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Witness:	John A. Rogers
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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY

OF

JOHN A. ROGERS

UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI

FILE NO. ER-2011-0028

Jefferson City, Missouri
March 2011

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a AmerenUE's Tariff to Increase Its Annual Revenues for Electric Service	)))	File No. ER-2011-0028

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 Rebuttal Testimony in question and answer form, consisting of 17 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal 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 24th day of March, 2011.

SUSAN L. SUNDERMEYER
Notary Public - Notary Seal
State of Missouri
Commissioned for Callaway County
My Commission Expires: October 03, 2014
Commission Number: 10942086

Susan L Sundermeyer
Notary Public

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d/b/a AMEREN MISSOURI

FILE NO. ER-2011-0028

Q. Please state your name and business address.

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

Q. What is your present position at the Missouri Public Service Commission?

A. I am a Utility Regulatory Manager in the Energy Department of the Utility Operations Division.

Q. Are you the same John A. Rogers that contributed to Staff's Revenue Requirement Cost of Service Report ("COS Report") filed on February 4, 2011?

A. Yes, I am.

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

A. I address certain direct testimony of Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") witness, William R. Davis, related to: a) Ameren Missouri's request to change the amortization period for its demand-side management ("DSM") programs cost recovery mechanism from six years to three years; b) Ameren Missouri's request for approval of a fixed cost recovery mechanism ("FCRM"); and c) Ameren Missouri's overall strategy to align its financial incentives with helping its customers use energy more efficiently. I also provide an update on Staff's review of Ameren Missouri's Residential Lighting and Appliance demand-side program ("L&A"). Finally, I express Staff's overall agreement with the direct testimony of Michael L. Brosch on behalf of Missouri Industrial Energy Consumers ("MIEC"), regarding Ameren Missouri's request for recovery of lost revenues caused by the DSM programs' energy savings between rate case test years. On these issues Staff makes the following recommendations in this case:

1. That the Commission not change Ameren Missouri's current DSM cost recovery mechanism from its current six-year amortization to a three-year amortization, because approval of Ameren Missouri's request will not create the necessary financial incentives for the Company to comply with the Missouri Energy Efficiency Investment Act of 2009 ("MEEIA"), Section 393.1075, RSMo, Supp. 2009;

2. That the Commission not approve the FCRM proposed by Ameren Missouri, because: a) the FCRM proposed by Ameren Missouri is a lost revenue recovery mechanism, which is inconsistent with the provisions for a utility lost revenue component of a demand-side programs investment mechanism ("DSIM") included within the Commission's recently-approved MEEIA rules; b) approval of the proposed FCRM will not create the necessary financial incentives for Ameren Missouri to comply with MEEIA; c) the proposed FCRM does not remove the Company's throughput incentive; and d) the Company has not requested Commission approval of its demand-side programs under MEEIA, a condition for receiving a Commission-approved DSIM;

3. That the Commission encourage Ameren Missouri to pursue a comprehensive strategy to align its financial incentives with helping its customers use energy more efficiently. The Company should focus its attention on working with its stakeholders to achieve by September 1, 2011, the filing of applications for approval

of its realistic achievable potential ("RAP") demand-side programs (described in Ameren Missouri's recently filed Chapter 22 Electric Utility Resource Planning compliance filing in File No. EO-2011-0271("Chapter 22 compliance filing"))[1] and for approval of a DSIM under the soon-to-be-effective MEEIA rules or, should MEEIA rules not be effective, under 393.1075, RSMo, Supp. 2009; and

4. That all expenses for the Ameren Missouri L&A remain in the DSM regulatory asset, pending Staff's review of the evaluation, measurement and verification ("EMV") report for the L&A.

Response to Ameren Missouri Testimony

DSM Cost Recovery

Q. Do you agree with the following direct testimony of Mr. Davis on page 4, line 20 through page 5, line 2?

> In contrast, if DSM program expenses are capitalized, the regulatory asset continues to grow over time creating a "bubble" of costs being pushed through time. The longer the amortization period, the larger the bubble will grow, as annual DSM expenditures continue to exceed the amount recovered through the amortization.

A. Yes.

Q. Do you agree with the following direct testimony of Mr. Davis on page 5, lines 10 through 19?

> AmerenUE is proposing that the balance of the DSM regulatory asset as of the end of the true-up period for this case, which includes all related program costs and interest accrued at the Company's AFUDC rate, be included in rate base and amortized over three years. … As indicated in the direct testimony of AmerenUE witness Warner L.

[1] Staff references Ameren Missouri's Chapter 22 Electric Utility Resource Planning compliance filing in File No. EO-2011-0271 in this rebuttal testimony. Staff has not finished its review of Ameren Missouri's filing and mention of the filing in this testimony does not mean that Staff will find that Ameren Missouri's filing has no deficiencies.

> Baxter, this request for a change in the period over which accumulated DSM costs are amortized is an important interim step toward a comprehensive DSM cost recovery mechanism that fully aligns utility financial incentive with the goal of educating and supporting customers as they seek to use energy more efficiently.

A. No.

Q. Why not?

A. Taking such an interim step towards a comprehensive DSM cost recovery mechanism (three-year amortization of all DSM costs) will not create the necessary financial incentives for Ameren Missouri to comply with MEEIA and result in Ameren Missouri placing a high priority on pursuing a statutory goal of achieving all cost-effective demand-side savings[2]. Even Ameren Missouri's recent Chapter 22 compliance filing supports this conclusion. The Company's adopted preferred resource plan in its Chapter 22 compliance filing includes "low-risk" demand-side resources at an annual expenditure level of approximately $20 million each year over the 20-year planning horizon under current regulatory treatment for demand-side resources. This annual spending level represents a significant decrease from the Company's 2010 expenditure of $28 million[3] for its DSM programs.

Q. Does Ameren Missouri intend to reduce the level of DSM expenditures and DSM savings should it receive approval of its DSM cost recovery mechanism in this case, and please explain your answer?

A. Yes. In its data request number MPSC 0404, Staff asked: "If Ameren Missouri is granted the DSM Cost Recovery requested by Ameren Missouri in this rate case,

[2] 393.1075, Section 4, RSMo: "The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side saving."
[3] Ameren Missouri's response to Staff data request MPSC 0352 in File No. ER-2011-0028.

what level of DSM as described in its resource plan filing in File No. EO-2011-0271 would Ameren Missouri implement?" Mr. Davis responded: "If Ameren Missouri is granted the DSM cost recovery requested by Ameren Missouri in its direct case of this proceeding, Ameren Missouri would implement the Low Risk portfolio as described in its resource plan in File No. EO-2011-0271."

Q. Does Ameren Missouri have a contingency plan in its Chapter 22 compliance filing to help the Company better achieve a statutory goal of all cost-effective demand-side savings and, therefore, to comply with MEEIA?

A. Yes. In fact, Ameren Missouri's adopted resource acquisition strategy includes several contingency resource plans which will better enable the Company to comply with MEEIA should the Company file for and receive approval of a DSIM under MEEIA[4]. These contingency plans each include a more aggressive implementation of demand-side resources defined in the RAP DSM portfolio. The RAP DSM portfolio calls for annual DSM spending levels to increase annually to approximately $75 million in 2015, and to approximately $100 million annually during 2018 to 2030, and which are expected to achieve significantly higher levels of energy savings and demand savings when compared to the "low-risk" DSM portfolio[5].

Ameren Missouri's adopted resource acquisition strategy indicates that if aggressive environmental regulations are enacted in the near term, implementation of the RAP DSM portfolio is expected to allow retirement of the 839 MW Meramec generating station without

[4] File No. EO-2011-0271, February 23, 2011 Electric Utility Resource Filing of Union Electric Company d/b/a Ameren Missouri (NP and HC), Chapter 1 - Executive Summary, Figure 1.15 Decision Roadmap on page 21.

[5] File No. EO-2011-0271, February 23, 2011, Electric Utility Resource Filing of Union Electric Company d/b/a Ameren Missouri (NP and HC), Chapter 1 - Executive Summary, Figures 1.2 Annual Budgets and Figure 1.3 Annual Saving on page 8, and Chapter 7 – Demand-Side Resource, Figure 7.39 Cumulative EE Savings (Peak MW) on page 119 and Figure 7.40 Cumulative DR Savings (Peak MW) on page 120.

the addition of any supply-side resources during the 20-year planning horizon of Ameren Missouri's Chapter 22 compliance filing[6].

Q. What is Staff's recommendation concerning the Company's request to change the amortization of its DSM cost recovery mechanism?

A. Staff does not agree that "the balance of the DSM regulatory asset as of the end of the true-up period for this case, which includes all related program costs and interest accrued at the Company's AFUDC rate, be included in rate base and amortized over three years." Staff recommends that the Commission not change Ameren Missouri's current DSM cost recovery mechanism from its current six-year amortization period to a three-year amortization period, because approval of Ameren Missouri's request will not create the necessary financial incentives for Ameren Missouri to comply with MEEIA.

Later in this rebuttal testimony, I will discuss Staff's recommendation that Ameren Missouri initiate actions to pursue a comprehensive strategy to align its financial incentives with helping its customers use energy more efficiently by filing no later than September 1, 2011, applications for approval of its RAP demand-side programs and for approval of a DSIM under the soon-to-be-effective MEEIA rules or, should MEEIA rules not be effective, under 393.1075, RSMo, Supp. 2009.

<u>Fixed Cost Recovery Mechanism</u>

Q. Please describe the FCRM proposed by Ameren Missouri.

A. Mr. Davis describes the Company's requested FCRM on page 8, lines 9 through 24 of his direct testimony:

[6] File No. EO-2011-0271, February 23, 2011 Electric Utility Resource Filing of Union Electric Company d/b/a Ameren Missouri (NP and HC), Chapter 1 - Executive Summary, Resource Acquisition Strategy - Decision Roadmap on pages 21 - 22.

> The Fixed Cost Recovery Mechanism ("FCRM") seeks to recover fixed cost that the utility would normally expect to recover through the sale of energy absent the implementation of energy efficiency programs. A base amount of fixed cost recovery would be built into rates based on expected energy efficiency impacts. The FCRM would also include a tracker that tracks the difference between the base amount and the actual impacts of energy efficiency. In this case, AmerenUE proposes that rates be set with zero prospective fixed cost recovery related to energy efficiency impacts. Ideally, we would request a starting amount that is representative of the expected energy efficiency impacts, then true-up that estimate in subsequent rate cases. However, because this would be the first implementation in Missouri of such a mechanism, we are proposing to start with no initial impact to rates. Periodically between rate cases the actual impacts of energy efficiency on the recovery of fixed costs will be compared to the base amount (in this case, zero), with the difference accumulated in a regulatory asset balance to be amortized over 12 months beginning with the effective date of rates as set in the Company's next general rate case. The regulatory asset would include the carrying cost, or credit, associated with the regulatory asset balance at the Company's AFUDC rate.

Q. Does Staff have concerns regarding the Company's proposed FCRM?

A. Yes.

Q. What are Staff's concerns?

A. Staff's first concern is that Ameren Missouri's proposed FCRM is inconsistent with the utility lost revenue component of a DSIM in the Commission's MEEIA rules. The Commission's MEEIA rules define "lost revenue" and "utility lost revenue component" of a DSIM as:

> Lost revenue means the net reduction in utility retail revenue, taking into account all changes in costs and all changes in any revenues relevant to the Missouri jurisdictional revenue requirement that occurs when utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 cause a drop in net system retail kWh delivered to jurisdictional customers below the level used to set the electricity rates. Lost revenues are only those net revenues lost due to energy and demand savings from utility demand-side programs approved by the commission in accordance with 4 CSR 240-20.094 Demand-Side Programs and measured and verified through EM&V.

. . .

> Utility lost revenue component of a DSIM means the methodology approved by the commission in a utility's filing for demand-side program approval to allow the utility to receive recovery of lost revenue.

The definition of lost revenue in the Commission's MEEIA rules is generally consistent with the definition of lost revenue in The National Action Plan for Energy Efficiency[7] ("NAPEE"): "Lost revenue means the reduction in revenue that occurs when energy efficiency programs cause a drop in sales below the levels used to set the electricity or gas price. There generally also is a reduction in cost as sales decline, although this reduction is often less than revenue loss."

Consistent with the NAPEE definition of lost revenue, the MEEIA rules allow the utility to recover lost revenue only when and to the extent that energy efficiency programs cause a drop in sales below the levels used to set the electricity prices. In contrast, Ameren Missouri's FCRM, "seeks to recover fixed costs that the utility would normally expect to recover through the sale of energy absent the implementation of energy efficiency programs." The Commission should not approve the FCRM, since it is inconsistent with the Commission's MEEIA rules and would allow Ameren Missouri to recover all lost revenue resulting from demand-side savings even in the event the Company's retail energy sales are growing.

If a FCRM is approved by the Commission in this case, it should not conflict with the MEEIA rules.

Q. Was Ameren Missouri aware of the Commission's intent regarding lost revenues when it filed its direct testimony?

[7] The National Action Plan for Energy Efficiency. 2007. *Aligning Utility Incentives with Investment in Energy Efficiency A Resource of the National Action Plan for Energy Efficiency*. Washington, DC: National Action Plan for Energy Efficiency.

A. Ameren Missouri should have been aware of the requirements contained in the MEEIA rules pertaining to DSM program approval, EMV and lost revenue recovery. The Company filed Mr. Davis' direct testimony, including a proposal for the FCRM, on September 3, 2010. The Commission requested that lost revenue language be added to the draft MEEIA rules at the August 4, 2010 agenda meeting, and this draft language was subsequently circulated to stakeholders, including Mr. Davis and others at Ameren Missouri, for comment on August 12, 2010, before it was included in the proposed rule.

Q. What is Staff's second concern with Ameren Missouri's proposed FCRM?

A. Staff is concerned that the proposed FCRM, "neutralizes the impact of the throughput incentive" (direct testimony of Mr. Davis on page 3, lines 11 through 13) and "should be implemented to level the playing field between supply-side and demand-side resources" (direct testimony of Mr. Davis on page 10, lines 7 through 9). However, Ameren Missouri is clearly not interested in tipping the playing field in the direction of demand-side resources when it states: "Any performance-related incentives that might be proposed in the future should serve to further encourage utilities to be more aggressive in the pursuit of energy efficiency. AmerenUE is not proposing any such incentives at this time." (direct testimony of Mr. Davis on page 10, lines 9 through 11). Staff is concerned that even if the proposed FCRM is approved, or is approved with modifications, such actions by the Commission will not create the necessary financial incentives for Ameren Missouri to comply with MEEIA and to actively pursue a statutory goal of achieving all cost-effective demand-side savings.

Q. What is Staff's third concern with Ameren Missouri's proposed FCRM?

A. The proposed FCRM will not incent Ameren Missouri to increase its level of cost-effective demand-side savings to achieve a statutory goal of all cost-effective demand-side savings. Mr. Davis leaves little doubt concerning this issue as a result of his direct testimony at page 10, lines 12 through 14:

> Q. Does AmerenUE's proposal eliminate the throughput incentive?
>
> A. No, however AmerenUE believes the proposal is sufficient to support the continuation of current levels of energy efficiency expenditures.

Q. What is Staff's fourth concern with Ameren Missouri's proposed FCRM?

A. Staff is concerned that Ameren Missouri has not requested and has not received approval of its DSM programs as required by 393.1075 Section 4, RSMo, Supp. 2009:

> The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side saving. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

Also, the soon-to-be-effective MEEIA rules (4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements and 4 CSR 240-20.094 Demand-Side Programs) provide requirements for DSM programs' review and approval by the Commission. Further, DSM program approval under 4 CSR 240-20.094 is a condition for approval of a DSIM under 4 CSR 240-20.093:

> (F) The commission shall approve any cost recovery component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.
>
> . . .

> (G)2. The commission shall order any utility lost revenue component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.
>
> . . .
>
> (H)2. The commission shall order any utility incentive component of a DSIM simultaneously with the programs approved in accordance with 4 CSR 240-20.094 Demand-Side Programs.

Q. Does the Staff have a recommendation which would alleviate its concerns for the proposed FCRM?

A. Yes. Staff recommends that the Commission not approve the FCRM and that the Commission encourage Ameren Missouri to actively pursue a strategy to align Ameren Missouri's financial incentives with helping its customers use energy more efficiently through its compliance with MEEIA in a separate case before the Commission.

Strategy to Align Ameren Missouri's Financial Incentives with Helping Its Customers Use Energy More Efficiently Through Its Compliance with MEEIA

Q. Does Mr. Davis propose a comprehensive strategy to align Ameren Missouri's financial incentives with helping its customers use energy more efficiently?

A. No. Mr. Davis characterizes his proposal for a change in the Company's DSM cost recovery mechanism and for approval of a FCRM as an, "interim step toward a comprehensive DSM cost recovery mechanism that fully aligns utility financial incentives with the goal of educating and supporting customers as they seek to use energy more efficiently." Staff believes such an interim step will neither provide the necessary financial incentives for Ameren Missouri to comply with MEEIA nor to actively pursue a statutory goal of achieving all cost-effective demand-side savings. This interim step will result in an enhancement to the Company's current DSM cost recovery mechanism and provide "guaranteed" recovery of lost revenue due to energy savings from DSM programs, while at the same time the Company is stating publicly that it will be reducing the level it plans to spend on DSM programs from $25 million to only $20 million annually[8].

Q. Does Staff have a proposed strategy to align Ameren Missouri's financial incentives with helping customers use energy more efficiently?

A. As previously discussed in Staff's COS Report on page 42, line 10 through page 43 line 1:

> Staff would like to point out the significant scheduling opportunity that Ameren Missouri has in 2011 related to approval of DSM programs and approval of demand-side programs investment mechanism ("DSIM") under the soon-to-be-effective MEEIA rules. The Company will file on February 23, 2011 its Chapter 22 compliance filing, and Staff, OPC and interveners are expected to submit their reports by June 23, 2011. It is also expected that MEEIA rules will be effective in June 2011. If MEEIA rules are effect in June 2011, and if Ameren Missouri files its applications for approval of DSM programs and for approval of a DSIM by the end of June 2011, Ameren Missouri could have approved DSM programs and an approved DSIM under MEEIA rules by the end of October 2011. Staff also notes that Ameren Missouri's current DSM programs' tariffs all expire on September 30, 2011 unless extended. The following chart summarizes the above discussion and illustrates the significant scheduling opportunity for Ameren Missouri in 2011.

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[8] "Politics, profit cut energy savings Ameren Missouri trims its efficiency funding, as conservation efforts bite into utility's bottom line", St. Louis Post-Dispatch article dated February 25, 2010

<u>Optimum Schedule for Ameren Missouri's Approval of DSM Programs and DSIM Under MEEIA Rules</u>

	2010				2011											
	Sep.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
ER-2011-0028 Rate Case	Filed 9/3/10						Operation of law date 8/3/11									
4 CSR 240-22 IRP Case						File 2/23/11		Reports 6/23/11								
MEEIA Rules										June effective date expected						
4 CSR 240-20.093 Case											File DSIM			Order		
4 CSR 240-20.094 Case											File Programs			Order		
Current DSM Tariffs							Term for all current DSM tariffs is 9/30/11									

Q. What is the status of the MEEIA rules?

A. The Commission's final orders of rulemaking in File No. EX-2010-0368 are dated February 9, 2011. The final MEEIA rules consisting of 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094 were recently filed with the Office of Secretary of State and are expected to be effective in June 2011.

Q. Are effective MEEIA rules necessary for the Company to comply with MEEIA and to achieve a statutory goal of achieving all cost-effective demand-side savings?

A. No.

Q. Please explain your last answer.

A. The MEEIA was established in Senate Bill 376 and became law in 393.1075, RSMo, Supp. 2009 on August 28, 2009. With the enactment of MEEIA, the State of Missouri has declared and directed the following:

> 3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent cost of delivering cost-effective demand-side programs. …

> 4. The Commission shall permit electric corporations to implement Commission-approved demand-side programs proposed pursuant to MEEIA with a goal of achieving all cost-effective demand-side savings.
> …
>
> 11. The commission shall provide oversight and *may adopt rules and procedures* and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary to ensure that electric corporations can achieve the goals of this section. [emphasis added]

Section 11 of MEEIA is clear that the Commission ***may*** adopt rules and procedures, but that it is not required to do so, and may approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section.

Q. Does Staff have a recommendation in this case regarding a strategy for Ameren Missouri to align its financial incentives with helping customers use energy more efficiently?

A. Staff recommends that the Commission encourage Ameren Missouri to pursue a comprehensive strategy to align its financial incentives with helping its customers use energy more efficiently by focusing its attention on working with its stakeholders to achieve a filing by September 1, 2011, of applications for approval of its RAP demand-side programs and for approval of a DSIM under the soon-to-be-effective MEEIA rules or, should MEEIA rules not be effective, under Section 393.1075, RSMo, Supp. 2009.

Q. Please explain what Staff means by a comprehensive strategy to align financial incentives with helping customers use energy more efficiently under MEEIA rules or under MEEIA legislation.

A. The first element of a comprehensive strategy is the electric utility's plan to implement DSM programs, which based upon the utility's demand-side market potential study and the utility's Chapter 22 compliance filing, can be expected to achieve a statutory goal of achieving all cost-effective demand-side savings. The second element of a comprehensive strategy is the Commission-approved DSIM to properly provide the necessary financial incentives for the utility to pursue a statutory goal of achieving all cost-effective demand-side savings. The utility's Commission-approved DSIM may have any or all of the following components: a) cost recovery component, b) utility lost revenue component, and c) utility incentive component.

Ameren Missouri has not requested approval of DSM programs to achieve a statutory goal of achieving all cost-effective demand-side savings and Ameren Missouri's proposed change to its DSM cost recovery mechanism and its proposed FCRM do not constitute a proper and comprehensive DSIM. Therefore, Ameren Missouri's proposal in this case does not represent a comprehensive strategy to align its financial incentives with helping its customers use energy more efficiently under MEEIA rules or under MEEIA legislation.

<u>**Response to MIEC Testimony**</u>

Q. Please respond to the direct testimony of Mr. Brosch in this case.

A. Staff is in overall agreement with Mr. Brosch's direct testimony regarding his analysis of Ameren Missouri's request for approval of its FCRM and his recommendation that the FCRM not be approved. In particular, Staff expresses its agreement with the direct testimony of Mr. Brosch on page 35, line 13 through page 36, line 2:

> Q. What is MIEC's position with regard to the proposed FCRM?
>
> A. The Commission has engaged in a rulemaking process in Case No. EX-2010-0368 ("rulemaking") in which a Demand-Side Programs Investment Mechanism ("DSIM") is under consideration that would provide for recovery of DSM program costs, while addressing other issues including lost revenues due to DSM and consideration of utility incentives based on the achieved performance level of approved DSM

> programs. The FCRM proposed by Ameren Missouri in this case should not be approved at this time because of the concurrent analysis of this issue by the Commission in the rulemaking proceeding. Any Ameren Missouri rate mechanism to account for DSM lost revenues should be considered by the Commission upon the conclusion of its deliberations in Case No. EX-2010-0368, when a more complete record regarding such matters exists.

Staff also agrees with the direct testimony of Mr. Brosch on page 37, line 8 through page 38, line 6:

> Q. Aside from the need to coordinate recovery of DSM lost margins with the outcome of the rulemaking, are there obvious problems with the proposed FCRM that support rejection of this proposal?
>
> A. Yes. The most obvious problem is the lack of any test to ensure that customers are not reimbursing the utility for lost revenues thought to be caused by DSM in a period when total kWh sales have not declined. It is quite possible that Ameren Missouri could experience growing sales and revenues due to economic recovery or the addition of new customers that more than offsets any sales reductions caused by utility-sponsored DSM programs. The FCRM would ignore favorable changes in sales volumes and associated fixed cost recovery, while deferring for future recovery amounts deemed to be DSM-related lost revenues. Another problem with the Company's proposal is its dependence upon reasonable quantification of the actual, determinable kWh impacts from commission approved DSM programs through evaluation, measurement and verification reporting protocols that are not yet available and are currently under development in the rulemaking. Moreover, any "lost revenue" amounts deferred for future recovery might reasonably be tied to Ameren Missouri's performance relative to DSM program goals and objective, but the Company's position on this issue is that, "AmerenUE should simply be made whole for the reductions in fixed cost recovery created by the existence of its energy efficiency programs, regardless of the performance of any particular program."

Staff Review of Residential Lighting and Appliance Program

Q. Has Staff had an opportunity to review the EMV report for the L&A?

A. No. Through its response to Staff's data request MPSC 0405, Ameren Missouri advises that all final EMV reports are due on March 31, 2011. Final reports will be forwarded to Staff as soon as they are received.

Q. Does Staff have a recommendation concerning the recovery of cost for the L&A?

A. Staff recommends that the L&A expenses remain in the DSM regulatory asset pending Staff's review of the EMV report for the L&A. Should Staff receive the EMV report for the L&A as expected, Staff will review the EMV report and, depending on the results and the evaluation techniques used by the EMV contractor, may recommend that some or all of the L&A costs be included in the test year true-up revenue requirement for this case.

Q. Does this conclude your testimony at this time?

A. Yes.