

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

In the Matter of the Union Electric)	
Company's (d/b/a Ameren Missouri) Gas)	
Service Tariffs Removing Certain)	
Provisions for Rebates from Its Missouri)	Case No. GT-2011-0410
Energy Efficient Natural Gas Equipment)	
and Building Shell Measure Rebate)	
Program.)	

PUBLIC COUNSEL'S POSITION STATEMENT

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Position Statement states as follows:

On September 23, 2011, the Commission's Staff filed an Initial List of Issues to be resolved by the Commission. This Position Statement provides a brief statement of OPC's position on each issue.

I. Is Ameren Missouri's tariff filing in this case consistent with the Stipulation and Agreement in GR-2010-0363?

OPC Position: No. Ameren Missouri's tariff filing is not consistent with the Stipulation and Agreement ("Agreement") in Case No. GR-2010-0363 and should be rejected. Ameren Missouri's request to eliminate a substantial portion of its Residential and General Service programs is premature in that it is not based upon a post-implementation evaluation as agreed upon by the parties to the Agreement.

a. Was there a change of circumstances as that phrase is used in the Stipulation and Agreement in Paragraph 6G? If so, does the change warrant the removal of thirteen (13) residential and seven (7) general service measures from the energy efficiency program?

OPC Position: No. There was no change of circumstances between February 1, 2011, when the Rebate Program went into effect, and just a few months later when Ameren Missouri proposed to drastically alter its Residential and General Service programs.

b. Was the evaluation performed by Ameren Missouri in this case done at an appropriate time pursuant to the Stipulation and Agreement in this case?

OPC Position: No. The evaluation performed by Ameren Missouri was not done at an appropriate time. The Agreement specifically provides in Paragraph 6C that “Post-implementation evaluations of all programs or measures shall include usage data for program participants through the end of the month of April 2012, and be completed by December 31, 2012.” Ameren Missouri’s evaluation does not include usage data for programs through the end of April 2012, and is therefore premature.

c. Does the proposed removal of these measures conflict with the terms of the Stipulation and Agreement that requires “uninterrupted availability of these energy efficiency programs through December 31, 2012,” as required by Paragraph 6G of the Stipulation and Agreement?

OPC Position: Yes. The programs that Ameren Missouri agreed to provide with “uninterrupted availability” are those programs currently in Ameren Missouri’s tariff, which became effective on February 1, 2011. Changing the Residential and General Service programs as proposed would interrupt the availability of approximately forty percent (40%) of the Residential and General Service programs that Ameren Missouri agreed to provide.

d. Did Ameren Missouri comply with Paragraph 6G of the Stipulation and Agreement to circulate proposed tariff sheets for review and comment by the EEAG prior to filing the proposed changes with the Commission?

OPC Position: No. Ameren Missouri's proposed tariff filing, File Number JG-2011-0620, does not comply with Paragraph 6G of the Agreement because Ameren Missouri did not provide all of its proposed tariff changes to the Energy Efficiency Advisory Group (EEAG) prior to Ameren Missouri filing the proposed changes with the Commission. The Agreement states specifically in Paragraph 6G that "Prior to filing any such proposed revised tariff sheets with the Commission, Ameren Missouri shall circulate those sheets for review and comment by the EEAG." Ameren Missouri did not satisfy this requirement. Accordingly, the tariff should be rejected and Ameren Missouri directed to comply with this provision before re-filing any proposed tariff changes.

e. How should "cost-effectiveness" as used in Paragraph 6B of the Stipulation and Agreement be interpreted?

OPC Position: The phrase "cost-effective" is not specifically defined in the Agreement nor in the Commission's January 19, 2011 Order Approving Stipulation and Agreement that ordered the parties to follow the terms of the Agreement. The Agreement requires Ameren Missouri to obtain the assistance of "a post-implementation evaluation of the effectiveness of its non low income weatherization energy efficiency programs." An "outside firm" will conduct the post-implementation and will assist Ameren Missouri, the Energy Efficiency Advisory Group, and the Commission, in determining how "cost-effective" will be defined in the context of Ameren Missouri's energy efficiency program impact evaluation. The evaluation will not be completed until December 31, 2012, using program data through the end of April 2012.

i. Should the TRC be the method used to determine cost-effectiveness under this stipulation and agreement?

OPC Position: See OPC response to issue (e) above.

ii. Was Ameren Missouri's implementation of the TRC proper?

OPC Position: No. Ameren Missouri is certainly entitled to conduct any evaluation it wishes on its Rebate Program using its own non-ratepayer resources. However, the post-implementation evaluation that is required by the Agreement "will generally be performed by an outside firm and include both a process evaluation and an impact evaluation." Therefore, while Ameren Missouri's decision to conduct a premature evaluation has not violated any term of the Agreement (assuming no ratepayer funds were used in the evaluation), Ameren Missouri's attempt to modify the Residential and General Service programs at this time as a result of Ameren Missouri's TRC analysis is improper and inconsistent with the Agreement.

iii. Is the relevant cost effectiveness test defined in Commission Rule 4 CSR 240-14.010(6)(D)?

OPC Position: Yes. Ameren Missouri's Rebate Program is by definition a promotional practice (4 CSR 240-14.010(6)(L)), and is included in the Promotional Practices section of Ameren Missouri's tariff. According to the Commission's Promotional Practices Rule, "cost-effective" for utility promotional practices "means that the present value of life-cycle benefits is greater than the present value of life-cycle costs to the provider of an energy service." 4 CSR 240-14.010(6)(D).

II. Should the Commission adopt a definition of general applicability of "cost-effectiveness" in this case? If yes, should the test apply to all Missouri gas utilities?

OPC Position: No. The Commission should not adopt a definition of general applicability in this case since this case involves a tariff change request of a single gas company and does not involve any other gas utility. Other Missouri natural gas utilities had no reason to believe that a definition of cost effectiveness that has general

applicability to all Missouri natural gas utilities would be an issue in this case so there would be due process concerns with the Commission setting an industry-wide standard of cost effectiveness.

III. Should the Commission find that there is a need to specify how cost effectiveness will be determined for gas utilities in Missouri and state its intention to address this issue and other related energy efficiency issues associated with gas energy efficiency programs in a new Commission rulemaking?

OPC Position: Yes. All Missouri gas utilities, and other interested parties, should have an opportunity to participate in setting cost-effective standards for gas energy efficiency programs. The best way to accomplish this would be for the Commission to initiate a rulemaking for natural gas energy efficiency programs.

IV. Should the Commission take factors other than measure level cost effectiveness tests into account when determining what measures should be included in programs like the home energy audit program included in Ameren Missouri's tariffs?

OPC Position: Yes. The Commission should consider all relevant factors when determining what measures should be included in Residential and General Service programs.

V. Is this new tariff in the public interest?

OPC Position: No. The proposed tariff is not in the public interest because it seeks to violate an Agreement in which counsel for the public agreed not to oppose a \$9,000,000 increase for Ameren Missouri based in part on the condition that Ameren Missouri administer Residential and General Service programs paid for by ratepayers. The proposed tariff is also not in the public interest in that it seeks to eliminate the availability of approximately forty percent (40%) of Ameren Missouri's Residential and General Service programs tariff during a time when, per Commission order, Ameren

Missouri should be looking to ramp up cost-effective energy efficiency expenditures. Lastly, the proposed tariff is not in the public interest because it seeks to eliminate a substantial portion of the Residential and General Service programs without a proper and timely analysis, suggesting that Ameren Missouri's motives for seeking to drastically reduce its Residential and General Service programs expenditures is based upon Ameren Missouri's cash flow and earnings erosion concerns rather than a proper analysis of programs and measures.

WHEREFORE, the Office of the Public Counsel respectfully offers this Position Statement on the issues identified by the parties.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: /s/ Marc D. Poston
Marc D. Poston (#45722)
Deputy Public Counsel
P. O. Box 2230
Jefferson City MO 65102
(573) 751-5558
(573) 751-5562 FAX
marc.poston@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 26th day of September 2011:

/s/ Marc Poston