

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

In the Matter of Union Electric Company)
d/b/a AmerenUE's Tariff to Increase Its)
Annual Revenues for Electric Service) Case No. ER-2011-0028

MISSOURI DEPARTMENT OF NATURAL RESOURCES' INITIAL BRIEF

COMES NOW, the Missouri Department of Natural Resources (MDNR) and for its initial brief in this matter states as follows:

INTRODUCTION

The Commission is once again presented with the issue of how to address energy efficiency/demand side management (DSM) issues during the transition to the Missouri Energy Efficiency Investment Act (MEEIA) rules, a situation not unlike the Kansas City Power & Light and KCP&L Greater Missouri Operations rate cases.¹ Once again the utility, in this case Union Electric Company, d/b/a Ameren Missouri (“AmerenMO”), takes the position that cost recovery assurances are a condition of continuing DSM programs.² MDNR requests that the Commission continue progress toward MEEIA’s goal of achieving all cost-effective DSM savings by requiring continuation and development of DSM programs while providing timely DSM cost recovery and reducing and eliminating barriers and disincentives to investment in DSM. The Commission can do so by finding, as it did in the KCPL/GMO cases, that AmerenMO’s DSM programs should continue and by ordering appropriate, more timely, cost recovery.

Regarding evaluation of the low income weatherization program, MDNR requests the Commission approve the terms for future evaluations as provided in the nonunanimous stipulation and agreement executed between AmerenMO and MDNR.

With respect to declining block rates, the Commission should consider elimination or phase-out out on a revenue neutral basis. Declining block rates provide an inappropriate pricing

¹ Case Nos. ER-2010-0355 and ER-2010-0356.

² AmerenMO has not indicated that it would completely discontinue programs, but has implicitly and explicitly indicated that reduction of programs will result absent a “regulatory framework”, and “financial incentives...more closely aligned.” (Ex. 115, Davis Rebuttal, p. 13.) Mr. Baxter on cross-examination “...we want to make investments in energy efficiency. ... But to do so we would need to do that in a thoughtful way and a prudent way that has a regulatory framework that will allow us to do so.” (Tr. Vol 16, p. 110, ln. 15-21.)

signal to customers and are inconsistent with state policy to encourage energy savings and reduce the growth in energy consumption.

ARGUMENT

Energy Efficiency/Demand Side Management (DSM)

A. Compliance with MEEIA/DSM Programs

AmerenMO is required to comply with MEEIA regardless of whether the proposed rules are in effect. (§ 393.1075 RSMo, and KCPL Report and Order ER-2010-0355, page 88.) Compliance with MEEIA may be determined by the extent to which AmerenMO's continuation and/or expansion of DSM programs includes pursuing all cost-effective demand side savings. In addition to MEEIA, the Commission should be mindful of § 393.1040, RSMo, which provides that "it is also the policy of this state to encourage electrical corporations to develop and administer energy efficiency initiatives that reduce the annual growth in energy consumption and the need to build additional electric generation capacity."

AmerenMO currently offers five residential energy efficiency programs and four business energy efficiency programs. (Ex. 800, Wolfe Direct, p. 4 and Ex. 113, Laurent Surrebuttal, p. 3.) The Company's portfolio of DSM programs has been cost-effective and is succeeding in achieving substantial energy savings, at lower costs than originally anticipated, with results that have been reviewed by an independent evaluator. (Ex. 113, Laurent Surrebuttal, p. 4.) AmerenMO has implemented some very effective DSM programs that are of interest and value to ratepayers, as shown by customer participation.

AmerenMO's 2011 integrated resource plan (2011 IRP filing) discloses significant potential for cost-effective DSM savings. (Ex. 232 and Tr. Vol. 26, p. 1829, ln. 3-9.) In fact, AmerenMO states in its 2011 IRP filing that "[u]nder this plan our future energy needs would

be met solely through greater energy efficiency.”³ In addition, “[t]he levelized cost of energy near four cents per kilowatt hour, energy efficiency, is less expensive than supply-side alternatives.”⁴ Based upon this information, AmerenMO should continue its current DSM programs and should plan for and work toward implementing all cost-effective DSM programs to generate savings consistent with the state’s goals and policies expressed in §§ 393.1075 and 393.1040, RSMo. However, the Company intends to reduce DSM spending from over \$30 million annually to \$25 million annually under the 2011 IRP filing if it does not receive all the cost recovery elements it is seeking in this case.⁵ If AmerenMO chooses to ignore these opportunities for cost-effective DSM savings, then it would fail to comply with MEEIA and the clear policies of this state. The continuation and expansion of DSM programs is in the public interest; AmerenMO’s intention to curtail spending on DSM programs when significant additional DSM savings would result from additional spending on cost-effective programs is not.

AmerenMO’s current energy efficiency programs are offered under tariffs which provide for the programs to end on September 30, 2011. (Ex. 113, Laurent Surrebuttal, p. 4.) AmerenMO’s counsel stated in opening statements on this issue that “No one disputes that the Company's current programs will expire on September 30 of this year, and no one has testified that Ameren Missouri's energy efficiency programs should be discontinued.” (Tr. Vol. 26, p. 1784, ln. 2-5.) AmerenMO’s testimony that it may choose to reduce program expenditures for cost-effective DSM programs if its billing units adjustment mechanism is not adopted is

³ Tr. Vol. 26, p. 1829, ln. 3-9, referring to Ex. 232, IRP Executive Summary, and “all DSM plan” which was not chosen as Ameren’s preferred resource plan.

⁴ Tr. Vol. 26, p. 18, ln. 16-22.

⁵ In cross examination by Public Counsel, AmerenMO President and Chief Executive Officer Warner Baxter testified: “Q. So if I understand your testimony, you're saying that if those cost recovery elements are not addressed in a way that's satisfactory to Ameren that the level of investment will drop? A. Yes.” (Tr. Vol. 16, p. 109, ln. 7-11.)

inconsistent with MEEIA. Regardless of whether or not the proposed MEEIA rules become effective, utilities subject to the Commission's jurisdiction must abide by Missouri state laws, including MEEIA.

B. Timely Cost Recovery/Throughput Disincentive

Movement toward more timely cost recovery of AmerenMO's DSM program expenses is essential to removing disincentives to further DSM program investment and is specifically provided for in MEEIA. MDNR acknowledges the validity of AmerenMO's concerns with the economic consequences of its successful DSM programs and it appreciates their attempt to fashion an alternate approach to remove the throughput disincentive. In testimony MDNR suggested that "[r]educing the billing units to reflect reductions in sales due to installed energy efficiency measures may be a reasonable method on a pilot or experimental basis for a fixed period of time for AmerenMO to address the throughput disincentive" (Ex. 802, Wolfe Surrebuttal, p. 5.) If MDNR and other parties' concerns with the billing units adjustment could be resolved, MDNR would support that method of addressing throughput disincentive for the bridge period between this case and AmerenMO's first filing under the MEEIA rules. However, in the event that the billing units adjustment is not accepted by the Commission, MDNR recommends the next best option available in this rate case - addressing timely cost recovery.

Requiring utilities to recover the costs of providing cost-effective DSM programs over unreasonable lengths of time creates a disincentive for utilities to pursue all cost-effective DSM and is contrary to the goal of implementing all cost effective DSM as stated in MEEIA. (Ex. 801 Wolfe Rebuttal, page 8.) MDNR recommends, from a policy perspective, that expensing of DSM program costs is appropriate, as was stated in Ms. Wolfe's testimony. (Ex.

800, Wolfe Direct, p. 11 and Ex. 801, Wolfe Rebuttal, p. 11.) However, Ms. Wolfe also stated that shortening the amortization period from six years to three years, as requested in AmerenMO's direct testimony⁶ "may address the removal or reduction of the disincentive of untimely DSM cost recovery" and that "AmerenMO is best suited to state if this shortened amortization period is sufficient to remove the disincentive." (Ex. 801, Wolfe Rebuttal, p. 11.) In surrebuttal testimony and at hearing, AmerenMO indicated that it had chosen to focus on the billing units adjustment proposal and not to pursue the three-year amortization. (Ex. 111, Mark Surrebuttal, p. 6 and Tr. Vol. 26, p. 1866, ln. 14-25 & p. 1867, ln. 1-2.) This shift in AmerenMO's focus does not render the movement to the three-year amortization unreasonable or inappropriate. The amortization period for recovery of DSM program costs incurred after December 31, 2010 should be shortened to three years in order to provide more timely cost recovery. A longer amortization period creates a disincentive to maintaining and expanding programs.

If the amortization period for recovery of DSM program costs is not shortened to three years, then, at a minimum, the six-year amortization should be retained. To revert to a ten-year amortization per MEIC's recommendation would be a clear disincentive to AmerenMO to invest in demand side programs, contrary to MEEIA policy. AmerenMO's DSM programs have proven to be cost-effective and beneficial to customers, and there is clearly potential for additional DSM savings in this interim period until MEEIA rules are fully implemented; appropriate cost recovery should be provided to reduce the disincentive to invest in DSM programs. For all the reasons stated in Ms. Wolfe's rebuttal testimony, amortizing based on useful life should not be applied to DSM spending (Ex. 801, Wolfe Rebuttal, p. 8-10.) The

⁶ "However, using a three-year amortization is a reasonable way to mitigate the rate impacts associated with increases in the DSM expenditure level while not unduly extending recovery." (Ex. 815, Davis Rebuttal, p. 11.)

Commission has flexibility to determine the amortization period, and MDNR recommends that a temporary adjustment from six years to three years for DSM program expense amortization during the interim to reduce AmerenMO's disincentive.

Solar Rebates Accounting Authority Order (AAO)

MDNR took a position only on the solar rebates sub-issue regarding what amount of solar rebate costs AmerenMO should be allowed to recover in revenue requirement of its actual costs of the solar rebates program. If the Commission considers these expenditures a RES-compliance expense then their recovery is explicitly allowed in a rate case under 4 CSR 240 20.100(6)(d). Regardless, AmerenMO should be allowed as much of an opportunity to recover its costs as quickly as possible for the companies' compliance with a statutorily required program as a matter of policy. AmerenMO should not be required to carry the costs of these rebates for any longer than one year. (Ex. 801, Wolfe Rebuttal, p. 15.) This policy is in line with the positions of both AmerenMO and Staff's recommendations to consider these costs as an operating expense. (Tr. Vol. 28, p. 2174 ln.1-9 & p. 2176 ln. 6-8.)

MIEC's argument that AmerenMO should have to wait a full 10 year period before recovering all solar rebate costs just because consumers must purchase a 10 year warranty for the solar panels is inappropriate. (Tr. Vol. 28, p. 2177 ln. 10-12.) AmerenMO does not install the solar panels nor does it possess them, so the warranty itself is completely unconnected to AmerenMO. While benefits may flow from these expenditures for over 10 years, AmerenMO does not have a choice whether it will spend this money nor does it have any ownership or control over the solar panels, or over whether, when or which customers install solar panels. (Tr. Vol. 28, p. 2181, ln. 9 – 19; Tr Vol. 28, p. 2195, ln. 16-21.) AmerenMO does not control the use or maintenance of the measures installed. Requiring AmerenMO to recover the costs

of providing rebates that are only a partial amount of the total cost of the measures installed over the full life of that measure, or a weighted averaging of the various lives of the measures is an inappropriate cost recovery method. (Ex. 801, Wolfe Rebuttal, p. 8.)

Rate Design

The Commission should consider requiring AmerenMO to eliminate declining block rates and do so on a revenue neutral basis. The purpose of removing declining block rates is to encourage energy efficiency and conservation by removing the “discount” price for additional consumption. Declining block rates do not send a signal to encourage reduced usage. Removing the declining block rate structure for a flat rate structure will lead to an increase in bills for some higher usage customers. However, lower usage customers would see a decrease in monthly bills. (Ex. 801, Wolfe Rebuttal, p. 16.) It may be that a single-step full movement to a flat rate may have too a great an impact to be acceptable to the Commission for policy reasons. In that event, MDNR requests that the Commission consider a stepped phase-out of the declining block rates or to address this matter in the future.

Low Income Weatherization Program

In rebuttal testimony, AmerenMO agreed that funding of the Low Income Weatherization Program should continue at \$1.2 million per year, as recommended in MDNR’s direct testimony (Ex. 112, Laurent rebuttal, p. 8, referencing Ex. 800, Wolfe Direct, p. 4-5.) When American Recovery and Reinvestment Act funding ends on March 31, 2012, weatherization funding provided through regulated utilities such as AmerenMO will be essential to continue providing much-needed improvements to low-income housing in Missouri. (Ex. 800, Wolfe Direct, p. 5.) MDNR requests that the Commission address the

continuation of the weatherization program at the current \$1.2 million annual level of funding in its Report and Order in this matter.

AmerenMO's rebuttal testimony also recommended that the weatherization program "be evaluated similar to other energy efficiency programs funded by customers" and stated that "the program should be subject to the same level of transparent reporting and evaluation as other programs funded by customers." (Ex. 112, Laurent Rebuttal, p. 8, 9.) Evaluation will verify that the program savings are what was expected, or make adjustments, up or down, as necessary. (Ex. 112, Laurent Rebuttal, p. 6.)

All of AmerenMO's other DSM programs have had "at least one impact evaluation and one process evaluation" except the residential HVAC CheckME! Program, which was just implemented in late July 2010. (Ex. 113, Laurent Surrebuttal, p. 4.) Impact evaluations determine energy and demand savings of the program. Process evaluations assess the effectiveness of the program implementation processes. (Ex. 113, Laurent Surrebuttal, p. 4, fn 1.)

To address this recommendation, MDNR and AmerenMO negotiated a nonunanimous stipulation and agreement that was filed with the Commission on May 18, 2011. MDNR requests the Commission authorize the evaluations provided for in that Stipulation under the terms thereof.

CONCLUSION

WHEREFORE, MDNR requests the Commission resolve the issues addressed herein as proposed by MDNR.

Respectfully submitted,

CHRIS KOSTER
Attorney General

/s/ Jennifer S. Frazier

Jennifer S. Frazier
Assistant Attorney General
P.O. Box 899
Jefferson City, Missouri 65102
Bar No. 39127
573-751-8795
573-751-8796 (fax)

jenny.frazier@ago.mo.gov

Attorney for Missouri Department of Natural Resources

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 1st day of June, 2011.

/s/ Jennifer S. Frazier

Jennifer S. Frazier