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| In the Matter of the Consideration and |) | |
| Implementation of Section 393.1075, the |) | Case No. EX-2010-0368 |
| Missouri Energy Efficiency Investment Act |) | |

COMMENTS OF THE MISSOURI INDUSTRIAL ENERGY CONSUMERS

Comes now Anheuser-Busch Companies, Inc., BioKyowa, Inc., The Boeing Company, Doe Run, Enbridge, Ford Motor Company, General Motors Corporation, GKN Aerospace, Hussmann Corporation, JW Aluminum, MEMC Electronic Materials, Monsanto, Procter & Gamble Company, Nestlé Purina PetCare, Noranda Aluminum, Saint Gobain, Solutia and U.S. Silica Company (referred to herein as the Missouri Industrial Energy Consumers or “MIEC”) for its comments and states as follows:

Although there are a number of modifications that the Missouri Industrial Energy Consumers could suggest to this ruling, MIEC is focusing its comments on two areas. First, MIEC objects to the potential alternative of “single issue ratemaking” which is included as an option in the proposed rule. Second, MIEC objects to the arbitrary annual energy and demand targets that are included.

Single Issue Ratemaking

Portions of CSR 240-20.093, 240-20.094 and 240-3.163 contain language which would allow for utilities to adjust rates in between general rate proceedings in response to changes in the level of costs associated with operating their demand-side management (DSM) programs. Prior to the passage of Section 393.1075 RSMo there was nothing in the law to authorize utilities to change their rates in between general rate cases as a result of DSM programs. Nothing in Section 393.1075 RSMo changed that fact.

While we understand that this language may be included to provide the Commission with options, no party has pointed to any statutory provision which would allow the Commission to authorize such language in the rules, nor has anyone identified other provisions which would allow the utilities to make such filings and to increase their rates in between general rate case proceedings as a result of changes in the level of DSM costs.

MIEC respectfully asks the Commission to delete the language that would allow for adjustments to rates to take place between rate cases.

Annual Energy and Demand Reduction Targets

CSR 240-20.094(2)(A) and (B) purport to capture all “cost-effective” DSM by setting an incremental annual DSM savings target and a cumulative DSM savings target as part of the identification of “all cost-effective” DSM. As explained in more detail in the comments that MIEC jointly submitted with AmerenUE and other parties on July 21, 2010 (incorporated herein by reference), neither Section 393.1075 RSMo, or any other provision of law, authorizes the Commission to adopt such targets. Moreover, these targets are completely arbitrary and without any foundation whatsoever. While it is possible that they may be relevant to, and make sense in the context of, other utilities in other parts of the country, they have absolutely no relationship to any utility in the state of Missouri. Nor, would it be reasonable to think, even if it were appropriate to have targets, that it would be logical for all utilities in Missouri, regardless of the status of their current DSM programs and regardless of their service territories, to have the same targets.

Moreover, even if the Commission were authorized to adopt such targets, and even if it could be shown that the targets should be the same for all utilities in the state, the provision in 240-20.094(2)(A) and (B) that the energy savings and demand savings should be the “...**greater** of the annual realistic achievable energy savings and demand savings as determined through the utility’s market potential study or the following incremental annual demand-side savings goals...” is patently

unreasonable. The purpose of conducting a market potential study is to determine reasonable goals for a particular utility's service territory. These are service area specific, and therefore provide the best estimate of realistic achievable potential. It is therefore completely arbitrary and without foundation to establish a target that is the “**greater**” of the results of the utility-specific market potential study or some arbitrary targets that have no basis in fact.

WHEREFORE, the MIEC respectfully asks the Commission to remove these provisions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 16th day of December, 2010, to all parties on the Commission's service list in this case.

/s/ Diana Vuylsteke