BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the First Prudence Review of the Missouri Energy Efficiency Investment Act (MEEIA) Cycle 2 Energy Efficiency Programs of Union Electric Company d/b/a Ameren Missouri	)))))	Case No. EO-2015-0055

MISSOURI DIVISION OF ENERGY
RESPONSE IN SUPPORT OF DISMISSING APPLICATION

COMES NOW the Missouri Department of Economic Development – Division of Energy ("DE") and respectfully offers this response to the Office of the Public Counsel's ("OPC") March 23, 2018 Motion for Determination on the Pleadings on Ameren's Application for Approval of Flex Pay Program Pilot and Request for Associated Variances:

1. On November 30, 2017, Union Electric Company d/b/a Ameren Missouri ("Ameren") filed its Application for Approval of Flex Pay Program Pilot and Request for Associated Variances ("Application").[1] Ameren's Application summarizes the pilot as a voluntary program that: (1) educates customers of their usage and provides tips on energy efficiency; and (2) allows Ameren to disconnect and reconnect customers in an expedient manner due to remote connection devices.

2. Ameren's Application does not explain two very significant aspects of the program: (1) Ameren is requesting a pre-pay program whereby customers would pay for service before usage, thereby eliminating any billing lag for Ameren; and (2) Ameren is requesting the program be classified as a Missouri Energy Efficiency Investment Act ("MEEIA") program subject to MEEIA rate recovery under the Commission's rules.

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[1] EFIS No. 463.

3. On February 2, 2018, DE, OPC, and the Commission's Staff filed rebuttal testimony on Ameren's Application, with all three parties opposing Ameren's request. Witnesses from Staff, OPC, and DE all agree that the proposal is not a MEEIA program under 4 CSR 240-20.092(1)(M).[2] Staff, OPC, and DE also opposed the Application on other grounds, but the question of whether the program lawfully qualifies as a MEEIA program is the only point of opposition relevant to this pleading.

4. On March 23, 2018, OPC filed its Motion for Determination on the Pleadings.[3] OPC's Motion requests a Commission order denying the pilot program and dismissing the Application. DE supports OPC's motion.

5. Subsection 4 CSR 240-20.092(1)(M) states:

> Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load, **<u>but not including deprivation of service</u>** or low-income weatherization.[4]

The Commission allows for a broad range of programs that qualify as demand-side programs, with two very clear exceptions – "deprivation of service" and "low-income weatherization." This case implicates the first of these exceptions.

6. The Commission's rulemaking that adopted the MEEIA rules (and the "deprivation of service" exclusion to demand-side programs) provides guidance as to why the Commission adopted the exclusion. During the comment hearing before the Commission,

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[2] Brad Fortson Rebuttal, EFIS No. 477, pp. 5-6; Dr. Geoff Marke Rebuttal, EFIS No. 480, pp. 3-11; Martin R. Hyman Rebuttal, EFIS No. 481, pp. 4-5.

[3] EFIS No. 490.

[4] Emphasis added.

OPC's Dr. Geoff Marke testified as to why OPC proposed excluding "deprivation of service" from the definition of a demand-side program.[5] Dr. Marke testified in part:

> In some states, there has been a move to push forward prepaid programs as an energy efficiency measure. The idea is that consumers would go ahead and put a hundred dollars onto a credit card, a prepaid card. After they've utilized a hundred dollars, their energy effectively gets shut off. Our concern is a measure like that has no business as far as being framed as an energy efficiency measure.[6]

7. The Commission agreed with OPC that prepaid programs should not qualify as an energy efficiency measure and included the exception in the definition of demand-side program as proposed by OPC. The Commission's Final Order of Rulemaking, published on September 1, 2017 (just seven (7) months ago), states, "*Public Counsel's proposal to exclude deprivation of service and low-income weatherization from the definition is appropriate and will be adopted*."[7] This statement affirms that the Commission considered the rationale provided by OPC when it determined prepay programs should not qualify as an energy efficiency measure under MEEIA.

WHEREFORE, the Division of Energy respectfully offers this response in support of the Office of the Public Counsel's March 23, 2018 Motion for Determination on the Pleadings on Ameren's Application for Approval of Flex Pay Program Pilot and Request for Associated Variances.

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[5] Case No. EX-2016-0334, Hearing Transcript, pp. 95-97, and The Office of the Public Counsel's Comments, Appendix A, p. 1, Appendix B, p. 2, EFIS No. 11, April 27, 2017.

[6] *Id.*, p. 97.

[7] *Missouri Register*, Vol. 42, No. 17, p. 1246, September 1, 2017.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 4th day of April 2018.

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