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**

MISSOURI DIVISION OF ENERGY'S REPLY TO RESPONSES TO MOTIONS FOR SUMMARY DISPOSITION

COMES NOW the Missouri Division of Energy ("DE"), by and through the undersigned counsel, and for its *Reply to Responses to Motions for Summary Disposition* states:

INTRODUCTION

This case presents no genuine issue as to any material fact; therefore, the only issues left for the Public Service Commission ("Commission") to conclude are issues of law.[1] The issues of law that have been presented to the Commission are whether Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") violated sections of § 393.1075 RSMo, Commission Rule 4 CSR 240-20.093(1)(F), and the Commission's order approving the Unanimous Stipulation and Agreement resolving Ameren Missouri's 2012 Missouri Energy Efficiency and Investment Act ("MEEIA") filing ("2012 Agreement")[2] by not providing the Company's independent evaluation, measurement and verification ("EM&V") contractors with the most recent avoided cost information. This avoided cost information was used in part in calculating the portion of the annual net shared benefits that are to be awarded to Ameren Missouri as a performance incentive due to the energy efficiency savings achieved by the Company

[1] All other parties in this proceeding have stated in their pleadings that there are no genuine issues of material fact in dispute.

[2] *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,* Unanimous Stipulation and Agreement Resolving Ameren MEEIA Filing, Case Number: EO-2012-0142, Filed on 7/5/2012.

through its demand-side programs for Program Year 2014. These issues present two questions to the Commission: (1) do § 393.1075 RSMo, and Commission Rule 4 CSR 240-20.093(1)(F) require Ameren Missouri to provide its EM&V contractor with updates to the avoided cost inputs used in its most recent IRP filing; and (2) did the signatories to 2012 Agreement agree to update avoided costs? Neither question can be answered in the affirmative, since § 393.1075 RSMo, and Commission Rule 4 CSR 240-20.093(1)(F) do not require Ameren Missouri to provide its EM&V contractor with updates to the avoided cost inputs used in its most recent IRP filing, and the 2012 Agreement does not require Ameren Missouri to update avoided cost information for use by the Company's EM&V contractor. Since Ameren Missouri did not violate any statutes, Commission rules, or orders, the Commission should grant Ameren Missouri's motion for summary disposition and dismiss the Commission Staff's ("Staff") complaint and motion for summary disposition.

ANALYSIS

Commission Rule 4 CSR 240-20.093(1)(F) does not require Ameren Missouri to provide its EM&V contractor with updates to the avoided cost inputs used in its most recent IRP filing

Ameren Missouri's Memorandum of Law in Support of its Response in Opposition to the Staff's Motion for Summary Disposition ("Ameren Response") states that, "Staff's entire complaint depends upon the Commission substituting the word "inputs" for the word 'methodology' in the definition of "avoided costs" in the MEEIA rules."[3] DE agrees with this statement. An "input" is plainly not the same as a "methodology," since one may use varying inputs as part of the same method (or one

[3] *Ameren Missouri's Memorandum of Law in Support of its Response in Opposition to the Staff's Motion for Summary Disposition*, p. 5.

input within varying methods) to determine an outcome. Additionally, Staff's interpretation of Commission Rule 4 CSR 240-20.093(1)(F), would lead to illogical and absurd results because this interpretation would make the utility performance incentive largely dependent on inevitable and uncontrollable yearly fluctuations in energy prices relative to a 20 year estimate. Utility performance incentives should however be based on how well a utility manages the costs of its approved programs and the number of program measures the utility is successful in implementing..

The Staff's Response to Ameren Missouri Motion for Summary Determination (Staff Response), alleges that Commission Rule 4 CSR 240-20.093(1)(F), "… requires that *the most up to date avoided costs inputs* be used in the formula when calculating the annual net shared benefits ('NSB'), a portion of which will be awarded to [Ameren Missouri] as its performance incentive award."[4] However, Commission Rule 4 CSR 240-20.093(1)(F) states:

> Avoided cost or avoided utility cost means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources. Avoided costs include avoided utility costs resulting from demand-side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. *The utility shall use the same methodology used in its most recently adopted preferred resource plan to calculate its avoided costs*. (Emphasis added).

The primary rule of statutory interpretation is to give effect to legislative intent as reflected in the plain language of the statute at issue.[5] If the intent of the legislature is clear and unambiguous, by giving the language used in the statute its plain and ordinary meaning, then the language must be given the plain and ordinary meaning without any

[4] *Staff's Response to Ameren Missouri's Motion for Summary Determination*, p. 2.
[5] *State ex rel. Union Electric Company v. Public Service Commission of Missouri*, 399 S.W.3d 467, 480 (Mo. App. W.D. 2013); citing, *Parktown Imports, Inc. v. Audi of Am., Inc.,* 278 S.W.3d 670, 672 (Mo. banc 2009).

additional statutory construction in the process of interpretation.[6] The primary rule of statutory interpretation is only tempered by the overriding rule that construction of a statute should avoid unreasonable or absurd results.[7]

When interpreting Commission Rule 4 CSR 240-20.093(1)(F), the rules of statutory interpretation must be applied.[8] Section 393.1075.1, RSMo, and the Commission's implementing rules do not define the term "methodology" as it is used in 4 CSR 240-20.093(1)(F). Absent a definition in statute or rules, the word's plain and ordinary meaning should be derived from the dictionary.[9] The dictionary defines "methodology" as "a procedure or set of procedures".[10] Under the plain and ordinary meaning of the word "methodology," the intent of the rule is clear and unambiguous that utilities must use the same procedure or set of procedures used in its most recently adopted preferred resource plan to calculate its avoided costs. Based on this definition, Ameren Missouri has complied with 4 CSR 240-20.093(1)(F) since the Company used the same process which it used in its avoided costs calculation for its preferred resource plan of its Integrated Resource Plan ("IRP") just prior to its Cycle 1 MEEIA Report ("MEEIA 1") as it used when it determined the avoided costs for its MEEIA 1 Report.[11]

The Staff Response alternatively argues that the term "methodology" as it is used in 4 CSR 240-20.093(1)(F) includes the numerical inputs Ameren Missouri used to

---

[6] *State ex rel. Union Electric Company v. Public Service Commission of Missouri*, 399 S.W.3d 467, 479 (Mo. App. W.D. 2013); citing, *Goerlitz v. City of Maryville*, 333 S.W.3d 450, 455 (Mo. banc 2011).
[7] *State ex rel. Union Electric Company v. Public Service Commission of Missouri*, 399 S.W.3d 467, 481 (Mo. App. W.D. 2013); citing, *Aquila Foreign Qualifications Corp. v. Dir. of Revenue*, 362 S.W.3d 1, 4 (Mo. banc 2012).
[8] *State ex rel. Office of Public Counsel v. Missouri Public Service Commission*, 301 S.W.3d 556, 565 (Mo. App. W.D. 2009); citing, *Morton v. Mo. Air Conservation Comm'n*, 944 S.W.2d 231, 238 (Mo.App.1997).
[9] *State ex rel. Public Counsel v. Public Service Comm'n or State*, 397 S.W.3d 441, 451 (Mo. App. W.D. 2013); citing, *State ex rel. Office of Pub. Counsel v. Mo. Pub. Serv. Comm'n* 331 S.W.3d 677, 688 (Mo. App. W.D. 2011)
[10] *Ameren Missouri's Memorandum in Support of its Motion for Summary Disposition,* p. 6; citing, *Webster'sNew World College Dictionary* (4th ed.).
[11] *Ameren Missouri's Memorandum in Support of its Motion for Summary Disposition,* p. 9; citing, Affidavit of Matthew R. Michels.

calculate its avoided costs in its most recent IRP.[12] Returning to the rules of statutory interpretation and plain meaning, the dictionary defines "input" as "something that is put in: as information fed into a data processing system or computer".[13] Staff therefore argues for an interpretation of "methodology" other than the plain and ordinary meaning of that word, which would include not only the process for calculating a utility's avoided costs but also the numerical information fed into that process. Since the plain and ordinary meaning of the word "methodology" only refers to a procedure or set of procedures and not the numerical information fed into that procedure, Staff's interpretation of "methodology" can only be adopted if the plain and ordinary meaning of "methodology" leads to an unreasonable or absurd result. In determining whether a particular interpretation leads to an unreasonable or absurd result, the primary concern is whether the particular interpretation would make the provision unlawful.[14] Staff argues that Ameren Missouri's interpretation would result in the Commission approving a performance incentive which utilized outdated numerical inputs for calculating the Company's avoided costs associated with its energy efficiency programs, resulting in a larger performance incentive being awarded to the Company than if more recent numerical inputs were used.[15] This outcome does not make 4 CSR 240-20.093(1)(F) or its result unlawful; there is no statutory or regulatory prohibition against a higher performance incentive, nor is a higher performance incentive barred by the 2012 Agreement. Consequently, giving the word "methodology" as it is used in 4 CSR 240-

[12] *Staff's Response to Ameren Missouri's Motion for Summary Determination*, p. 3.
[13] *Ameren Missouri's Memorandum in Support of its Motion for Summary Disposition,* p. 9; citing, *Webster'sNew World College Dictionary* (4th ed.).
[14] *State ex rel. Union Elec. Co. v. Public Service Comm'n*, 399 S.W.3d 467, 482 (Mo. App. W.D. 2013); citing, *Aquila Foreign Qualifications*, 362 S.W.3d at 4.
[15] *Staff's Response to Ameren Missouri's Motion for Summary Determination*, p. 3.

20.093(1)(F) its plain and ordinary meaning does not create an unreasonable or absurd result because it does not make the rule or the result of the rule unlawful.

Since the term "methodology" as it is used in 4 CSR 240-20.093(1)(F) does not make the rule or the result of the rule unlawful when the word is given its plain and ordinary meaning of being a process or group of processes, the Commission should therefore conclude that the term "methodology" as it is used in 4 CSR 240-20.093(1)(F) does not include the numerical inputs used by a utility to calculate its avoided costs in the utility's most recent IRP.

The 2012 Agreement does not require Ameren Missouri to update avoided cost information for use in calculating the portion of the annual net shared benefits awarded to the Company as its performance incentive.

The Ameren Response states that, "… the [Demand-Side Programs Investment Mechanism ("DSIM")] agreed to by the Staff and approved by the Commission explicitly states that avoided cost estimates will not be updated." In support of this statement, Ameren Missouri quoted a portion of the 2012 Agreement which indicates that Table 2.12 of the Company's MEEIA 1 Report, "… shows the items associated with estimating net benefits and whether those items will be updated for purposes of assessing performance and benefits as part of the implementation process."[16] As clearly indicated by the reproduction of Table 2.12 of the Company's MEEIA 1 Report in the Ameren Response, avoided costs are not to be updated so that, "… the focus remains on the cost of the programs and the number of measures implemented".[17] The Staff Response alleges that even though Ameren Missouri's MEEIA 1 Report states that avoided costs

[16] *Ameren Missouri's Memorandum in Support of its Motion for Summary Disposition*, p. 7.
[17] *Ameren Missouri's Memorandum of Law in Support of its Response in Opposition to the Staff's Motion for Summary Disposition*, p. 7.

are not to be updated, the words are meaningless under 4 CSR 240-20.093(1)(F) because avoided costs would still need to be updated absent a Commission-approved variance. DE disagrees with Staff because the Commission-approved 2012 Agreement settling the Company's MEEIA 1 Report states that avoided cost estimates will not be updated for use in calculating the portion of the annual net shared benefits awarded to the Company as its performance incentive, and for reasons set out above disagrees with Staff's interpretation of 4 CSR 240-20.093(1)(F), making a variance unnecessary.

The Commission has previously concluded that stipulations and agreements are, in essence, settlement agreements and that the normal rules of contract construction apply to the interpretation of settlement agreements.[18] The Commission should therefore look to the standards appropriate for interpreting a contract when interpreting the meaning of a stipulation and agreement. The Missouri's Court of Appeals has stated that when interpreting a contract the following standards are to be applied:

> The terms of the contract are read as a whole to arrive at the intention of the parties. In that exercise, each term is construed to avoid an effect which renders other terms meaningless. A construction which attributes a reasonable meaning to all the provisions of the agreement is preferred to one which leaves some of the provisions without function or sense.[19]

The intent of the parties is crucial to the construction of the settlement agreement.[20] The intent of the parties is to be determined not by what they now say they intended, but by the document.[21] If there is no ambiguity, then the intention of the parties is to be garnered from the four corners of the documents, but if a contract is ambiguous, then

[18] *In re Missouri Gas Energy's Gas Cost Adjustment,* Missouri Public Service Commission Case No. GR-96-450, Report and Order, March 22, 2002; citing, *Blackman v. Blackman*, 767 S.W.2d 54, 59 (Mo. App. W.D. 1989).
[19] *In re Missouri Gas*; citing, *Ringstreet Northcrest, Inc. v. Bisanz*, 890 S.W.2d 713, 717 (Mo. App. W.D. 1995).
[20] *In re Missouri Gas*; citing, *Butler v. Mitchell-Hugeback, Inc.,* 895 S.W.2d 15, 21 (Mo. Banc 1995).
[21] *In re Missouri Gas*; citing, *Press Machinery Corp. v. Smith R.P.M. Corp.,* 727 F.2d 781, 784 (8th Cir. 1984).

the use of extrinsic evidence for interpretation is proper.[22] Missouri's courts have also provided guidance on when a contract is ambiguous:

> A contract is ambiguous only if its terms are susceptible of more than one meaning so that reasonable men may fairly and honestly differ in their construction of the terms. A contract is not ambiguous merely because the parties disagree over its meaning. To determine whether a contract is ambiguous, we consider the whole instrument and give the words in the contract their natural and ordinary meaning. Whether a contract is ambiguous is a question of law.[23]

The Commission should therefore determine these questions of law in this specific order: (1) what was the intent of the signatories to the 2012 Agreement regarding the calculation of avoided costs, relying only on the plain and ordinary meaning of the words of the 2012 Agreement; (2) is there any ambiguity in the 2012 Agreement regarding the calculation of avoided costs using the plain and ordinary meaning of the words, which would necessitate the use of extrinsic evidence; and (3) does the interpretation of the 2012 Agreement regarding the calculation of avoided costs attribute a reasonable meaning to all the provisions of the 2012 Agreement, or does it leave some terms meaningless?

The 2012 Agreement states, "For purposes of this Stipulation, Ameren Missouri's three-year demand-side program plan (the "Plan") consists of the 11-demand-side programs ("MEEIA Programs") described in Ameren Missouri's January 20, 2012, MEEIA Report, the demand-side investment mechanism ("DSIM") described in the MEEIA Report, modified to reflect the terms and conditions herein, and the Technical Resource Manual…."[24] Therefore the signatories concurred that the 2012 Agreement includes the Stipulation and Agreement, Ameren Missouri's MEEIA Report, and the

[22] *In re Missouri Gas*; citing, *Blackman v. Blackman* at 59.
[23] *In re Missouri Gas*; citing, *Blackman v. Blackman* at 59.
[24] *Unanimous Stipulation and Agreement Resolving Ameren Missouri's MEEIA Filing*, , ¶4.

Technical Resource Manual. Chapter 2 of the MEEIA Report sets out the terms, conditions and operation of the DSIM, including the utility performance incentive. Subsection 2.6 describes the terms, conditions and operation of the DSIM, which states, in part:

> Table 2.12 shows the items associated with estimating net benefits and whether those items will be updated for purposes of assessing performance and benefits as part of the implementation process. *Notice that several items will not be updated*, so the focus remains on the cost of the programs and the number of measures implemented.[25] (Emphasis added.)

Table 2.12 indicates that avoided costs, among other categories, are not to be updated when calculating net benefits for the purposes of assessing performance. As the provision explicitly states, deeming the avoided costs allows the focus of calculating net benefits with respect to the performance incentive to be based on the costs of the programs and number of measures implemented – factors within the control of a utility. Paragraph 5 of the Stipulation also addresses the DSIM, stating, "The Signatories agree that the Commission should approve the DSIM described in the MEEIA Report, after being modified as set forth in this paragraph, paragraph 6 and paragraph 7, including all of their subparts."[26] Sub-paragraph 5.b.ii of the Stipulation specifically addresses modifications to the determination of the net shared benefits with respect to the performance incentive as described in the MEEIA Report; nothing in that sub-paragraph or paragraphs 6 or 7 modifies the provisions of Subsection 2.6 of the MEEIA Report.

Relying only on the plain and ordinary meaning of the words of the 2012 Agreement including Subsection 2.6 of the MEEIA Report, the signatories explicitly stated that avoided costs were not to be updated for use in calculating the portion of the

[25] MEEIA 1 Report, p. 38, ll. 6-10.
[26] *Unanimous Stipulation and Agreement Resolving Ameren Missouri's MEEIA Filing*, ¶ 5.

annual net shared benefits awarded to the Company as its performance incentive. This is made clear by the express language in the Stipulation and Agreement which states that the Commission should approve the DSIM described in the Company's MEEIA Report as modified; in turn, these modifications make no changes to Subsection 2.6 of the MEEIA Report, which expressly prohibits the updating of avoided costs.

The Staff Response does not allege that there is any ambiguity in the 2012 Agreement when the words of the Stipulation and Agreement and the MEEIA Report are given their plain and ordinary meaning. Staff instead argues that under its interpretation of 4 CSR 240-20.093(1)(F), Subsection 2.6 of the MEEIA Report is meaningless – without function or sense – absent a Commission-approved variance.[27] As stated previously, DE does not agree with Staff's interpretation of 4 CSR 240-20.093(1)(F), as it prescribes a meaning other than the plain and ordinary meaning to the word "methodology;" consequently, Staff's attempt to interject the need for a variance after the fact is without merit. There is also no ambiguity as to whether or not the signatories to the 2012 Agreement intended to deem the avoided energy costs by the Agreement's express provisions; therefore there is no need to consider extrinsic evidence in determining the intent of the Agreement's signatories, either.

However, the only question that remains is which party's interpretation of 4 CSR 240-20.093(1)(F) attributes a reasonable meaning to all the provisions of the 2012 Agreement regarding the calculation of avoided costs. Under Staff's interpretation of 4 CSR 240-20.093(1)(F), Subsection 2.6 of the MEEIA Report is meaningless absent a Commission approved variance. Consequently, Staff's interpretation not only leaves

[27] *Staff's Response to Ameren Missouri's Motion for Summary Determination*, pp. 5-6.

section 2.6 without function or sense, but would also mean that the Commission approved an unlawful stipulation and agreement since under Staff's interpretation of 4 CSR 240-20.093(1)(F), the Commission would have approved a provision in a stipulation and agreement contrary to its own rule without also approving a variance from that rule creating an unreasonable and absurd result. In contrast, Ameren and DE's interpretation of 4 CSR 240-20.093(1)(F) attributes a reasonable meaning to all the provisions of the 2012 Agreement regarding the calculation of avoided costs and would make a Commission approved variance from that rule unnecessary. Ameren Missouri and DE's interpretation of 4 CSR 240-20.093(1)(F) gives the words of section 2.6 of the MEEIA Report their plain and ordinary meaning, does not render any of the terms of the 2012 Agreement meaningless, and does not result in the Commission approving a stipulation and agreement contrary to its own rules.

Ameren Missouri has not violated Section 393.130.1 RSMo, because it is not unjust or unreasonable to use the avoided cost information used in the Company's MEEIA 1 Report to calculate the utility performance incentive.

The Staff Response alleges that Ameren Missouri would be in violation of Section 393.130.1 RSMo, if the Company were awarded a performance incentive based on net shared benefits calculated using the avoided cost information approved in its MEEIA 1 Report, despite the express language of the 2012 Agreement, because there is more current avoided cost information available to the Company, which indicates that avoided costs have fluctuated downward in the last 3 years relative to the 20 year estimated avoided costs approved by the Commission. Section 393.130.1 RSMo, states in pertinent part:

> All charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission.

Staff argues that because more recent avoided cost information is available it would be unjust and unreasonable to calculate the utility performance incentive based on the avoided cost estimates agreed to in the 2012 Agreement and approved by the Commission. Staff overlooks §386.270, RSMo, which states:

> All rates, tolls, charges, schedules and joint rates fixed by the commission shall be in force and shall be prima facie lawful, and all regulations, practices and services prescribed by the commission shall be in force and shall be prima facie lawful and reasonable until found otherwise in a suit brought for that purpose pursuant to the provisions of this chapter.

Therefore, orders and decisions of the Commission are "prima facie" lawful and reasonable "until found otherwise" when judicially challenged.[28] A party complaining of an order or decision of the Commission must "show by clear and satisfactory evidence" that the order or decision of the Commission "is unreasonable or unlawful; and although courts on judicial review need not defer to the Commission on questions of "lawfulness", they cannot substitute their judgment for that of the Commission where its order or decision is supported by competent and substantial evidence upon the record as a whole.[29] Judicial inquiry into the "reasonableness or lawfulness" of decisions or orders of the Commission, however, is nothing more than a reaffirmation of the constitutional mandate as questions of "lawfulness" turn on whether the Commission's orders or decisions are statutorily authorized and questions of "reasonableness" turn on whether

[28] §386.270 RSMo.

[29] *State ex rel. Marco Sales, Inc. v. Public Service Commission*, 685 S.W.2d 216, 218 (Mo. App. W.D. 1984); citing, *State ex rel. Util. Consumers Council of Mo., Inc. v. Pub. Serv. Comm'n*, 585 S.W.2d 41, 47 (Mo. banc 1979).

there is competent and substantial evidence upon the whole record to support them.[30] Staff is not challenging the Commission's statutory authority to decide what 4 CSR 240-20.093(1)(F) requires, or what the signatories to the 2012 Agreement intended. Staff is arguing that it would be unreasonable for the Commission to decide that 4 CSR 240-20.093(1)(F) allows the Company to use the avoided cost information used in the Company's MEEIA 1 Report to calculate the utility performance incentive and that the signatories to the 2012 Agreement expressly acknowledged that the Company would use that information in calculating the utility performance incentive. Staff's only reason for arguing that this would be an unreasonable decision is that "the energy world has changed since 2011 and 2012. Because the market price of energy and capacity has declined significantly, the costs that [Ameren Missouri] has avoided through its Cycle 1 MEEIA program are not as great as they were initially expected to be."[31] Contrarily, there is in fact competent and substantial evidence in the record to support a decision by the Commission that Ameren and DE's interpretation of 4 CSR 240-20.093(1)(F) gives the words of section 2.6 of the MEEIA Report their plain and ordinary meaning, does not render any of the terms of the 2012 Agreement meaningless, and does not result in the Commission approving a stipulation and agreement contrary to its own rules.

Summary Disposition should be granted in favor of Ameren Missouri and Staff's compliant and motion for summary judgment should be dismissed.

Both Ameren Missouri and Staff have filed separate and competing motions for summary disposition. Commission Rule 4 CSR 240-2.117, which is titled "Summary

[30] *State ex rel. Marco Sales, Inc. v. Public Service Commission*, 685 S.W.2d 216, 218 (Mo. App. W.D. 1984); citing, *State ex rel. Ozark Elec. Coop. v. Pub. Serv. Comm'n*, 527 S.W.2d 390, 392 (Mo.App.1975).
[31] *Staff Response to Ameren's Motion for Summary Determination*, p. 3.

Disposition," authorizes the Commission to decide all or any part of "a contested case by disposition in the nature of summary judgment or judgment on the pleadings." Commission Rule 4 CSR 240-2.117(1), provides, in relevant part:

> (A) Except in a case seeking a rate increase or which is subject to an operation of law date, any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period…
>
> (E) The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

This is not a case where a rate increase is being sought nor is it a case subject to an operation of law date. All the parties agree that there are no genuine issues of material fact; therefore, the only matters for the Commission to resolve are questions of law. Ameren Missouri is entitled to summary disposition because as the legal analysis above has shown § 393.1075 RSMo, and Commission Rule 4 CSR 240-20.093(1)(F) do not require Ameren Missouri to provide its EM&V contractor with the avoided cost inputs used in its most recent IRP filing, and the signatories to the 2012 Agreement did not intend to update avoided cost information for use in calculating the portion of the annual net shared benefits awarded to the Company as its performance incentive. The Commission has previously found that the public interest clearly favors the quick and efficient resolution of matters by summary determination without an evidentiary hearing inasmuch as the time and cost to hold hearings on a matter when there is no genuine

issue as to any material fact would be contrary to the public interest.[32] The public interest favors resolving the Staff's Complaint through summary disposition because the Commission's order will give the language of § 393.1075 RSMo, Commission Rule 4 CSR 240-20.093(1)(F), and the 2012 Agreement its correct intent by interpreting the language of each respective document with its plain and ordinary meaning in compliance with the appropriate legal standards and no party shows any reason for protracting this procedure given the undisputed material facts. Since Ameren Missouri did not violate any statutes, Commission rules, or orders and summary disposition is in the public interest, the Commission should grant Ameren Missouri's motion for summary disposition and dismiss Staff's complaint and motion for summary disposition.

WHEREFORE, DE respectfully files its *Reply to Responses to Motions for Summary Disposition* and recommends that the Commission grant Ameren Missouri's Motion for Summary Disposition and dismiss Staff's Complaint and Motion for Summary Disposition.

Respectfully submitted,

/s/ Alexander Antal
Alexander Antal
Associate General Counsel
Missouri Bar No. 65487
Department of Economic Development
P.O. Box 1157
Jefferson City, MO 65102
Phone: 573-522-3304
Fax: 573-526-7700
alexander.antal@ded.mo.gov

[32] *CenturyTel of Missouri, LLC v. Socket Telecom, LLC*, Order Granting CenturyTel's Motion for Summary Determination, Case No. IC-2008-0068 et al., (Mo. P.S.C. 2008).

Attorney for Missouri Division of Energy

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been emailed to the certified service list this 25th day of September, 2015.

/s/ Alexander Antal