BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's 2nd Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA.	))))	File No. EO-2015-0055

<u>AMEREN MISSOURI'S RESPONSE TO COMMISSION ORDER</u>

COMES NOW, Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and in response to the Missouri Public Service Commission's ("Commission") *Order Directing Filing* dated September 17, 2015 ("Order"), states as follows:

I. INTRODUCTION

The Order directed the parties to advise the Commission respecting whether a plan could be negotiated among the parties that included retrospective evaluation, measurement and verification ("EM&V") and that included a Performance Incentive with a supply-side (i.e., demand-based) component. The Company has been engaged in significant discussions with multiple parties to this case in an effort to negotiate such a plan, but despite the efforts of all involved, a negotiated solution has not been reached. It is Ameren Missouri's belief that further multi-party negotiations will not lead to a negotiated plan. However, Ameren Missouri does not believe that the lack of a negotiated resolution should prevent the Commission from approving its MEEIA 2 Plan for a number of reasons, including the following:

- The Company's MEEIA Programs to date have proven to be highly successful and provide tremendous benefits to customers;
- The framework the Commission established in 2012 is fair to both customers and utilities, and modifications agreed to by Ameren Missouri to the MEEIA 2 Plan further enhance consumer safeguards;

- Ameren Missouri has already made numerous changes responsive to stakeholder concerns -- even those stakeholders who have expressed skepticism regarding energy efficiency generally (i.e., Staff and OPC);
- The MEEIA programs generate hundreds of millions of dollars in economic activity in Ameren Missouri's service territory while at the same time fulfilling the intent of MEEIA by implementing cost-effective energy efficiency that benefits all utility customers;
- Delaying further MEEIA programs as the stakeholders redevelop Missouri's energy efficiency framework threatens the network Ameren Missouri has built with trade allies, retailers and business partners throughout Missouri to deliver these programs; and
- As outlined below, in response to the Commission's expressed concerns, Ameren Missouri has developed additional modifications to its plan that address those concerns in a manner that should allow Company-sponsored energy efficiency programs to continue.

It is not necessary, as some other parties to this docket have advocated, to throw the successful energy efficiency framework now in place for the Company's MEEIA 1 Plan out the window. In fact, doing so would create much more harm than benefit to customers. As we have previously indicated, the foundation of the Company's MEEIA 2 Plan is the success of its MEEIA 1 Plan, which was agreed upon by a wide array of stakeholders and approved by the Commission. It is simply too late, in this case, to implement a totally different plan resting on a totally different foundation, particularly if there is to be any chance at all of actually having Company-sponsored energy efficiency programs in place in 2016. MEEIA 1 has been successful. The Company has operated successful programs, at a cost less than originally budgeted, and has achieved energy and demand savings that exceed the original targets.[1] Far from looking to discard the framework that led to that success, from the Company's perspective the Commission should embrace it.

Moreover, the framework reflected in the June 30 Stipulation, upon which the modifications set out herein are based, not only has the support of Ameren Missouri but is supported by a diverse group of other stakeholders, including the Natural Resources Defense Council, United for Missouri, Kansas City Power and Light Company and the Missouri Department of Economic Development – Division of Energy.

As noted above, the Company does not believe that further negotiations will produce an agreed-upon plan. The Company holds that belief for two principal reasons. First, it continues to be clear that some of the other parties to this case will not embrace the framework currently in place, even with additional modifications. Second, Ameren Missouri is simply out of time to launch MEEIA Cycle 2 programs in 2016 absent a prompt Commission order approving its modified plan (as further modified herein). The parties have negotiated the very issues that were discussed in the Commission's Order since early-on in this case, including through Ameren Missouri's agreement to waive the 120-day timeframe for a Commission decision on a MEEIA plan, and the parties' agreement to extensions of the procedural schedule so further negotiations could occur, plus, as noted, additional negotiations over the past two weeks since the

[1] The Company acknowledges that the Commission's Agenda discussion indicated some concern about whether the existing MEEIA 1 framework might create the wrong incentives for the Company. While other parties made this suggestion, there is absolutely no evidence whatsoever that the wrong incentives exist and, even more importantly, that the Company has even once acted on such a wrong incentive, even if one did exist. In any event, the additional modifications discussed herein address this issue.

Commission issued its September 9 Order.[2] The Company's energy efficiency programs are planned on three-year cycles that have definitive start and stop dates; the programs are time sensitive. The savings targets are impacted greatly by the prices of energy efficiency technology - which are dynamic, and governmental standards for lighting and appliances - which continue to advance. A lot of work is required to get these programs and vendors lined up to deliver savings. Without final approval in the near future (at or very near the end of this month), it is unlikely we could successfully implement the presently pending Plan, or really any plan, in time to run the cycle for the period 2016-2018.

Before addressing the additional modifications the Company has developed in response to the Commission's concerns, it is important to remember that Ameren Missouri has already made significant modifications to its initial filing, including the following major changes:

- Agreed to a stakeholder process to find additional MWh savings for 2017 and 2018,
- Increased the megawatt-hour (MWh) target by 37%;
- Modified the throughput disincentive mechanism so that customers are protected from differences in the amount of throughput disincentive incurred due to changes in rate case timing and other rate case outcome parameters;
- Expanded the proposed low-income Multifamily Program to incorporate specific suggestions of other parties, increasing the budget for these programs by 58%;
- Subjected its entire Performance Incentive to retrospective EM&V;
- Added lighting and combined heat and power programs at the request of the Missouri Division of Energy; and

[2] Ameren Missouri and other parties devoted considerable resources to working through issues. Countless hours negotiating and developing alternatives were spent in seeking what has proved to be an elusive universal compromise.

- Added a $9.9M small business energy efficiency program for traditionally hard to reach but very important small business customers.

The question now becomes where to go from here, and how to evaluate alternatives going forward. At this juncture, Ameren Missouri needs a decision by the end of the month (or very soon thereafter) in order to be able to implement the Plan.

The Company's recommends that the Commission approve the modified MEEIA 2 Plan, with the additional modifications identified herein, which are designed to address the Commission's concerns but with the commitment to work collaboratively to develop a different framework that could be agreed upon by all stakeholders prior to MEEIA Cycle 3. Rejection or modification of the key elements of this Plan would have the undesirable effect of precluding Ameren Missouri from providing programs in 2016.

II. ADDITIONAL MODIFICATIONS TO ADDRESS COMMISSION CONCERNS

As stated above, the Company listened to the concerns raised by the Commission and has developed additional modifications to its Plan that it believes addresses those issues. Ameren Missouri is comfortable that it can implement these changes to its Plan and still achieve the statutory requirement of aligning its interests with that of helping customers use energy more efficiently and that a plan with these features will otherwise allow it to value investments in demand-side resources equally with supply-side investments.

A. Solution for Commission Concern No. 1:

1. **Retrospective EM&V Analysis of TD-NSB Experience and Performance Incentive Credit.** At the end of the three-year period of the MEEIA 2 Plan, the Company would use retrospective EM&V to analyze Throughput Disincentive Net Shared Benefit ("TD-NSB") recoveries. The purpose of the comparative analysis will be to address the Commission's concerns related to

"over-recovery" but without changing revenues received and recognized under the TD-NSB mechanism consistent with Generally Accepted Accounting Principles ("GAAP"). To the extent EM&V indicates that TD-NSB amounts would have been lower had EM&V been applied during the three-year period, customers will receive the benefit of a credit against the Performance Incentive to be billed after the end of three year cycle, provided that the credit will not reduce the Performance Incentive below zero.[3] If the application of EM&V during the three-year period would have created higher TD-NSB amounts, that amount will be added to the Performance Incentive award. In all cases, EM&V will value net-to-gross ("NTG")[4] equal to 0.9, which, all else being equal, will reduce the TD-NSB billings by 10% as compared to using the Company's filed position on NTG of 1.0. This deemed NTG would apply to both the Performance Incentive and TD-NSB. Additionally, for the credit approach to work, it is important for revenue recognition purposes that amounts collected under the TD-NSB have been objectively determined, are earned and are non-refundable, subject only to Staff's prudence audit.

2. **Updates to Eliminate Disparities between EM&V and Technical Resource Manual ("TRM").**[5] The TRM will be updated automatically each year to reflect retrospective EMV results. This feature will work in tandem with the

[3] If the amount is allowed to go below zero, then the TD-NSB becomes fully subject to later refund and cannot be recorded for income statement purposes until such time as EM&V is completed, which would mean that the Company is experiencing negative earnings as and when the programs are being operated, thus creating a significant disincentive to operating the programs.
[4] During the program cycle, Ameren Missouri agrees that the EM&V evaluator will evaluate NTG to inform the next plan cycle.
[5] A technical resources manual contains a set of methodologies and inputs for calculating the savings and cost-effectiveness of energy efficiency programs. Ameren Missouri maintains a TRM for efficiency specific to its service territory. The TRM is part of Ameren Missouri's proposed plan. To date, Missouri has not developed a statewide TRM.

credit mechanism as a safeguard to prevent disparities between the TRM values used in the TD-NSB and the Final EM&V results. For the TD-NSB, annual EM&V will be used to measure savings experienced and use the findings to update the TRM annually based on the finalized results for the program year that occurred two years prior based upon the evaluation cycle (i.e., 2014 EM&V will be used for 2016, 2015 EM&V for 2017, and 2016 EM&V for 2018).

B. Solution for Commission Concern No. 2:

Implement a Demand-Based Performance Metric. The Company will include a demand based metric in its performance incentive calculation. The metric will be weighted so that 25%[6] of the ultimate award is based on achieved demand goals. The Company will further explore more demand-based programs in the collaborative described in the utility stipulation and will add as appropriate any worthwhile programs identified.

III. OTHER MODIFICATIONS RELATED TO THE TWO COMMISSION CONCERNS:

A. DSIM Alternatives Workshop.

The Company proposes that an industry-wide workshop docket be established to identify alternatives to the NSB approach for the throughput disincentive, and alternative Performance Incentive concepts. This workshop would complement the currently pending decoupling workshop. Consensus developments could be used in developing a MEEIA Cycle 3 Plan. Concepts that the Company would like to explore include the following:

[6] The targeted MW reduction pursuant to the June 30 Stipulation is 123 MW, and 25% of the performance incentive would target this goal and operate in similar fashion to the energy goal with the weighted performance (25% * demand performance + 75% * energy performance) being used for determination of the performance incentive outlined in Appendix A to the June 30th Stipulation.

1. $/kwh approach to the throughput disincentive as an alternative to the net shared benefits ratio approach; and
2. Multi-metric performance incentives or other models for performance incentives that relate to the goal of deferring supply-side resources. These metrics may include demand or other measures of long-term shared benefits for resource planning purposes; and
3. Other approaches stakeholders are interested in exploring.

IV. CONCLUSION

Ameren Missouri believes that these modifications resolve the Commission's concerns but do so within the fundamental framework that has been in place in Missouri since 2012, allowing Company-sponsored energy efficiency programs to continue in 2016. Further work among stakeholders, including decoupling, may provide a simpler approach to these issues in the future, but it is not practical to implement a completely decoupled rate structure before the end of the year. We should not allow our search for the perfect to be the enemy of the good—good energy efficiency programs that are working today for Missouri's benefit.

Ameren Missouri wants to be clear that it is not giving the Commission an ultimatum. The question has never been *energy efficiency or no energy efficiency forever* – but rather when the Company would deliver energy efficiency programs, and under what terms.

We are hopeful that the Commission will approve the Company's Plan, as modified by the June 30 Stipulation and herein, which will permit Ameren Missouri to continue to offer energy efficiency measures to our customers. Our customers highly value these efficiency offerings, they are very popular in our service territory, create hundreds of millions of dollars in economic activity in our service territory, produce environmental benefits, lend flexibility to resource planning, and create jobs. From Ameren Missouri's standpoint, we would very much like to continue to make strides towards saving energy as we also work toward refining the framework for energy efficiency going forward. To continue these programs and the progress we have made however, the regulatory framework for energy efficiency must be appropriately aligned with the Company's obligations as an investor-owned utility.

Finally, at the September 9th Agenda meeting it was mentioned that an extension of MEEIA Cycle 1 could be approved to help give additional time for negotiation. Unfortunately, that will not assist the Company in addressing the issues presented because there is no real meaningful way to cleanly extend the MEEIA Cycle 1 programs. These plans are developed as an integrated approach to a specific three year period, with incentives, program cycles, implementer contracts, and targeted savings directly related to the time in which they are offered. A partial extension MEEIA Cycle 1 raises more problems and concerns than it would resolve in this instance.

WHEREFORE, Ameren Missouri requests that the Commission grant relief as articulated herein.

Respectfully Submitted,

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Dated September 25, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic transmission, facsimile or email to counsel for parties in this case on this 25th day of September, 2015.

/s/ *Matthew R. Tomc*