

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

In The Matter of Union Electric Company)	
d/b/a Ameren Missouri's Filing to Implement)	<u>Case No. EO-2012-0142</u>
Regulatory Changes in Furtherance of Energy)	
Efficiency as allowed by MEEIA)	

PUBLIC COUNSEL'S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel for its Statement of Positions on the List of Issues filed on May 15, 2012, by the Staff of the Commission states as follows:

1. Should the Commission approve Ameren Missouri's application for approval of demand-side program plan, approve it with modification acceptable to Ameren Missouri, or reject it, as provided in 4 CSR 240-20.094(3)?

The Commission should approve the plan but AMMO should be required to specify additional details of the programs prior to implementation and tariffs should include these additional details and contain the level of detail required by the Promotional Practices rule.

A. Should the Commission approve the application without the inclusion of any demand response programs?

While Public Counsel strongly supports cost-effective demand response programs, AMMO's failure to include any should not (in and of itself) cause the Commission to reject the application.

B. Should the Commission approve the form of Ameren Missouri's DSM programs' exemplar tariff sheets which were attached to the surrebuttal testimony of Daniel Laurent?

No. Those tariffs do not comply with the filing requirements for Promotional Practices.

i. Should the Commission order Ameren Missouri to provide additional detail in its DSM programs' tariff sheets? If so, what detail?

Tariffs should comply with the filing requirements for Promotional Practices so that customers will be able to find the relevant details for the terms and conditions of programs and incentives offered by those programs in tariffs that have been approved by the Commission.

ii. Do the DSM programs' exemplar tariff sheets comply with the Commission's Promotional Practices requirements found in 4 CSR 240-3.150 and 4 CSR 240-14.030? If not, how do they not comply, and should the Commission grant a variance(s) to the extent they are determined not to comply?

No.

- C. Should the Commission condition the approval of Ameren Missouri's application upon Ameren Missouri filing in this case a total resource cost test for its Residential Refrigerator Recycling and Residential Home Energy Performance programs consistent with the definition in 4 CSR 240-3.164(1)(X); and Ameren Missouri's commitment to conduct a careful and thorough review and analysis of demand-response programs as part of its next DSM market potential study and subsequent Chapter 22 compliance filing and/or annual update filings?

Public Counsel takes no position on the issue regarding the Residential Refrigerator Recycling and Residential Home Energy Performance programs. The Commission should order AMMO to conduct a careful and thorough review and analysis of demand-response programs as part of its next DSM market potential study and subsequent Chapter 22 compliance filing and/or annual update filings.

- D. Should the Commission grant the variances requested by Ameren Missouri, including those discussed in Dan Laurent's surrebuttal testimony, necessary to approve the Ameren Missouri's demand-side program plan, as filed?

No.

- E. Can the Commission order Ameren Missouri to complete a new Market Potential Study? If so, should it do so?

The Commission has the authority to do so, and it should do so.

- F. Can the Commission order Ameren Missouri to include in all future MEEIA filings the realistic achievable potential portfolio of the Company's Demand-side management Market Potential Study? If so, should it do so?

The Commission has the authority to do so, but it should not do so in this case.

2. Should the Commission approve the establishment of Ameren Missouri's proposed Demand-Side Investment Mechanism (DSIM) as per 4 CSR 240-20.093(2)(B)?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

- A. Should the Commission allow Ameren Missouri to include in its revenue requirement in Case No. ER-2012-0166 \$32.5 million, which represents 15.4% of expected net shared benefits, or should that determination be reserved for the rate case?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

- B. Should the Commission allow Ameren Missouri to collect, after the three-year program plan is concluded, a portion of net benefits as an incentive (pursuant to a sliding scale dependent upon MWh achievement levels – with percentage 4.8% of net benefits if energy savings achieved equal 100% of Commission approved three-year energy (MWh) savings target)?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

- C. Should the award levels proposed by Ameren Missouri as depicted in Figure 2.5 of Ameren Missouri's MEEIA report and the resulting percentages be approved?

No, the Commission should instead approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind.

- D. With regard to items A and B:

- i. Should the Commission approve the corrected Technical Resource Manual (TRM) as set forth in the attachment to the surrebuttal testimony of Richard Voytas?

No.

- ii. Should the true-up of the net benefits be based on the number of measures installed using the energy and demand savings values and equations in the approved TRM, meaning the energy and demand savings values and equations in the TRM remain static for the three years of Ameren Missouri's MEEIA programs, with any later revisions to the values and equations in the TRM to be applied on a prospective basis only (not to the operation of the programs during the three-year period proposed in this filing), or should later revisions to the energy and demand savings values and equations in the TRM be applied retrospectively?

The Commission should approve the DSIM with the modifications described in the testimony of Public Counsel witness Kind which does not require an approved TRM to determine levels of incentives or lost revenue recovery.

- iii. Should the energy and demand savings values and equations included in the TRM be modified after each round of EM&V?

Not unless the Commission determines that, contrary to the recommendation of OPC, the TRM should be used to calculate either the levels of incentives or lost revenue recovery.

- iv. What annual energy and demand savings targets should the Commission approve for the DSM programs? Should the annual energy and demand savings targets be based on assumed net-to-gross (NTG) ratios equal to 1.0 or should they be based on NTG from EM&V from Program Year 2 from Ameren Missouri's prior cycle of programs (i.e., October 2009 to September 2010)? Should the Commission set the Net-to-Gross (NTG) ratio for the refrigerator recycling program at .64 and the NTG ratio for all other programs at 1? If not, what NTG ratios should be used? If so, should those ratios be held constant for the three years of the program?

They should be based upon NTG from EM&V from Program Year 2 from Ameren Missouri's prior cycle of programs (i.e., October 2009 to September 2010),

- E. Should the Commission order Ameren Missouri's residential customer charge increase from \$8 to \$12 or should that determination be reserved for the rate case?

No, not only would such a change be unlawful single-issue ratemaking, it would also be a rate design modification that is prohibited by Section 393.1075.5.

- F. Should the Commission order interest/carrying cost to be paid on over- under-recoveries? If so, should Ameren Missouri's AFUDC rate or its short term interest rate apply?

Yes, the Commission should order that interest/carrying cost to be paid on over- under-recoveries at the short-term interest rate.

- G. Should the Commission grant the variances requested by Ameren Missouri necessary to approve Ameren Missouri's DSIM, as filed?

No, the Commission should only grant any variances necessary for its approval of the DSIM as described in the testimony of Public Counsel witness Kind.

- H. Should the rate customers pay for DSM programs approved under MEEIA have a summer and winter component?

Public Counsel takes no position on this issue at this time.

- I. Do the Commission's regulations require tariff sheets associated with a DSIM apart from tariff sheets that reflect the DSM programs or base rate schedules that reflect the sums to be collected under the DSIM? If so, what should such a tariff sheets contain? If not, is there a reason that such tariff sheets associated with a DSIM be filed and if so, what should such tariff sheets contain?

Public Counsel takes no position on this issue at this time.

- i. What provision relating to true-up of the program expenditures, net shared benefit and the results of a Commission prudence review of the DSM programs should be included in Ameren Missouri's base rate tariffs?

Public Counsel takes no position on this issue at this time.

3. Should a separate line item appear on bills relating to charges for the DSM programs approved under MEEIA? If so, should the phrase "Demand-Side Inv. Recovery" as suggested by Staff or "Energy Efficiency Investment Charge" as suggested by Ameren Missouri be used?

Yes, there should be a line item on bills. "Energy Efficiency Investment Charge" is preferable because it is more likely to be understood by customers.

- A. Should a separate line item appear on bills relating to charges for DSM programs not approved under MEEIA.

Public Counsel takes no position on this issue at this time.

4. Is it appropriate for the Commission to determine what, if any, impact this case has upon Ameren Missouri's requested Rate of Return in Case No. ER-2012-0166, or should any such determination be reserved for the rate case?

Such determinations must necessarily be done in the rate case when all relevant factors are considered.

5. Should the Commission approve Ameren Missouri's Evaluation, Measurement and Verification plans?

No.

6. How should the costs for Ameren Missouri's proposed Low Income Residential program be allocated among the different rate classes?

These costs should be allocated to all rate classes.

7. Should the Commission grant the variances requested by Ameren Missouri, including those discussed in Dan Laurent's surrebuttal testimony, necessary to approve the Company's DSIM as filed, and any other variances necessary if the Commission approves and the Company accepts a DSIM proposal made by the Staff or other parties in this case?

The Commission should explicitly grant all variances that are necessary for approval of whichever DSIM proposal it approves.

8. Should Ameren Missouri track business class program expenditures and energy reductions arising from Ameren Missouri's business DSM programs by rate schedule?

Public Counsel takes no position on this issue at this time.

9. Should the program expenditures and performance payments arising from the Company's business DSM programs be true-up among rate schedules within the business class of customers, with the results of the true-up to be accounted for in a future rate proceeding?

Public Counsel takes no position on this issue at this time.

10. Should the Stipulation and Agreement filed by Ameren Missouri and Laclede Gas Company on May 11, 2012 be approved?

Public Counsel takes no position on this issue at this time.

11. Should the Commission order the establishment of a statewide and/or Ameren Missouri collaborative(s) that would provide input regarding the possible expansion of Ameren Missouri programs, program design (possibly including co-delivery of programs with gas/water utilities), EM&V, and a state Technical Reference Manual? If the Commission does order that a collaborative(s) be established, can utilities implementing DSM programs under MEEIA be required to provide funding for outside consultants or other reasonable costs of operating the collaborative(s)? If so, should they be required to provide funding for outside consultants or other reasonable costs of operating the collaborative(s)?

Yes, for the reasons given in the rebuttal testimony of NRDC witness Phil Rosenthal and the surrebuttal testimony of Ryan Kind.

WHEREFORE, Public Counsel respectfully requests that the Commission expeditiously grant Staff's Motion for Variance Determinations and Motion for Expedited Treatment filed February 17, 2012.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ **Lewis R. Mills, Jr.**

By: _____

Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304
(573) 751-5562 FAX
lewis.mills@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 18th day of May 2012.

Office of the Public Counsel
Lewis Mills
opcservice@ded.mo.gov

**Missouri Public Service
Commission**
Office General Counsel
GenCounsel@psc.mo.gov

**Missouri Public Service
Commission**
Nathan Williams
Nathan.Williams@psc.mo.gov

**Natural Resources Defense
Council**
Henry B Robertson
hrobertson@greatriverslaw.org

Renew Missouri
Henry B Robertson
hrobertson@greatriverslaw.org

Sierra Club
Henry B Robertson
hrobertson@greatriverslaw.org

Union Electric Company
James B Lowery
lowery@smithlewis.com

Union Electric Company
Thomas M Byrne
AmerenMOService@ameren.com

Union Electric Company
Wendy Tatro
AmerenMOService@ameren.com

Barnes-Jewish Hospital
Lisa C Langeneckert
llangeneckert@sandbergphoenix.com

Kansas City Power & Light Company
James M Fischer
jfischerpc@aol.com

Kansas City Power & Light Company
Roger W Steiner
roger.steiner@kcpl.com

KCP&L Greater Missouri Operations Company
James M Fischer
jfischerpc@aol.com

KCP&L Greater Missouri Operations Company
Roger W Steiner
roger.steiner@kcpl.com

Laclede Gas Company
Michael C Pendergast
mpendergast@lacledegas.com

Laclede Gas Company
Rick E Zucker
rzucker@lacledegas.com

Missouri Department of Natural Resources
Jennifer S Frazier
jenny.frazier@ago.mo.gov

Missouri Industrial Energy Consumers (MIEC)
Diana M Vuylsteke
dmvuylsteke@bryancave.com

/s/ Lewis R. Mills, Jr.
