Exhibit No.:	
Issue(s):	Throughput Disincentive and Performance Incentive
Witness:	Lynn M. Barnes
Type of Exhibit:	Rebuttal Testimony to Non-Utility Stipulation
Sponsoring Party:	Union Electric Company
File No.:	EO-2015-0055
Date Testimony Prepared:	July 15, 2015

MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. EO-2015-0055

REBUTTAL TESTIMONY TO NON-UTILITY STIPULATION

OF

LYNN M. BARNES

ON

BEHALF OF

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

St. Louis, Missouri

July 2015

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1 **REBUTTAL TESTIMONY**

2 **TO NON-UTILITY STIPULATION**

3 **OF**

4 **LYNN M. BARNES**

5 **FILE NO. EO-2015-0055**

6 **I. INTRODUCTION**

7 **Q. Please state your name and business address.**

8 A. My name is Lynn M. Barnes. My business address is One Ameren Plaza,

9 1901 Chouteau Avenue, St. Louis, Missouri 63103.

10 **Q. By whom and in what capacity are you employed?**

11 A. I am employed by Union Electric Company d/b/a Ameren Missouri as

12 Vice President, Business Planning and Controller.

13 **Q. Are you the same Lynn M. Barnes who filed surrebuttal and**

14 **supplemental testimony previously in this case?**

15 A. Yes, I am.

16 **Q. What is the purpose of your rebuttal testimony to the Non-Utility**

17 **Stipulation in this proceeding?**

18 A. After the non-utility parties filed their stipulation ("Non-Utility

19 Stipulation"),[1] the Commission issued an order allowing parties to file rebuttal testimony

20 in response to the Non-Utility Stipulation by July 15, 2015. This testimony addresses

21 why the Non-Utility Stipulation both fails to allow the Company to value investments in

[1] A non-utility party stipulation was first filed on July 7, 2015, followed by an amended version filed July 8, 2015. I am responding to the amended version. Now "Non-Utility Joint Position."

1 demand-side resources equally with those that could be made in supply/delivery
2 infrastructure, and also to remove the throughput disincentive that is inherent in all
3 energy efficiency programs. Company witness William R. Davis's rebuttal testimony to
4 the Non-Utility Stipulation addresses both topics in greater detail, while Company
5 witness Richard A Voytas' rebuttal testimony to the Non-Utility Stipulation addresses a
6 number of design issues associated with the performance incentive.

7 **Q. Based on this testimony's purpose, am I correct that Ameren Missouri**
8 **does not find the proposed modifications to its MEEIA 2 Plan acceptable?**

9 A. That is correct. Simply put, the terms of the Non-Utility Stipulation are
10 modifications to the Company's proposed MEEIA 2 Plan that are unacceptable to
11 Ameren Missouri because the terms do not make Ameren Missouri whole from the
12 impacts of implementing and operating the MEEIA 2 energy efficiency programs, and
13 because the performance incentive proposal provides no meaningful earnings
14 opportunity. The Company's initial filing and modified MEEIA Cycle 2 Plan (as
15 modified by the June 30 Stipulation filed by the Company and others)[2] both operate in a
16 manner that reserves a share of customer net benefits to overcome the barrier presented
17 by the sales incentive inherent in the Company's rates. Thus, customers are assured
18 benefits while the utility is made whole. The modified MEEIA 2 Plan reflected in the
19 June 30 Stipulation also includes a performance incentive modeled substantially after the
20 one utilized for Ameren Missouri's MEEIA 1 cycle of programs.

[2] *Non-Unanimous Stipulation and Agreement* among Ameren Missouri, Missouri Division of Energy, Natural Resources Defense Council, Kansas City Power & Light Company and Kansas City Power and Light – Greater Missouri Operations Company and United for Missouri, dated June 30, 2015. Now "June 30 Joint Position."

1 **Q. Why does the Non-Utility Stipulation fail to make Ameren Missouri**
2 **whole for the throughput disincentive and what are the financial implications for**
3 **the Company?**
4 A. The mechanism proposed by the Non-Utility Stipulation (in ¶ 6) is a
5 significant departure from what the Company has proposed. The purpose of any
6 mechanism implemented to address the throughput disincentive should be to neutralize
7 the Company's financial losses associated with foregone sales due to successful energy
8 efficiency measures. This is absolutely a pre-requisite for the alignment of utility
9 interests with achieving energy efficiency savings for customers. Ameren Missouri's rate
10 structure (with its very low customer charge) makes the Company highly dependent upon
11 energy (per-kwh) charges. Energy efficiency reduces kwh sales and erodes revenue for
12 the Company. Properly neutralizing this effect is critical before a utility can implement
13 energy efficiency programs on the scale of those proposed under its MEEIA filing.

14 **II. <u>THROUGHPUT DISINCENTIVE ISSUES</u>**

15 **Q. What are the specific deficiencies regarding the throughput**
16 **disincentive as outlined in the Non-Utility Stipulation?**
17 A. There are three primary deficiencies in the Non-Utility Stipulation's terms
18 with respect to the throughput disincentive mechanism. First, the Staff's proposal creates
19 losses through a "re-basing." Second, the Non-Utility Stipulation's throughput
20 disincentive mechanism calls for the use of evaluation, measurement and verification
21 ("EM&V")[3] and NTG estimation for a portion of the "unrealized revenue" recovery it

[3] Capitalized terms used in this testimony and not otherwise defined herein have the same meanings as given them in my surrebuttal testimony in this docket.

1 contemplates, which does not allow the Company to recognize all of the revenues lost
2 due to the lower sales the energy efficiency programs are causing as they occur, and thus
3 degrades the Company's earnings. Finally, the failure to provide for appropriate carrying
4 costs on revenues that cannot be timely recognized causes additional financial losses due
5 to operation of the energy efficiency programs. Mr. Davis discusses each of these three
6 deficiencies in greater detail in his testimony. The effect of these deficiencies puts
7 energy efficiency completely at odds with the requirements of MEEIA and the fiduciary
8 obligation Ameren Missouri management owes to its investors. Ameren Missouri simply
9 cannot accept the risk of spending substantial funds when losses are guaranteed at the
10 onset and a substantial portion of recoveries are subject to the highly-subjective hindsight
11 inherent in the EM&V process.

12 **a. <u>Re-Basing</u>**

13 **Q. Please explain what the problem is concerning the "re-basing" of the**
14 **throughput disincentive upon the filing of each future rate case.**

15 A. The first major problem with the Non-Utility Stipulation's unrealized
16 revenue mechanism is that it operates to "re-base" each time new base rates take effect.
17 While re-basing would make sense if the billing units used to set rates were current as of
18 the time new rates take effect, the ratemaking process in Missouri is such that the billing
19 units are several months (typically 10 months or so) out of date by the time new rates
20 take effect. Because the "re-basing" reflected in the Non-Utility Stipulation ignores the
21 inherent lag, the Company would permanently lose approximately $9 million dollars that
22 it would not lose if it did not operate the energy efficiency programs, as Mr. Davis
23 explains in his testimony.

1 **b. After-the-Fact EM&V**

2 **Q. Please explain your concern with assigning 1/3 of the throughput**
3 **disincentive recovery contingent upon to EM&V.**

4 A. The second major problem is the application of after-the-fact (backward
5 looking) EM&V prior to recovery. As my earlier testimony in this case and in the
6 Company's MEEIA 1 case explains, and as also explained in the Company's testimony in
7 the MEEIA 1 case from the Company's independent auditor, and in this case from former
8 Deloitte and Touche auditor Clifford Hoffman, subjecting the throughput disincentive to
9 after-the-fact change entirely precludes recognizing the revenues. This automatically and
10 in real time would reduce the Company's net income solely because it is pursuing energy
11 efficiency as and when the programs are being operated and the reduced sales are
12 occurring. While the Non-Utility Stipulation only applies after-the-fact review to 1/3 of
13 the throughput disincentive, it still fails to align the Company's incentives with helping
14 its customers use less energy.

15 **Q. In your surrebuttal testimony you referred to the GAAP accounting**
16 **standard that you and Mr. Hoffman in this case, and Mr. Ditman in the MEEIA 1**
17 **case, have indicated governs the ability to recognize revenues under any DSIM**
18 **approved for energy efficiency programs. Please explain in detail what accounting**
19 **standards are applicable to regulated entities, especially relating to DSIM programs.**

20 A. Under GAAP, which the Company must follow in order to meet SEC
21 requirements applicable to its financial statements,[4] the accounting standard that

[4] The Company is a registrant under applicable SEC statutes and rules, and thus is required to publish financial statements in accordance with SEC requirements, including on a quarterly basis (Form 10-Q) and annually (Form 10-K).

1 regulated entities are governed by is ASC 980 (previously referred to as FAS 71). Within
2 ASC 980, there are provisions that address specific issues. The subdivision within ASC
3 980 applicable to demand-side management programs is ASC 980-605-25, which has
4 been discussed in some detail in the prior testimonies referenced above.[5] More
5 specifically, ASC 980-605-25[6], by its express terms, applies to any alternative revenue
6 program that adjusts billings to compensate the utility for demand-side management
7 initiatives. A DSIM that addresses the throughput disincentive, whether by using a share
8 of net benefits or by using unrealized revenues, is plainly such a program.

9 **Q. Why do you refer to it as an "alternative" revenue program?**

10 A. ASC 980-605-25 explains this by its terms. Section 25-1 of the standard
11 (first sentence) describes traditional ratemaking treatment as it applies to the creation of
12 base rates. The second sentence then explains the circumstance when regulators, as the
13 Commission did in MEEIA 1 and as we are asking the Commission to do here, approve
14 additional, alternative programs, like a DSIM for energy efficiency.

15 **Q. Does ASC 980-605-25 allow recognition of revenue under the Non-**
16 **Utility Stipulation unrealized revenue approach?**

17 A. Partially. Under ASC 980-605-25-4, there are three conditions that must
18 be met before revenues can be recorded. As I understand the non-utility proposal, 2/3 of
19 the revenues earned and collected under the Non-Utility Stipulation could be recorded in
20 the period where the losses were incurred since those amounts are deemed. However, we
21 would not be able to recognize the revenues relating to the remaining 1/3 during that
22

[5] Under GAAP, "whenever there is an authoritative source of GAAP applicable to a specific transaction or event, that source must be followed." ASC 105-10 (formerly FASB Statement No. 168).
[6] The standard is included as a schedule to my rebuttal testimony.

1 same period irrespective of whether the amounts were collected from customers at that
2 time. In other words, whether the "base" proposal in the Non-Utility Stipulation (which
3 allows billing for 2/3 of the unrealized revenues and later billing of the other 1/3 after
4 EM&V is used), or whether the proposal in a footnote that would allow collection of
5 100% of an estimated level of unrealized revenues is used, in either case, 1/3 of the
6 unrealized revenues cannot be recognized on the impacted Ameren Missouri's financial
7 statements.

8 **Q. What part of ASC 980-605-25 prevents revenue recognition of any**
9 **part of the unrealized revenues the Non-Utility Stipulation provides for that is later**
10 **subject to change after EM&V?**

11 A. As noted, section 25-4 lists the three criteria that have to be met for
12 revenue recognition. The second of those criteria requires that the "amount of additional
13 revenues for the period is objectively determinable and is probable of recovery." Sums
14 that are subject to later change are not objectively determinable.

15 **Q. Please elaborate.**

16 A. The additional revenues at issue are the revenues designed to address the
17 throughput disincentive. The period in question is the period in which the lower sales are
18 occurring. An example will illustrate what I mean. In 2016, if MEEIA 2 programs are
19 implemented, there will be lower sales that would not occur but for the implementation of
20 the programs. The Non-Utility Stipulation is attempting to quantify those lost sales that
21 are occurring in 2016, but as to 1/3 of them, the initial quantification will change after
22 EM&V which cannot be completed until well after the 2016 financial statements must be
23 issued. The "period in question" in this example is 2016, but while at some point later

1 the energy savings and NTG will be determined by EM&V, and at that point an objective
2 calculation using those final values could be performed, such a calculation cannot be
3 performed in time to recognize the revenues in 2016. The standard does not provide that
4 the revenues "will be" objectively determinable at some later date; it provides that the
5 revenue *is* objectively determinable at the time of the decision as to whether they can be
6 recognized as income must be made. To "determine" something is to "fix" or "resolve"
7 or "settle" it.[7] Unrealized revenues that will, with near certainty, be changed a year or
8 more later after EM&V are not fixed, resolved or settled. To the contrary, they are
9 preliminary or interim.

10 **Q. You mentioned Sections 25-1, 25-2 and 25-4 of the standard. How**
11 **does Section 25-3 come into play?**

12 A. Section 25-3 speaks to the ability of the utility to automatically collect the
13 additional billings from the customer in the future based on past activities or completed
14 events. The completed event is the Commission's order approving the throughput
15 disincentive recovery mechanism and the rider that implements it. After those approvals
16 occur, rate adjustments under the rider are made to bill the net shared benefit percentage
17 designed to address the throughput disincentive.

18 **Q. In your description of the accounting utilized to recognize revenues**
19 **under the rider in accordance with ASC 980-605-25, you explained how sums are**
20 **recorded to a regulatory asset and then recovered. Is this accounting different than**
21 **regulatory assets the Commission often deals with after approval of a tracker in a**
22 **rate order?**

[7] *Merriam Webster's Dictionary.*

1 A. Yes, it is. When a utility is granted the ability to track an expense, the
2 costs that were incurred above the amounts reflected in base rates are deferred on the
3 utility's books to a regulatory asset, in accordance with subsection 340 of ASC 980 (i.e.,
4 ASC 980-340). For these tracked costs, the accounting standards allow the utility to
5 defer recognition of the expense *if* the utility is able to conclude that later rate recovery is
6 probable. By deferring the incurred costs, there is a reduction to expense on the income
7 statement that can be recognized even though later rate recovery of the deferred sum is
8 only probable. If the recovery is not subsequently granted, the delayed recognition of
9 expense would have to be reversed and the expense would be recognized immediately
10 (effectively because the deferred asset would be written off). As I testified in the
11 Company's most recent rate case, the standard for "probable" is quite high, and cannot be
12 reached unless there is sufficient history of providing later recovery in subsequent rate
13 cases and other evidence that it is very improbable that recovery will ultimately not be
14 allowed. The Commission has never denied later recovery, except in cases of
15 imprudence, so the probability standard is often met in the case of trackers of this nature,
16 which is why in those cases ASC 980-340 allows deferral (and the recognition of less
17 expense).

18 **Q. Why doesn't this portion of ASC 980-340 (FAS 71) apply to demand-**
19 **side programs?**

20 A, It does not apply for two reasons. First, lost revenues (or a share of net
21 benefits designed to compensate for lost revenues) are not an "incurred cost" within the
22 meaning of ASC 980-340. Since ASC 980-340 only applies to incurred costs, it does not
23 apply to the lost revenues/throughput disincentive related to energy efficiency programs.

1 Second, as explained earlier, one would only look to similar transactions or events (like
2 accounting for a tracker or perhaps for an AAO – the more "traditional" regulatory assets
3 that the Commission deals with) that might be addressed by a different standard if the
4 event or transaction is not covered by a specific standard. Here there is a specific
5 standard for revenue recognition under alternative revenue programs for regulated
6 entities: ASC 980-605-25. Indeed, that specific standard is a subset of ASC 980 (FAS
7 71) itself. It makes no sense for other, non-specific portions of ASC 980 that do not
8 mention demand-side management at all to in effect trump that part of ASC 980 that is
9 specifically applicable, by its terms, to the accounting for demand-side management, and
10 ASC 105-10 (formerly FASB Statement No. 168) specifically tells us that we must use
11 the specific standard.

12 **Q. Are you 100% sure that ASC 980-605-25 will not allow recognition of**
13 **that part of the Non-Utility Stipulation's unrealized revenues that can later be**
14 **changed after EM&V?**

15 A. Yes, I am for at least three reasons. First, the plain terms of the standard
16 apply, as explained above, and by those plain terms, that portion of the unrealized
17 revenues cannot be recognized. Second, I have consulted each of the three major,
18 national accounting firms that provide any material level of services to the public utilities
19 operating in the U.S. They have all advised me, including our own independent auditor,
20 that any after-the-fact true-up or change to revenues that is designed to address the
21 throughput disincentive (i.e., lower sales because of energy efficiency) will preclude
22 recognition of those revenues. Third, and this is related to the second, the Company's
23 independent auditor, PwC, has examined the Non-Utility proposal and has advised that

1 recognizing revenues associated with the 1/3 that is not deemed is not allowed by
2 GAAP. The Company must follow GAAP and will not issue financial statements that do
3 not comply with GAAP. That means the Company cannot recognize the revenues
4 associated with the 1/3 that is subject to later change based on EM&V, regardless of
5 whether the Company was receiving cash that was estimated to cover the 1/3 or not.

6 **Q. You've explained why the Company cannot recognize 1/3 of the**
7 **revenues designed to address the throughput disincentive, but isn't 2/3 close**
8 **enough?**

9 A. No. Ameren Missouri is an investor-owned utility, and is in an extremely
10 capital intensive business. The need to attract capital for investment in our system, and
11 expenses to run our operations, is on-going, as is the need to provide dividends and
12 overall fair return for the investors on whom we rely for capital. When businesses like
13 ours make investment and budgeting decisions – including whether to invest in energy
14 efficiency – we must be mindful of the impact of those decisions. Voluntarily spending
15 nearly $150 million dollars, as proposed by the Non-Utility Stipulation with only a
16 contingent and uncertain opportunity to break even, runs counter to the very
17 fundamentals of the requirements of the MEEIA statute and of our business. In contrast,
18 the Plan advanced by the Company as modified by the June 30 Stipulation gives us the
19 ability to be made whole in a manner that allows the negative impact on earnings caused
20 by energy efficiency programs to be eliminated from the financial statements we report to
21 investors.

22 **c. Carrying Costs**

23 **Q. Please address the concern with the lack of carrying costs.**

1 A. Simply put, there are unrealized revenues that will not be recognized
2 under the Non-Utility Stipulation but there is no time value of money, or carrying costs,
3 applied to the delay. Mr. Davis addresses this problem in detail in his testimony filed
4 today.

5 **III. EARNINGS OPPORTUNITY ISSUES**

6 **Q. The Non-Utility Stipulation presents a new proposal to incent the**
7 **Company to meet energy efficiency goals. Does the Company support this**
8 **proposal?**

9 A. No, for the reasons articulated by Mr. Davis and Mr. Voytas, the
10 performance incentive is illusory. It does not present a meaningful opportunity to
11 achieve defined energy efficiency targets. In fact, as Mr. Voytas and Mr. Davis explain
12 in detail, the Non-Utility Stipulation does not provide a target, leaving the development
13 of a target up to a loosely-defined process involving an expert panel. Further, the
14 incentive structure provided for is primarily associated with unattainable *demand*
15 reduction. Another example of a deficiency in the performance incentive proposed by the
16 Non-Utility Stipulation is the complete lack of the ability to earn any incentive unless
17 100% of the targets are reached. If the Company has no earnings opportunity *at all*
18 below the target, then it cannot value demand and supply-side investments equally
19 because until it hits 100% of target by making the demand-side investments, it is cutting
20 its future earnings by investing in energy efficiency as opposed to investing in supply-
21 side resources or other infrastructure.

22 The plan that Ameren Missouri seeks approval for is designed to achieve and
23 incent *energy* efficiency as its primary function, thus the incentive structure proposed by

1 the Non-Utility Stipulation is at odds with the goals of the plan itself. Accordingly, the
2 Non-Utility Stipulation's terms concerning the performance incentive are modifications
3 that are not acceptable to Ameren Missouri.

4 **Q. Please summarize, from your standpoint as Vice President Business**
5 **Planning and Controller of Ameren Missouri, why the Non-Utility Stipulation does**
6 **not provide for a fair and sufficient earnings opportunity and otherwise does not**
7 **put investment in demand-side resources on par with investing in infrastructure?**

8 A. The terms of the Non-Utility Stipulation present a clear preference for
9 traditional investments in supply-side resources or other infrastructure, such as a
10 combined cycle generating plant or even wind generation to meet customer load
11 obligations in the future. These investments come with the certainty of eligibility for full
12 inclusion in rates, but they do not affect sales levels or impact billing units, and offer a
13 return of and on capital investment using a return on equity that provides an incentive for
14 the Company to build them. Compared to a supply-side resource option, the Non-Utility
15 Stipulation asks Ameren Missouri to consider assuming nearly $150 million in program
16 expense obligations, to accept reduced billing units without full compensation, and to
17 undergo a future hindsight estimation process as a pre-requisite for 1/3 of the allowed
18 recoveries, and offers only an illusory performance incentive.

19 **IV. <u>CONCLUSION</u>**

20 **Q. In your surrebuttal testimony, you answered the following question:**
21 **"Are you saying that if the plan is not approved as filed, the Company will cease**
22 **energy efficiency expenditures entirely?" Is your answer now the same as it was**
23 **when your surrebuttal testimony was filed?**

1 A. Yes, if the Commission were to opt to issue a MEEIA plan approval order
2 conditioned on making the modifications reflected in the Non-Utility Stipulation, it is a
3 certainty that the Company would not proceed to implement such a plan. Given that it is
4 very likely the Commission will not rule on this case until very late in the summer – and
5 given that the Company's MEEIA 1 program cycle ends on December 31 of this year –
6 this would almost certainly mean that energy efficiency programs would not exist at
7 Ameren Missouri in 2016. However, this is not to say that the Company would cease
8 efforts to find a path forward to at some point pursue energy efficiency programs again,
9 but only if a plan can be approved that is consistent with the policy objective and
10 requirements of MEEIA. The original MEEIA 2 Plan, modified by the June 30
11 Stipulation, is the only current plan option that assures that Ameren Missouri can
12 continue its energy efficiency efforts.

13 **Q. Does this conclude your testimony?**

14 A. Yes, it does.

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

AFFIDAVIT OF LYNN M. BARNES

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

Lynn M. Barnes, being first duly sworn on her oath, states:

1. My name is Lynn M. Barnes. I work in the City of St. Louis, Missouri, and I am employed by Union Electric Company d/b/a Ameren Missouri as Vice President Business Planning & Controller.

2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony to Non-Utility Stipulation on behalf of Union Electric Company d/b/a Ameren Missouri consisting of 15 pages and Schedule(s) N/A, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

Lynn M Barnes
Lynn M. Barnes

Subscribed and sworn to before me this 15th day of July, 2015.

Beckie J. Eaves
Notary Public

My commission expires:
2-21-18

BECKIE J. EAVES
Notary Public - Notary Seal
State of Missouri
Commissioned for St. Louis City
My Commission Expires: February 21, 2018
Commission Number: 14938572