Exhibit No.:	______________
Issue(s):	Performance Incentive
Witness/Type of Exhibit:	Marke/ Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	EO-2012-0142

REBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of
the Office of the Public Counsel

**UNION ELECTRIC COMPANY D/B/A
AMEREN MISSOURI'S**

Case No. EO-2012-0142

October 12, 2016

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 Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA.	))))	**Case No. EO-2012-0142**

AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Geoff Marke, of lawful age and being first duly sworn, deposes and states:

1. My name is Geoff Marke. I am a Regulatory Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.

Geoff Marke

Subscribed and sworn to me this 12th day of October 2016.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2017
Cole County
Commission #13754037

Jerene A. Buckman
Notary Public

My commission expires August 23, 2017.

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OF

GEOFF MARKE

UNION ELECTRIC COMPANY

d/b/a Ameren Missouri

CASE NO. EO-2012-0142

I. INTRODUCTION

Q. Please state your name, title and business address.

A. Geoff Marke, PhD, Economist, Office of the Public Counsel (OPC or Public Counsel), P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Are you the same Dr. Marke that filed direct testimony in EO-2012-0142?

A. Yes.

Q. What is the purpose of your direct testimony?

A. The purpose of my testimony is to respond to the direct testimony of the Missouri Public Service Commission Staff ("Staff") witness John Rogers and Ameren Missouri witness Bill Davis.

Q. Has your position changed from what was filed in direct testimony?

A. No. OPC continues to recommend to the Commission that Ameren Missouri be awarded a performance incentive consistent with the MEEIA statutes and the Commission rules resulting in a total awarded earnings opportunity of $17,869,647.43 for the Company's efforts in Cycle I.

II. RESPONSE TO MR. ROGERS

Q. Please describe Mr. Rogers' argument?

A. Mr. Rogers' offers the basis for Staff's agreed-to position with the Company based on select readings of four documents found in EO-2012-0142.

Q. What is the first document Mr. Rogers cites?

A. Mr. Roger's cites the net shared benefits section (p. 24-31) of the Ameren Missouri 2013-2015 Energy Efficiency Plan filed on January 20, 2012. Specifically, Mr. Rogers includes a Net Benefits Calculation reprinted from the Company's 2012 filing.

Q. Do you agree with Mr. Rogers?

A. No. The 132-page Ameren Missouri MEEIA report filed on January 20, 2012 was subject to considerable disagreement amongst stakeholders when it was filed. This is evident from the volume of rebuttal and surrebuttal testimony submitted by interveners, much of which centered on the fairness of Ameren Missouri's proposed performance incentive. The plan's content is largely articulated around a recovery design centered in the context of a general rate case. This approach was ultimately abandoned. The initial MEEIA plan was also based on planning assumptions from an Integrated Resource Plan ("IRP") that was ultimately ruled by the Commission as non-compliant.[1]

Mr. Rogers' reliance on his select section of the aforementioned citation proves nothing and is void of context. In fact, Ameren Missouri's initial plan is full of contradictions. For example, three pages earlier Ameren Missouri makes the very argument that supports OPC's present position in this case:

[1] EO-2011-0271 Report and Order March 28, 2012 p. 30: "The Commission finds that the 2011 Integrated Resource Planning filing submitted by Union Electric Company, d/b/a Ameren Missouri, does not demonstrate compliance with the requirements of Commission Rule 4 CSR 240-22 in certain respects described in the body of this order. Union Electric Company, d/b/a Ameren Missouri, shall correct those deficiencies in its 2014 triennial integrated resource planning filing and in upcoming annual updates as appropriate."

> A distinction is needed between the financial "savings" and the financial "benefits" of energy efficiency. **<u>The TRC is recognized by MEEIA as the primary cost-effectiveness test.</u>** Ameren Missouri's analysis of its proposed programs estimates a TRC of 2.07. This means that the lifetime benefits are more than twice the utility and participant costs. Benefits are clearly defined as the avoided costs which include energy, capacity, and transmission and distribution costs (emphasis added).[2]

Q. What is the second document Mr. Rogers cites?

A. Mr. Roger's cites paragraph 5.b.ii and Appendix B of the Unanimous Stipulation and Agreement Resolving Ameren Missouri's MEEIA Filing ("2012 Stipulation") filed on July 5, 2012.

Q. Do you agree with Mr. Rogers?

A. No. Mr. Rogers takes liberty with his interpretation of Appendix B compared to what actually appears in Appendix B of the 2012 Stipulation. For example, Mr. Rogers direct testimony states:

> 4. Appendix B of the 2012 Stipulation redefines the performance incentive mechanism as pre-tax revenue earned based upon a percent of UCT net benefits determined through EM&V; the percentages are interpolated linearly between the performance levels in the table at the top of Appendix B

However, Appendix B of the 2012 Stipulation actually states the following text as a footnote to the "Percent of Net Benefits:"

> *Includes income taxes (i.e. results in revenue requirement without adding income taxes). **<u>Dollar figures shown in the above-table are for initial design purposes only.</u>** The performance incentive awarded will be based

[2] EO-2012-0142, Ameren Missouri 2013-2015 Energy Efficiency Plan p. 22.

> upon percent of net benefits. The percentages are interpolated linearly between the performance levels (emphasis added).

To be clear, Appendix B provides a performance incentive calculation but the dollar amounts are estimates meant for "initial design purposes only." Furthermore, there is no indication that the statutorily mandated and Commission-rules preferred TRC test was intended to be abandoned in favor of the UCT test. Mr. Rogers' assertion is without merit and runs contrary to Appendix B.

Q. What is the third document Mr. Rogers cites?

A. Mr. Roger's cites the paragraphs 11 and 12(a) of the Second Non-Unanimous Stipulation and Agreement Settling the Program Year 2013 Change Request filed on February 11, 2015 to support using the UCT calculation.

Q. Do you agree with Mr. Rogers?

A. No. Mr. Rogers quotes two paragraphs from the Second Non-Unanimous Stipulation, but leaves out what preceded those paragraphs. Specifically:

Issues Settled

> 10. This Stipulation is offered to resolve all disputed differences in the EM&V results for PY2013, and to provide a method for more expeditious resolution of EM&V differences and potential EM&V disputes for PY2014 and PY2015. **<u>The parties further agree that any particular methodology employed and left contested by operation of this Stipulation shall have no precedential value</u>**, and that this Stipulation may not be held out by any party to this Stipulation to argue for continued use of that particular methodology on the basis that it was used for years PY2013, PY2014, and/or PY2015 pursuant to this Stipulation (emphasis added).

Q. Were any particular methodologies employed and left contested by operation of this Stipulation?

A. Yes. OPC objected to the abandonment of the TRC test in favor of the UCT test for purposes of determining the net shared benefits. That issue appears throughout my testimony in that case and was not addressed in the aforementioned Change Request Stipulation. OPC entered into agreement with the Company and Staff over the PY2013 results with the expressed purposes of preserving our right to raise the methodological calculation of the net shared benefits at the conclusion of the Company's MEEIA cycle. OPC is exercising that right now.

Q. What is the fourth document that Mr. Rogers cites?

A. Mr. Roger's cites the Commission's Order Regarding Requests for Rehearing and Clarification filed on January 20, 2016.

Q. Do you agree with Mr. Rogers?

A. No. I have been advised by OPC counsel that the Commission's Order supports OPC present position. In that Order, the Commission ordered the Company to utilize the avoided costs from its most recent (2014) triennial IRP. Specifically, the Commission stated:

> The Commission finds that **<u>in the context of this rule</u>**, methodology includes both the formula by which avoided costs are to be calculated and the inputs used in that formula. That interpretation is consistent with the goal of the MEEIA statute, which is to encourage the electric utility to implement energy-saving measures by protecting the utility's financial interests while also protecting consumers. To accomplish that purpose, the company's performance incentive must be connected to how much money ratepayers actually saved as a result of the company's MEEIA program. **<u>Therefore, to the greatest extent possible, the Commission encourages the use of</u>**

> **<u>actual numbers to calculate cost savings.</u>** In this case, that requires the use of updated emissions (emphasis added).[3]

In its order the Commission cites rule 4 CSR 240-20.093(1)(Q) stating:

> [t]he costs 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 costs. **<u>The utility shall use the same methodology used in its most recently adopted preferred resource plan to calculate its avoided costs.</u>** (emphasis added).

It is important to note what the Commission's rules state regarding the selection of the preferred resource plan. Specifically, in 4 CSR 240-22.070 Resource Acquisition Strategy Selection, section (1) reads:

> The utility shall select a preferred resource plan from among the alternative resource plans that have been analyzed pursuant to the requirements of 4 CSR 240-22.060.

4 CSR 240-22.060 is the Integrated Resource Plan and Risk Analysis sub-chapter of the Commission's Chapter 22 IRP rules. I have included and highlighted the first two rules within that sub-chapter below:

> (1) **<u>Resource Planning Objectives</u>**. The utility shall design alternative resource plans to satisfy at least the objectives and priorities identified in 4 CSR 240-22.010(2). The utility may identify additional planning objectives that alternative resource plans will be designed to meet. The utility shall describe and document its additional planning objectives and its guiding

[3] EC-2015-0315.Order Granting Staff's Motion for Summary Determination, and Denying Ameren Missouri's Motion of Summary Determination. p. 5.

principles to design alternative resource plans that satisfy all of the planning objectives and priorities.

(2) Specification of Performance Measures. The utility shall specify, describe, and document a set of quantitative measures for assessing the performance of alternative resource plans with respect to resource planning objectives.

(A) These performance measures shall include at least the following:

1. **Present worth of utility revenue requirements, with and without any rate of return or financial performance incentives for demand-side resources the utility is planning to request**;

2. Present worth of probable environmental costs;

3. **Present worth of out-of-pocket costs to participants in demand-side programs and demand-side rates**;

4. Levelized annual average rates;

5. Maximum single-year increase in annual average rates;

6. Financial ratios (e.g., pretax interest coverage, ratio of total debt to total capital, ratio of net cash flow to capital expenditures) or other credit metrics indicative of the utility's ability to finance alternative resource plans; and

7. Other measures that utility decision-makers believe are appropriate for assessing the performance of alternative resource plans relative to the planning objectives identified in 4 CSR 240-22.010(2).

> (B) All present worth and levelization calculations shall use the utility discount rate and all costs and benefits shall be expressed in nominal dollars (emphasis added).[4]

To be clear, the selection of a utilities preferred resource plan necessitates that it calculate the present worth of the utility revenue requirement both with and without a financial performance incentive for demand-side resources the utility is planning to request as well as the out-of-pocket costs to participants in a MEEIA. In other words, it must select a preferred resource plan consistent with valuing energy efficiency under the TRC framework.

The MEEIA (Chapters 3 and 20) and IRP (Chapter 22) rules are interdependent. The use of the TRC to determine the net shared benefit amount would represent the most accurate cost savings projections from Ameren Missouri's MEEIA Cycle 1 and be consistent with the intent of the MEEIA Statute, the Commission rules, and previous Commission orders in this very docket.

Mr. Rogers' fourth referenced citation further supports OPC's position in a just and reasonable outcome in shared benefits and costs for both shareholders and ratepayers alike.

III. RESPONSE TO MR. DAVIS

Q. Please describe Mr. Davis' argument?

A. Mr. Davis does not provide an argument so much as a narrative explanation for how the Company calculated the performance incentive.

In that regard, I have nothing further to offer in response to Mr. Davis' testimony that has not already been expressed in my direct and rebuttal testimony.

Q. Please restate OPC's recommendations?

A. I recommend that the performance incentive award be calculated consistent with the MEEIA statute, the Commission rules and prior stipulations. To do so, the Commission must use the

[4] 4 CSR 240-22.060 (1) and (2)

correct stipulated dollar amount for program year 2013, use the actual EM&V NTG ratios for program years 2014 and 2015, and uses the TRC when determining the net shared benefits amount. Incorporating OPC's recommendations results in a total awarded performance incentive award of $17,869,647.43 for the Company's efforts in Cycle 1.

Q. Does this conclude your testimony?

A. Yes.