**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 Energy Efficient Natural Gas And Building Shell Measure Rebate Program	))))))	**File No. GT-2011-0410** Tariff No. JG-2012-0620

MISSOURI DEPARTMENT OF NATURAL RESOURCES' INITIAL BRIEF

COMES NOW the Missouri Department of Natural Resources (MDNR) and for its Initial brief states as follows:

Union Electric Company d/b/a/ Ameren Missouri (Ameren Missouri), MDNR, Staff of the Missouri Public Service Commission (Staff) and the Office of the Public Counsel (OPC) entered into a Unanimous Stipulation and Agreement (Stipulation), which this Commission approved on January 19, 2011. In the Stipulation, Ameren Missouri agreed to provide for uninterrupted availability of the energy efficiency programs, included in the tariff sheets attached as Appendix C to the Stipulation, through December 31, 2012, after which a post-implementation process and impact evaluation of all the energy efficiency programs or measures that includes usage data for program participants through the end of April 2012 is to be completed. (Staff Exhibit 6, pp. 4-5). In order to have a meaningful and effective portfolio of energy efficiency programs in place for a sufficient period of time to permit a meaningful evaluation of the actual Ameren Missouri-specific customer experience, the unanimously agreed-to measures need to stay in effect for the agreed-upon period. Ameren Missouri has now changed its mind about this commitment to leave the programs in effect for the agreed-upon period and is now proposing to eliminate a substantial portion of the measures in its energy efficiency programs, including some of the most popular energy efficiency measures selected by its customers (Staff Ex. 4). In fact, Ameren Missouri is proposing to remove 68% of its residential measures and 25% of its general service measures. (MDNR Ex. 1, Buchanan Rebuttal Testimony, p. 17). Therefore, MDNR is requesting this Commission to reject Ameren Missouri's tariff filing because it is not in the best interest of the public nor Ameren Missouri ratepayers and is not consistent with the S&A for the following reasons:

1. **There was no "change in circumstances" to warrant the removal of thirteen (13) residential and seven (7) general service measures from Ameren Missouri's energy efficiency programs.**

Ameren Missouri claims that a "change in circumstances" occurred when it obtained additional information, which changed the inputs for its Total Resource Cost (TRC) calculations at the measure and program level. (Ameren Ex. 1, Lovett Direct, p. 3). Ameren Missouri used this "additional information" to conduct a new TRC and is now proposing to remove any measure with a TRC result of less than one from its tariff. (Ameren Ex. 3, Shoff Direct, p. 3; Tr. 81 and 202). However, the evidence shows that there was not a change in circumstances to warrant the removal of these measures; in fact, many of the measures that Ameren Missouri is now proposing to remove had a TRC result of less than one when the company conducted its own TRC test back in June 2010, before it entered into the Stipulation. (Staff Ex. 7, Commission Ex. 1). For example, the tables below illustrate that Ameren Missouri was aware, prior to entering into the Stipulation, that several of the measures in its tariff had a TRC result of less than one according to its own TRC calculations.

Residential

Pre-0363 Natural Gas Only TRC by UE 06/10	**Post-0363 Natural Gas Only TRC by UE**	**Measure**
0.09	0.09	Energy Star Door
0.14	0.14	Wall Insulation
0.32	0.32	Door Weather Stripping
0.41	0.41	Window Replacement
0.25	0.56	Ceiling Insulation

General Service

Pre-0363 Natural Gas Only TRC by UE	**Post-0363 Natural Gas Only TRC by UE**	**Measure**
0.10	0.10	Energy Star Door
0.15	0.15	Griddles - Gas
0.82	0.82	Food Service Oven

(Sources: Staff Ex. 7; Commission Ex. 1)

Finally, Ameren Missouri openly admits that it "has calculated all kinds of other TRC analysis and continuously looks at things to add and remove and change." (Tr. 80). Taken to its logical conclusion, this means that "changes in circumstances" could result in new TRCs being performed on a daily basis (Tr. 285-286).

Therefore, Ameren Missouri cannot now claim that the basis for the removal of these measures is due to "additional information" when in fact the company has continuously conducted TRC tests, including its own TRC test back in June 2010, that yielded many of the same results as the more recent TRC test done in June 2011. In addition, it is also important to note that the Stipulation does not prohibit an energy efficiency program from containing measures with a TRC of less than one. (Tr. 48). Rather, one must look at a program in its entirety to determine whether, as a whole, it is cost effective. (Tr. 48). Some measures, especially building shell measures, require an extended period of time to mature and produce the full energy savings benefits attributable to that measure. (Tr. 57).

In addition, the Commission should recall, as stated by OPC witness Stahlman,

> …the programs in question, attached as Appendix C to the Stipulation, have already been declared cost-effective with pre-implementation analysis in accordance with 4 CSR 240-14 Utility Promotional Practices rule, and 4 CSR 240-3.255 Filing Requirements for Gas Utility Promotional Practices in Case No. GR-2010-0363. The questions regarding the cost-effectiveness of measures raised by parties in the rate case were resolved and settled by the Stipulation and approved by the Commission as a resolution of Case No. GR-2010-0363.

These lawful tariffs should remain in effect.

2. The Total Resource Cost Test was not done at an appropriate time and in an appropriate manner pursuant to the Stipulation.

The Stipulation requires Ameren Missouri to conduct a post-implementation evaluation, performed by an outside firm, of all the programs or measures that includes usage data for program participants through the end of April 2012. (Staff Ex. 1, p. 4). Nowhere in the Stipulation does the term "Total Resource Cost" or "TRC" appear, nor does the Stipulation require that a TRC is to be used to evaluate the effectiveness of an energy efficiency measure. (MDNR Ex. 1, p. 13). While it is true that the Stipulation does not prohibit Ameren Missouri from performing a TRC at any time, the TRC that was conducted by the company and used as the basis for removing a significant portion of its energy efficiency program measures is flawed in several respects. (Tr. 47-49).

First, Ameren Missouri did not use specific data from actual program participants when it calculated its TRC. (Tr. 166). The company argues that Missouri specific data was used in calculating its TRC. (Tr. 208). However, using Missouri specific data is not the same and is not necessarily representative of Ameren Missouri program participants. For example, Ameren Missouri states that it used Missouri specific weather data to calculate its TRC by using weather data from the St. Louis region. (Tr. 222). Unfortunately, Ameren Missouri does not serve any natural gas customers in St. Louis. (Tr. 191).

Much of the data the Company used to calculate its TRC was non-Missouri specific data. (Tr. 209-210). For example, Ameren Missouri used the DEER database, which was developed specifically for California, as a source for determining costs for the various measures. (Tr. 209). Ameren Missouri's witness, Kyle Shoff, admits that using Missouri specific data rather than from other sources could change the TRC result. (Tr. 226). In addition, Ameren Missouri has criticized others for conducting studies without relying on Missouri specific data. (Tr. 199-200). The company should be held to the same standard that it applies to others.

Furthermore, the TRC analysis done by Ameren Missouri ignores several important components that help ensure the efficiency of the various measures the company is now proposing to eliminate. First, all of the building shell measures Ameren Missouri has proposed to eliminate require a certified home energy auditor, listed on the Company's website and paid by the Ameren Missouri customer, to conduct a home energy audit in order to determine, on a customer-by-customer basis, whether a particular measure would be energy efficient for that particular customer. (Tr. 165). Second, Ameren Missouri is an Energy Star partner. (Tr. 78). The Energy Star label is a way for Ameren Missouri customers to see whether one natural gas product is more energy efficient over another natural gas product. (Tr. 78). However, eight of the measures that the company is proposing to eliminate are labeled Energy Star. (MDNR Ex. 2). Third, many of Ameren Missouri's natural gas customers are also served by the company's electric side. (Tr. 166). Ameren Missouri's witness, Kyle Shoff, admits that some of the measures that Ameren Missouri is proposing to remove, such as building insulation, can also have an impact on the electric side. (Tr. 166-167). However, Ameren Missouri only identified natural gas benefits in calculating its TRC rather than using both natural gas and electric benefits, which is currently being done for Ameren Illinois customers. (Tr. 167-168). It should also be noted that some of the measures that Ameren Missouri is proposing to eliminate, such as its building shell measures, are currently being offered by Ameren Illinois because a TRC calculated by the company, using both natural gas and electric benefits, showed those measures to be cost effective. (Tr. 167).

Finally, Ameren Missouri only used a TRC test to determine whether a particular measure was cost effective, even though there are a variety of benefit/cost tests available that could be used in conjunction with one another. (Tr. 283). In fact, in the company's proposed method for completing the post-implementation evaluation of its residential and commercial natural gas energy efficiency programs in the Request for Proposals issued on October 3. 2011, Ameren Missouri proposed to provide inputs for and calculate cost-effectiveness tests using TRC, Utility Cost Test (UCT) and Participant Cost Test (PCT) for measures, programs and portfolios. (OPC Ex. 2, p. 2). Therefore, it does not make sense for Ameren Missouri to be able to pick and choose by using only one test, the TRC test, approximately halfway through the agreed-upon implementation period to analyze whether a particular measure is cost effective and then to turn around and use three tests, the TRC, UTC and PCT tests, post implementation to determine whether those same measures are indeed cost effective when utilized by Missouri customers.

3. The proposed removal of the measures conflicts with the terms of the Stipulation.

Ameren Missouri's proposed tariff revisions which would remove a significant portion of its program measures, is inconsistent with Ameren Missouri's commitment in the Stipulation that the company's energy efficiency programs remain in effect, uninterrupted, until December 2012. (Staff Ex. 6, p. 5). The

Stipulation was entered in part to address the issues created when Ameren Missouri unilaterally discontinued its energy efficiency programs in 2010 (Unanimous Stipulation and Agreement, Case No. GR-2010-0363, p. 6). It established, by unanimous consent, a portfolio of energy efficiency measures and programs which were to remain in effect for a sufficient period of time to permit meaningful evaluation by a third party evaluator of actual Ameren Missouri-specific customer experience. The unanimously agreed-to measures need to stay in effect for the agreed-upon period. Allowing large percentages of these measures to be removed now, with some notion that some other measures may be proposed later, is not an adequate or acceptable substitute. (Tr. 145-154)

Even though the company is proposing to remove 68% of its residential measures and 25% of its general service measures, it claims that the programs are still uninterrupted. "[I]f you have one measure and one customer is participating in the program, that program is available." (Tr. 106-107). However, such a narrow reading of the Stipulation does not make sense and is not in the public interest, especially if read in conjunction with the Stipulation's requirement for Ameren Missouri to "ramp up" its target level of spending for its energy efficiency programs within three years. (Staff Ex. 6, p. 3). In fact, the measures that Ameren Missouri is proposing to remove account for 65%-70% of the company's current program expenditures. (Tr. 107-108).

In response to questions from Commissioner Davis, Ameren Missouri's witness suggested that its customers are able to get "the most bang for [their] buck" by taking advantage of the remaining measures available to them, such as thermostats, faucet aerators, showerheads and pre-rinse spray valves. (Tr. 216-218). Using showerheads as an example, the approximate rebate a customer will receive is $15.00. (Tr. 229). However, because it is a building shell measure, a home energy audit is required first in order to determine whether the customer is eligible to receive a rebate for installing a low flow showerhead. (Tr. 228-229). A home energy audit costs the customer between $350.00 and $600.00. (Tr. 188). As a practical matter, it is unlikely that customers are going to take advantage of these remaining measures when comparing the cost of the home energy audit to the potential rebate the customer is able to receive. (Tr. 229).

Ameren Missouri's removal of the most popular measures from the residential building shell rebate program leaves only very small dollar items and reduces the likelihood that its customers will use the program at all. As of August 2011, there were 486 residential reservations or rebates paid for insulation, windows and doors, which are to be eliminated, but there were zero reservations or rebates for window weather stripping, water heater wrap, hot water pipe wrap, switch and outlet insulation, caulking, faucet aerators, or low flow shower heads, which are the measures that will remain for residential building shell measures if Ameren Missouri's tariff revisions are approved (Staff Ex. 4 and Staff Ex. 8, tariff Sheet 81). Such a result would render what is left of Ameren Missouri's energy efficiency programs meaningless and not serve the best interest of the public.

4. The Commission should not approve a tariff that contains a definition of Total Resource Cost Test or limits cost-effectiveness testing to any one test.

The Commission should reject sheet 79 of Ameren's proposed tariff because:

1) Ameren Missouri's proposed definition TRC is inconsistent with the promotional practices rule (Tr. 39).

2) The limitation of testing cost-effectiveness via the TRC is also directly contrary to the Company's inclusion of multiple tests in the RFP for the evaluation to be performed on these very energy efficiency programs (OPC Ex. 2, p. 2).

3) It is not appropriate to include a definition of TRC in a utility's tariff, especially not the one proposed by Ameren Missouri, because of the implication that this is the new "rule" for gas utilities to use TRC alone for cost-effectiveness testing. MDNR does not oppose the Commission opening a rulemaking or other docket to consider whether it should adopt a definition of general applicability of cost-effectiveness for all natural gas energy efficiency measures, programs and portfolios. However, for the Commission to approve Ameren Missouri's proposed tariff revisions; specifically the additional language proposed on Sheet No. 79 (Staff Ex. 8) would prejudge this issue and should be avoided, especially in light of the fact that the Commission Rules already contain an applicable definition (Tr. 39; Staff Ex. 1, Stahlmann Rebuttal, p. 3-4). Ameren should not be permitted to tie the cost-effectiveness process down to its preferred method (Tr. 284; OPC Ex. 1, Kind Rebuttal p. 14-15) and its preferred definition thereof. The internal inconsistency

in Ameren's actions alone is sufficient reason to reject them, but the provisions Ameren proposes to add to Sheet 79 are also contrary to administrative policy and good energy public policy.

WHEREFORE, MDNR respectfully submits its Initial Brief in this matter and requests the Commission to reject Ameren's proposed tariff revisions.

Respectfully submitted,

CHRIS KOSTER

/s/ Sarah Mangelsdorf
SARAH MANGELSDORF
Assistant Attorney General
MBE #59918
P. O. Box 899
Jefferson City, Missouri 65102
Telephone (573) 751-0052
TELEFAX No. (573) 751-8796
sarah.mangelsdorf@ago.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, electronically, this 20th day of October, 2011, to counsel for the parties to this case.

/s/ Sarah Mangelsdorf
Assistant Attorney General