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

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

**POSITION STATEMENTS OF AMEREN MISSOURI**

In accordance with the Commission's September 28, 2016, *Order Establishing Procedural Schedule*, Union Electric Company, d/b/a Ameren Missouri (Ameren Missouri) submits the following position statements:

**1. For determination of Ameren Missouri's Cycle 1 performance incentive amount, what are the appropriate net-to-gross (NTG) ratios to be used to determine annual energy savings and annual net shared benefits in the Evaluators' final EM&V reports for program years 2014 (PY 2014) and 2015 (PY 2015)?**

Paragraph 12 of the February 11, 2015 *Second Non-Unanimous Stipulation and Agreement Settling the Program Year (PY) 2013 Change Requests* (2015 Stipulation) is abundantly clear that the appropriate NTG ratio to use given the NTG ratios reported by the Company's Evaluators and the Commission's Auditor for PY 2014 and PY 2015 is 1.0, as dictated by the following provision of the 2015 Stipulation:

> Process change to avoid dispute with respect to EM&V annual energy savings and annual net shared benefits for PY 2014 and PY 2014:
>
> (a) In each individual year (PY 2014 and PY 2015), the final [Company] evaluator and [Commission] 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.

> (b) If the final evaluator and auditor averaged savings calculations result in the portfolio-wide average energy savings NTG lower than 0.9 or higher than 1.1, the parties are free to file change requests, initiate litigation or otherwise contest the program year EM&V results…
> [Emphasis added.]

The language of this provision is plain and unambiguous: to avoid disputes over PY 2014 and PY 2015 results with *de minimis* outcomes, the NTG ratio defaults to 1.0 when the averages fall within a narrow bandwidth. This agreement to default to 1.0 makes sense because the NTG is an estimate which is not objectively determinable. If the average estimate of the evaluator and Commission auditor are a little above or a little below 1.0, the parties agreed to default to 1.0. To read into this provision [as Office of the Public Counsel (OPC) does] that first, the Commission's auditor and the Company's contractor must disagree, adds qualifiers to the language that do not exist and were not contemplated. The language unequivocally states:

- The final evaluator and auditor NTG ratios shall be averaged.
- If that average is between 0.9 and 1.1, then the agreed-to NTG of 1.0 becomes effective.

The language provides for this specifically to avoid dispute. Nowhere in this language did the parties provide that a dispute must first occur for this provision to become operative.

Moreover, OPC's position is illogical. For example, assume that the Evaluators report a NTG ratio of 0.93 and the Commission's Auditor a NTG ratio of 0.88, an average of 0.905. In that case, there is an obvious disagreement, the average falls within the 0.9 and 1.0 band and the deemed NTG ratio of 1.0 must be used even though the average is 0.095 away from 1.0. However, under OPC's view, had the Evaluators and Auditor both reported a NTG ratio of 0.99, the 0.99 NTG ratio would have been used instead of the deemed 1.0 ratio even though the average – which the 2015 Stipulation dictates must be determined – is a mere 0.01 away from the deemed 1.0 ratio. That makes no sense.

**2. For determination of Ameren Missouri's Cycle 1 performance incentive amount, what costs should be used to determine annual net shared benefits for PY 2014 and PY 2015?**

Only the utility's costs, which are accounted for by the Utility Cost Test (UCT), prescribed by the MEEIA 1 Plan approved by this Commission. That the UCT must be used is made clear by the following:

- The 2013-2015 Energy Efficiency Plan (MEEIA Report) filed with the Application that initiated this docket:
  - The terms in that Report dictate that for the utility incentive component (performance incentive) of the Commission-approved demand-side management investment mechanism (DSIM) at issue here, "the net benefits are based on the utility cost perspective, which is consistent with the MEEIA rules and synonymous with the UCT equation";
- The July 5, 2012, *Unanimous Stipulation and Agreement Resolving Ameren Missouri's MEEIA Filing* (2012 Stipulation):
  - The 2012 Stipulation expressly provides that the Commission-approved MEEIA 1 Plan's terms will include those established in the MEEIA Report, unless specifically modified by the 2012 Stipulation. The prescribed use of the UCT to determine net benefits to be shared via the utility incentive component of the DSIM was not changed by the 2012 Stipulation. In fact, the UCT's use was confirmed by the various terms of the 2012 Stipulation, including terms regarding the use of program costs

that include *only* utility costs and terms addressing net benefit calculations which were determined using the UCT;

- The workpapers underlying the 2012 Stipulation (which were provided to all of its signatories, including OPC) unequivocally demonstrate that net benefits to be shared via the performance incentive are to be determined using the UCT;
- The Commission-approved and in-effect Rider EEIC, through which all MEEIA charges are billed and collected:
  - The terms of Rider EEIC, including its definitions and formulas, dictate the use of the UCT because it provides that only utility costs factor into the determination of the performance incentive to be collected;
- The Commission's MEEIA Rules:
  - Together with the MEEIA Report, the 2012 Stipulation and Rider EEIC, the MEEIA rules make clear that program costs only include *utility costs*;
- OPC's Alternative Performance Incentive Proposal:
  - In 2012, when the MEEIA 1 Plan was being considered for approval, then–OPC Chief Economist Ryan Kind filed/submitted testimony and workpapers reflecting an alternative performance incentive proposal that clearly utilized the UCT in determining the net benefits.

The net benefit calculations reflected in the MEEIA Report and the 2012 Stipulation were, without question, determined using the UCT. The record clearly demonstrates, then, that the UCT is the basis for the Commission-approved utility incentive component (performance incentive) and that same basis must be used to determine the performance incentive now. 4 CSR

240-20.093(2) (J) Once approved, a utility incentive component "is binding on the commission for the entire term of the [DSIM], [and is also] binding on the electric utility ..."

**3. What MEEIA Cycle 1 performance incentive amount has Ameren Missouri earned as a result of its MEEIA Cycle 1 energy efficiency programs and demand-side programs investment mechanism?**

Ameren Missouri has earned a performance incentive of $29,065,869.38,[1] as dictated by the Commission-approved DSIM and as agreed upon by the Commission's Staff. OPC has not contested that Ameren Missouri has earned the sharing percentage set out in the 2012 Stipulation of 6.19%. OPC only contests the amount of net benefits to which that percentage is applied ($454,304,788). As Ameren Missouri has demonstrated, however, the initial sharing amount is appropriately calculated based on using the UCT to determine program costs and the 1.0 NTG ratio required by the 2015 Stipulation. To reach any other conclusion would violate the Commission-approved utility incentive component of the DSIM, a result prohibited by the Commission's MEEIA rules.

Respectfully submitted,

***/s/ Paula N. Johnson***
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[1] Due to a rounding error of $0.82 rounding error, it would be accurate for the Commission to set the performance incentive award at $29,065,868.56. However, as explained in the Rebuttal Testimony of Company witness William R. (Bill) Davis, accounting for the rounding error will not change customer rates under Rider EEIC.

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ATTORNEYS FOR UNION ELECTRIC
COMPANY, d/b/a AMEREN MISSOURI

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## CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing has been e-mailed, this 20th day of October, 2016, to counsel for all parties of record.

*/s/ Paula N. Johnson*