

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

In the Matter of Union Electric Company d/b/a            )  
Ameren Missouri's 2nd Filing to Implement            )            File No. EO-2015-0055  
Regulatory Changes in Furtherance of Energy        )  
Efficiency as Allowed by MEEIA.                        )

**INITIAL POST-HEARING BRIEF OF AMEREN MISSOURI**

**Wendy K. Tatro**, #60261  
Director and Asst. General Counsel  
**Matthew Tomc**, #66571  
Corporate Counsel  
Union Electric Company d/b/a Ameren Missouri  
P.O. Box 66149  
St. Louis, MO 63166-6149  
Phone (314) 554-3484  
Facsimile (314) 554-4014  
[amerenmissouriservice@ameren.com](mailto:amerenmissouriservice@ameren.com)

**James B. Lowery**, #40503  
SMITH LEWIS, LLP  
Suite 200, City Centre Building  
111 South Ninth Street  
P.O. Box 918  
Columbia, MO 65205-0918  
Phone (573) 443-3141  
Facsimile (573) 442-6686  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)  
[giboney@smithlewis.com](mailto:giboney@smithlewis.com)

**L. Russell Mitten**, #27881  
BRYDON, SWEARENGEN & ENGLAND, P.C.  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102-0456  
Phone (573) 635-7166  
Facsimile (573) 634-7431  
[rmitten@brydonlaw.com](mailto:rmitten@brydonlaw.com)

**Attorneys for Union Electric Company  
d/b/a Ameren Missouri**

## TABLE OF CONTENTS

I. INTRODUCTION .....	1
II. LAW AND AUTHORITY .....	10
III. THROUGHPUT DISINCENTIVE – NET SHARED BENEFITS MODEL .....	16
IV. PERFORMANCE INCENTIVE.....	24
V. CONCLUSION.....	27
CERTIFICATE OF SERVICE .....	29

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

In the Matter of Union Electric Company d/b/a            )  
Ameren Missouri’s 2nd Filing to Implement            )            File No. EO-2015-0055  
Regulatory Changes in Furtherance of Energy        )  
Efficiency as Allowed by MEEIA.                        )

**INITIAL POST-HEARING BRIEF OF AMEREN MISSOURI**

**I. INTRODUCTION**

Ameren Missouri (“Ameren Missouri” or “Company”) wants to continue providing energy efficiency programs in its service territory; that is why the Company chose to file an application under the Missouri Energy Efficiency Investment Act (“MEEIA”) to request that the Missouri Public Service Commission (“Commission”) permit it to do so. Ameren Missouri continues to utilize a net-shared benefits model as a foundation for its 2016-2018 Energy Efficiency Plan (“Plan”) because the customer benefits that these programs provide exceed their costs. Further, the Company recognizes the value of stakeholder input and, accordingly, has reached a compromise joint position with a diverse group of parties in this case as part of its good faith efforts to resolve the controversies in this proceeding. As a result of that compromise, the Company has materially modified its Plan. These modifications include a 37 percent increase in the megawatt-hour ("MWh") targets for the portfolio, a 58 percent increase in the budget for the low-income program, several enhancements to programs offered to customers and additional features designed to address concerns raised by certain parties regarding throughput disincentive recovery and the performance incentive included in the Plan.

Nearly every aspect of the Company’s original Plan, including program goals, program measures, and the throughput disincentive and performance incentive mechanisms were

modified by the settlement Ameren Missouri reached with several parties having diverse interests: the Natural Resources Defense Council (“NRDC”), a nationally recognized environmental action group; United for Missouri (“UFM”), a group that advocates on behalf of free market principles; the Missouri Department of Economic Development - Division of Energy (“DE”), an agency responsible for state energy policy in Missouri; and Kansas City Power and Light Company (“KCPL”), another large electric utility operating in Missouri. That settlement is memorialized in the Non-Unanimous Stipulation dated June 30, 2015 (“June 30 Stipulation”), which now represents the joint position of the signatory parties.<sup>1</sup>

The June 30 Stipulation not only addresses the specific concerns of the signatory parties, but offers compromise positions based on the criticisms contained in testimony filed by several non-signatory parties as well. For example, it includes meaningful modifications to the demand-side investment mechanism (“DSIM”) proposed as part of the original Plan filing, greatly expands energy efficiency programs available to multi-family, low-income residents and building owners, and greatly increases MWh savings. With respect to the low income issues, the Company endeavored to address issues raised by the National Housing Trust (“NHT”) and the Tower Grove Neighborhood Association (“TGNA”), parties that Ameren Missouri worked closely with in developing the language contained in the June 30 Stipulation.<sup>2</sup> With respect to changes to the DSIM, the June 30 Stipulation modifies the throughput disincentive – net shared benefits mechanism (sometimes called the “TD-NSB” mechanism) to address issues related to rate case parameters and their effect on the net benefits utilized in the TD-NSB mechanism and

---

<sup>1</sup> Because Staff, the Office of the Public Counsel, and other parties objected to the June 30 Stipulation under 4 CSR 240-2.115(2)(D), the agreements memorialized in the Stipulation became the joint position of the signatory parties. Effectively, the terms of the June 30 Stipulation now constitute modifications to Ameren Missouri’s original Plan and, as such, the original Plan as modified is hereinafter referred to as the “modified Plan.”

<sup>2</sup> TR. 709 (Cross of Ms. Annika Brink).

to modify the performance incentive component of the DSIM; these modifications are intended to address additional issues raised by Staff and the Office of the Public Counsel.

As set forth in this Initial Brief, the modified Plan, incorporating the changes made by the June 30 Stipulation, constitutes a reasonable Plan developed with input from a diverse group of stakeholders that allows for the continued offering of all cost-effective, demand-side resources in Ameren Missouri's service territory through 2018 that are beneficial to customers, the environment, and the State of Missouri.

Today, as a result of the Commission's approval of its MEEIA cycle 1 Plan, Ameren Missouri is experiencing substantial success in helping customers use less energy (and thus save money), and the framework that is in place allows the Company to continue do so because it aligns the Company's interests with helping its customers use less energy. Moreover, it allows the Company to value demand-side resources equally with investments in traditional supply and delivery infrastructure. Approval of the modified Plan now before the Commission would reflect the Commission continuing to move forward with energy efficiency in a manner that will provide real and valuable benefits to customers.<sup>3</sup> MEEIA recognizes that it is beneficial, so long as the requirements of MEEIA are met, prospectively, for the role of investor-owned utilities to be more than just building power plants and selling electricity. As environmental regulations continue to impose new challenges and technology advances, utilities like Ameren Missouri have the opportunity to help customers and communities find energy solutions to real and complicated problems, and in doing so, the Company is enabled to go beyond merely providing energy to satisfy customers' demand for electricity. Ameren Missouri firmly believes that with the right

---

<sup>3</sup> In contrast, certain parties in this proceeding have offered as a counter-proposal a Non-Unanimous Stipulation dated July 7, 2015, as amended July 8, 2015. Ameren Missouri opposes that proposal because it contains provisions that the Company cannot support and are simply not in compliance with the requirements of MEEIA.

framework, energy efficiency can provide a sound resource alongside traditional supply-side resources that meet the requirements of customers as well as investors. But, to do so requires that traditional cost-of-service regulation in place in Missouri be adjusted to satisfy both those objectives. MEEIA specifically provides the Commission with the authority to do just that.

With respect to its modified Plan, the Company requests the Commission's authorization to continue offering energy efficiency incentives to customers in a manner largely consistent with the framework already established for MEEIA cycle 1. That framework satisfies both regulatory and business objectives. When it approved the Company's first Application,<sup>4</sup> the Commission approved a framework that meets the requirements of MEEIA and also provides a meaningful foundation for cost recovery, removal of the throughput disincentive and recovery of lost earnings opportunities that pursuing energy efficiency would otherwise cause. By establishing this framework, the Commission allows utilities to consider demand-side resources alongside the supply-side resources it uses to meet customer electricity demand.<sup>5</sup> Additionally, in implementing the first wave of energy efficiency following the General Assembly's adoption of MEEIA, the Company has grown an organization capable of delivering highly-effective programs to customers with the assistance of contractors operating within its service territory through a network of trade allies.<sup>6</sup> The Company has been clear that a consistent framework for energy efficiency is necessary for this energy efficiency organization to remain stable and maximize benefits for customers.<sup>7</sup>

The framework that was established by this Commission when it approved Ameren Missouri's MEEIA cycle 1 Application enabled Ameren Missouri to provide highly cost-

---

<sup>4</sup> File No. EO-2012-0142.

<sup>5</sup> File No. EO-2012-0142, Order dated August 1, 2012.

<sup>6</sup> TR. 387-88.

<sup>7</sup> *Id.*

effective energy efficiency services to customers. In this case, the Company asks the Commission to build upon the foundation it laid in 2012 with improvements and modifications set forth in the modified Plan and, in doing so, provide meaningful benefits in the form of economic savings to customers for years to come.

The traditional cost-of-service ratemaking historically employed in Missouri has clear and negative implications for utilities considering using energy efficiency as a resource. Existing ratemaking practices and rate designs establish a “throughput incentive,” which is an inherent incentive for electric utility companies to sell more electricity.<sup>8</sup> The situation is pretty straightforward. Ameren Missouri, like any other investor-owned utility in the state, earns more revenue the more electricity it sells. To cover its costs, the Company must rely upon rates which are based on a historic test year that includes test year billing units adjusted to reflect normal weather.<sup>9</sup> The Company’s rates are based on a rate design philosophy that allocates a significant portion of fixed costs, as well as all variable costs, to the volumetric component of the rates. To the extent customers take advantage of energy efficient products and technology, usage is reduced, as is the amount of revenue the utility collects through volumetric rates. This decline in usage and revenue prevents the utility from receiving rate revenues sufficient to fully cover its fixed costs and, if not properly addressed, takes away any benefit whatsoever a utility could realize, at times, from regulatory lag.

Moreover, the test year includes fixed values based upon historical account balances. The cost of goods and services rises over time with inflation, as does the cost of doing business. Rates remain constant until a rate case is filed, but consumption and costs are dynamic. Under the traditional regulatory model, any growth in sales of electricity could partially or fully offset

---

<sup>8</sup> Ex. 100, Plan, p. 29.

<sup>9</sup> *See Id.*, p. 28-39.

cost increases – energy efficiency however pushes in the other direction. Thus, for a company that sells power like Ameren Missouri, it is inimical to the Company’s business model to spend hundreds of millions of dollars to induce customers to use less electricity. This is the throughput disincentive problem that, although resolved for MEEIA cycle 1, has re-appeared in the current case.

Both competing Stipulations recognize the need for throughput disincentive recovery and there is a great deal of agreement about the throughput disincentive concept.<sup>10</sup> Nonetheless, the mechanism to remedy the throughput disincentive problem is the most significant controversy in this case. For a mechanism to successfully align financial incentives of the Company while helping customers use energy more efficiently, the manner in which the Company receives rate revenue to cover its fixed costs of providing service must be augmented or otherwise the Company is impairing its opportunity to earn a fair return. MEEIA recognizes this fact in its express language and the Commission did as well when it approved Ameren Missouri’s TD-NSB mechanism in MEEIA cycle 1 in 2012. Essentially, the same mechanism was proposed in the original Plan in this case, modified to address stakeholder concerns identified in this case.

Similar to the MEEIA cycle 1 case, the TD-NSB is a cornerstone of Ameren Missouri’s modified 2016-2018 Plan. It is critical because it neutralizes the earnings erosion caused by implementing an energy efficiency program and allows recognition of the TD-NSB revenues which are designed to remove the throughput disincentive. Ameren Missouri, as a subsidiary of a publicly-traded company, speaks to investors through its financial statements which reflect its

---

<sup>10</sup> Both Stipulations include a mechanism for throughput disincentive recovery. Both Stipulations seem to also rely on similar inputs. The Non-Utility Stipulation is entirely devoid of details as to how the actual calculations will work and no workpapers or calculations were submitted in supplemental testimony as only a conceptual description was provided.



income and earnings. Those financial statements are closely audited and subject to scrutiny by the Securities and Exchange Commission; therefore, they must present an accurate depiction of the accrued earnings of the Company such that investors have a clear picture of the Company's present and prospective financial performance. Over the past decade, reforms have been enacted such that publicly-traded companies are scrutinized in order to prevent the financial equivalent of "counting your chickens before they hatch."<sup>11</sup> The purpose is to prevent bad actors in the market from giving investors an unrealistic perspective on the financial position of an investment. To present earnings to investors, a public company must be able to recognize them on their financial statements. The Generally Acceptable Accounting Principles ("GAAP") govern when revenue may be recognized on a financial statement.<sup>12</sup> The Company's accounting must not only comport with GAAP, but it must do so in a manner that sustains the scrutiny of an independent auditor.<sup>13</sup>

It is the consequence of the GAAP rules that gives rise to the largest controversy presented in this case. Staff and OPC advocate for the use of retrospective net-to-gross estimation<sup>14</sup> for a significant portion of the throughput disincentive mechanism designed to make the Company whole for lost energy sales.<sup>15</sup> That estimation would be conducted by an Evaluation, Measurement and Verification ("EM&V") contractor and would be subject to litigation before the Commission. The EM&V process is subjective and different contractors can

---

<sup>11</sup> See TR. 871-72 (Oligschlaeger Cross.)

<sup>12</sup> Ex. 101, Surrebuttal Testimony of Ms. Lynn Barnes, p. 14-19.

<sup>13</sup> Ex. 109, Surrebuttal Testimony of Mr. Clifford Hoffman, p. 5-6.

<sup>14</sup> The use of an EM&V contractor can be for prospective and retrospective purposes. When used retrospectively, an evaluator estimates the net savings compared to the gross savings to determine the relative benefits in contrast to their cost (ie, net-to-gross savings). The savings are estimated using basic assumptions as well as statistical calculation methodologies as the analysis attempts to compare what was experienced to some measure of *what would have happened* in the absence of the programs. Both Stipulations call for the use of annual EM&V analyses and findings; however, the Company uses EM&V data only prospectively for the TD-NSB and only retrospectively for the purposes of determining the performance incentive award.

<sup>15</sup> Non-Utility Stipulation, p. 8.

easily come to different conclusions.<sup>16</sup> Based upon the advice of the nationally-recognized public accounting firm that must certify Ameren Missouri's financial statements, the Company would be unable to record the lost revenues that are intended to address the throughput disincentive as and when the energy efficiency programs are operated. This means that the operation of the programs, in real time, would degrade the Company's earnings.

As Ameren Missouri witness William R. Davis testified, if the EM&V process is retroactively applied such that revenues associated with the throughput disincentive cannot be recognized, the Company will experience cumulative negative earnings for several years, assuming that other flaws were solved (which they have not been).<sup>17</sup> Further, given the subjectivity in the process, there would be substantial litigation cost and uncertainty as to whether the Company would ever be made whole at all.<sup>18</sup> Ameren Missouri proposes using a Technical Resources Manual ("TRM") to establish deemed savings values developed using primary market data, including EM&V results, to measure energy savings for the purpose of the TD-NSB.<sup>19</sup> A TRM is commonly used in other jurisdictions,<sup>20</sup> and is presently used in Missouri.<sup>21</sup> Given the importance of GAAP requirements, as discussed above, there is no justification for a departure from the sound policy using the TRM to calculate the TD-NSB in this case.

---

<sup>16</sup> TR. 298 (Redirect of Mr. Voytas).

<sup>17</sup> Ex. 107, Rebuttal Testimony of Mr. William Davis p. 9, l. 11 to p. 10, l. 11.

<sup>18</sup> Further, the Non-Utility Stipulation provides no time value of money for the deferral, and includes confusing provisions regarding "rebasing" that have the effect of preventing certain recoveries once a rate case is filed. At hearing, Staff commented orally that they would drop the "rebasing" element of the Stipulation, but no Amendment has been filed to the Non-Utility Stipulation.

<sup>19</sup> Ex. 100, Plan, p. 61-2.

<sup>20</sup> *See Id.*, p. 68 (Jurisdictions that deem values prospectively for use in measuring energy savings include Iowa, Michigan, Pennsylvania, and New Jersey, to name a few).

<sup>21</sup> *See Generally*, Order Dated August 1, 2012, File No. EO-2012-0142.

Such a result is not consistent with MEEIA's requirement that demand-side investments must be valued equally with supply-side investments<sup>22</sup> because it fails to align the Company's incentives with helping its customers use energy more efficiently.<sup>23</sup> This is because, but for pursuing energy efficiency, the Company's earnings would have been higher.<sup>24</sup> Moreover, if Ameren Missouri were to build a power plant instead of investing in energy efficiency programs, it would be able to place that plant in rate base in a rate case and, thereafter, the return on and of that investment would be reflected as accrued earnings as rates are billed, without any degradation of earnings pending completion of an undefined, uncertain, and subjective process. The inability to recognize earnings pending an uncertain hindsight estimation process would put demand-side resources at a clear financial disadvantage as compared to supply-side investments. This is contrary to MEEIA's goal and the state's policy as reflected in MEEIA, which the Commission is required by law to support by properly aligning the utility's incentives.

While the TD-NSB may be the most contested aspect of the Company's request, it is by no means the only important issue before the Commission in this case. The Company has increased its savings goal over the original stated target by thirty-seven percent. Recognizing that parties like NRDC would like to see even more savings opportunities to be studied and implemented, Ameren Missouri's modified Plan also reflects a new process to explore possible additional savings to benefit customers. Under the modified Plan, a list of measures would be provided that facilitate participation opportunities for almost every segment of Ameren Missouri's customer base from low-income to residential lighting, HVAC, Combined Heat and Power ("CHP"), and small business. The program opportunities for customers are many.

---

<sup>22</sup> Section 393.1075.3.

<sup>23</sup> Section 393.1075.3(2); Ex. 103, Rebuttal Testimony of Ms. Lynn Barnes, p. 6.

<sup>24</sup> Ex. 103, Rebuttal Testimony of Ms. Lynn Barnes.

Ameren Missouri also modified its Plan to allow for full EM&V to determine the performance incentive (if any) Ameren Missouri is entitled to receive. The Plan has also always allowed the opportunity for a full prudence review.<sup>25</sup>

During the hearing in this case, several witnesses commented on the benefits of decoupling to advance energy efficiency policy in Missouri, and thus eliminate much of the controversy regarding the throughput disincentive.<sup>26</sup> Ameren Missouri looks forward to discussions concerning the benefits of a decoupling mechanism and notes that the Commission recently opened a workshop docket to facilitate such discussions. However, the Commission and the parties to this case must contend with the facts and regulatory framework reflected in current Missouri law. The modified Plan, reflecting the modifications in the June 30 Stipulation, presents a fair and constructive compromise that builds upon the prior successful framework that is at work today providing real benefits and opportunities to Missouri customers. While decoupling may come to fruition in the future, the Commission should not walk back progress already made toward MEEIA's objective of achieving all cost-effective energy efficiency savings.

## **II. LAW AND AUTHORITY**

Below is a summary of the MEEIA law and related authority, including the Commission's demand-side program rules and regulations and the most recent order approving an Ameren Missouri MEEIA-compliant Plan. With respect to the Commission's rules, a summary of the required waivers is also provided in this portion of the Initial Brief.

---

<sup>25</sup> Ex. 100, Plan, p. 28; 4 CSR 240.093(10).

<sup>26</sup> TR. 444 (Cross of Mr. Wolf); TR. 123-24 (Counsel for Renew Missouri); TR. 576 (Cross of Mr. Gupta).

Under the traditional regulatory framework in Missouri, utilities are not permitted to offer special rebates, incentives, or other preferential treatment to customers that purchase what would otherwise be unregulated products and services.<sup>27</sup> Unlike traditional monopoly utility service where rate base plant assets are used to serve customer demand, utility-sponsored energy efficiency programs are essentially marketing efforts undertaken through the use of financial incentives to induce customers to purchase energy efficient appliances and services from competitive suppliers in what would otherwise be an unregulated consumer market.<sup>28</sup> Under MEEIA and with Commission approval, electric utilities are *permitted* to offer demand-side programs and offer special incentives to participating customers based upon a policy that seeks to put demand-side initiatives on equal footing with traditional supply-side resources.<sup>29</sup> In order to accomplish that equal footing, the enactment requires the Commission to do three things:

- (1) Provide timely cost recovery for utilities;
- (2) Ensure that utility financial incentives are aligned with helping customers to use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
- (3) Provides timely earnings opportunities associated with cost-effective measurable and verifiable savings.

MEEIA is permissive in nature and, by its express language, does not require utilities to offer demand-side programs.<sup>30</sup> MEEIA allows the offering of demand-side programs only so long as those programs are approved by the Commission, result in demand or energy savings,

---

<sup>27</sup> See 393.140(12) RSMo. (under traditional Missouri regulatory requirements, electric utilities are required to separate electric utility plant operations from other types of business, such as appliance sales and services, whereas the offering of MEEIA programs necessitates the intermingling of these services). See also 393.130 RSMo. (energy efficiency programs offer discounts, rebates and other financial inducements to some but not all customers, which would be expressly prohibited under Missouri's general regulatory requirements for electric utilities absent the permissive authority pursuant to MEEIA).

<sup>28</sup> Ex. 100, Plan, p. 15-16.

<sup>29</sup> 393.1075.3 RSMo.

<sup>30</sup> 393.1075.4 RSMo.

and are beneficial to all customers.<sup>31</sup> The Commission is thus responsible for reviewing the evidence and making those findings that are required to approve demand-side programs.

Reflecting the permissive nature of MEEIA, the legislation enables the Commission to “...further encourage investments in demand-side programs...” by developing cost-recovery mechanisms designed to allow Missouri electric utilities to recover cost in a manner not permitted under Missouri’s traditional cost-of-service ratemaking requirements.<sup>32</sup> The rule specifically allows ratemaking mechanisms to provide for expense recovery, rate design modifications, and retention of a share of net benefits associated with energy efficiency.

The Commission promulgated rules to implement MEEIA. The Commission’s rules provided for the ratemaking recovery through a mechanism designed to allow cost recovery between rate cases. The rule provides default parameters that govern the operation of the mechanism, and include provisions that allow lost revenue and incentive recovery. See 4 CSR 240-20.093. In State ex rel. Public Counsel vs. Public Service Commission, the Missouri Court of Appeals (Western District) upheld the Commission’s MEEIA rules, finding that MEEIA allows for adjustment between rate cases, and also finding that utility lost revenues are a cost within the context of MEEIA.<sup>33</sup>

Similar to MEEIA cycle 1, the Company asked for the following variances from the MEEIA rules in the Application filed in this case:

**4 CSR 240-20.093** (1)(A), (1)(EE), (1)(C), (1)(M) (5), (1) (N), (1)(O), (1)(P), (1)(Q), (2)(H), (2)(L), (2)(M), (3), (4), (5)(A), (7)(E);

**4 CSR 240-20.094** (1)(A), (1)(C), (1)(J)(5), (1)(L), (1)(N), (1)(Z), (2), (3) (A), (4) (A)

---

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* (5)

<sup>33</sup> 397 S.W.3d 441, 450-52 (W. Dist. 2015).

**4 CSR 240-3.163 (1)(A), (1)(I), (1)(F)(5), (1)(H), (1)(J)**

**4 CSR 240-3.164 (1)(A), (1)(J), and (2)(C)(9);**

**4 CSR 240-3.150**

**4 CSR 240-Chapter 14**

The specific relief requested and justifications for the requested waivers are detailed in the Company's Application filed on December 22, 2014. The variances requested are for the purposes of administering the MEEIA program pursuant to the modified Plan. The modified Plan presents an opportunity to meet the policy defined by the MEEIA legislation and promotes the adoption of demand-side programs that offer cost-effective energy savings that benefit all customers. Accordingly, the variances requested are in furtherance of cost-effective benefits to customers and are consistent with the state policy as set forth in the MEEIA enactment. Moreover, the Commission granted similar variances in Ameren Missouri's last MEEIA Plan filing.<sup>34</sup> The variances requested should thus be granted. The MEEIA rules also provide for 120-day expedited ruling on the application.<sup>35</sup> The Company voluntarily waived this time limitation in order to provide additional time to work with other parties to attempt to reach a compromise.

The modified Plan reflects the identification of targeted savings of 583,563 megawatt-hours ("MWh") over the years 2016-2018.<sup>36</sup> This goal represents an increase of approximately thirty-seven percent over the initial Plan savings target (426,382 MWh).<sup>37</sup> The initial Plan included a broad-based portfolio of programs. Residential Programs included Lighting, Efficient Products, HVAC, Appliance Recycling, Low-Income, and Energy Efficiency "Kits" (raising awareness of consumption). Business Programs included Standard Incentive, Customer

---

<sup>34</sup> Order dated August 1, 2012, File No. EO-2012-0142, p. 5.

<sup>35</sup> 4 CSR 240-20.094(3).

<sup>36</sup> June 30 Stipulation, p. 3.

<sup>37</sup> Ex. 100, Plan, p. 6 (adding the three years together to calculate cumulative energy savings total).

Incentive, Retro-Commissioning (involving complex control systems), and New Construction. The modified Plan reflects additional energy efficiency measures and opportunities, including additional Low-Income, Multi-Family funding (\$10.75 million in total) and programs, Small Business Direct Install, Public Facilities as participants,<sup>38</sup> Combined Heat and Power, and additional compact fluorescent light (“CFL”) bulbs for 2016. Additionally, the Company has agreed to work collaboratively to identify additional cost-effective energy savings opportunities between January and April of 2016.<sup>39</sup>

The savings estimates used in the original Plan were based upon the identification of realistic, achievable savings pursuant to a potential study that commenced in 2012. That study was performed by Enernoc (now AEG) under the direction of Ms. Ingrid Rohmund, an experienced energy efficiency expert who has performed more than fifty potential studies across North America in just the last five years.<sup>40</sup> The study Ms. Rohmund performed for the Company was conducted using a “bottom-up analysis approach” that relied extensively on primary sources of information specific to Ameren Missouri’s service territory.<sup>41</sup> The study was used to develop the realistic achievable potential (“RAP”) and the RAP savings targets were used as the basis upon which to incorporate into the Company’s Integrated Resource Planning (“IRP”) process.<sup>42</sup> As explained in the original Plan, savings targets were substantially lower than those associated with Ameren Missouri’s MEEIA cycle 1 Plan because of three factors: increased federal

---

<sup>38</sup> It should be noted that public facilities were always “eligible” to participate to the extent they are Ameren Missouri customers, but the practical implication of branding them “free riders” by virtue of governmental mandates for energy efficiency acted as a barrier to targeting governmental participation. *See* TR. 341-42 (Redirect of Mr. Laurent).

<sup>39</sup> June 30 Stipulation, p. 9-10.

<sup>40</sup> Ex. 111, Surrebuttal Testimony of Ms. Ingrid Rohmund, p. 2.

<sup>41</sup> *Id.*, p. 6-7.

<sup>42</sup> Ex. 104 Surrebuttal of Ms. Hande Berk, p. 3-6; Ex. 106, Surrebuttal of Mr. Steven Wills (adopted by Mr. William Davis), p. 17.



efficiency standards, 2013 EM&V measure level savings estimates, and lower avoided cost projections.<sup>43</sup>

Recognizing that the lower savings targets (as compared to the first cycle of programs) caused considerable concern among several stakeholders, Ameren Missouri listened to those concerns and agreed to increase overall savings targets as part of the June 30 Stipulation.<sup>44</sup> These increased targets also raise the bar with respect to the Company's proposed performance incentive opportunity – i.e., they increase the energy savings goal that must be achieved before an incentive is awarded.<sup>45</sup> In addition, the June 30 Stipulation increases the budget necessary to achieve the new energy savings targets. As revised, the Company proposes a three-year budget of \$197,209,859. The Company has also set forth a process by which parties will convene and discuss strategies to find additional savings that will increase net benefits to customers. Additional programs identified will not raise the targeted savings pursuant to the June 30 Stipulation. Any additional net benefits will be counted for the purposes of the Company's performance incentive opportunity,<sup>46</sup> and accordingly, there is a strong incentive for Ameren Missouri to undertake any additional savings opportunities identified.

As the record clearly demonstrates, Ameren Missouri's proposed Plan provides benefits to *all* customers by following the policy intent of MEEIA to allow energy efficiency to be used as a resource valued in the same manner as a traditional supply-side resource. As noted above, avoided costs have declined since the last MEEIA filing, but that fact does not in and of itself negate the benefit that continued energy efficiency offers to *all* Ameren Missouri customers. To ensure that energy efficiency does serve (and benefit) all customers, the Company has

---

<sup>43</sup> Ex. 100, Plan, p. 23.

<sup>44</sup> Ex. 110, Supplemental Testimony of Mr. Dan Laurent, p. 4-5.

<sup>45</sup> Ex. 105, Supplemental Testimony of Mr. William Davis, p. 11.

<sup>46</sup> *Id.*; June 30 Stipulation, p. 13-14.

purposefully included it as a resource utilized in its IRP preferred plan as one of several choices for resources used to meet customer prospective demand.<sup>47</sup> Avoided costs offer a perspective on what forward-looking prices may bring, and they are an important consideration in resource planning. But in the broader, long-term view, energy efficiency can also forestall the need to build some increment of supply-side resources down the road. In this manner, it is critical that any “... view of customer benefits be grounded in the IRP...”.<sup>48</sup> As Ameren Missouri witness Ms. Hande Berk explained in detail, energy efficiency (under the RAP portfolio) provides a favorable option for customers when compared with the levelized energy costs of other resources to meet demand.<sup>49</sup> Mr. Berk further explained that energy efficiency offers the unique benefit of flexibility as prospective environmental regulations loom on the horizon.<sup>50</sup>

### **III. THROUGHPUT DISINCENTIVE – NET SHARED BENEFITS MODEL**

In this case, Ameren Missouri seeks approval of a TD-NSB mechanism that is substantially similar to the one approved by the Commission in the Company’s MEEIA cycle 1 Plan and presently in effect today.<sup>51</sup> It is premised upon a shared net benefits model designed to align the utility’s and customers’ incentives.<sup>52</sup> As explained below, the mechanism has been modified during the course of this proceeding (as part of the June 30 Stipulation) to utilize a two-tiered approach in response to criticisms offered by Staff with respect to rate case timing and fixed costs increases associated with the outcomes of those rate cases. The modification makes it

---

<sup>47</sup> Ex. 106, Surrebuttal Testimony of Mr. Steven Wills (Adopted at hearing by Mr. Davis), p. 21.

<sup>48</sup> *Id.*

<sup>49</sup> Ex. 104, Surrebuttal Testimony of Ms. Berk, p. 8-10 (See Figure 1, p. 11).

<sup>50</sup> *Id.*, p. 12.

<sup>51</sup> Ex. 100, Plan, p. 29.

<sup>52</sup> Ex. 105, Supplemental Testimony of Mr. William Davis, p. 7-9.

unlikely that any material “over or under-recovery” caused by a difference between actual rate case timing (and outcomes) and the up-front rate case assumptions would occur.<sup>53</sup>

As has been noted multiple times in this case, MEEIA requires that the Commission ensure the Company’s financial incentives are aligned with helping customers use energy more efficiently.<sup>54</sup> As stated earlier, presently, Ameren Missouri operates under a regulatory framework that contains a “throughput incentive”; that is, the more electricity Ameren Missouri sells, the more revenue it receives. And as revenue increases, so does the Company’s opportunity to increase its earnings. By offering customer incentives to adopt efficient measures (such as lighting, appliances, and building improvements), the Company helps its customers save energy. However, without modification to its rates to reflect those reduced sales, Ameren Missouri would lose earnings as compared to when it does not pursue energy efficiency.<sup>55</sup> It is antithetical to the fiduciary duty the Company owes to its investors to deliberately cause sales and earnings to decrease from what they would otherwise be. Consequently, there exists a barrier to energy efficiency for Missouri electric utilities like Ameren Missouri.<sup>56</sup> The TD-NSB model is designed to reverse this effect and eliminate this barrier by allowing the utility to be indifferent to pursuing energy efficiency or not pursuing energy efficiency, at least in terms of the revenues the Company would receive in either case.

As noted above, the TD-NSB mechanism is based upon a net shared benefits model. The concept behind this model is to accomplish the proper alignment of incentives – the net benefits from the implementation of the offered energy efficiency programs are shared between the

---

<sup>53</sup> *Id.*; June 30 Stipulation, p. 13-14.

<sup>54</sup> 393.1075.3 RSMo.

<sup>55</sup> Ex. 103 Rebuttal Testimony of Ms. Lynn Barnes, p. 3;12.

<sup>56</sup> *Id.*

Company and its customers.<sup>57</sup> Under a shared benefits approach, Ameren Missouri recovers the throughput disincentive by retaining a percentage of the overall net benefits. In this manner, the Company is made whole only to the extent that there are benefits to customers.

Throughout the case, the TD-NSB was criticized by Staff and other parties because it relies upon values from a TRM to measure and verify energy savings. Contrary to the mechanism in place for MEEIA cycle 1, Staff proposed to make the throughput disincentive contingent upon a net-to-gross retrospective estimation of savings conducted by an EM&V contractor annually.<sup>58</sup> Under the Company's modified Plan, the TD-NSB calculated energy savings would utilize a TRM that is based upon EM&V results, as it incorporates primary data specific to Ameren Missouri from the 2014 EM&V report<sup>59</sup> and, therefore, will reflect only those measures actually implemented, just as was done in cycle 1.<sup>60</sup> In contrast, using *retrospective* EM&V estimation techniques would cause Ameren Missouri to reflect less earnings than it would otherwise have as and when the programs operate. As Ameren Missouri witnesses Lynn Barnes and Clifford Hoffman testified, the Company cannot record earnings that are contingent upon a future EM&V hindsight estimation.<sup>61</sup> This inability to recognize revenues is a barrier to implementing energy efficiency and, hence, Ameren Missouri's use of the TRM approach is critical to the delivery of the large scale savings that are called for pursuant to the modified Plan.

Another key controversy in the case related to criticism of the Company's use of a TD-NSB that relies upon assumptions concerning rate case timing and other parameters. This issue arises because a rate case will reset billing units upon which rates are set based on the usage

---

<sup>57</sup> Ex. 107 Supplemental Testimony of Mr. William Davis, p. 7-9.

<sup>58</sup> Ex. 103, Rebuttal Testimony of Ms. Lynn Barnes, p. 6.

<sup>59</sup> June 30 Stipulation, p. 3 (fn 1).

<sup>60</sup> Ex. 100 Plan, p. 60-61; June 30 Stipulation p. 3 (fn 1); 10-11.

<sup>61</sup> Ex. 109 Surrebuttal Testimony of Mr. Clifford Hoffman, p. 4-6; Ex. 101, Surrebuttal Testimony of Ms. Lynn Barnes, p. 14-19.

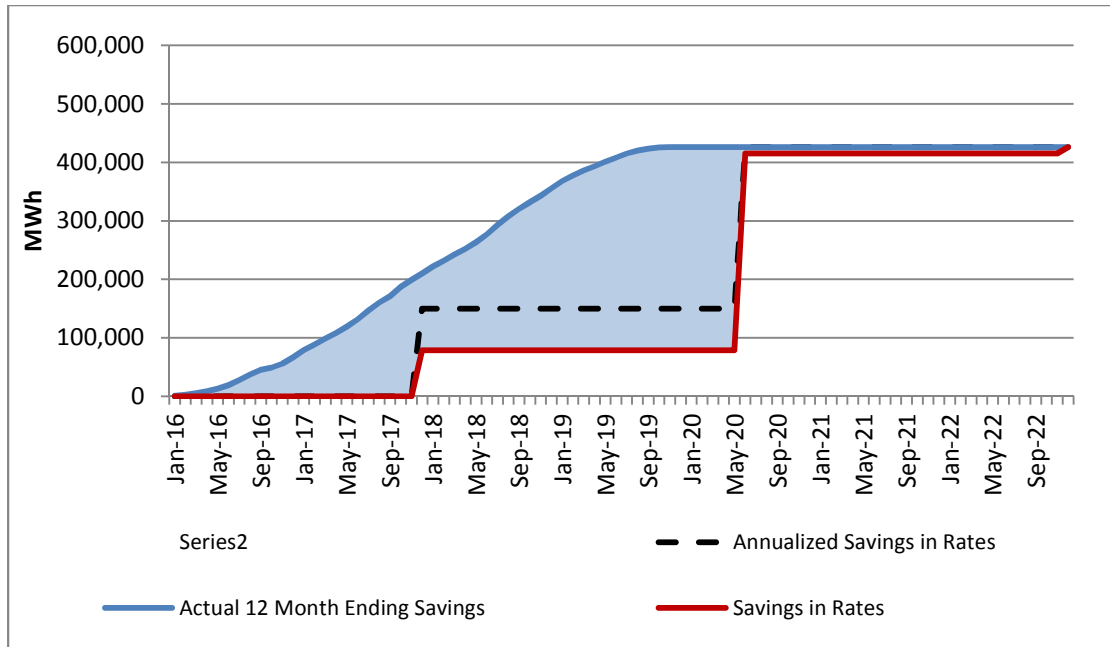
reflected in a historical test year, and thus rate case timing affects the throughput disincentive.<sup>62</sup> To address this concern, the Company modified its proposal to implement a two-tiered approach, as reflected in the June 30 Stipulation.

To understand why the concern existed and how the Company's two-tiered approach addresses that concern, it is important to consider the impact of the timing of rate cases (and other rate case parameters) to understand the impact that energy efficiency has on the rate-setting process. Any efficiency gains during that historic period will be reflected in rates, but only to the extent such efficiency gains are reflected in the billing units used to set rates in each rate case.<sup>63</sup> The rates will not reflect any additional savings between the cut-off date for billing units used in the rate case and the date upon which the rates go into effect. The timing of the rate case, therefore, determines how much energy efficiency throughput disincentive will be collected prospectively. Figure 3.1 in the original Plan illustrates the impact of rate case timing upon the level of throughput disincentive experienced, showing the importance of this adjustment to Ameren Missouri's original Plan.

---

<sup>62</sup> Ex. 105, Supplemental Testimony of Mr. William Davis, p. 3-4.

<sup>63</sup> Ex. 100, p. 37-38.



(Ex. 100, Plan, p. 30, figure 3.1)

As shown above, the majority of the throughput disincentive occurs over roughly a four-year period, with additional minor savings disparities into the future. The timing of rate case filings during this four-year period will shape the relative magnitude of foregone earnings.<sup>64</sup> The TD portion of the TD-NSB is a percentage of the net shared benefits that is set to recover the calculated throughput disincentive created by virtue of implementing energy efficiency. That percentage is impacted by whatever up-front, assumed interval of rate cases and other rate case outcome parameters<sup>65</sup> are incorporated in the calculation. A disparity between the assumed and actual rate case filing timing could cause Ameren Missouri to “under or over-recover” in theoretical terms. The reason the descriptor “theoretical” is used is because it is simply impossible to know with certainty what would have happened if the Company had not pursued energy efficiency. Nonetheless, in light of this concern, the Company revised its TD-NSB to reflect two tiers of recovery.

<sup>64</sup> *Id.*

<sup>65</sup> And by rate case outcomes, although rate case interval is by far the most important parameter.

The first tier is a base percentage of net benefits that reflects what would happen if the Company were to rapidly file rate cases as soon as it realistically could, and if the portion of a rate increase attributable to fixed cost increases was low by historic standards. In terms of rate case timing, the fastest rate cases could be filed is about fifteen-month apart due to the time each case takes to prepare and litigate.<sup>66</sup> In terms of rate increase percentages driven by fixed-cost increases, a percentage of just one percent was used. The first tier will not be retrospectively adjusted based upon actual rate case timing and outcomes, but because it uses conservative assumptions, there is little chance of any material “over-recovery” or “under-recovery.” As Staff admits, the two-tiered approach has essentially addressed the concerns Staff had earlier expressed regarding the impact of rate case assumptions on the TD-NSB calculation.<sup>67</sup>

The second tier is an additional percentage (if any) if there is actually a longer time span between rate cases or different rate case outcomes than assumed.<sup>68</sup> The second tier will be trued-up later based on actual rate case outcomes.<sup>69</sup> It also will address an uneven interval (such as one case filed in eighteen months followed by another case filed in twenty-two months).

As revised, the Company’s two-tiered TD-NSB mechanism is designed to accomplish two things: (1) eliminate the financial barrier to energy efficiency, and (2) be fair to customers in a manner that sustains and enhances customer ability to save energy. The TD-NSB neutralizes the impact to the Company’s financial statements by allowing the Company to recognize earnings in a timely manner by incorporating a measured and verified amount of forgone

---

<sup>66</sup> Ex. 105, Supplemental Testimony of Mr. William Davis, p. 8-10.

<sup>67</sup> TR. 853, ll. 7-23 (Oligschlaeger Cross).

<sup>68</sup> *Id.*

<sup>69</sup> Depending on timing, some assumptions may be necessary for the determination of the second tier, but the uncertainty about those assumptions should be minor. *See* Ex. 105, Supplemental Testimony of Mr. William Davis, p. 8-10.

electricity sales.<sup>70</sup> The TD-NSB is based on a net shared benefits concept -- a concept specifically recognized by the MEEIA law itself -- and further has been improved to eliminate any impact associated with rate case timing and other rate case parameter assumptions.<sup>71</sup> Further, the TD-NSB provides a beneficial discount to customers because it is a present-value calculation designed to match the time of recoveries as close as possible to the three-year program term. It incorporates a healthy discount rate that gives customers the benefit of the Company's weighted, average cost of capital.<sup>72</sup> The majority of recoveries occur over a four-year period, thus offering customers a roughly 7.5%<sup>73</sup> cost-of-money discount which is highly beneficial to customers. Accordingly, the record establishes that the TD-NSB in the modified Plan is reasonable and appropriate.

Several of the parties opposed to the June 30 Stipulation offered testimony criticizing the TD-NSB on several grounds, but specifically expressed concerns related to how EM&V contractors are used.<sup>74</sup> To be clear, both competing Stipulations in this case would call for the use of annual EM&V reporting, so the controversy is not *whether* EM&V should be used, but *how* it is used. One key flaw in the criticisms of the TD-NSB is the fallacy that only retrospective EM&V is appropriate to measure the "actual experience" for customers versus what would have happened had there been no energy efficiency.<sup>75</sup> This argument is based on a false premise, because at the time the evaluation is completed *no one can ever truly know with certainty what would have happened* if Ameren Missouri never implemented nearly \$200 million

---

<sup>70</sup> Because of the very conservative assumptions used, any amounts that may appear in tier two would be so small that they would not create a financial disincentive.

<sup>71</sup> Ex. 105, p. 10.

<sup>72</sup> Ex. 107, Rebuttal Testimony of Mr. William Davis, p. 8.

<sup>73</sup> WAC will change from time to time, depending on the cost of debt and equity used to set rates. Present Ameren Missouri WAC (used to set rates) is 7.6% pursuant to outcome of the last rate case (File No. ER-2014-0258).

<sup>74</sup> See e.g., TR 64 (Staff Opening Statement).

<sup>75</sup> See e.g. TR 83, (Opening Statement of OPC).



dollars into energy efficiency incentives. EM&V uses statistical sampling, and free ridership, market effects, and spillover can be estimated, but it is inherently subjective – and parties can disagree on what estimations should be used.<sup>76</sup> The Company is not arguing EM&V should not be used at all, but the record clearly shows that use of EM&V to measure throughput disincentive in a retrospective manner creates a real financial disincentive to energy efficiency in Missouri – that financial disincentive is directly contrary to the requirements of MEEIA.<sup>77</sup> Ameren Missouri’s modified Plan uses EM&V to set the values in its TRM, just not retrospectively.

By way of example, consider if the Commission were to require that every year, a group of statistical experts and theorists wrote an expensive report to tell us how customers would have fared if the Callaway nuclear facility (or any other plant) had not been built, and conditioned continued reflection of the investment in that plant in rates upon the findings of that report. Under such a regulatory framework, no utility would ever build any power generation facilities because of the high degree of uncertainty regarding its ability to reflect that investment in rates so that it can earn a fair return on, and return of, that investment. In fact, as it exists today, power generation facilities are placed in rate base (and in rates), and so long as the utility operates the plant prudently, the revenue associated with every kilowatt-hour (“kWh”) of power delivered to customers is timely and directly reflected in the Company’s financial statements. Given the specific regulatory framework in Missouri, to the extent the Commission sets forth a process whereby the Company potentially loses earnings and cannot recoup them subject to the completion of retrospective EM&V, the Commission will clearly be setting forth a policy that

---

<sup>76</sup> TR. 298 (Redirect of Mr. Voytas).

<sup>77</sup> Ex. 103, Rebuttal Testimony of Ms. Lynn Barnes, p. 5-7.

favors supply-side resource over demand-side resources. This is in direct contradiction of the state policy reflected in MEEIA.

For the above-stated reasons, the TD-NSB is a cornerstone of the modified Plan offered by the Company. It is just, reasonable and fair. Further, it is entirely consistent with MEEIA, consistent with established Commission policy regarding energy efficiency, and incorporates improvements designed to value demand-side investments equal to supply-side resources. Moreover, without the Company's proposed TD-NSB proposal, Ameren Missouri will be denied the opportunity to timely recover its costs of delivering demand-side programs and its financial incentives will not be aligned with helping customers use energy more efficiently.

#### **IV. PERFORMANCE INCENTIVE**

While the TD-NSB is designed to neutralize the impact of lower kWh sales caused by inducing its customers to use less energy, MEEIA also requires that an earnings opportunity be provided to address the fact that the utility's choice to deploy energy efficiency as a resource impairs its future earnings that would have been created by investing in supply or delivery infrastructure instead. As noted in the Plan, the performance incentive is intended to "...drive the utility to make delivery of outstanding energy efficiency programs a business priority."<sup>78</sup> Supply-side resources (gas, coal, wind, nuclear facilities) are rate base assets and, once in rate base, the Company earns a return on the undepreciated balance of that plant.<sup>79</sup> This traditional model provides an incentive to investment in plant to serve customers. Accordingly, if the desire is to level the playing field between supply and demand-side resources (and it is not just a desire,

---

<sup>78</sup> Ex. 100, Plan, p. 39-40.

<sup>79</sup> See Ex. 100, Plan, p. 40.

it is the policy of the State of Missouri),<sup>80</sup> then it is necessary to provide for an incentive opportunity for investment in energy efficiency programs beyond merely making the utility whole for the impact of lower kWh sales.<sup>81</sup>

Using net shared benefits is the only proposed performance mechanism in this case that results in a win-win and is also called for in the Commission's MEEIA rules as the default performance structure. The net shared benefits model has a distinct advantage because relying on net benefits provides a meaningful incentive to encourage the Company to implement programs in the most cost-effective manner. This is mutually beneficial to Ameren Missouri and to its customers. As customers get more net benefits, the Company gains more earnings.

Ameren Missouri's Plan, as originally filed, provided for an incentive opportunity based on total net shared benefits delivered. The Company would only be eligible to receive an incentive to the extent it achieved at least seventy percent of its energy savings goal. Higher incentive benefits would be attainable to the extent the Company achieves 100%, and an even higher percentage would apply if the Company achieved 130% of the goal.<sup>82</sup> The incentive (expressed as a percentage of net shared benefits) at 100% of the targeted goal was developed based upon consideration of the earnings opportunity associated with a supply-side investment (approximately \$70 million for three years of programs - \$23.3 million annuity).<sup>83</sup> The Company also examined the incentives in other jurisdictions to benchmark the amount and this review validates the appropriateness of the Company's proposal.<sup>84</sup>

---

<sup>80</sup> 303.1075.3 RSMo.

<sup>81</sup> *Id.*

<sup>82</sup> Ex. 100, Plan, p.43.

<sup>83</sup> *Id.* 42.

<sup>84</sup> *Id.*, p. 41-45.

The Company's original proposal contained a performance incentive based upon TRM values that were subject to update each year, as well as the overall target being changed each year. However, the Company reconsidered this approach in light of the concerns expressed by other parties and, as part of the June 30 Stipulation, Ameren Missouri modified its Plan by agreeing to a performance incentive that reflects the structure and operation currently in place for MEEIA cycle 1.<sup>85</sup> That structure includes a full annual EM&V retrospective review of performance by a third party and also by the auditor retained by the Commission.<sup>86</sup> Additionally, under the modified Plan, the percentage of net shared benefits used to calculate the performance award was decreased.<sup>87</sup>

The performance incentive will also incorporate the framework currently in place for Ameren Missouri pursuant to its second Non-Unanimous Stipulation and Agreement dated February 25, 2015. It was entered into between the Office of Public Counsel, Staff, and the Company and approved, without objection, by the Commission.<sup>88</sup> That settlement builds upon a prior settled procedure that incorporates stakeholder review and discussion of results.<sup>89</sup> The purpose of this procedure is to resolve differences concerning EM&V in a manner designed to reduce litigation before the Commission concerning evaluator and auditor results as well as

---

<sup>85</sup> Ex. 102, Supplemental Testimony of Ms. Lynn Barnes, p. 6.

<sup>86</sup> Ex. 105, Supplemental Testimony of Mr. William Davis, p. 10-12.

<sup>87</sup> *Id.* It should be noted that due to the higher savings target, the targeted performance incentive at 100% of goal is lower at \$30 million when compared to the target of \$25 million under the original plan. This is a result of the higher net benefits associated with the higher savings targeted. *See* Ex. 105, Supplemental Testimony of Mr. Bill Davis, p. 11.

<sup>88</sup> TR. 906 (Administrative Notice taken of Stipulation filed in File No. EO-2012-0142).

<sup>89</sup> Ex. 102, Supplemental Testimony of Ms. Lynn Barnes, p. 6-7.

recognize the inherent uncertainty and inability to precisely measure net-to-gross. That stakeholder procedure is specifically described in Appendix B to the June 30 Stipulation.<sup>90</sup>

Ameren Missouri's proposed performance incentive provides a fair and reasonable incentive opportunity. The proposal is based upon full retrospective EM&V review and is based upon the net shared benefits model. By allowing an incentive premised upon a share of net benefits provided to customers, together with timely cost recovery of program costs and the proposed TD-NSB mechanism, the Company is able to value demand and supply-side investments equally.

## **V. CONCLUSION**

For the reasons stated above, Ameren Missouri respectfully requests that the Commission approve the Plan as modified by the June 30 Stipulation. This will implement the state's policy of allowing Ameren Missouri to value investments in demand-side resources equal with making investments in supply or delivery infrastructure, and will permit the Company to continue the pursuit of all cost-effective energy efficiency savings in its service territory in a manner that benefits both the Company and its customers.

---

<sup>90</sup> Due to the subjective nature and technical aspects of retrospective EM&V net-to-gross estimation, the Company's MEEIA cycle 1 Stipulation and Agreement (File No. EO-2012-0142) provided for an expedited alternative dispute resolution procedure to resolve competing interpretations of savings. After the first evaluation, the parties realized that the process required practical modifications, and additional procedures and changes were adopted.

**/s/ Matthew Tomc**

**Wendy K. Tatro, #60261**

Director and Asst. General Counsel

**Matthew Tomc, #66572**

Ameren Services Company

P.O. Box 66149

St. Louis, MO 63166-6149

(314) 554-3484

Facsimile (314) 554-4014

**L. Russell Mitten, #27881**

BRYDON, SWEARENGEN & ENGLAND, P.C.

312 East Capitol Avenue

P.O. Box 456

Jefferson City, MO 65102-0456

Phone (573) 635-7166

Facsimile (573) 634-7431

[rmitten@brydonlaw.com](mailto:rmitten@brydonlaw.com)

SMITH LEWIS, LLP

**James B. Lowery, #40503**

Suite 200, City Centre Building

111 South Ninth Street

P.O. Box 918

Columbia, MO 65205-0918

Phone (573) 443-3141

Facsimile (573) 442-6686

[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

**Attorneys for Union Electric Company  
d/b/a Ameren Missouri**

Dated: August 13, 2015

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed, this 13<sup>th</sup> day of August, 2015, to counsel for all parties on the Commission's service list in this case.

*/s/ Matthew R. Tomc*