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EM&V Reports
Witness: John A. Rogers
Sponsoring Party: MO PSC Staff
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Surrebuttal Testimony
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MISSOURI PUBLIC SERVICE COMMISSION

REGULATORY REVIEW DIVISION

CORRECTED RED-LINE SURREBUTTAL TESTIMONY

OF

JOHN A. ROGERS

UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

FILE NO. EO-2012-0142

*Jefferson City, Missouri
December 2014*

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)
Furtherance of Energy Efficiency as)
allowed by MEEIA)

File No. EO-2012-0142

AFFIDAVIT OF JOHN A. ROGERS

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

John A. Rogers, of lawful age, on his oath states: that he has participated in the preparation of the following Corrected Red-line Surrebuttal Testimony in question and answer form, consisting of 15 pages of Corrected Red-line Surrebuttal Testimony to be presented in the above case, that the answers in the following Corrected Red-line Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.

John A. Rogers

John A. Rogers

Subscribed and sworn to before me this 23rd day of January, 2015.

SUSAN L. SUNDERMEYER
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: October 28, 2018
Commission Number: 14942086

Susan L. Sundermeyer

Notary Public

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Table of Contents

THE JOINT POSITION IS JUST AND REASONABLE AND IS SUPPORTED BY SUBSTANTIAL AND COMPETENT EVIDENCE IN THIS CASE. 2

CALCULATIONS OF ANNUAL NET SHARED BENEFITS BY EVALUATORS AND AUDITOR ARE CONSISTENT WITH MEEIA STATUTE AND COMMISSION RULES. 9

SECTION 393.1075 SETS THE POLICY FOR THE STATE OF MISSOURI AND THE COMMISSION’S MEEIA RULES WERE PROMULGATED TO CARRY OUT THAT POLICY. 11

1 **CORRECTED RED-LINE SURREBUTTAL TESTIMONY**

2
3 **OF**

4
5 **JOHN A. ROGERS**

6
7 **UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI**

8
9 **FILE NO. EO-2012-0142**

10
11
12 Q. Please state your name and business address.

13 A. My name is John A. Rogers, and my business address is Missouri Public
14 Service Commission, P. O. Box 360, Jefferson City, Missouri 65102.

15 Q. What is your present position at the Missouri Public Service Commission
16 (“Commission”)?

17 A. I am a Utility Regulatory Manager in the Energy Unit of the Regulatory
18 Review Division.

19 Q. Are you the same John A. Rogers that filed direct testimony in this case on
20 October 22, 2014 and rebuttal testimony in this case on November 17, 2014?

21 A. Yes, I am.

22 Q. Would you please summarize the purpose of your surrebuttal testimony?

23 A. I discuss certain aspects of the rebuttal testimony of Office of the Public
24 Counsel (“OPC”) witness Geoff Marke concerning:

25 1. Dr. Marke’s characterization of the joint position of Staff and Ameren
26 Missouri as a position which is “not a reasonable outcome, nor anywhere near

1 the middle of the potential outcomes”¹ and “does nothing to address the many
2 outstanding issues present in this case;”²

3 2. Dr. Marke’s assertions that evaluation, measurement and verifications
4 (“EM&V”) net benefits in Staff’s 24 scenarios are inflated because, according
5 to Dr. Marke, Staff’s calculations of net benefits: 1) “utilize a utility cost test
6 (“UCT”), which is a test that minimizes costs and runs counter to the MEEIA
7 statute and Commission rules which emphasize that the TRC is to be the
8 preferred test for this purpose,”³ and 2) “do not include any consideration of
9 the costs ratepayers will bear as a result of the utility performance incentive,
10 which is explicitly defined as a cost in the rules;”⁴ and

11 3. Dr. Marke’s suggestion that Commission approval of the joint position would
12 “endorse [] a drastic new policy”⁵ in this case for Missouri.

13 Q. As a result of its review of other parties’ rebuttal testimony filed on November
14 17, 2014, has Staff altered its position in direct testimony, which provides support for and
15 recommends the Commission approve the terms of the joint position?

16 A. No. Staff continues to recommend the Commission approve the joint position,
17 supported by Ameren Missouri, Staff and Missouri Division of Energy.

18 **THE JOINT POSITION IS JUST AND REASONABLE AND IS SUPPORTED BY**
19 **SUBSTANTIAL AND COMPETENT EVIDENCE IN THIS CASE.**

20 Q. Please respond to Dr. Marke’s rebuttal testimony: “Staff’s new position is
21 clearly not a reasonable outcome or anywhere near the middle of the potential outcomes.”

¹ Marke rebuttal testimony page 3 lines 8 and 9.

² Marke rebuttal testimony page 3 lines 9 and 10.

³ Marke rebuttal testimony page 4 lines 7 through 9.

⁴ Marke rebuttal testimony page 4 lines 13 through 15.

⁵ Marke rebuttal testimony page 6 line 22.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 A. Dr. Marke thinly argues against the reasonableness of the joint position by
2 using Marke Table 1 to show that “Staff leaped over eighteen other potential scenarios with
3 lower outcomes for MWH savings and net benefits, while Ameren Missouri only dropped five
4 potential scenarios from their initial position”⁶. Dr. Marke also claims “the correct EM&V net
5 benefit amounts should be considerably lower than any number depicted in the last column on
6 [Marke] Table 1”⁷ if annual net shared benefits are recalculated to include OPC’s rebound
7 effects adjustment to the net-to-gross (“NTG”) ratio for the LightSavers program and for the
8 inclusion of the utility’s financial incentives as a cost.⁸

9 The number of scenarios “leaped” or “dropped” in Marke Table 1 are of little
10 relevance. In contrast, the values for the PY2013 annual energy savings and for PY2013 net
11 benefits for the 24 scenarios, and in particular Scenarios 1, 7, 15 and 18, are of significant
12 relevance to the Commission’s determination of whether the joint position is just and
13 reasonable based on record evidence in this case for EM&V performed for Ameren
14 Missouri’s PY2013 demand-side program.⁹

15 In Staff’s opinion, the Commission should not consider OPC’s recommendations
16 related to market effects¹⁰ and rebound effects adjustments¹¹ to NTG for the LightSavers
17 program, and recalculation of annual net shared benefits¹² to include any utility financial
18 incentives as a programs’ cost and to include all costs from the total resource cost (“TRC”)
19 test (and not the UCT) because OPC’s recommendations are not compliant with the Missouri

⁶ Marke rebuttal testimony page 3 lines 5 through 7.

⁷ Marke rebuttal testimony page 4 lines 15 through 17.

⁸ Marke rebuttal testimony page 4 lines 7 through 15.

⁹ Rogers direct testimony page 11 line 9 through page 13 line 8.

¹⁰ Marke rebuttal testimony page 1 lines 15 and 16.

¹¹ Marke rebuttal testimony page 2 lines 2 and 3.

¹² Marke rebuttal testimony page 2 lines 4 and 5.

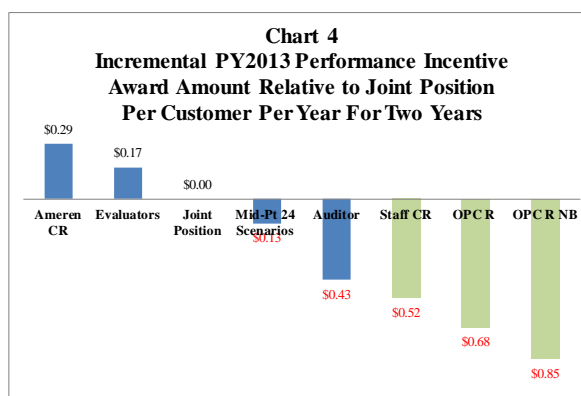
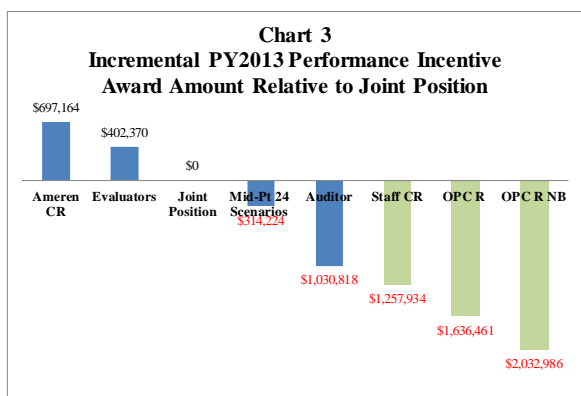
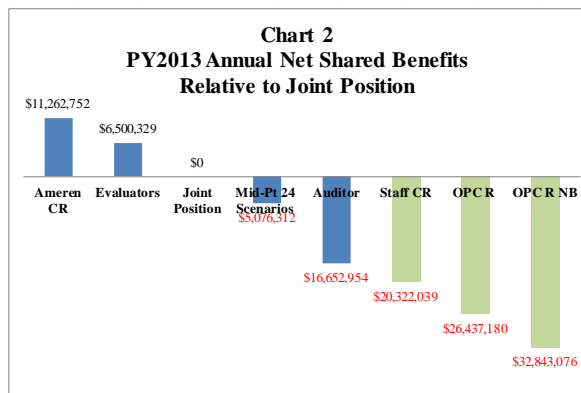
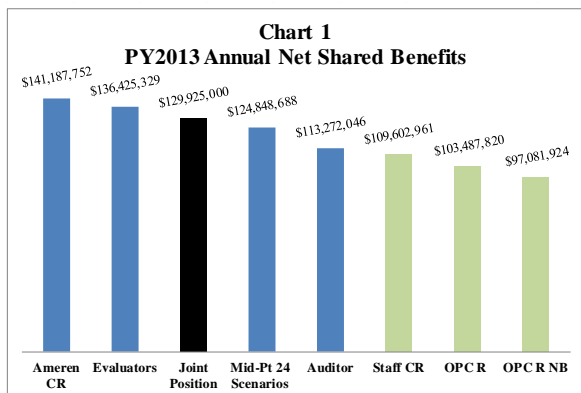
Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 Energy Efficiency Investment Act (“MEEIA”) statute, the MEEIA rules and the terms of the
2 2012 Stipulation.¹³

3 Rogers Charts 1 through 4 illustrate Staff’s analysis of incremental PY2013 annual net
4 shared benefits, PY2013 performance incentive award amounts and average annual bill
5 impacts for: 1) Ameren Missouri’s change request (“Ameren CR”); 2) Evaluators’
6 recommendations; 3) joint position of Ameren Missouri and Staff; 4) mid-point of Staff’s 24
7 scenarios (“Mid-Pt 24 Scenarios”); 5) Auditor’s recommendations; 6) Staff’s change request
8 (“Staff CR”); 7) OPC’s recommendation with its rebound effect adjustment to NTG for the
9 LightSavers program (“OPC R”); and 8) OPC’s recommendation with its rebound effect
10 adjustment to NTG for the LightSavers program and OPC’s recommendation for including
11 the utility financial incentives as a cost when recalculating annual net shared benefits (“OPC
12 R NB”). Staff did not attempt to include in Rogers Charts 1 through 4 the impact of OPC’s
13 most recent change request to include all costs from the TRC tests, and not costs from the
14 UCTs, when recalculating PY2013 annual net shared benefits.

¹³ Rogers rebuttal testimony page 10 line 18 through page 16 line 5. See Rogers rebuttal Schedule JAR-1-2 which is Appendix B to the 2012 Stipulation that shows how the performance incentive calculation is to be made.

Corrected Red-line Surrebuttal Testimony of John A. Rogers



1
2 Q. Why are the bars in Rogers Charts 1 through 4 for Ameren CR, Evaluators,
3 Mid-Pt 24 Scenarios and Auditor one color (blue) and the bars for Staff CR, OPC R and OPC
4 R NB a different color (green)?

5 A. The amounts represented by the blue bars for Ameren CR, Evaluators, Mid-Pt
6 24 Scenarios and Auditor are relevant to the Commission's determination of whether the joint
7 position is just and reasonable because the amounts for the blue bars are based upon actual
8 EM&V performed and reported by Ameren Missouri, Cadmus, ADM and the Auditor as
9 required by Commission rules 4 CSR 240-20.093(32)(C)3, 4 CSR 240-20.093(32)(H), and 4
10 CSR 240-3.164(1)(L) for Ameren Missouri's PY2013 demand-side programs and are
11 compliant with the terms of the 2012 Stipulation.¹⁴

¹⁴ Filed in this case on July 5, 2012 and approved by the Commission on August 1, 2012.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 The amounts represented by the green bars are not relevant and, therefore, should not
2 be considered by the Commission during its determination of whether the joint position is just
3 and reasonable. The removal of market effects in Staff CR is based on a regulatory policy
4 argument,¹⁵ although the remainder of Staff's CR is based on EM&V. The amounts for the
5 green bars for OPC R should not be considered by the Commission because during OPC's
6 assessment of the market effects and the rebound effects adjustments to the NTG ratio for the
7 LightSavers program OPC did not perform any studies and activities required by the
8 Commission rules *to evaluate and to estimate and/or verify the estimated actual energy and*
9 *demand savings, cost effectiveness, and other effects from Ameren Missouri's PY2013*
10 *demand-side programs.*¹⁶ The amounts for the green bars for OPC R NB are not based on
11 correct interpretations of the MEEIA statute and MEEIA rules and are not a correct
12 calculation of annual net shared benefits.¹⁷ 4 CSR 240-20.093(1)(C)) is clear that only
13 customer incentives, and not utility financial incentives, are to be a part of the calculation of
14 annual net shared benefits. [Emphasis Added]

15 Q. Is there a reason the PY2013 EM&V final reports of Cadmus, ADM and
16 Auditor did not include a rebound effects adjustment to the NTG ratios for any of the PY2013
17 programs?

18 A. Yes.

19 EM&V of the rebound effect was never a part of the EM&V plans proposed by
20 Cadmus and ADM. Rebound effect was never proposed by any of the Ameren Missouri
21 stakeholders – including OPC - who participated in the EM&V planning stakeholder meetings

¹⁵ See *Section V. No Industry Best Practices for Market Effects* on pages 13 through 17 of Staff's Change Request filed on July 3, 2014. Staff considers the application of industry best practices for market effects to be a regulatory policy issue.

¹⁶ 4 CSR 2403.164(1)(L)

¹⁷ Rogers rebuttal testimony page 2 line 15 through page 9 line 14.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 held on March 18 and 19, 2013 and April 15, 2013.¹⁸ In compliance with the schedule for
2 reviewing draft EM&V reports,¹⁹ Cadmus and ADM draft EM&V reports were circulated to
3 stakeholders and the Auditor on February 14, 2014. Stakeholder and Auditor comments
4 concerning the Cadmus and ADM draft EM&V reports were reviewed during stakeholder
5 meetings on March 11 – 12, 2014. On April 15, 2014, a stakeholder conference call was held
6 to review comments on the Cadmus and ADM draft EM&V reports and the draft Auditor
7 Report. OPC participated in all of these EM&V review processes. At no time during this key
8 EM&V planning review period did OPC or any stakeholder discuss, comment, or propose a
9 rebound effect adjustment.

10 Q. Do Rogers Charts 1 through 4 provide the information needed for the
11 Commission to determine that the joint position is just and reasonable and is supported by
12 substantial and competent evidence in this case?

13 A. Yes. The values depicted by the blue bars in each Rogers chart indicate that
14 the value for the joint position is very near the mid-point of the 24 possible scenarios and is
15 very near the middle of the values established by the Ameren CR, Evaluators and Auditor.

16 Q. Please comment on Dr. Marke's statement concerning the joint position of
17 Ameren Missouri and Staff: "Worse, this new position does nothing to address the many
18 outstanding issues present in this case, namely, overstated energy savings (EM&V MWH in
19 [Marke] Table 1 above) and incorrect net benefits calculations (EM&V Net Benefits in
20 [Marke] table 1 above)."²⁰

¹⁸ Paragraph 14 of the 2012 Stipulation states: ... The stakeholder group will: ... (c) consult with and advise Ameren Missouri on issues related to EM&V(including Ameren Missouri's proposed EM&V Request For Proposals, the scope of work for future EM&V projects, and issues related to net-to-gross ratios that may be used in future MEEIA plans), and the TRM.

¹⁹ See calendar dates and EM&V activities in paragraph 11 of the 2012 Stipulation, which is summarized Addendum 4 of the Staff's July 3, 2014 Change Request filing.

²⁰ Marke rebuttal testimony page 3 lines 9 through 11.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 A. There are only two numbers that are important to the outcome of this change
2 request²¹ case: PY2013 annual energy savings and PY2013 net benefits based upon EM&V
3 performed for Ameren Missouri's PY2013 demand-side programs. The joint position
4 provides the Commission a reasonable compromise for the amounts of PY2013 annual energy
5 savings and PY2013 net benefits which are established and supported by the record EM&V
6 evidence in this case. Should the Commission not decide in favor of the joint position, a
7 Commission decision on each of the 22 issues identified in Staff's rebuttal testimony, along
8 with one new additional OPC issue on calculating net benefits would be necessary to
9 determine the amounts of PY2013 annual energy savings and PY2013 annual net shared
10 benefits that are to be used for determining the performance incentive award amount in 2016.

11 Q. Please explain the new additional issue on calculating net benefits raised by
12 OPC.

13 A. OPC raised a new adjustment issue in its rebuttal testimony that the calculations
14 of net benefits "utilize a utility cost test (UCT), which is a test that minimizes costs and runs
15 counter to the MEEIA statute and Commission rules which emphasize that the TRC is to be
16 the preferred test for this purpose."²² OPC now wants to improperly adjust annual net shared
17 benefits downward by misapplying the TRC test as discussed later in my surrebuttal
18 testimony.

19 Q. Do you have any further comment on OPC's statement that the joint position
20 "...does nothing to address the many outstanding issues present in this case...?"

21 A. Yes.

²¹ Only Staff and Ameren Missouri filed change requests on July 3, 2014 in compliance with paragraph 11. a. iv. of the 2012 Stipulation.

²² Marke rebuttal testimony page 4 lines 7 through 9.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 The joint position is more than just an agreement on the amounts for PY2013 annual
2 energy savings and PY2013 net benefits. The joint position also includes a process for Staff,
3 Ameren Missouri and stakeholders to use their “best efforts” to discuss and agree, if possible,
4 on how the components of the NTG ratios for Ameren Missouri’s demand-side programs
5 should be calculated through EM&V for PY2014 and for PY2015. The process will also
6 inform the MEEIA rulemaking review which must be completed by July 1, 2015.²³ The joint
7 position represents a great opportunity for improving the efficiency and effectiveness of the
8 entire EM&V process for future program years beginning with EM&V for program year
9 2014.²⁴ Unfortunately for all stakeholders, OPC has chosen to ignore the benefits to be
10 gained from this collaborative problem-solving opportunity. OPC did not consider this key
11 feature of the joint position in its September 26, 2014 objection to the non-unanimous
12 stipulation and agreement, its October 16, 2014 response to change requests, its October 22,
13 2014 direct testimony and its November 17, 2014 rebuttal testimony.

14 **CALCULATIONS OF ANNUAL NET SHARED BENEFITS BY EVALUATORS AND**
15 **AUDITOR ARE CONSISTENT WITH MEEIA STATUTE AND COMMISSION**
16 **RULES.**

17 Q. Please comment further on Dr. Marke’s assertions that net benefits in Staff’s
18 24 scenarios are inflated because the calculations of net benefits: 1) “utilize a utility cost test
19 (UCT), which is a test that minimizes costs and runs counter to the MEEIA statute and
20 Commission rules which emphasize that the TRC is to be the preferred test for this
21 purpose,”²⁵ and 2) “do not include any consideration of the costs ratepayers will bear as a
22 result of the utility performance incentive, which is explicitly defined as a cost in the rules.”²⁶

²³ Rogers rebuttal testimony page 17 lines 25 through 28.

²⁴ Rogers rebuttal testimony page 17 line 28 through page 18 line 2.

²⁵ Marke rebuttal testimony page 4 lines 7 through 9.

²⁶ Marke rebuttal testimony page 4 lines 13 through 15.

1 A. Dr. Marke continues to incorrectly state that the TRC is **the** preferred cost-
2 effectiveness test in Missouri. My rebuttal testimony explains that: 1) the MEEIA statute and
3 the MEEIA rules establish the TRC as **a** preferred cost-effectiveness test, and 2) the utility
4 performance incentive amount is **not** a cost when calculating annual net benefits.²⁷

5 Referring to Marke Table 2, Dr. Marke claims: “This table illustrates the large
6 difference between the TRC and UCT test when calculating net benefits. The Commission
7 should take note that there is an approximate \$8 million dollar gap between the two tests.”²⁸

8 Marke Table 2 includes programs’ Incentives of \$8,036,052 for the TRC and Participant
9 Costs (Net) of \$16,074,379 for the UCT. Staff understands Participant Costs (Net) in Marke
10 Table 2 to mean the incremental costs of end-use measures including both utility incentives
11 and participant contributions. Thus, participants’ contributions equal \$8,038,327 as a result of
12 EM&V performed by Cadmus for the PY2013 residential programs.

13 The Commission’s rules define TRC, utility cost test and annual net shared benefits
14 as:

15 4 CSR 240-3.164(1)(X) Total resource cost test, or TRC, means the test of
16 the cost-effectiveness of demand-side programs that compares the avoided
17 utility costs to the sum of all *incremental costs of end-use measures that*
18 *are implemented due to the program (including both utility and*
19 *participant contributions)*, plus utility costs to administer, deliver, and
20 evaluate each demand-side program.

21
22 4 CSR 240-3.164(1)(Y) Utility cost test means the test that compares the
23 avoided utility costs to the sum of *all utility incentive payments*, plus
24 utility costs to administer, deliver, and evaluate each demand-side
25 program to quantify the net savings obtained by substituting the demand-
26 side program for supply-side resources.

27
28 4 CSR 240-20.093(1)(C)) Annual net shared benefits means the utility’s
29 avoided costs measured and documented through evaluation,
30 measurement, and verification (EM&V) reports for approved demand-side

²⁷ Rogers rebuttal testimony page 2 line 14 through page 10 line 3.

²⁸ Marke rebuttal testimony page 5 lines 4 through 6.

1 programs less the sum of the *programs' costs* including design,
2 administration, delivery, *end-use measures, incentives*, EM&V, utility
3 market potential studies, and technical resource manual on an annual
4 basis; [Emphasis added]
5

6 The Commission's rules are clear that annual net shared benefits include the cost of
7 utility incentives (which is a cost in the UCT and in the TRC). Annual net shared benefits, by
8 rule, do not include the cost of participant contributions (which is treated as a cost for the
9 TRC but is not a cost for the UCT); therefore, it is appropriate to use the UCT.

10 **SECTION 393.1075 SETS THE POLICY FOR THE STATE OF MISSOURI AND THE**
11 **COMMISSION'S MEEIA RULES WERE PROMULGATED TO CARRY OUT THAT**
12 **POLICY.**

13 Q. What is your understanding of Dr. Marke's concluding comments regarding
14 Staff's direct testimony in which Dr. Marke states: "accepting Staff's [joint] position would
15 effectively make Missouri an outlier within the regulatory world of energy efficiency. This
16 position would only be exacerbated when you factor in that Ameren Missouri would be
17 claiming savings from market effect when ... *The Commission should decline to endorse*
18 *such a drastic new policy in this case* and refrain from making Missouri the outlier in
19 rewarding utilities for taking credit beyond *what can be verified* by their actions."²⁹
20 [Emphasis added]

21 A. I understand Dr. Marke's concluding comments to mean: the Commission
22 should not approve the joint position's PY2013 annual energy savings and PY2013 annual net
23 shared benefits because, according to Dr. Marke, such an action by the Commission would be
24 *drastically* inconsistent with other states and create a new Missouri *policy* for evaluating,
25 measuring and *verifying* energy savings and net benefits.

²⁹ Marke rebuttal testimony page 6 lines 9 through 24.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 Q. Is the joint position the product of EM&V which was performed and reported
2 consistent with the MEEIA statute and the MEEIA rules?

3 A. Yes. It is troubling that Dr. Marke has twisted and changed the plain meaning
4 of the MEEIA statue and MEEIA rules to accommodate his objective of lowering the PY2013
5 annual energy savings and PY2013 annual net shared benefits of Ameren Missouri's demand-
6 side programs. Dr. Marke's alteration of the MEEIA statute and rules are plainly evident in
7 his October 6, 2014 response to the change requests of Ameren Missouri and Staff, his
8 October 22, 2014 direct testimony and his November 17, 2014 rebuttal testimony.

9 Q. Please summarize how Dr. Marke has attempted to change the MEEIA statute
10 and the MEEIA rules.

11 A. By insisting that the TRC is the preferred cost-effectiveness test for Missouri -
12 instead of a cost-effectiveness test for Missouri - Dr. Marke has changed the application of
13 the statute and has changed the Commission rule 4 CSR 240-20.093(1)(C) definition of
14 annual net shared benefits to: 1) include any utility financial incentive as a program cost,³⁰
15 and 2) include costs from the TRC test instead of costs from the UCT.³¹ Dr. Marke's
16 extensive research of and reporting on the market effects adjustments and the rebound effects
17 adjustments for other utilities in other states during periods of time other than 2013 are not
18 based upon actual EM&V performed and reported in compliance with Commission rules 4
19 CSR 240-20.093(~~32~~)(C)3, 4 CSR 240-20.093(~~32~~)(H), and 4 CSR 2403.164(1)(L) for Ameren
20 Missouri's PY2013 demand-side programs. Specifically, OPC has not performed any studies
21 and activities required by the Commission rules *to evaluate and to estimate and/or verify the*

³⁰ Appendix to Marke direct testimony page 62 line 17 through page 63 line 23.

³¹ Marke rebuttal testimony page 4 line 18 through page 5 line 6.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 | *estimated actual energy and demand savings, cost effectiveness, and other effects from*
2 | *Ameren Missouri's PY2013 demand-side programs.* [Emphasis Added]

3 | Q. Do Dr. Marke's recommendations in this change request case support or
4 | comply with *Missouri's* policies for evaluating, measuring and *verifying* energy savings and
5 | net benefits?

6 | A. No.

7 | Q. Will Dr. Marke and other parties very soon have an opportunity to work
8 | together to review the effectiveness of the MEEIA rules?

9 | A. Yes. On October 29, 2014, the Commission issued its order establishing File
10 | No. EW-2015-0105 as a repository for documents and requesting comments on and suggested
11 | changes³² to the MEEIA rules. On November 14, 2014, eight (8) stakeholders,³³ including
12 | OPC, filed comments and suggestions in File No. EW-2015-0105. Stakeholders are invited to
13 | participate in a rulemaking workshop to be held on January 15, 2015, at 10:00 a.m. in Room
14 | 450 of the Governor Office Building. The Commission must complete its review of the
15 | effectiveness of its MEEIA rules not later than May 30, 2015.³⁴

16 | Q. Do OPC's comments and suggestions filed on November 14, 2014 in File No.
17 | EW-2015-0105 include comments and suggestions for changes to the MEEIA rules
18 | concerning market effects adjustments to NTG ratios, rebound effects adjustments to NTG

³² Suggestions need not be in the form of a draft amendment, but should include citations to the language that would be amended if the proposed changes are effectuated, and should explain the policy or other rationale supporting the proposed change. The Commission also requested comments on any issues that should be addressed in proposed amendments to the MEEIA rules not presently included in the rules.

³³ All intervening parties in File Numbers EO-2012-0009, EO-2012-0142, EO-2014-0030 and EO-2014-0355 and the Office of the Public Counsel are automatically parties to File No. EW-2015-0105. The following parties filed comments and suggestions on November 14, 2014: Ameren Missouri, Renew Missouri, OPC, Kansas City Power & Light, KCPL Greater Missouri Operations Company, Brightergy, Missouri Division of Energy, and AG Processing, Inc.

³⁴ 4 CSR 240-3.163(12), 4 CSR 240-3.164(7), 4 CSR 240-20.093(14) and 4 CSR 240-20.094(10) each state: Rule Review. The commission shall complete a review of the effectiveness of this rule no later than four (4) years after the effective date and may, if it deems necessary, initiate rulemaking proceedings to revise this rule. The effective date of each current MEEIA rule is May 30, 2011.

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 ratios, changing the 4 CSR 240-20.093(1)(C) definition of annual net shared benefits to: 1)
2 include any utility financial incentive as a program cost, and 2) include costs from the TRC
3 test instead of costs from the UCT?

4 A. Yes. OPC's November 14, 2014 comments and suggestions include:

5 (5) Evaluating and measuring market transformation programs should be
6 addressed more specifically in the rules. The rules should require that
7 designating a program a "market transformation program" must be
8 undertaken prospectively with agreement from stakeholders on the
9 designated parameters and selected methodology. Requiring more specific
10 plans prior to beginning a program would prevent potential conflicts when
11 examining future EM&V Reports. Market transformation programs are
12 mentioned in the rules at 4 CSR 240-3.163(5)(A)4 and 4 CSR 240-
13 3.164(2)(C)12 and could be amended to include these recommendations.
14

15 (6) The MEEIA rules should be amended to state that the formula for
16 determining Net-to-Gross must include the following inputs: Free rider
17 (including leakage); spillover; rebound effect; and market effect (if
18 applicable, see market transformation suggestion). This change would
19 mitigate future EM&V conflicts over the appropriate formula to use when
20 determining the Net-to-Gross and could be included at 4 CSR 240-
21 3.164(2)(C)10 and 4 CSR
22 240-20.093(2)(H).
23

24 (7) The rules should be amended to include clear language requiring that
25 the Total Resource Cost Test is to be utilized in determining the annual net
26 shared benefits. The specific inputs used in the calculation of the total
27 resource cost should be listed in the rules to ensure a clear understanding
28 of the costs to be included. This could be accomplished by amending the
29 definitions of annual net shared benefits at 4 CSR 240-3.163(1)(A), 4 CSR
30 240-20.094(1)(C), and 4 CSR 240-20.093(1)(C) to specifically state that
31 the Total Resource Cost Test is to be used in determining the annual net
32 shared benefits.
33

34 (8) Additionally, the definition of Annual Net Shared Benefits should be
35 amended to change "incentive" to "utility performance incentive" in order
36 to differentiate between the terms incentive and end-use measure. This
37 change would require the rule to be amended at 4 CSR 240-3.163(1)(A), 4
38 CSR 240-20.094(1)(C), and 4 CSR 240-20.093(1)(C).

Corrected Red-line Surrebuttal Testimony of
John A. Rogers

1 By proposing these suggested changes to the MEEIA rules, OPC tacitly acknowledges
2 that its recommended changes in this change request case are not provided for in the current
3 MEEIA rules.

4 Q. Does Staff believe the Commission's MEEIA rule review process established
5 in File No. EW-2015-0105 provides a more productive venue for the Commission's
6 determination of the issues OPC is raising in this change request case?

7 A. Most definitely a more productive use of Commission and stakeholder
8 resources!

9 Q. Does this conclude your testimony?

10 A. Yes.