

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

In the Matter of Union Electric Company)	
d/b/a Ameren Missouri's 3rd Filing to)	
Implement Regulatory Changes in)	
Furtherance of Energy Efficiency as)	Case No. EO-2018-0211
Allowed by MEEIA)	
)	
)	
In the Matter of Union Electric Company)	
d/b/a Ameren Missouri's 202 Integrated)	Case No. EO-2022-0100
Resource Plan Annual Update)	

MOTION FOR COMMISSION ORDER

COMES NOW the Office of the Public Counsel (the “OPC”) and pursuant to RSMo. §§ 386.490(2), 386.550; 20 CSR 4240-20.094; 20 CSR 4240-22.080(5)(A); the Public Service Commission of the State of Missouri’s (the “Commission”) Order Approving Stipulation and Agreement Regarding MEEIA Plan Year 2023, Approving Tariff Sheet, and Granting Variances (the “PY23 Order”) (Case Number EO-2018-0211, Doc. 179);¹ and Order Approving Stipulation and Agreements (the “PY22 Order”) (Case Number EO-2018-0211, Doc. 140) requests that the Commission either (1) order Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) to use its 2022 market potential study to inform its 2024-2026 MEEIA application, or (2) provide written or verbal affirmation that the Commission agrees with the OPC’s concerns as explained in the attached verified memorandum. The OPC respectfully states as follows:

I. Background

On June 4, 2018, Ameren Missouri filed an Application to Approve DSIM and Demand-Side Management Portfolio and Plan, Request for Variances, and Motion to Adopt Procedural Schedule. (Case Number EO-2018-0211, Doc. 4). On December 5, 2018, the Commission

¹ References to document numbers represent the document numbers assigned in the Electronic Filing Information System (“EFIS”).

approved a stipulation and agreement addressing the Missouri Energy Efficiency Investment Act (“MEEIA”) 2019-2021 Plan. (*Id.* Doc. 76).

The Commission subsequently entered orders approving two (2) separate agreements that each described a one-year extension of the MEEIA 2019-2021 Plan. (*See id.* Docs. 140, 179). Therefore, the Commission has extended Ameren Missouri’s MEEIA 2019-2021 Plan through 2023. (*See id.*).

On October 1, 2021, Ameren Missouri filed its Annual Update Summary Report and Request for Commission Order Regarding Parties to this Case. (Case No. EO-2022-0100, Doc. 1). On November 10, 2021, Ameren Missouri filed a Notice of Filing Post-Workshop Summary Report and attached a Post-Workshop Summary Report. (*Id.* Doc. 9). Approximately one month later, on December 13, 2021, the Commission issued a Notice Closing File recognizing that “[n]o further action by the Commission is required and this file shall be closed.” (*Id.* Doc. 11).

Recently, Ameren Missouri has informed stakeholders that it does not intend to have its 2022 market potential study support its 2024-2026 MEEIA application. Instead, Ameren Missouri wants to rely on data from its 2019 market potential study.

II. Analysis

As explained more fully in the attached verified memorandum authored by Dr. Geoff Marke, given the changes that have taken place since Ameren Missouri conducted the 2019 market potential study, the OPC has concerns about Ameren Missouri relying on the stale data from the 2019 market potential study in crafting its 2024-2026 MEEIA application.

Therefore, pursuant to RSMo §§ 386.490(2) and 386.550; 20 CSR 4240-20.094; 20 CSR 4240-22.080(5)(A); and the Commission’s PY23 Order and PY22 Order, the OPC respectfully requests that the Commission either (1) order Ameren Missouri to use its 2022 market potential

study to inform its 2024-2026 MEEIA application, or (2) provide written or verbal affirmation that the Commission agrees with the OPC's concerns as explained in Dr. Marke's verified memorandum.

III. Conclusion

WHEREFORE, for the reasons described herein and in the attached verified memorandum, the Office of the Public Counsel respectfully requests the Commission either (1) order Ameren Missouri to use its 2022 market potential study to inform its 2024-2026 MEEIA application, or (2) provide written or verbal affirmation that the Commission agrees with the OPC's concerns as explained in Dr. Marke's verified memorandum.

Respectfully submitted,

/s/ Lindsay VanGerpen
Lindsay VanGerpen (#71213)
Associate Counsel

Missouri Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102
Telephone: (573) 751-5565
Facsimile: (573) 751-5562
E-mail: Lindsay.VanGerpen@opc.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 14th day of March 2022.

/s/ Lindsay VanGerpen

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


AFFIDAVIT OF GEOFF MARKE

STATE OF MISSOURI)
)
)
COUNTY OF COLE)

) SS.

COMES NOW GEOFF MARKE and on his oath declares that he is of sound mind and lawful age; that he contributed to the foregoing *Market Potential Study* and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.




Geoff Marke
Chief Economist

JURAT

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 14th day of March, 2022.



TIFFANY HILDEBRAND
My Commission Expires
August 8, 2023
Cole County
Commission #15637121



Tiffany Hildebrand
Notary Public

My Commission expires August 8, 2023.

MEMORANDUM

To: Ameren Missouri MEEIA Stakeholders
Missouri Public Service Commission Official Case Files: Case Nos. EO-2018-0211 & EO-2022-0100

From: Geoff Marke, Chief Economist
Missouri Office of the Public Counsel

Re: Market Potential Study

Date: 3/11/2022

Overview:

Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or the “Company”) has recently informed stakeholders it does not intend to have its 2022 market potential study (the “2022 MPS”) support its 2024-2026 Missouri Energy Efficiency Investment Act (“MEEIA”) application. Instead, the Company wants to rely on its 2019 market potential study to inform its 2024-2026 MEEIA application.

This is a mistake.

The OPC is requesting Commission guidance on this issue in a timely fashion to correct what it perceives as a potential imprudent managerial decision.

Significant market and utility-specific changes have occurred that will render the 2019 market potential study data both unreliable and inappropriate for Ameren Missouri’s 2024-2026 MEEIA application. If Ameren Missouri fails to utilize its upcoming 2022 MPS to inform its 2024-2026 MEEIA application (as was explained to stakeholders), the 2024-2026 MEEIA application will most certainly undermine least-cost resource planning and raise further prudency issues surrounding the soundness of potential planned supply-side investments.

As the Commission is well aware, MEEIA is a time and labor intensive process for all stakeholders with regulatory oversight dockets encompassing the past (evaluation, measurement and verification “EM&V” and prudence reviews), the present (quarterly stakeholder and statewide collaborative meetings), and the future (MEEIA applications and market potential studies).

Presently, no open docket exists for Ameren Missouri's 2024-2026 MEEIA application, but planning for that application has already begun. Absent this memorandum, Ameren Missouri's decision to not utilize its 2022 MPS to inform its 2024-2026 MEEIA application could only come before this Commission in the form of waiver request from the Commission's rules when the Company elects to file its 2024-2026 MEEIA application. Because of the time and labor intensive nature of MEEIA, OPC fears that if this issue is not addressed until Ameren Missouri files its 2024-2026 MEEIA application, parties will cry that it is "too late" to do a market potential study and OPC will further be accused of being silent when it knew well in advance that Ameren Missouri intended not to utilize the 2022 MPS in filing the 2024-2026 MEEIA application.

Because no open docket exists for Ameren Missouri's 2024-2026 MEEIA application, the OPC files this memorandum in both Ameren Missouri's current integrated resource planning ("IRP") and MEEIA dockets. The OPC wants to inform the Commission of this currently contested situation with the hope of seeking timely input from the Commission to avoid future issues.

Absent any direction from the Commission, OPC is filing this memorandum to create a public record and preserve its objection well in advance of the actual filing of Ameren Missouri's 2024-2026 MEEIA application and approximately two years before a new three-year MEEIA cycle would occur.

The rest of this memorandum discusses:

1. What a market potential study is;
2. Its applicability within the Commission rules;
3. References to the market potential study in Ameren Missouri's 2022 and 2023 one-year stipulation and agreement extensions; and
4. Why postponing a market potential study for the next MEEIA application undermines least-cost resource planning and consequently would impact any future supply-side generation decisions.

The memorandum concludes with a recommendation for the Commission to either:

- A.) Order Ameren Missouri to use its 2022 Market Potential Study to inform its 2024-2026 MEEIA application; or
- B.) Provide written or verbal affirmation that the Commission agrees with OPC's concerns—that any future MEEIA application should be supported with timely primary data supported by a "new" market potential study that is in compliance with the Commission rules and input from stakeholders.

What is a Market Potential Study?

According to the American Council for an Energy Efficient Economy (“ACEEE”):

An energy efficiency [or market] potential study is a tool that quantifies the size and costs of the energy efficiency resources in a given location and identifies major opportunities for energy savings.¹

Per the Environmental Protection Agency’s (“EPA’s”) 2007 Guide for Conducting Energy Efficiency Potential Studies:

Energy efficiency potential studies are an effective tool for building the policy case for energy efficiency, evaluating efficiency as an alternative to supply side resources, and formulating detailed program design plans. They are typically the first step taken by entities interested in initiating or expanding a portfolio of efficiency programs, and serve as the analytic basis for efforts to treat energy efficiency as a high-priority resource equivalent with supply-side options.²

The U.S. Department of Energy includes a catalog of various potential studies utilities across the U.S. including each electric utility from Missouri, as well as the first statewide market potential study conducted by KEMA (2010), and ACEEE’s “Missouri’s Energy Efficiency Potential: Opportunities for Economic Growth and Energy Sustainability.”³

For the purpose of this memorandum, a utility’s market potential study serves a dual role as data points for both MEEIA applications and as an input into the IRP process. Both MEEIA applications and the IRP intersect each other, not unlike a Venn Diagram, even though they represent separate standalone functions/filings. As it pertains to MEEIA applications, a market potential study’s results represent an anchor from which a utility sets its energy and demand savings targets. A given application’s (or settlement’s) savings targets may not mirror the “potential” savings targets identified in a market potential study, but those savings targets are typically closely aligned.

Stated differently, the market potential study is important because it helps determine a utility’s MEEIA targets.

¹ ACEEE (2022) Efficiency Potential. <https://www.aceee.org/topic/efficiency-potential>.

² US EPA (2007) Guide for Conducting Energy Efficiency Potential Studies: A Resource of the National Action Plan for Energy Efficiency. https://www.epa.gov/sites/default/files/2015-08/documents/potential_guide_0.pdf p. ES-1.

³ ACEEE (2011) Missouri’s Energy Efficiency Potential: Opportunities for Economic Growth and Energy Sustainability, Report Number E114 <https://www.aceee.org/sites/default/files/publications/researchreports/e114.pdf>.

Background on the Commission’s Rules Governing a Company’s Market Potential Study

The Commission’s rules include a fair amount of discussion on what a market potential study is, how it should be performed, as well as the regulatory process for review and input. The discussion around market potential studies can be found in 20 CSR 4240-20.092 (Definitions for Demand-Side Programs and Demand-Side Programs Investment Mechanisms), 20 CSR 4240-20.093 (Demand-Side Programs Investment Mechanisms), and 20 CSR 4240-20.094 (Demand-Side Programs).⁴ There is no explicit reference to a market potential study in the Commission’s Chapter 22 IRP rules.

Three relevant sections from the Commission’s rules addressing a market potential study are below.

The Commission’s rules defining a market potential study can be found in 20 CSR 4240-20.092 (CC), which states:

Market potential study means a quantitative analysis of the amount of energy and demand savings that may exist, is cost-effective, and could be realized through the implementation of demand-side programs, policies, and rate design;

The Commission rules detailing what a market potential study will include can be found in 20 CSR 4240-20.094 (3), which states:

Utility Market Potential Studies.

(A) The market potential study shall—

1. Consider both primary data and secondary data and analysis for the utility’s service territory;
2. **Be updated with primary data and analysis no less frequently than every three (3) years.** To the extent that primary data for each utility service territory is unavailable or insufficient, the market potential study may also rely on or be supplemented by data from secondary sources and relevant data from other geographic regions;
3. Be prepared by an independent third party. The utility shall provide oversight and guidance to the independent market potential contractor, but shall not influence the independent market potential study contractor’s reports; and

⁴ A copy of these rules is included in GM-1 with relevant sections highlighted.

4. Include an estimate of the achievable potential, regardless of cost-effectiveness, of energy savings from low-income demand-side programs. Energy savings from multifamily buildings that house low-income households may count toward this target.

(B) The utility shall provide an opportunity for commission staff and stakeholder review and input in the planning stages of the potential study including review of assumptions and methodology in advance of the performance of the study.

The Commission's rules also articulate the interplay between the market potential study and a MEEIA application in 20 CSR 4240-20.094(4)(1), which states that an application must include:

1. A current market potential study. If the market potential study of the electric utility that is filing for approval of demand-side programs or a demand-side portfolio encompasses more than just the utility's service territory, the sampling methodology shall reflect the utility's service territory and shall provide statistically significant results for that utility:

A. Complete documentation of all assumptions, definitions, methodologies, sampling techniques, and other aspects of the current market potential study;

B. Clear description of the process used to identify the broadest possible list of measures and groups of measures for consideration.

And in 20 CSR 4240-20.094(4)(B)(3), which states:

Identification and discussion of the twenty- (20-) year baseline energy and demand forecasts. If the baseline energy and demand forecasts in the current market potential study differ from the baseline forecasts in the utility's most recent 4 CSR 240-22 triennial compliance filing, the current market potential study shall provide a comparison of the two (2) sets of forecasts and a discussion of the reasons for any differences between the two (2) sets of forecasts. The twenty- (20-) year baseline energy and demand forecasts shall account for the following:

A. Discussion of the treatment of all of the utility's customers who have opted out;

B. Future changes in building codes and/or appliance efficiency standards;

C. Changes in naturally occurring customer combined heat and power applications;

D. Third party and other naturally occurring demand-side savings; and

E. The increasing efficiency of advanced technologies.

Finally, the Commission's rules also speak to the need to engage stakeholders in a collaborative process, which includes, the market potential study. This can be found in 20 CSR 4240-20.094(9) Collaborative Guidelines:

A) Utility-Specific Collaboratives. Each electric utility and its stakeholders shall form a utility-specific advisory collaborative for input on the design, implementation, and review

of demand-side programs **as well as input on the preparation of market potential studies**. This collaborative process may take place simultaneously with the collaborative process related to demand-side programs for 4 CSR 240-22. Collaborative meetings are encouraged to occur at least once each calendar quarter. In order to provide appropriate and informed input on the design, implementation, and review of demand-side programs, the stakeholders will be provided drafts of all plans and documents prior to meeting with adequate time to review and provide comments. In addition, all stakeholders will be provided opportunity to inform and suggest agenda items for each meeting and to present presentations and proposals. All participants shall be given a reasonable period of time to propose agenda items and prepare for any presentations.

Ameren Missouri's decision to rely on stale data from the 2019 market potential study in filing its 2024-2026 MEEIA application is at odds with the Commission rules governing how and when a market potential study should be conducted and used.

Market Potential Study References in the Stipulation and Agreement Governing the 2022 and 2023 One-Year MEEIA Extensions

Both stipulation and agreements entered into by Staff, OPC, and Ameren Missouri for extension year 2022 and extension year 2023 reference items that need to be addressed in the next market potential study and include a \$700K budget. The parties to the Stipulations and Agreements did not agree to allow Ameren Missouri to rely on the stale data available in the 2019 market potential study in crafting its 2024-2026 MEEIA application.⁵ The 2023 agreement specifically states:

Additionally, in spring 2022, the Company will begin its 2023 Market Potential Study. That study is required to inform the 2023 IRP, which is expected to be filed in Oct 2023. The Company agrees to meet with Staff, OPC and other interested stakeholders to discuss the 2023 Market Potential Study scope of work, including but not limited to additional focus on low income sectors.

To the best of my knowledge, Ameren Missouri has begun preliminary inquiries into a third-party market potential study. However, Ameren Missouri is electing not to have that study inform its 2024-2026 MEEIA application. This calls into question the prudence and relevance of doing a market potential study at all if it is not going to be utilized as the Commission's rules intended.

⁵ A copy of both stipulation and agreements is included in GM-2 with relevant sections highlighted.

To date, OPC has not met with Ameren Missouri to discuss the scope of work for the 2022 MPS. Ameren Missouri has only informed OPC that it has no intention of using the 2022 MPS to inform its next application.

Why the Commission Should Care (or Why Postponing a Market Potential Study Undermines Least Cost Resource Planning):

Demand-side management now has an opportunity to clearly defer the immediate need to build out supply-side investment as Ameren Missouri has announced the early retirement of its second-largest coal-fired power plant, Rush Island due to Clean Air Act violations.⁶ The closure of which will alter avoided cost assumptions and most certainly create a scenario where demand-side management should be valued on an equivalent basis as supply-side investment. The 2019 market potential study did not contemplate this scenario.

Ameren Missouri's market has also significantly changed since its last study. A global pandemic and a forty-year inflation high has changed how companies operate as remote-work has become the norm for many employees (including Ameren Missouri). These variables need to be considered. Greater emphasis on market changes related to air purifiers in residential settings and air filtration systems in buildings should also be considered. Although the 2019 market potential study did model a scenario for a prolonged economic recession, it did not contemplate a forty-year high in inflation or a global pandemic that shifted how and where customers would utilize their energy.

Further, Ameren Missouri will fully deploy Advanced Metering Infrastructure ("AMI") across its accounts within the next MEEIA application cycle. The emergence of Time-of-Use ("TOU") rates coupled with increased utility bills related to PISA investments and MISO transmission investments will necessarily change the avoided cost assumptions and cost-effectiveness of MEEIA programs. None of these changes were contemplated in the 2019 market potential study.

The emergence of PAYS and the possibility to unlock federal funding and realize economies of scale in marketing, administrative overhead, and collective bulk buying through a state-wide implementation of PAYS are all discussions and activity that have either been realized or are being

⁶ Gray, B. (2022) Ameren again accelerates closure of Rush Island Power Plant. *St. Louis Post-Dispatch* https://www.stltoday.com/business/local/ameren-again-accelerates-closure-of-rush-island-power-plant/article_f23ff016-5fc7-5904-bc12-231f96d2b010.html.

contemplated currently. The 2019 market potential study did not contemplate PAYS inclusive energy efficiency financing.

The frequency and impact of fuel price volatility related to natural (Storm Uri) and manmade events (conflict in the Ukraine and the global supply chain) as well as the emergence of FERC Order 2222 has placed a greater importance on demand response programs and grid flexibility. The 2019 market potential study did not fully capture what has materialized in the world. An increased sensitivity around these issues needs to be examined.

No doubt, if pressed, stakeholders could identify more variables that have rendered the 2019 market potential study as an inappropriate basis to design a future MEEIA application.

I strongly urge the Commission to either:

- A.) Order Ameren Missouri to use its 2022 Market Potential Study to inform its 2024-2026 MEEIA application; or
- B.) Provide written or verbal affirmation that the Commission agrees with OPC's concerns—that any future MEEIA application should be supported with timely primary data supported by a “new” market potential study that is in compliance with the Commission rules and input from stakeholders.

No compelling reason exists why ratepayers should spend (at least) \$700k on a market potential study that will not inform the application it was designed to inform. Worse still, the timing and uncertainty surrounding Ameren Missouri's generation make-up moving forward necessitates that this is the most inappropriate time to not have the best data available to inform what amounts to hundreds of millions (if not billions) of near-term ratepayer expenditures.