

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

In the Matter of Union Electric Company	)	
d/b/a Ameren Missouri's 3 <sup>rd</sup> Filing to	)	
Implement Regulatory Changes in	)	File No. EO-2018-0211
Furtherance File No. EO-2018-0211 of	)	
Energy Efficiency as Allowed by MEEIA.	)	

In the Matter of Union Electric Company	)	
d/b/a Ameren Missouri's 2022 Integrated	)	File No. EO-2022-0100
Resource Plan Annual Update.	)	

**AMEREN MISSOURI'S RESPONSE TO OFFICE OF  
PUBLIC COUNSEL'S MOTION FOR COMMISSION ORDER**

**COMES NOW** Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), pursuant to 20 CSR 4240-2.080(13), and for its Response to the Office of Public Counsel’s (“OPC”) *Motion for Commission Order*, (“Motion”), states as follows:

**A. Background**

1. On March 14, 2022, OPC filed its unusual Motion requesting the Commission require the Company to use a 2022 market potential study to inform its future, anticipated multi-year Missouri Energy Efficiency Investment Act ("MEEIA") application, or (2) provide written or verbal affirmation that the Commission agrees with OPC's concerns. OPC's claimed concern is that the 2020 Market Potential Study ("2020 Study") uses "stale" data. The Company filed the 2020 Study in this docket on July 2, 2021, as Attachment 2 to its Application, and the 2020 Study was also included as part of the Company's 2020 Integrated Resource Plan ("IRP") filing as Appendix B to Chapter 8.<sup>1</sup>

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<sup>1</sup> See File No. EO-2021-0021.

2. In support of its Motion, OPC filed a supporting memorandum and affidavit of Dr. Geoff Marke. Dr. Marke opines that it is a mistake for the Company to use the 2020 Study and requests the Commission's guidance on what Dr. Marke characterizes as an "imprudent managerial decision." Dr. Marke further states that significant market and utility-specific changes have occurred that will render the 2020 Study unreliable and inappropriate to inform Ameren Missouri's multi-year MEEIA application. OPC did not, however, provide support beyond making conclusionary statements for its claim that 2020 Study is unreliable or inappropriate.

3. Additionally, OPC's Motion requests Commission action on a filing that has yet to be made. Specifically, OPC's Motion requests the Commission issue an advisory opinion directing the Company to use a not-yet-completed study to inform a not-yet-filed multi-year MEEIA plan or, in the alternative, advise the Company that the Commission agrees with OPC's position that a new 2023 study must inform any new multi-year MEEIA plan. The Commission, like other administrative agencies, is not authorized to issue advisory opinions. *State ex rel. Laclede Gas Co. v. Public Service Com'n*, 392 S.W.3d. 24, 38 (2012). The Commission and courts should not render advisory opinions. See *Id.* citing *Wasinger v. Labor & Indus. Relations Comm'n*, 701 S.W.2d 793, 794 (Mo.App.1985). "The function of each is to resolve disputes properly presented by real parties in interest with existing adversary positions." *Id.* In the *Laclede* case, the court found the Commission was restricted to determining the complaint before it, and it should not be issuing decisions with "no practical effect and that are only advisory as to future, hypothetical situations." See *State ex rel. Laclede Gas Co. v. Public Service Com'n*, 392 S.W.3d. 24, 38 (2012), citing *State ex rel. Mo. Parks Assoc. v. Mo. Dept. of Natural Res.*, 316 S.W.3d 375, 384 (Mo.App.2010).

4. OPC's Motion requests an advisory order that the future MEEIA filing should not be informed by the 2020 Market Potential Study. The Commission should reject OPC's preemptive strike in a case that is not yet filed. The Commission is obligated to wait until there is a new MEEIA plan filed and obligated to review the record before any decisions are rendered. OPC will not be prejudiced by waiting until there is an actual case in controversy before the Commission to plead its case.

5. Moreover, the Motion fails to acknowledge or consider the broader analytical context and process used to incorporate the 2020 Study into the 2020 IRP, consistent with the Commission's rules. Under 20 CSR 4240-20.094 (3)(A)(1)-(4), Ameren Missouri's market potential study must: (1) consider both primary and secondary data in its service territory; (2) be updated with primary data and analysis no less frequently than every three years; (3) be prepared by an independent third party; and (4) include an estimate of the achievable potential, regardless of the cost effectiveness, of energy savings from low-income demand-side programs. The 2020 Study meets these four requirements. There is no basis, under the Commission's current rules, to require Ameren Missouri to conduct a new study before proposing a new MEEIA filing.

**B. OPC's Motion fails to acknowledge timing needs of Ameren Missouri's next MEEIA filing**

6. OPC acknowledges that the MEEIA process is labor intensive for all stakeholders, but OPC's Motion does not acknowledge that Ameren Missouri already began to plan and develop its multi-year MEEIA plan it will file later this year. A "2022 Market Potential Study" is unlikely to be completed until March of 2023. OPC's request does not consider the timing necessary for both the planning and approval of the Company's upcoming MEEIA filing so that the new plan can be approved by the Commission and ready to implement by January 1, 2024. If the Company waits until March of 2023 to file its next MEEIA Application (the timing of which would more

likely be several months after the 2022 Market Potential Study was complete) would mean the case would not be complete before January 1, 2024. If the Company does not receive a Commission approval before January 1, 2024, then it will no longer be authorized to offer energy efficiency programs.

7. It should be noted that OPC has been aware of Ameren Missouri's plan and has had opportunities for input all the way through the Company's MEEIA process. OPC and stakeholders reviewed and provided input in the planning stages of the 2020 Potential Study in accordance with the Commission's rules. 20 CSR 4240-20.094(3)(A)<sup>2</sup> Further, Ameren Missouri informed stakeholders of its intent to file its next multi-year MEEIA plan in late 2022 as part of its request to extend its current plan. *See Direct Testimony of Craig P. Aubuchon ("Aubuchon Direct")* in File No. EO-2018-0211 at 6. The Company had previously filed testimony stating it would use the 2020 Study and the 2020 IRP as the basis for the upcoming multi-year MEEIA plan, given the time constraints to seek plan approval in order to avoid an interruption in its MEEIA program offerings. *Id.* at 6-7.

8. There exists an important framework to develop and file the multi-year MEEIA plan. For example, in its last extension request, the Company explicitly outlined the four steps described above as well as the fact the Company began planning for its new plan in late 2021. *See Aubuchon Direct*, File No. EO-2018-0211, at 6. Specifically, Mr. Aubuchon testified, "the Company can begin planning its next MEEIA cycle in late 2021, file in late 2022, and potentially receive approval in 2023 – with sufficient time to execute contracts and implement data tracking systems, for a successful Program Year 2024 ("PY24") program launch on January 1, 2024." *Id.* at 8, lines 12-17.

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<sup>2</sup> *See* Attachment 1 - Affidavit of Matthew E. Noonan.

**C. The 2020 Study will reasonably inform the Company's next MEEIA plan application, anticipated to be filed at the end of 2022.**

9. Ameren Missouri will follow an objective analytical framework, guided by the Commission's rules, to develop its MEEIA applications, as shown in Figure 1 below. Under the Commission's rules, the market potential study and the IRP represent a recurring, triennial long-term planning process. 20 CSR 4240-20.094(3) and (4). The market potential study and IRP are primarily informed by secondary market data regarding resource costs, fuel costs, and load forecasts. A key output of the IRP is the selection of a preferred resource plan,<sup>3</sup> as evaluated against a scorecard of relevant criteria and probability weighted outcomes.<sup>4</sup> The selection of the preferred multi-year MEEIA plan also provides an objective analytical framework that defines the appropriate avoided costs that can be used for the cost-effectiveness testing of future Demand Side Management ("DSM") investments. Relying on the avoided costs as objectively determined through the IRP process ensures that DSM investments continue to be valued consistently with comparable supply side investments. It is reasonable for the Company to follow the approach set forth in the IRP in File No. EO-2021-0021. Avoided costs are determined through the IRP process and not through the MEEIA filing itself. Ameren Missouri's next triennial IRP is expected to be filed by October 1, 2023,<sup>5</sup> and reviewed by stakeholders and the Commission in 2024. The 2023 triennial IRP filing will be the first IRP filing that relies on the results of the Company's upcoming 2023 market potential study. OPC's recommendation to use the 2023 market potential study undermines the current framework used to inform the Company's MEEIA plan.

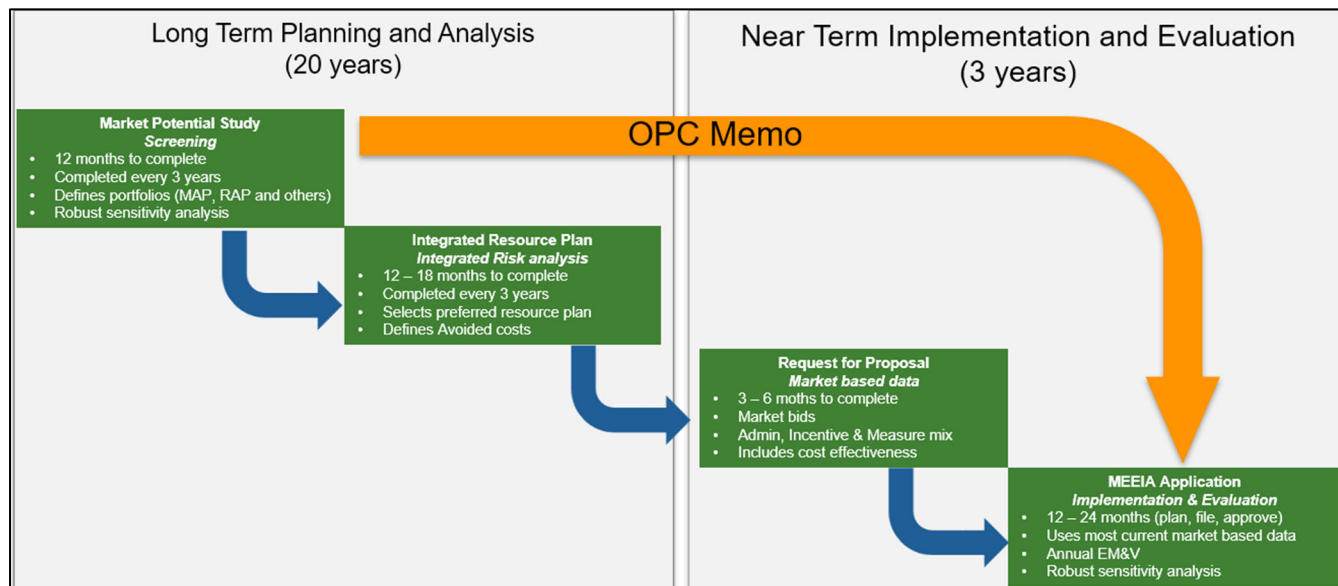
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<sup>3</sup> As the Commission is aware, Ameren Missouri will be filing a Change in Preferred Plan due to the decision to retire Rush Island. The Company will rely on the 2020 potential study for that filing.

<sup>4</sup> For additional detail, see Chapter 10 of the 2020 IRP and the Aubuchon Direct.

<sup>5</sup> Pending a variance request filed in File No. EE-2022-0243.

**Figure 1: Analytical Framework used to develop MEEIA Application**



10. Moreover, the 2020 Study used to inform the development of multi-year MEEIA plan remains recent, relevant, and in compliance with the Commission's rules. OPC's Motion raises concerns that data in the 2020 Study is "stale." However, OPC's Motion does not deny that the 2020 Study is updated "no less frequent" than every three years, which is what the rule requires. 20 CSR 4240-20.094(3)2. OPC also fails consider that the 2020 Study represents a *long-term* plan covering twenty-years and evaluated a number of sensitivities to address the concerns related to "stale" data or data within the three-year timeframe prescribed by the Commission's rules. 20 CSR 4240-20.094(3)2. These sensitivities were used to develop a lower and upper bound estimate of Realistic Achievable Potential ("RAP").<sup>6</sup> As shown in Figure 2, these sensitivities included changes in avoided costs, changes in economic and weather conditions, changes in customer preferences and changes in measure selection.<sup>7</sup> Furthermore, OPC along with other stakeholders

<sup>6</sup> See also Aubuchon Direct at 7, fn. 2.

<sup>7</sup> See Chapter 8 of the 2020 IRP for a detailed description of each scenario, and Appendix A for a detailed summary of load and cost impacts.

provided input into the 2020 Study, including the sensitivities, at various stakeholder meetings.<sup>8</sup>

Those sensitivities are outlined below in Figure 2.

**Figure 2: 2020 MPS Realistic Achievable Potential Sensitivities – Load Impacts**

<b>RAP - Energy Efficiency</b>	<b>Load Impacts</b>					
<b>Sensitivity</b>	<b>unfavorable (low)</b>	<b>favorable (high)</b>	<b>weight (unfavorable)</b>	<b>weight (favorable)</b>	<b>unfavorable (low)</b>	<b>favorable (high)</b>
Avoided Cost (a)	-5%	8%	32%	8%	-1.50%	0.67%
Avoided Cost (b)	-10%	1%	5%	15%	-0.49%	0.22%
Prolonged Economic Downturn	-14%	0%	33%	0%	-4.72%	0.00%
Volatile Weather	0%	12%	0%	22%	0.00%	2.50%
High Touch Marketing	0%	13%	0%	15%	0.00%	1.99%
Large Customer Opt-Outs	-51%	20%	5%	10%	-2.54%	1.99%
NTG Uncertainty (Attribution Case)	-9%	4%	25%	5%	-2.30%	0.20%
Residential LED Lighting	0%	16%	0%	0%	0.00%	0.00%
TOU Rate Scenario	0%	3%	0%	10%	0.00%	0.29%
Improved Technology	0%	2%	0%	15%	0.00%	0.32%
			<b>100.00%</b>	<b>100.00%</b>	<b>-11.60%</b>	<b>8.20%</b>

11. The sensitivities analyzed in the 2020 Study provide actionable insights to inform the development of the Company's multi-year MEEIA application to be filed in late 2022. Therefore, it is reasonable for the Company to rely on the 2020 Study as the starting point for its multi-year MEEIA plan. For example, a prolonged economic downturn would be expected to result in 14 percent less cost-effective savings as compared to a business-as-usual scenario. To account for this type of possibility in its upcoming MEEIA Application, the Company is developing its market-based request for proposals ("RFP") for resource bids at 100 percent of RAP and at 80 percent of RAP. The advantage of structuring its RFP to implement the MEEIA plan this way is twofold. First, bids at 80 percent of RAP are inclusive of lower bound sensitivities presented in the 2020 Study and are expected to provide portfolios that are (more) consistent with previously

<sup>8</sup> See Attachment 1 - Affidavit of Matthew E. Noonan.

approved MEEIA cycles. Second, receiving bids at 80 percent and 100 percent of RAP will provide actionable and relevant information on both the average *and* marginal cost of DSM measures.

12. The OPC's Motion misses the importance of the Market Based Data developed through the RFP. Ameren Missouri will not rely solely on the 2020 potential study as it designs its next MEEIA filing. As noted above, the Company is developing its market-based RFP for resource bids with different potential scenarios for the upcoming multi-year MEEIA filing. Using the RFP to collect data on the marginal cost of DSM measures is important because if marginal costs are decreasing at higher levels of DSM, then the Company (and presumably stakeholders) would support higher levels of DSM. At higher levels of savings, average and marginal costs may be decreasing, to the extent that fixed administrative payments can be spread across greater savings. In contrast, if marginal costs are increasing at higher levels of DSM, then the Company (and presumably stakeholders) may choose to support a lower level of DSM investment. Marginal costs may be increasing, if for example, the Company would need to begin offering higher incentives to induce customers to adopt more expensive technologies, consistent with the differences outlined in the Maximum Achievable Potential ("MAP") portfolio.

13. Consequently, the market potential study, whether completed in 2020 or 2023, is not the final factor to determine the appropriate level of DSM investment. Instead, the range of DSM plans developed in a market potential study is considered alongside recent market data for the marginal cost of DSM measures.<sup>9</sup> Said another way, the market potential study represents a key input into the multi-year MEEIA application, but it is not the only input informing the multi-year MEEIA application. This approach is consistent with recent Commission guidance that the purpose of MEEIA is not simply to manage supply side resources or defer resource investments,

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<sup>9</sup> Aubuchon Direct at 6.



but that instead that "[u]tilities should be endeavoring to increase customer participation in energy efficiency programs."<sup>10</sup> The Commission also recognized that "benefits from a reduction in a customer's bill is not the only benefit to customers. There are also societal benefits, such as improved health and safety, investment in local economies, and local job creation."<sup>11</sup>

14. In contrast, OPC suggests that the Company should use the yet-to-be-completed market potential study to directly inform the multi-year MEEIA plan and disregard the output of the IRP in File No. EO-2021-0021 and the results of the RFP. Timing notwithstanding, OPC does not provide any suggestions for how the Company should select a resource plan from the 2023 market potential study nor does it provide any guidance or evidence for why the new study would be any better basis for an actual MEEIA budget.<sup>12</sup> In short, OPC's request is unreasonable and undermines the planning process.

15. OPC's Motion also overlooks the fact that after the Company files its multi-year MEEIA plan, the Company and stakeholders will have the opportunity to review the 2023 market potential study to review the base case RAP estimate and compare to the base case RAP from the 2020 Study. Consistent with the Commission's rules and past practice, the Company's' multi-year MEEIA application will outline the methodology, key assumptions, and interim results. This information will allow stakeholders to confirm the current long-term estimates of RAP to ensure the estimates remain consistent with the range of RAP identified through sensitivity analysis in the 2020 Study. In short, the Commission's procedural rules already allow OPC to review the

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<sup>10</sup> See File No. EO-2019-0132, *In the Matter of Evergy Missouri Metro and Evergy Missouri West's Notice of Intent to File Applications for Authority to Establish a Demand-Side Programs Investment Mechanism*, Report and Order issued December 11, 2019, at 13, paragraph 36.

<sup>11</sup> *Id.* at 14, paragraphs 39 and 40.).

<sup>12</sup> The Company notes that it follows a similar process for supply side investments. Following the completion of its IRP, the Company develops separate filings for resource acquisitions and developments, with actual expected costs for a specific resource. This cost is consistent with, but may be higher or lower, than the average costs developed from secondary data sources and used in the IRP.

application to ensure OPC's concerns are addressed and the methodology and key assumptions informing the multi-year MEEIA plan are valid.

**WHEREFORE**, Ameren Missouri requests the Commission deny the Office of Public Counsel's request to issue an advisory opinion and direct the Company to use a market potential study that will not be complete until 2023 to inform its late-2022 multi-year Missouri Energy Efficiency Investment Act ("MEEIA") application. The Company respectfully requests the Commission be informed by the record developed in the upcoming MEEIA application.

Respectfully submitted,

*/s/ Wendy K. Tatro* \_\_\_\_\_

**Wendy K. Tatro**, MO Bar #60261  
Director & Assistant General Counsel  
Ameren Missouri  
1901 Chouteau Avenue, MC 1310  
St. Louis, MO 63103  
Telephone: (314) 554-5484  
Facsimile: (314) 554-4014  
[AmerenMOService@ameren.com](mailto:AmerenMOService@ameren.com)

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

**List of Attachments**

Attachment 1 - Affidavit in Support of Response by Authorized Individual

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff of the Commission and the Office of the Public Counsel on this via electronic mail (e-mail) on this 24<sup>th</sup> day of March, 2022.

*/s/ Wendy K. Tatro* \_\_\_\_\_  
Wendy K. Tatro

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

In the Matter of Union Electric Company                    )  
d/b/a Ameren Missouri's 3<sup>rd</sup> Filing to                    )  
Implement Regulatory Changes in                            )  
Furtherance File No. EO-2018-0211                        )  
of Energy Efficiency as Allowed by MEEIA                )  
File No. EO-2018-0211

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

**AFFIDAVIT OF MATTHEW E. NOONAN**

Matthew E. Noonan, being the age of 18 or older and upon his oath, states as follows:

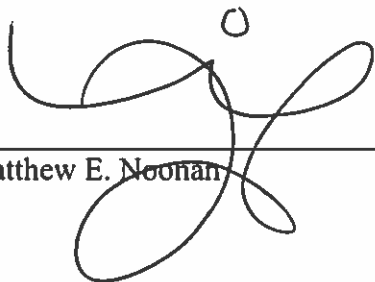
1. My name is Matthew E. Noonan.

2. I am a Senior Energy Efficiency Analyst for Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"). My duties and responsibilities include analysis and development of supporting data for Demand Side Management for Ameren Missouri, including support of the Ameren Missouri Potential Study that is the subject of this affidavit. I am also responsible for any other assigned Evaluation, Measurement, and Verification of Demand Side Management at Ameren Missouri. I have been employed by Ameren since 2009 and have been in my current role with Ameren Missouri since 2019.

3. I can attest to the facts in the Response to OPC's Motion as related to the Stakeholder process for the 2020 market potential study ("2020 Study"). The 2020 Study was completed as a collaborative effort between subject matter expert contractors, Ameren Missouri and implementation staff, and the greater Missouri Stakeholder group. Stakeholders were engaged early on in the process, and feedback from those interactions were incorporated at all stages of the process. Stakeholder engagement began before the study was undertaken, in late 2018, during the

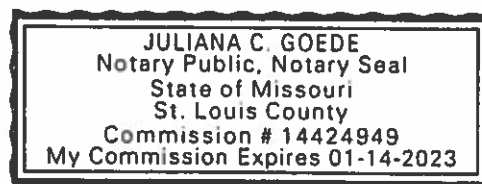
Request for Proposal planning stage. Ameren Missouri engaged, informed, and updated interested stakeholders throughout the planning process as well. Over the course of the study, the Stakeholder group met officially four separate times to discuss preliminary results from ongoing work, as well as to plan the best course of action for future research.<sup>1</sup> Stakeholder feedback helped inform the final design and determination of market research priorities,<sup>2</sup> measure list qualitative review, sensitivity scenarios, benchmarking<sup>3</sup> and identified additional collaborative opportunities for research purposes. In addition to the four formal meetings, there was significant communication and interaction with interested stakeholders throughout the process.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Matthew E. Noonan

Subscribed and sworn to before me, a Notary Public in the state of Missouri, on this 24 day of March, 2022.

  
\_\_\_\_\_  
Notary Public



<sup>1</sup> (The meeting dates include, March 27<sup>th</sup>, May 6<sup>th</sup>, August 15<sup>th</sup> of 2019 & February 5<sup>th</sup> of 2020).

<sup>2</sup> Opinion Dynamics presented the planned market research scope of work at an in-person stakeholder meeting on May 6, 2019 and finalized the scope following receipt of stakeholder comments.

<sup>3</sup> The GDS Team sought input from stakeholders to produce additional studies to incorporate into the benchmarking analysis. While a few jurisdictions currently have new market potential analyses underway, no additional studies were offered for review.