

**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.)

File No. EO-2012-0142

JOINT MOTION TO ESTABLISH PROCEDURAL SCHEDULE

COME NOW the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel, Sierra Club, Earth Island Institute d/b/a Renew Missouri, the Natural Resources Defense Council, and the Missouri Department of Natural Resources, collectively “Signatories,” and, for their *Joint Motion To Establish Procedural Schedule* made in response to ordered paragraph one of the Commission’s February 2, 2012, *Order Establishing Time to Submit a Proposed Procedural Schedule and Confirming Intervention of Parties*, state:

1. On January 20, 2012, Ameren Missouri filed an application for approval of its proposed demand-side programs and for authority to establish its proposed demand-side programs investment mechanism (DSIM).

2. On January 23, 2012, the Commission issued its *Order Directing Notice of Application, Establishing Intervention Filing Date, and Scheduling a Procedural Conference* in this matter, setting a prehearing conference on February 2, 2012.

3. At the prehearing conference the presiding officer ordered the parties to file a proposed procedural schedule by February 6, 2012. The parties advised the presiding officer they needed more time and requested until February 10, 2012, to file a status report as to when one or more procedural schedules would be proposed, or to file one or more proposed schedules. In response the Commission issued that day—February 2, 2012—its *Order Establishing Time to*

Submit a Proposed Procedural Schedule and Confirming Intervention of Parties where it adopted that request.

4. On February 10, 2012, Staff filed its *Status Report* in which it advised the Commission that it “anticipate[d] an agreed upon proposed procedural schedule or competing proposed procedural schedules [would] be filed by Friday, February 17, 2012.”

5. Because Staff has filed a *Motion for Variance Determinations* where it requests the Commission to rule on variances from the Commission’s Missouri Energy Efficiency Investment Act (“MEEIA”) rules the Commission finds are required for Ameren Missouri’s proposed demand-side programs and proposed demand-side programs investment mechanism *before* addressing the merits of those programs and that investment mechanism, the Signatories propose alternative procedural schedules.

6. As a result of discussions among the parties, the Signatories agree that, if the Commission decides to rule on the variances before addressing the merits of Ameren Missouri’s proposed programs and investment mechanism, then the Commission should adopt attached Procedural Schedule A, which uses as its starting point the effective date of the Commission order (or the last order if there is more than one) addressing each variance that it has found Ameren Missouri requires, and culminates in a Commission order addressing the merits of Ameren Missouri’s MEEIA filing 120 days after the effective date of the Commission order (or the last order if there is more than one) addressing each variance that it has found Ameren Missouri requires. The Signatories, except the Missouri Department of Natural Resources, urge the Commission to rule on variances at the outset of the case, as contemplated by Procedural Schedule A. If the Commission declines to do so, the Signatories propose Procedural Schedule B, discussed below, as an alternative.

7. Also as a result of discussions among the parties, the Signatories agree that, if the Commission decides to take the issue of the variances with the case, *i.e.*, wait to rule on them until when it rules on the merits of Ameren Missouri's MEEIA filing, then the Commission should adopt attached Procedural Schedule B. Procedural Schedule B is based on the Commission addressing the merits of Ameren Missouri's MEEIA filing within 180 days of when Ameren Missouri filed its MEEIA application—January 20, 2012.

8. Regardless of which procedural schedule the Commission adopts, the Signatories agree to the following related procedural items, which they request the Commission adopt:

(a) All parties shall provide copies of testimony (including schedules), exhibits and pleadings to other counsel by electronic means and in electronic form essentially concurrently with the filing of such testimony, exhibits or pleadings where the information is available in electronic format (.PDF, .DOC, .WPD, .XLS, etc.). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.

(b) An effort should be made to not include in data request questions either highly confidential or proprietary information. If either highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information should be appropriately designated as such pursuant to 4 CSR 240-2.135.

(c) Counsel for each party shall receive electronically from each other party serving a data request, an electronic copy of the text of the "description" of that data request contemporaneously with service of the data request. Regarding Staff-issued data requests, if the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response must request a copy of the response from the party answering the data request. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to counsel for the other parties. Counsel may designate other personnel to be added to the service list for data requests, but shall assume responsibility for compliance with any restrictions on confidentiality. If responding to a Staff data request, the responding party shall record the response in EFIS and send an email notification to Staff Counsel that such party has filed the response. For all other parties, data request responses shall be served on counsel for the requesting party,

unless waived by counsel, and on the requesting party's employee or representative who submitted the data request, and shall be served electronically, if feasible and not voluminous as defined by Commission rule.

(d) The response time for all data requests shall be ten (10) calendar days to provide the requested information, and five (5) calendar days to object or notify that more than ten (10) calendar days will be needed to provide the requested information. If a data request has been responded to, a party's request for a copy of the response shall be timely responded to, considering that the underlying data request has already been responded to.

(e) Workpapers prepared in the course of developing a witness' testimony shall not be filed with the Commission, but shall be submitted to each party within two (2) business days following the filing of the particular testimony, unless a party has indicated that it does not want to receive some or all of the workpapers. Workpapers containing highly confidential or proprietary information shall be appropriately marked. If there are no workpapers associated with testimony, the party's attorney should so notify the other parties within the time period for providing those workpapers.

(f) Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact.

(g) Documents filed in EFIS shall be considered properly served by serving the same on counsel of record for all other parties via e-mail.

(h) For purposes of this case, the Parties request the Commission waive 4 CSR 240-2.080 (11) with respect to prefiled testimony, pleadings and briefs.

(i) Pursuant to Rule 4 CSR 240-2.080 (9), the Commission treat prefiled testimony or other filings to be made in this case that are made in EFIS as timely filed if filed before midnight on the date the filing is due.

9. The Signatories hereby request that the Commission expedite the evidentiary hearing transcripts.

10. Rule 4 CSR 240-20.094 (3) provides, "The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (120) days of the filing of an application

under this section...” Rule 4 CSR 240-20.094 (9) allows the commission to grant variances from this rule for “good cause shown.”

11. As the Signatories agree, Procedural Schedule B adds an additional sixty (60) days beyond the one hundred and twenty (120) days in the rule, if that rule 120-day clock is triggered by a MEEIA filing that requires variances from the MEEIA rules which the Commission has not granted before that MEEIA filing is made, such as Ameren Missouri’s MEEIA filing here. The rule does not define good cause. Although without a precise definition in the law, good cause “...refers to a remedial purpose and is to be applied with discretion to prevent a manifest injustice or to avoid a threatened one.” *Bennett v. Bennett*, 938 S.W.2d 952, 957 (Mo. App. S.D. 1997).

12. The Signatories assert that, if necessary, good cause exists for the Commission to grant the additional sixty days (60) to allow one hundred and eighty (180) days for the procedural schedule in this case if the Commission elects to take ruling on the variances with the case because of the broad scope of the analysis of Ameren Missouri’s MEEIA filing required due to the number of permutations of variances the Commission may grant. Allowing additional time to analyze Ameren Missouri’s MEEIA filing would serve a remedial purpose by allowing all the parties a better opportunity to complete a thorough review and submit more meaningful recommendations to the Commission.

WHEREFORE, the above-named parties file this *Joint Motion to Establish Procedural Schedule* with the agreed-to alternative schedules attached hereto and the agreed-to procedures they request set forth herein, and request that the Commission enter an order adopting one of them for this case, which depending on when the Commission decides to rule on the variances

the Commission finds Ameren Missouri requires for its proposed demand-side programs and proposed demand-side programs investment mechanism.

Respectfully submitted,

/s/ Nathan Williams

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Attorney for Barnes-Jewish Hospital

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 17th day of February, 2012.

/s/ Nathan Williams

File No. EO-2012-0142 Procedural Schedule A

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45	Rebuttal Testimony
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59	Surrebuttal Testimony
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Day	Procedural Schedule A
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66	List of Issues, Cross Exam Order
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73	Position Statements
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79	Hearing
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90	Initial Briefs
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120	Final Order

- (1) All dates other than the date of Final Order subject to change for weekends, holidays and Commission conflicts.
 (2) Compliance tariff sheets will be filed following the Commission's final orders.

File No. EO-2012-0142 Procedural Schedule B

Weekends and holidays

Procedural Schedule B	
Day	
21-Jan	1
22-Jan	2
23-Jan	3
24-Jan	4
25-Jan	5
26-Jan	6
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31-Jan	11
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Procedural Schedule B	
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Procedural Schedule B	
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(1) Compliance tariff sheets will be filed following the Commission's final orders.