

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

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

**REVISED NON-UNANIMOUS STIPULATION AND AGREEMENT ADDRESSING
AMEREN MISSOURI'S PERFORMANCE INCENTIVE AWARD**

COME NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"), the Staff of the Missouri Public Service Commission ("Staff"), and the Office of the Public Counsel (collectively "Signatories"), and present this Revised Non-Unanimous Stipulation and Agreement Addressing Ameren Missouri's Performance Incentive Award ("Performance Incentive Stipulation") to the Commission for approval and, in support thereof, respectfully state as follows:

BACKGROUND

1. On January 20, 2012, Ameren Missouri filed an application under the Missouri Energy Efficiency Investment Act ("MEEIA") and the Commission's MEEIA rules in File No. EO-2012-0142. On July 5, 2012, Ameren Missouri, together with other parties, submitted to the Commission for approval a Unanimous Stipulation and Agreement ("2012 Stipulation") related to the Company's implementation of MEEIA. The Commission issued an Order approving the 2012 Stipulation on August 1, 2012 and as amended on December 19, 2012.

2. Paragraph 5.b.ii. of the 2012 Stipulation provides that, at the conclusion of the three-year Plan period and based on the final Evaluation, Measurement, and Verification ("EM&V") results, Ameren Missouri will be allowed to recover a performance incentive. This performance incentive is a percentage of Net Shared Benefits ("NSB") as described in Appendix B of the 2012 Stipulation. Specifically, Paragraph 5.b.ii. provides:

The cumulative net megawatt-hours ("MWh") determined through EM&V to have been saved as a result of the MEEIA Programs will be used to determine the amount of Ameren Missouri's Performance Incentive Award, with the cumulative net MWh performance achievement level (expressed as a percentage) being equal to cumulative net MWh savings determined through EM&V divided by Ameren Missouri's total targeted 793,100 MWh (which is the cumulative annual net MWh savings in the third year of the three-year Plan period). Actual net energy savings for each program year will be determined through the EM&V, including full retrospective application of net-to-gross ratios at the program level using EM&V results from each of the three program years, with the sum of the three years' actual net energy savings to be used to determine the amount of the Performance Incentive Award.

3. On February 11, 2015, several Parties to the 2012 Stipulation submitted a Second Non-Unanimous Stipulation and Agreement Settling the Program Year ("PY") 2013 Change Requests ("Second Stipulation"). The Commission issued an Order approving the Second Stipulation on February 25, 2015. Paragraph 11 of the Second Stipulation provides the Resolution of the PY 2013 dispute. Specifically, Paragraph 11 provides:

- a) The Signatories agree to portfolio-wide mega-watt hours savings of 347,360.
- b) The Signatories agree to net shared benefits of \$123,646,681.
- c) The Signatories make no further agreements with respect to any of the issues currently in dispute.

4. The Second Stipulation offered a process change "to avoid dispute with respect to EM&V annual energy savings and annual net shared benefits for PY 2014 and PY 2015," specifically noted in Paragraph 12(a):

In each individual year (PY 2014 and PY 2015), the final evaluator and auditor portfolio-wide energy savings Net-To-Gross ratios ("NTG") shall be averaged for the respective program year. If the portfolio-wide averaged energy savings NTG is between 0.9 and 1.1, then the agreed to NTG will be deemed to 1.0, and the portfolio-wide program year net annual energy savings and annual net shared benefits will be calculated consistent with a portfolio-wide NTG of 1.0 for the evaluators' program year final EM&V reports.

5. On June 23, 2015, Ameren Missouri submitted revised PY 2014 EM&V Reports and on July 17, 2015, the Commission issued an Order approving such reports. On July 29, 2016, Ameren Missouri submitted amended PY 2014 EM&V Reports in its pleading entitled, "Ameren

Missouri's 2014 Residential Portfolio Summary Report and Amended BizSavers Program Utility Cost Test Results," in accordance with the Commission's Order Regarding Request for Rehearing and Clarification issued on January 20, 2016, in File No. EC-2015-0315.

6. On May 16, 2016, Ameren Missouri submitted its PY 2015 EM&V Reports, the last of such reports to be submitted for the three-year plan.¹ On May 20, 2016, the Commission Auditor submitted a memo regarding "Final Net-to-Gross Estimates for PY 2015 of Ameren Missouri Energy Efficiency Programs," indicating that there were no changes to the Net-to-Gross ("NTG") estimates contained in Ameren Missouri's final evaluation reports. The Commission's Auditor indicated that an assessment of the NTG findings would appear in a Final EM&V Auditor's Report. The Commission's Auditor submitted that PY 2015 Final EM&V Report on August 31, 2016.

SPECIFIC TERMS AND CONDITIONS

7. In light of the foregoing, the Signatories to this Performance Incentive Stipulation agree to the following terms and conditions:

8. Settlement of Case. As a result of settlement discussions among the Signatories to this Performance Incentive Stipulation, the Signatories have agreed upon the terms and conditions set forth below in resolution of all remaining issues in this case, with the exception of incorporating, as needed, the results of the appeal of File No. EC-2015-0315, which is currently pending at the Missouri Court of Appeals, Western District, in Case No. WD79406, *Union Electric Company d/b/a Ameren Missouri, Appellant, v. Public Service Commission, Respondent* ("Avoided Cost Appeal").

¹ Ameren Missouri filed corrections to that report on May 26, 2016.

9. Cycle 1 Completeness. Both the MEEIA Cycle 1 programs and the performance measurement of those programs have been completed.²

10. Performance Incentive Award and its Inputs. The Calculation of the Performance Incentive Award is in compliance with Paragraph 5.b.ii of the 2012 Stipulation. The Signatories agree that the provisions of Paragraph 12(a) of the Second Stipulation should not be applied and that the NTG ratios for the 2014 and 2015 program years will not be deemed at 1.0, but instead, shall be the NTG ratios determined by the final evaluation, measurement and verification reports for those years as filed in this docket.

11. Program Costs in 2016 for MEEIA Cycle 1. The Signatories agree that the program costs included in the PY 2015 evaluation reports include program costs from MEEIA Cycle 1 that were incurred in the first quarter of 2016. The Signatories further agree that for determination of the Performance Incentive Award, it is proper to include \$124,117.53³ of program costs associated with MEEIA Cycle 1 that were incurred in the second quarter of 2016.

12. MWh Savings and Net Benefits. Based on the foregoing:

- the three-year total MWh savings used for calculating the performance incentive equals 1,152,915; and
- the corresponding net benefits used to calculate the performance incentive are \$441,499,128.

13. Performance Incentive Award. Based on the foregoing, the total performance incentive to be awarded to Ameren Missouri is \$28,246,578.74. The calculation of this amount is contained in Appendix A. The Company's next Rider Energy Efficiency Investment Charge

² With the exception of the appeal of the Avoided Cost Complaint. This number will be adjusted if Ameren Missouri prevails in its appeal of File No. EC-2015-0315.

³ The present value amount in 2013 dollars, consistent with how the first quarter 2016 program costs were treated, is \$108,510.45.

("Rider EEIC") filing will be in November 2016. That filing will include \$14,737,345.43 and the remaining \$13,509,233.31 will be included in the Company's November 2017 Rider EEIC filing.

14. Recalculation of Utility Cost Net Benefits. Ameren Missouri has calculated the PY 2014 Utility Cost Net Benefits pursuant to the Commission's Order Regarding Requests for Rehearing and Clarification issued January 20, 2016, in File No. EC-2015-0315, *Staff of the Missouri Public Service Commission, Complainant, v. Union Electric Company, d/b/a Ameren Missouri* ("Avoided Cost Decision"). The relevant tables from the Company's 2014 Evaluation Reports have been updated and were filed on July 29, 2016, in this case. In addition, the PY 2015 results outlined in Paragraph 6 above were also calculated in compliance with the Commission's order on January 20, 2016, in File No. EC-2015-0315. The Signatories agree that those results comply with the Commission order. Further:

- Should Ameren Missouri prevail in the Avoided Cost Appeal, it will recalculate and correct its Performance Incentive based on the revised avoided cost.
- Should the Commission prevail in the Avoided Cost appeal, the Performance Incentive shall remain unchanged.

GENERAL PROVISIONS

15. This Performance Incentive Stipulation is being entered into for the purpose of disposing of the issues that are specifically addressed herein. This Performance Incentive Agreement is intended to relate *only* to the specific matters referred to herein; no Signatory waives any claim or right which it may otherwise have with respect to any matter not expressly provided for herein. No Signatory will be deemed to have approved, accepted, agreed, consented, or acquiesced to any substantive or procedural principle, treatment, calculation, or other determinative issue underlying the provisions of this Performance Incentive Stipulation. Further, except as specifically provided herein, no Signatory shall be prejudiced or bound in any manner by the terms of this Performance Incentive Stipulation in any other current or future proceeding

before the Commission or any court or administrative agency with jurisdiction, including but not limited to pending and future MEEIA plans and the Avoided Cost Appeal.

16. This Performance Incentive Stipulation has resulted from extensive negotiations and the terms hereof are interdependent. If the Commission does not approve this Performance Incentive Stipulation, approves it with modifications or conditions to which a party objects, or issues an order in another Commission case that negates its approval or conditions, or modifies the Performance Incentive Stipulation in a manner to which any Signatory objects, then this Performance Incentive Stipulation shall be null and void, and no Signatory shall be bound by any of its provisions.

17. If the Commission does not approve this Performance Incentive Stipulation unconditionally and without modification, and notwithstanding its provision that it shall become void, neither this Performance Incentive Stipulation, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this Performance Incentive Stipulation had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this Performance Incentive Stipulation shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

18. If the Commission unconditionally accepts the specific terms of this Performance Incentive Stipulation without modification, the Signatories waive, with respect only to the issues

resolved herein: their respective rights (1) to call, examine, and cross-examine witnesses pursuant to Section 536.070(2), RSMo 2000; (2) to present oral argument and/or written briefs pursuant to Section 536.080.1, RSMo 2000; (3) to seek rehearing pursuant to Section 386.500, RSMo 2000; and (4) to judicial review pursuant to Section 386.510, RSMo Supp. 2011. These waivers apply only to a Commission order respecting this Performance Incentive Stipulation issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this Performance Incentive Stipulation.

19. This Stipulation contains the entire agreement of the Signatories concerning the issues addressed herein.

20. This Performance Incentive Stipulation does not constitute a contract with the Commission and is not intended to impinge upon any Commission claim, right, or argument by virtue of the Performance Incentive Stipulation's approval. Acceptance of this Performance Incentive Stipulation by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has or as an acquiescence of any underlying issue. Thus, nothing in this Performance Incentive Stipulation is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information, or any statutory obligation.

21. The Signatories agree that this Performance Incentive Stipulation, except as specifically noted herein, resolves all remaining issues raised in this case, and that the calculations contained in the Appendices should be received into the record without the necessity of any witness taking the stand for examination.

WHEREFORE, the Signatories respectfully request that the Commission approve this Stipulation, and grant any other and further relief as it deems just and equitable.

Respectfully submitted,

<p>SMITH LEWIS, LLP</p> <p><u>/s/ James B. Lowery</u> 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</p> <p><u>/s/ Wendy K. Tatro</u> Wendy K. Tatro, Mo. Bar #60261 Director and Asst. General Counsel Union Electric Company d/b/a Ameren Missouri One Ameren Plaza 1901 Chouteau Avenue P.O. Box 66149 (MC 1310) St. Louis, MO 63166-6149 (T) (314) 554-3484 (F) (314) 554-4014 Wtatro@ameren.com</p> <p>Attorneys for Ameren Missouri</p>	<p><u>/s/ Tim Opitz</u> Tim Opitz Senior Counsel Missouri Bar No. 65082 P. O. Box 2230 Jefferson City MO 65102 (573) 751-5324 (573) 751-5562 FAX Timothy.opitz@ded.mo.gov</p> <p>Attorney for Office of Public Counsel</p> <p><u>/s/ Marcella L. Forck</u> Marcella L. Forck, Missouri Bar Number 66098 Associate Staff Counsel Missouri Public Service Commission P.O. Box 360 Jefferson City, MO 65102 573-751-4140 (Voice) 573-526-6969 (Fax) marcella.forck@psc.mo.gov</p> <p>Attorney for Staff of the Missouri Public Service Commission</p>
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail on counsel for the parties of record in this case on the 24th day of October, 2016.

/s/ James B. Lowery
James B. Lowery

Appendix A – MEEIA Cycle 1 Performance Incentive Calculation

A. Performance Target

The following table provides the baseline assumption from the filed MEEIA Report.

Filed MEEIA Targets (MWh) based on 20% Opt Out, January 2012				
	2013	2014	2015	3-Year Cum. Target
RES	165,275	168,237	171,957	505,469
BUS	75,122	87,208	125,303	287,633
Total	240,397	255,445	297,260	793,102

Revised Annual Target = (Annual 20% MWh Target)/(1 - 0.2) * (1 - Actual Annual Opt-Out %)

Adjusted MEEIA Target as of January 2016				
	2013 (Actual)	2014 (Actual)	2015 (Actual)	3-Year Cum. Target (Actual)
RES	165,275	168,237	171,957	505,469
BUS	85,517	95,067	135,249	315,834
Annual Opt Out	8.93%	12.79%	13.65%	
Total	250,792	263,305	307,206	821,303

B. MEEIA Cycle 1 Results

	2013 (Stipulated)	2014 (NTG Adjusted)	2015 NTG (Adjusted)	3-Year Cum.
MWh Savings	347,360	345,181	460,374	1,152,915
Total Benefits (2013\$)	\$158,079,083	\$184,745,488	\$223,958,013	\$566,782,584
Program Costs (2013\$)	\$34,432,402	\$38,820,092	\$52,030,962	\$125,283,456
Net Benefits (2013\$)	\$123,646,681	\$145,925,396	\$171,927,051	\$441,499,128

C. MEEIA Cycle 1 Performance Incentive Calculation

Performance: $(1,152,915/821,303)*100 = 140\%$

Sharing Percent of ">130%" = 6.19%

Net Benefit (PV, 2013\$)	\$441,499,128		
Sharing Percent	6.19%		
Initial Sharing Amount (PV)	\$27,328,796.02		
Class	609,232	528,092	15,591
MWh (3-Year Cum.)	52.84%	45.80%	1.35%
MWh Allocation	\$14,441,285.09	\$12,517,940.60	\$369,570.34
Before-Tax Rev. Req. (PV)	\$7,463,133.32	\$6,469,165.24	\$190,990.81
Revenue Requirement* (2-Year Annuity)	\$7,706,253.97	\$6,627,450.53	\$199,230.19

=\$14,123,289.37†

†The total amount to be recovered over ~2 years (i.e. \$14,123,289.37 + \$14,123,289.37 = **\$28,246,578.74**)