

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

In the Matter of Union Electric Company d/b/a Ameren)
Missouri’s Filing to Implement Regulatory Changes in) File No. EO-2012-0142
Furtherance of Energy Efficiency as allowed by MEEIA.)

**APPLICATION TO APPROVE DSIM FILING, REQUEST FOR VARIANCES
AND MOTION TO ADOPT PROCEDURAL SCHEDULE**

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or Company) and, pursuant to 4 CSR 240-20.093(2), 4 CSR 240-2.060, 4 CSR 240-3.163(11), 4 CSR 240-20.093(13) and 4 CSR 240-20.094(9), files this *Application to Approve DSIM Filing, Request for Variances and Motion to Adopt Procedural Schedule* (collectively, *Application*), and seeks thereby approval of certain demand-side programs, a Technical Resource Manual (TRM) and a Demand-Side Investment Mechanism (DSIM) as contemplated by the Missouri Energy Efficiency Investment Act (MEEIA)¹ and the Missouri Public Service Commission (Commission) regulations implementing MEEIA.² The documents which are being filed concurrently with this *Application*, together with the *Application*, are sometimes referred to collectively herein as the Company’s “MEEIA filing.”

I. APPLICANT

1. Union Electric Company is a Missouri corporation doing business under the fictitious name of Ameren Missouri, in good standing in all respects, with its principal office and place of business located at One Ameren Plaza, 1901 Chouteau Ave., St. Louis, Missouri 63103. Ameren Missouri is engaged in providing electric and gas utility services in portions of Missouri as a public utility under the jurisdiction of the Commission. There is already on file with the

¹ Section 393.1075, RSMo. (Cum. Supp. 2010).

² 4 CSR 240-3.163; 4 CSR 240-3.164; 4 CSR 240-093 and 4 CSR 240-094. Under MEEIA, a demand-side program is defined to include energy efficiency measures.

Commission a certified copy of the Company's Articles of Incorporation (*See* Case No. EA-87-105), the Company's Fictitious Name Registrations as filed with the Missouri Secretary of State's Office (*See* Case No. EN-2011-0069), said documents are incorporated herein by reference and made a part hereto for all purposes. Attachment 1 to this *Application* is a Certificate of Corporate Good Standing for Ameren Missouri.

2. Pleadings, notices, orders and other correspondence and communications concerning this *Application* should be addressed to:

Wendy K. Tatro
Associate General Counsel
and
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3. The Company has no pending action or final unsatisfied judgment or decision against it from any state or federal agency or court which involve customer service or rates, which action, judgment, or decision has occurred within three years of the date of this *Application*, other than pending appeals involving three of its prior rate cases.

4. The Company has no overdue annual report or assessment fees.

5. 4 CSR 240-22.080(12) requires Ameren Missouri to certify this *Application* as consistent with its Preferred Plan from its most recent Integrated Resource Plan (IRP) or to explain why it is not consistent. This *Application* is not consistent with the Company's revised Preferred Plan as identified in the Company's Integrated Resource Plan. The inconsistency is the level of energy efficiency investment proposed by the Company. The IRP Preferred Plan includes a significantly lower level of energy efficiency investment than is reflected in this MEEIA filing. Once the Commission has approved this filing, the Company anticipates filing for a change in its Preferred Plan to reflect that development.

6. On November 4, 2011, Ameren Missouri filed a notice (*Notice*) pursuant to 4 CSR 240-4.020(2), indicating its intent to submit a MEEIA filing no earlier than 60 days from that date. More than 60 days have expired since that *Notice* was filed.

II. APPLICATION

7. Attached to this *Application* is a report (*Report*), supported by affidavits, explaining the elements of Ameren Missouri's proposed demand-side programs, TRM and DSIM. The *Report* is similar in format to the reports the Staff has recently filed in general rate cases and includes the equivalent of testimony (and schedules thereto) from the Company's subject matter experts in support of the MEEIA filing. Commission approval of the Company's proposed demand-side programs, TRM and DSIM is necessary to fulfill MEEIA's mandate that the Commission align utility financial incentives with helping customers to use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently. Ameren Missouri asks the Commission to approve the programs and the DSIM

as filed. Specifically, the requested programs and the DSIM consist of the following principal elements:

- A three-year plan for specified demand-side programs³;
- Investment in such programs at a level designed to achieve energy efficiency savings at the Realistic Achievable Potential (RAP) level;
- Use of a Technical Reference Manual (TRM) to determine kilowatt-hour (kWh) savings achieved;
- Recovery of program costs and offset of the throughput disincentive at the same time energy efficiency investments are made;
- A Residential Monthly Customer Charge of \$12.00; and
- An opportunity to earn an incentive amount based upon kWh savings achieved.

8. Ameren Missouri's proposal represents a significant increase over its historical (2009 through 2011) level of energy efficiency investment. Currently, the Company's energy efficiency tariffs are limited to its bridge programs, which were designed to bridge the time between when the Company's full energy efficiency programs expired on October 1, 2011 and when Ameren Missouri implements the programs set forth in the attached *Report*. Unfortunately, without a constructive outcome in this case, the recently approved energy efficiency programs will expire on June 30, 2012, leaving only the Low Income Weatherization Assistance Program.

9. Attached to the *Report* are specimen tariff sheets which, upon approval by the Commission as part of the case initiated by this *Application*, the Company intends to file to implement the demand-side programs and the DSIM proposed in the MEEIA filing. The Company intends to file such tariff sheets (as compliance tariffs) with an effective date that coincides with the operation of law date (which the Company anticipates will be in the first half of 2013) in the Company's upcoming general electric rate proceeding, which is a point in time when the Company will be in a position to implement the demand-side programs reflected in the

³ The terms "demand-side" and "energy efficiency" are used synonymously herein. Under MEEIA, energy efficiency programs or investments are a sub-set of demand-side programs or investments.

MEEIA filing. While the Company expects this case to be concluded in the second quarter of this year, it will take several months after this case is concluded for the Company to ramp-up the necessary infrastructure to implement the level of energy efficiency programs proposed in the MEEIA filing. While the Company intends to issue requests for proposal (RFPs) during the pendency of this case, it will require time after the case concludes in order to contract with implementing contractors, time for contractors to achieve necessary staffing levels, etc.

10. The tariffs have been designed to provide the Company with the necessary flexibility to effectively implement and operate its demand-side programs and to make improvements as necessary to adapt to market conditions. The simplest example of this flexibility is the Company's ability to change the incentive level if customer participation is lower than anticipated.

11. Additionally, the tariffs contain important "off-ramps" or early end dates for the demand-side programs if the MEEIA rules (or further Commission rulings) governing or affecting demand-side programs generally, or DSIMs specifically, were to change. The most significant off-ramp addresses the pending appeal of the Commission's MEEIA regulations by both the Company and other parties. The Office of Public Counsel (OPC) is challenging whether lost revenues are a recoverable cost under Missouri law. If OPC's appeal were successful, it would mean that utility and customer interests could not be aligned (because the throughput disincentive could not be removed) and the Company would not continue to pursue energy efficiency at the levels proposed in its MEEIA filing. Accordingly, the Company's tariffs contain language which automatically and without further action by the Company or the Commission terminates the demand-side programs in the event of certain specified occurrences.

12. In order to implement the proposed programs and the requested DSIM, the Company requests the following partial variances⁴ from the Commission's MEEIA regulations:

A. Variances Regarding Retrospective Recovery – The Company is requesting the Commission provide partial variances of the following rules to the extent that the rules, as written, would allow only retrospective recovery of the portion of net shared benefits that under the Company's MEEIA filing and the proposed DSIM are to be reflected in the DSIM through the rates that will be set in the Company's next rate case (File No. ER-2012-0166).

1. 4 CSR 240-20.093(2)(H). “Any utility incentive component of a DSIM shall be based on the performance of demand-side programs...and shall include a methodology for determining the utility's portion of annual net shared benefits **achieved and documented** through EMV reports...”

2. 4 CSR 240-20.093(2)(H)3. “Any utility incentive component of a DSIM shall be implemented on a **retrospective basis** and all energy and demand savings used to determine a DSIM utility incentive revenue requirement must be **measured and verified** through EMV.”

3. 4 CSR 240-20.093(1)(EE) and 4 CSR 240-20.094(1)(Z). These sections define Utility Incentive Component of a DSIM as the methodology approved by the Commission to allow the utility to receive “a portion of annual net shared benefits **achieved and documented** through EMV reports.”

⁴ The Company is requesting a portion of the lifetime net benefits as an offset to the throughput disincentive. While the Company does not believe a variance of the definition of the term “lost revenue” in 4 CSR 240-3.163(1)(Q), 4 CSR 240-3.164(1)(M), 4 CSR 240-20.093(1)(Y) and 4 CSR 240-20.094(1)(U) is required to implement the DSIM reflected in its MEEIA filing, to the extent the Commission disagrees, the Company requests a variance from the definition of “lost revenue” contained in these rule sections so that lost revenues include sums necessary to cover the entire throughput disincentive (i.e., all kWh sales lost) created by energy efficiency investments.

4. 4 CSR 240-3.163 (1)(A), 4 CSR 240-20.093 (1)(C) and 4 CSR 240-20.094 (1)(C). These sections of the rules define "Annual net shared benefits" as meaning a utility's "avoided costs **measured and documented** through evaluation, measurement, and verification (EMV) reports...."

5. 4 CSR 240-3.163(1)(F)5, 4 CSR 240-20-093(1)(M)5 and 4 CSR 240-20.094(1)(J)5. These sections define a DSIM. Part (5) of each definition states that "Utility incentive based on the **achieved** performance level of approved demand-side programs."

Good cause exists to vary the requirement to apply the recovery of net shared benefits on a retrospective basis because allowing prospective recovery in no way diminishes the role of EMV. Since Ameren Missouri is requesting the approval of a TRM in this case, the annual EMV process will be slightly different than in recent history. Relying largely on recent EMV reports, the TRM embodies the most reasonable approximations of the energy savings and costs of end-use measures at this time. Agreeing to the TRM values up-front will provide additional transparency to the process and greatly facilitate understanding the performance of the programs. Even with the approval of the TRM, the utility will still evaluate its programs annually by focusing on process evaluations and tracking measures implemented in the first two years and will then provide additional impact evaluations in the third year. In addition to the Company's EMV processes, the Commission's EMV auditor will provide another report of the utility's EMV efforts. The results of the EMV will then be used to update the TRM for future MEEIA filings. This streamlined process reduces uncertainty and is more pragmatic for assessing energy efficiency programs. It is also important to recognize that

most of the proposed energy efficiency programs and the majority of the measures offered already have proven track records as they are extensions of programs the Company has offered since 2009.

Retrospective recovery heightens recovery risk and does not value demand-side and supply-side resources equally. First, as program costs are spent the effects are, for practical purposes, immediate. For example, a business customer receives a rebate after the energy efficiency project is complete. So, energy efficiency can be thought of as a continuous stream of demand-side resources becoming "used and useful." It is simply impossible to file monthly rate cases (each taking 11 months) to provide an opportunity for timely recovery. Furthermore, delayed recovery has detrimental effects to the Company's financial position. Including a portion of net benefits in the DSIM to be reflected in the Company's rates mitigates the immediate negative impacts to cash flow and earnings caused by the throughput disincentive. Without the implementation of energy efficiency the utility would not experience the associated degradation of its financial position. These immediate financial effects are clearly shown in the *Report* and demonstrate that delayed recovery of the throughput disincentive will impede the adoption of utility energy efficiency efforts.

The annual reporting requirement and the requirement to file for modification if there is a twenty percent (20%) or more variance from the approved demand-side plan three (3)-year budget and/or any program design modification which is no longer covered by the approved tariff sheets for the program are adequate safeguards to allow contemporaneous recovery.

Finally, there is no legal basis to unduly delay recovery and the MEEIA statute in no way requires EMV to be complete before recovery. In fact, the retrospective recovery is a direct contradiction to the requirement of providing timely cost recovery which is found within MEEIA.

B. Variance Regarding Calculation of Utility Incentive - The Company requests a partial variance from the following rule so that it may use the information of the TRM to calculate the utility incentive component of the DSIM:

4 CSR 240-20.093(2)(H). “Any utility incentive component of a DSIM shall be **based on the performance of demand-side programs...**”

For the net shared benefits calculation, the Company requests that net shared benefits be calculated based upon the characteristics set out in the TRM and the number of measures as determined by EMV. The *Report* explains exactly how the TRM is to be used. This variance is necessary for all of the reasons set forth in paragraph 12A above.

C. Variances Regarding “Rate” and “Revenue Requirement” Definitions. 4 CSR 240-20.093(1)(O) and 4 CSR 240-3.163(1)(H) define "DSIM rate" as the charge on customers' bills for the portion of the DSIM revenue requirement assigned by the Commission to a rate class. 4 CSR 240-20.093(1)(P) and 4 CSR 240-3.163(1)(I) define “DSIM revenue requirement” as the costs associated with the DSIM plan. Taken together and without a variance, these definitions would mean that only charges reflected in a DSIM approved as part of a MEEIA filing could be included on a separate energy efficiency line item on a customer's bill. However, the MEEIA statute allows certain customers to opt-out of *all* energy efficiency charges,⁵ which is more than just the costs of Ameren Missouri's DSIM. Consequently, good cause exists to grant a variance for

⁵ Section 393.1075.7, RSMo. (Cum. Supp. 2010).

these definitions to the extent necessary to allow the Company to include in that separate line item the costs associated with current and historical energy efficiency cost recovery (i.e., the regulatory asset that under prior rate case orders is currently being amortized over 6 years) in addition to the costs reflected in the DSIM itself. This will allow the Company to effectuate opt-out requests, which MEEIA allows, regardless of whether the cost was incurred under a MEEIA-approved program or "any other authority."

D. VariANCES Related to Net Shared Benefits – The Company also requests partial variance from the following rules to the extent that the Company’s proposed DSIM does not reflect a sharing of “annual” net shared benefits:

1. 4 CSR 240-3.163(1)(A), 4 CSR 240-20.093(1)(A) and 4 CSR 240-20.094(1)(C). These sections define “Annual Net Shared Benefit” and require the calculation be done “...on an **annual** basis.”

2. 4 CSR 240-20.093(1)(Q), 4 CSR 240-20.093(2)(M) and 4 CSR 240-3.163(1)(J). These sections define a DSIM utility incentive revenue requirement as the revenue requirement to provide the utility with a portion of **annual** net shared benefits based on the approved utility incentive component of a DSIM.

3. 4 CSR 240-20.093(2)(H) requires the incentive component of a DSIM to be based upon “**annual** net shared benefits.”

4. 4 CSR 240-20.093(1)(EE) and 4 CSR 240-20.094(1)(Z). These sections define Utility Incentive Component of a DSIM as the methodology approved by the Commission to allow the utility to receive “a portion of **annual** net shared benefits achieved and documented through EMV reports.”

All of these rules contain the word “annual” in the phrase “annual net shared benefits.” The word “annual” could be interpreted to restrict the sharing of net benefits to individual years. If so, good cause exists to strike the word “annual” because the Company’s analysis shows that it is only logical to share the lifetime net benefits. For example, the net benefits are negative for the first three years (i.e. the costs exceed the benefits). Although this is a natural occurrence and the ongoing benefits outweigh the initial costs by more than a factor of three, it does not make sense to share a negative number. Using the lifetime savings is the same as the Utility Cost Test, which evaluates the lifetime benefits compared to lifetime costs.

13. Commission regulations require the Commission to issue an order on this *Application* within 120 days. In order to facilitate meeting that deadline, Ameren Missouri is serving the public version of this filing upon all parties to its current Integrated Resource Planning case, Case No. EO-2011-0271, and asks the Commission to promptly give notice of this filing and to set a relatively short deadline by which applications requesting intervention are to be filed (a week after the *Application* is filed) as well as shorten Ameren Missouri’s time to respond to any intervention requests (from the normal 10 day response time contemplated by the Commission’s rules to two business days). To the extent that the Company may have highly confidential information in its work papers, expediting intervention requests will allow the Company to provide that information earlier than would normally occur.

14. In addition, the Company proposes a procedural schedule, as set forth in the table below. In addition to setting forth the various dates within the proposed procedural schedule, the table shows the number of days between each procedural event as well as the cumulative number of days since filing.

Date	Days	Cum. Days	Description
January 20, 2012	0	0	Filing Date
January 27, 2012	7	7	Intervention requests due
February 1, 2012	5	12	Response to Intervention Requests
March 5, 2012	32	44	Other Parties File Comments
March 26, 2012	21	65	Ameren Missouri Response and Other Parties Cross Response to Others
April 10-11, 2012	12	80	Hearing dates (2 days)
May 1, 2012	21	101	Post Hearing Briefs
May 19, 2012	22	120	Commission Order

In addition, Ameren Missouri intends to schedule an early meeting with all parties to this case to walk through and answer questions about its MEEIA filing. This meeting will be scheduled to occur shortly after intervention applications have been ruled upon, so that parties have an opportunity to participate.

15. Concurrent with this filing, Ameren Missouri is providing Staff, the Office of Public Counsel and the Missouri Department of Natural Resources access to all work papers and other documentation to facilitate review of the Company's MEEIA filing. The Company requests that the initial time allowed to respond to data requests be set at 14 calendar days with objections (or notifications that additional time will be needed to respond) to data requests due within 7 calendar days. As of March 2, 2012, those time frames should be adjusted so that the time to respond to data requests becomes five business days and the time to object (or notifications that additional time will be needed to respond) to data requests becomes three business days. Ameren Missouri also requests the Commission order expedited transcripts of the hearing, in order to facilitate the post-hearing briefing schedule.

16. Finally, because the Company is not seeking to recover costs through a rider but, rather, through base rates, the Company requests deferral accounting to capture any costs incurred between the date of the approval of its MEEIA filing and the date new rates will take effect in the Company's next general electric rate case. Specifically, the Company requests that it be allowed to book to Account 182 its program costs incurred while building energy efficiency infrastructure between the time its MEEIA filing is approved and the effective date of new rates in the Company's next general electric rate case.

WHEREFORE, Ameren Missouri respectfully requests that the Missouri Public Service Commission approve the demand-side programs, Technical Resource Manual and the DSIM proposed in its MEEIA filing, the variances listed above, the requested deferral accounting and for other relief as is appropriate in this case.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a Ameren Missouri

/s/ Wendy K. Tatro

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed or mailed, via first-class United States Mail, postage pre-paid, to the service list of record this 20th day of January, 2012.

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/s/ Wendy K. Tatro

Wendy K. Tatro

STATE OF MISSOURI



Robin Carnahan
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, ROBIN CARNAHAN, Secretary of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

UNION ELECTRIC COMPANY
00040441

was created under the laws of this State on the 21st day of November, 1922, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 18th day of January, 2012

Robin Carnahan

Secretary of State



Certification Number: 14418824-1 Reference: EO-2012-0142
Verify this certificate online at <https://www.sos.mo.gov/businessentity/soskb/verify.asp>

VERIFICATION

STATE OF MISSOURI)
)
CITY OF ST. LOUIS) ss

Warren Wood, of lawful age, on his oath deposes and says that he is the Vice President of Regulatory and Legislative Affairs of Union Electric Company d/b/a Ameren Missouri, that he has read the foregoing application, knows the contents thereof, and that the information contained in that application is true and correct to the best of his knowledge and belief.

UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

BY: *Warren Wood*
Warren Wood

Subscribed and sworn to before me this 13th day of January, 2012.

BECKIE J. EAVES
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis City
My Commission Expires: February 21, 2014
Commission Number: 10938572

Beckie J. Eaves
Notary Public