NRDC, Earth Island Institute d/b/a Renew Missouri, and Sierra Club's Position Statements EO-2012-0142

1. Should the Commission approve Ameren Missouri's application for approval of demand-side program plan, approve it with modification acceptable to Ameren Missouri, or reject it, as provided in 4 CSR 240-20.094(3)?

NRDC's Position:

A. Should the Commission approve the application without the inclusion of any demand response programs?

NRDC's Position: Yes. NRDC notes that Ameren Missouri's proposal falls short of the coincident peak demand MEEIA savings goals. While Ameren Missouri is planning 0.5%, 0.7% and 1.0% in incremental kW savings per year, the MEEIA rule targets are 1.0% each year. However, MEEIA envisioned both energy efficiency and demand response programs. As Ameren Missouri notes, the Ameren Missouri system and MISO currently enjoy significant excess capacity. As a result, signing up demand response program participants offers little short term value to ratepayers, and demand response programs would likely not be used to shed significant load in the near term. Therefore, we believe the efficiency program goals are the most important, and Ameren Missouri will still capture durable, hardware-related peak demand impacts from these programs that will provide greater value to ratepayers. Further, we believe the trade-off of achieving more energy savings (than default goals) with somewhat less demand impacts is an overall positive benefit to ratepayers. (Rebuttal Testimony of Philip Mosenthal).

B. Should the Commission approve the form of Ameren Missouri's DSM programs' exemplar tariff sheets which were attached to the surrebuttal testimony of Daniel Laurent?

NRDC's Position: NRDC takes no position on this issue.

i. Should the Commission order Ameren Missouri to provide additional detail in its DSM programs'tariff sheets? If so, what detail?

NRDC's Position: NRDC's position is that Ameren Missouri should be held responsible for the performance of its DSM program, but should have reasonable authority to modify program designs as appropriate based on market changes and program implementation results and experiences. NRDC does not believe that the Commission should require Ameren Missouri to file tariffs that define specifically what the utility does in its day to day in program delivery. (Rebuttal Testimony of Philip Mosenthal).

ii. Do the DSM programs'exemplar tariff sheets comply with the Commission's Promotional Practices requirements found in 4 CSR 240-3.150 and 4 CSR 240-14.030? If not, how do they not comply, and should the Commission grant a variance(s) to the extent they are determined not to comply?

NRDC's Position: NRDC takes no position on whether the exemplar tariff sheets comply with the Commission's Promotional Practice requirements. However, if the Commission determines that these sheets do not comply with these requirements, NRDC recommends that the commission approve variances it finds necessary to approve the DSIM plan as modified according to the recommendations contained in the Rebuttal Testimony of Phillip Mosenthal. (Rebuttal Testimony of Philip Mosenthal).

C. Should the Commission condition the approval of Ameren Missouri's application upon Ameren Missouri filing in this case a total resource cost test for its Residential Refrigerator Recycling and Residential Home Energy Performance programs consistent with the definition in 4 CSR 240-3.164(1)(X); and Ameren Missouri's commitment to conduct a careful and thorough review and analysis of demand-response programs as part of its next DSM market potential study and subsequent Chapter 22 compliance filing and/or annual update filings?

NRDC's Position: NRDC takes no position on whether the Commission should condition approval of Ameren Missouri's application upon its filing a total resource cost test for the Residential Refrigerator Recycling and Residential Home Energy Performance programs. NRDC supports conditioning approval of Ameren Missouri's application upon the company's commitment to conduct a careful and thorough review and analysis of demand-response programs as part of its next DSM market potential study and subsequent Chapter 22 compliance filing and/or annual update filings.

D. Should the Commission grant the variances requested by Ameren Missouri, including those discussed in Dan Laurent's surrebuttal testimony, necessary to approve the Ameren Missouri's demand-side program plan, as filed?

NRDC's Position: NRDC recommends that the Commission approve variances it finds necessary to approve the DSIM plan as modified according to the recommendations contained in the Rebuttal Testimony of Phillip Mosenthal. (Rebuttal Testimony of Philip Mosenthal).

E. Can the Commission order Ameren Missouri to complete a new Market Potential Study? If so, should it do so?

NRDC's Position: NRDC does not believe that this issue is addressed by the statute or rules but believes that it is within the power of the Commission, just as the Commission can order the preparation of an IRP. If the Commission orders a new potential study, it should include reasonable parameters that avoid the problems that NRDC identified in its comments on Ameren Missouri's last potential study and as discussed in NRDC's comments on Ameren's most recent IRP. Notably, Ameren Missouri failed to substantiate in its last potential study several assumptions that caused it to underestimate the potential for cost savings, namely (1) Ameren Missouri assumed, without support, that Maximum Achievable Potential is not, in fact, achievable, and (2) Ameren Missouri's methodology for reducing the anticipated savings from Maximum Achievable to Realistically Achievable Potential assumed an unrealistically slow ramp-up of customer awareness, employed "budget constraints" that precluded any comparison of DSM and supply-side options on equivalent terms, used a 1-year payback period to estimate participation rates for MAP in defiance of standard industry practice of using instant payback assumptions for the purposes of determining MAP; used different payback timeframes for purposes of participation levels versus those used for purposes of incentive levels; assumed that no more than 70% of respondents would participate regardless of the actual survey results; and used entirely unfounded estimates of the number of customers eligible for opting out of the program who do so.

F. Can the Commission order Ameren Missouri to include in all future MEEIA filings the realistic achievable potential portfolio of the Company's Demand-side management Market Potential Study? If so, should it do so?

NRDC's Position: The Commission should follow the guidance in the MEEIA statute and rules regarding how to determine whether the programs are sufficiently aggressive to achieve the full cost-effective potential for energy efficiency. The guidance includes both a set of goals for gradually increasing the level of savings over the next ten years, as well as the RAP portfolio. NRDC has stated in multiple cases that the RAP portfolio articulated by the utility in its potential studies may well leave significant cost-effective savings on the table.

2. Should the Commission approve the establishment of Ameren Missouri's proposed Demand-Side Investment Mechanism (DSIM) as per 4 CSR 240-20.093(2)(B)?

NRDC's Position: Yes, in part, but subject to the caveats explained in Philip Mosenthal's Rebuttal Testimony and subparts A through I below. (Rebuttal Testimony of Philip Mosenthal).

A. Should the Commission allow Ameren Missouri to include in its revenue requirement in Case No. ER-2012-0166 $32.5 million, which represents 15.4% of expected net shared benefits, or should that determination be reserved for the rate case?

NRDC's Position: Yes, in order to provide Ameren Missouri with recovery of its expected lost margins, the Commission should allow Ameren Missouri to include in its revenue requirement in Case No. ER-2012-0166 $32.5 million, which represents 15.4% of expected net shared benefits, subject to true-up and conditions on EM&V as described in Philip Mosenthal's Rebuttal Testimony. The Commission should further reject Ameren Missouri's proposal to collect additional lost margins by increasing the residential customer charge by $4/month (i.e., from $8 to $12/month) and instead allow Ameren Missouri to collect an additional 0.6% of expected net shared benefits to represent its full expected lost margins. This would allow Ameren to collect a total of 16.0% of expected net shared benefits in its revenue requirement in Case No. ER-2012-0166, subject to true-up and EM&V. (Rebuttal Testimony of Philip Mosenthal).

B. Should the Commission allow Ameren Missouri to collect, after the three-year program plan is concluded, a portion of net benefits as an incentive (pursuant to a sliding scale dependent upon MWh achievement levels – with percentage 4.8% of net benefits if energy savings achieved equal 100% of Commission approved three-year energy (MWh) savings target)?

NRDC's Position: No. NRDC supports allowing Ameren Missouri to collect a portion of net benefits as an incentive. However, Ameren Missouri's proposed incentive is excessive in comparison to those in other jurisdictions and should be reduced as described in Philip Mosenthal's Rebuttal Testimony. This incentive should not provide 4.8% of net benefits if energy savings achieved equal 100% of Commission approved three-year energy (MWh) savings targets. (Rebuttal Testimony of Philip Mosenthal).

C. Should the award levels proposed by Ameren Missouri as depicted in Figure 2.5 of Ameren Missouri's MEEIA report and the resulting percentages be approved?

NRDC's Position: No. NRDC supports allowing Ameren Missouri to collect a portion of net benefits as an incentive. However, this incentive should be reduced from the incentive that Ameren Missouri proposed in Figure 2.5 of its MEEIA report. NRDC proposes a different design for Ameren Missouri's performance incentive as described in Philip Mosenthal's Rebuttal Testimony. (Rebuttal Testimony of Philip Mosenthal).

D. With regard to items A and B:

i. Should the Commission approve the corrected Technical Resource Manual (TRM) as set forth in the attachment to the surrebuttal testimony of Richard Voytas?

NRDC's Position: NRDC supports, in concept, Ameren Missouri's proposal to use a TRM and further supports the corrections to the TRM as set forth in the attachment to the surrebuttal testimony of Richard Voytas. However, NRDC also identified other issues with the TRM in Philip Mosenthal's Rebuttal Testimony, such as problems with deeming savings from Ameren Missouri's Business Custom program, the need initially for annual review of the TRM by evaluators, and the need for a statewide collaborative to address EM&V issues associated with the TRM. These additional issues should also be addressed before the Commission approves the TRM. (Rebuttal Testimony of Philip Mosenthal).

ii. Should the true-up of the net benefits be based on the number of measures installed using the energy and demand savings values and equations in the approved TRM, meaning the energy and demand savings values and equations in the TRM remain static for the three years of Ameren Missouri's MEEIA programs, with any later revisions to the values and equations in the TRM to be applied on a prospective basis only (not to the operation of the programs during the three-year period proposed in this filing), or should later revisions to the energy and demand savings values and equations in the TRM be applied retrospectively?

NRDC's Position: Revisions to the energy and demand savings values and equations in the TRM should apply prospectively only; however, the energy and demand savings values and equations in the approved TRM should not remain static for the three years of Ameren Missouri's MEEIA programs. A three year period for a TRM that has been insufficiently reviewed is excessive and is an insufficient basis for the very large ratepayer cost exposure for that period. NRDC recommends that a modified TRM be conditionally approved for the program year 2013 and that a review be conducted following completed program evaluations in 2014. NRDC further recommends that future reviews of the TRM reflect the input of an independent EM&V expert as well as provision for substantial input from stakeholders. (Rebuttal Testimony of Philip Mosenthal).

iii. Should the energy and demand savings values and equations included in the TRM be modified after each round of EM&V?

NRDC's Position: Modifications to the TRM should be made when program evaluation results suggest the need for altered values or algorithms or when there is stakeholder agreement that modifications are appropriate. These modified values should be applied prospectively to the next full program year, whether it occurs during the current three-year program period or the next MEEIA program cycle. (Rebuttal Testimony of Philip Mosenthal).

iv. What annual energy and demand savings targets should the Commission approve for the DSM programs? Should the annual energy and demand savings targets be based on assumed net-to-gross (NTG) ratios equal to 1.0 or should they be based on NTG from EM&V from Program Year 2 from Ameren Missouri's prior cycle of programs (i.e., October 2009 to September 2010)? Should the Commission set the Net-to-Gross ration (NTG) ratio for the refrigerator recycling program at .64 and the NTG ratio for all other programs at 1? If not, what NTG ratios should be used? If so, should those ratios be held constant for the three years of the program?

NRDC's Position: NRDC does not support Ameren Missouri's proposal to base annual energy and demand savings targets on gross savings (i.e., assumed NTG ratios equal to 1.0). Instead, NRDC proposes that initially Ameren deem NTG ratios from the most recent prior evaluations for any programs already evaluated and not having undergone major changes that would likely dramatically modify the NTG ratios. For any new programs, or those that have undergone substantial changes or where the market has dramatically changed, the best estimate based on currently available information should be used. This could result from review of similar evaluated programs in other jurisdictions, combined with various experience around the U.S. and expert judgment. As discussed in Philip Mosenthal's Rebuttal Testimony, NRDC further suggests a stakeholder collaborative be created. NRDC recommends this forum be used to agree on initial NTG ratios by program and/or major technology or strategy prior to Ameren beginning its plan. Once these NTG values are established, they would be deemed for use until the end of the program year when new evaluation results are available. These new values would then be used prospectively beginning in the following program year. This approach facilitates review and verification of savings annually and ensures transparency by avoiding mixing different savings values within a program year based on whether a project was recorded before or after a specific evaluation report data. It also provides Ameren time to consider any appropriate program or plan changes for the next program year in light of the new NTG information. (Rebuttal Testimony of Philip Mosenthal).

E. Should the Commission order Ameren Missouri's residential customer charge increase from $8 to $12 or should that determination be reserved for the rate case?

NRDC's Position: The Commission should reject Ameren Missouri's proposal to increase the residential customer charge from $8 to $12/month. Instead, the Commission should allow Ameren Missouri to collect an additional 0.6% of expected net shared benefits to cover its full expected lost margins. This would allow Ameren to collect a total of 16.0% of expected net shared benefits, subject to true-up and EM&V. (Rebuttal Testimony of Philip Mosenthal). (Rebuttal Testimony of Philip Mosenthal).

F. Should the Commission order interest/carrying cost to be paid on over- under-recoveries? If so, should Ameren Missouri's AFUDC rate or its short term interest rate apply?

NRDC's Position: NRDC supports accounting for the time value of money in true ups for over- and under-recovery in order to protect ratepayer as well as utility interests. However, NRDC takes no position on whether AFUDC is the correct interest rate. (Rebuttal Testimony of Philip Mosenthal).

G. Should the Commission grant the variances requested by Ameren Missouri necessary to approve Ameren Missouri's DSIM, as filed?

NRDC's Position: NRDC recommends that the commission approve variances it finds necessary to approve the DSIM plan as modified according to the recommendations contained in the Rebuttal Testimony of Phillip Mosenthal. (Rebuttal Testimony of Philip Mosenthal).

H. Should the rate customers pay for DSM programs approved under MEEIA have a summer and winter component?

NRDC's Position: NRDC takes no position on this issue.

I. Do the Commission's regulations require tariff sheets associated with a DSIM apart from tariff sheets that reflect the DSM programs or base rate schedules that reflect the sums to be collected under the DSIM? If so, what should such a tariff sheets contain? If not, is there a reason that such tariff sheets associated with a DSIM be filed and if so, what should such tariff sheets contain?

NRDC's Position: NRDC takes no position on this issue.

i. What provision relating to true-up of the program expenditures, net shared benefit and the results of a Commission prudence review of the DSM programs should be included in Ameren Missouri's base rate tariffs?

NRDC's Position: NRDC takes no position on this issue.

3. Should a separate line item appear on bills relating to charges for the DSM programs approved under MEEIA? If so, should the phrase "Demand-Side Inv. Recovery" as suggested by Staff or "Energy Efficiency Investment Charge" as suggested by Ameren Missouri be used?

NRDC's Position: Any such line item should not reflect only program costs but the net costs or benefits after subtracting avoided costs resulting from the programs and it should be described as a "demand-side investment result."

A. Should a separate line item appear on bills relating to charges for DSM programs not approved under MEEIA.

NRDC's Position: NRDC takes no position on this issue.

4. Is it appropriate for the Commission to determine what, if any, impact this case has upon Ameren Missouri's requested Rate of Return in Case No. ER-2012-0166, or should any such determination be reserved for the rate case?

NRDC's Position: This issue should be taken up in a rate case if at all.

5. Should the Commission approve Ameren Missouri's Evaluation, Measurement and Verification plans?

NRDC's Position: NRDC's position is that Ameren's EM&V plan is reasonable, but lacks the specificity necessary for full development of an EM&V plan. The Commission should approve the timing and schedule of Ameren's proposed EM&V, and a process whereby the DSM Collaborative proposed in Philip Mosenthal's Rebuttal Testimony further develops the details of the EM&V plan. The Commission should further find that a simple "verification" of measure counts in years 2 and 3 is necessary but not sufficient for complete savings verification in those years. In particular, the Commission should find that Ameren will still need to perform many traditional impact evaluation activities for custom measures. (Rebuttal Testimony of Philip Mosenthal).

6. How should the costs for Ameren Missouri's proposed Low Income Residential program be allocated among the different rate classes?

NRDC's Position: NRDC takes no position on this issue.

7. Should the Commission grant the variances requested by Ameren Missouri, including those discussed in Dan Laurent's surrebuttal testimony, necessary to approve the Company's DSIM as filed, and any other variances necessary if the Commission approves and the Company accepts a DSIM proposal made by the Staff or other parties in this case?

NRDC's Position: NRDC recommends that the commission approve variances it finds necessary to approve the DSIM plan as modified according to the recommendations contained in the Rebuttal Testimony of Phillip Mosenthal. (Rebuttal Testimony of Philip Mosenthal).

8. Should Ameren Missouri track business class program expenditures and energy reductions arising from Ameren Missouri's business DSM programs by rate schedule?

NRDC's Position: NRDC takes no position on this issue.

9. Should the program expenditures and performance payments arising from the Company's business DSM programs be trued-up among rate schedules within the business class of customers, with the results of the true-up to be accounted for in a future rate proceeding?

NRDC's Position: NRDC takes no position on this issue.

10. Should the Stipulation and Agreement filed by Ameren Missouri and Laclede Gas Company on May 11, 2012 be approved?

NRDC's Position: NRDC takes no position on this issue.

11. Should the Commission order the establishment of a statewide and/or Ameren Missouri collaborative(s) that would provide input regarding the possible expansion of Ameren Missouri programs, program design (possibly including co-delivery of programs with gas/water utilities), EM&V, and a state Technical Reference Manual? If the Commission does order that a collaborative(s) be established, can utilities implementing DSM programs under MEEIA be required to provide funding for outside consultants or other reasonable costs of operating the collaborative(s)? If so, should they be required to provide funding for outside consultants or other reasonable costs of operating the collaborative(s)?

NRDC's Position: Yes, the Commission should order the establishment of a statewide DSM collaborative that would provide input regarding the possible expansion or modification of Ameren Missouri programs, program design (possibly including co-delivery of programs with gas/water utilities), EM&V standards and priorities, and a statewide uniform Technical Reference Manual. As explained in Philip Mosenthal's Rebuttal Testimony, NRDC believes the most effective collaboratives are those where either the collaborative as a whole or key non-utility parties are able to retain expert advisors as part of the overall collaborative costs, funded through ratepayer efficiency funds. (Rebuttal Testimony of Philip Mosenthal).