

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

In the Matter of Union Electric Company d/b/a)	
Ameren Missouri’s 2nd Filing to Implement)	<u>Case No. EO-2015-0055</u>
Regulatory Changes in Furtherance of Energy)	
Efficiency as Allowed by MEEIA.)	

STAFF REPLY TO AMEREN MISSOURI’S RESPONSE TO COMMISSION ORDER

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and hereby files Staff’s reply to *Ameren Missouri’s Response to Commission Order (“Response”)* and states as follows:

1 On September 17, 2015 the Commission issued its *Order Directing Filing* directing “No later than September 22, 2015, the parties shall file a pleading or pleadings stating whether they believe they can negotiate a MEEIA plan that would include retrospective Evaluation, Measurement, and Verification (“EM&V”), and that would also include a Performance Incentive that has a component of supply-side investment reduction.”

2. On September 22, 2015, Ameren Missouri filed its *Response* informing the Commission, among other things, that despite significant discussion with multiple parties and the efforts of all involved, a negotiated solution has not been reached: “*It is Ameren Missouri’s belief that further multi-party negotiations will not lead to a negotiated plan.*”¹ Ameren’s Response went on to propose what it believes to be solutions to the Commission’s concerns. Staff disagrees with Ameren’s proposed solutions for reasons explained below.

¹ Ameren Missouri’s Response to Commission Order, para. I.

3. First, the Staff reiterates its commitment to the pursuit of reasonable all cost effective energy efficiency programs that comply with the Missouri Energy Efficiency Investment Act (“MEEIA”) and the Commission’s enabling rules. As the result of a great deal of time and effort having been expended in settlement discussions, it is clear that Ameren has had ample opportunity to settle the issues of this case. Should the Commission narrow its decision to either rejecting or approving the Utility Stipulation, with or without Ameren’s latest modifications, Staff’s opinion remains that Ameren’s customers are better off with no utility-run energy efficiency programs at this time than the minimally effective, high cost MEEIA programs² under the Utility Stipulation³. To that end, the Staff renews its support for the joint position as articulated in the Non-Utility Stipulation⁴ and supported in its initial and reply briefs.

4. The Non-Utility Stipulation/Plan offers Ameren Missouri a reasonable earnings opportunity with a path forward to achieve all cost effective energy savings, increased customer participation, and a performance incentive that strongly incents supply-side investment reduction.⁵ With extensive pre-filed and live testimonies of numerous Staff, Public Counsel, and non-utility witnesses over three days upon which the Commission may order that Ameren choose either to offer a modified MEEIA Cycle 2 program that includes the terms and conditions of the Non-Utility Stipulation/Plan, or to not offer MEEIA Cycle 2 programs at this time.

² See Staff’s Initial Brief, pp 5-6.

³ The Utility Stipulation is the objected-to Non-Unanimous Stipulation and Agreement filed by Ameren Missouri and its signatories on June 30, 2015. Utility Plan refers to the MEEIA Cycle 2 program portfolio and DSIM set out in the Utility Stipulation.

⁴ On July 8, 2015, the Staff, Office of Public Counsel, Earth Island Institute d/b/a Renew Missouri, the Missouri Industrial Energy Consumers, and the Midwest Energy Consumers’ Group filed their Amended Non-Unanimous Stipulation and Agreement Regarding Ameren Missouri’s MEEIA Cycle 2, also referred to as the “Non-Utility Stipulation” or “Non-Utility Plan”. Sierra Club joined in on July 16, 2015.

⁵ See Staff’s Initial Brief, pp. 4-5.

Ameren Missouri's Proposed Solutions Fail to Address the Commission's Concerns

A.

1. Retrospective EM&V Analysis of TD-NSB Experience and Performance Incentive Credit.

Staff Reply: While applying retrospective EM&V⁶ at the ex post gross measure level is a step in the right direction, this proposed “partial EM&V” does nothing to address the mismatch associated with the “net shared benefit” approach.⁷ Ameren’s proposal to address EM&V is toothless at best. If partial EM&V shows that the programs are not returning expected deemed energy savings, any loss would be netted against the earned Performance Incentive, if any. In effect, Ameren’s proposal to put its PI at risk turns the PI into an insurance policy presented by Ameren as a means to protect customers against overpayment of the TD-NSB. But as proposed, the interaction of the TD-NSB and the PI does not protect customers from TD-NSB overpayment.

If in the event the programs are determined through partial EM&V to have performed poorly, Ameren may not have earned a large enough PI against which to net the difference between the projected deemed TD-NSB and the amount of TD-NSB determined later through partial EM&V at the measure-level. The actual potential for customer overpayment is made worse because Ameren’s proposed TD-NSB is not subject to EM&V at the Net-to-Gross level. This could create a

⁶ Ameren proposes to apply retrospective EM&V to the “Ex Post Gross” results for each program at the measure level.

⁷ See Staff’s Initial Brief, pp. 14, 20, and 33-35.

situation where customers have overpaid the TD-NSB but yet have no way to recover overpayment because EM&V (at NTG level) was never done.

Said another way, Ameren's proposal exposes customers to overpaying the TD-NSB because Ameren would deem the Net-to-Gross ("NTG") (which includes attribution for such effects as free ridership, spillover, etc.) at 0.9 and would not perform retrospective EM&V at the program NTG level - which is needed to determine whether or not the programs are producing the results expected from projected deemed values.⁸ By deeming NTG – and not subjecting programs to retrospective EM&V for attribution at the program level – Ameren's proposal fails to fully comply with MEEIA or with the Commission's objective as understood by Staff that the MEEIA plan be subject to complete retrospective EM&V.

Also, the Commission must reject Ameren's proposal in its Response because there is too much ambiguity and lack of support for how the TD-NSB and PI mechanisms would operate.

B. Solution for Commission Concern No. 2:

Implement a Demand-Based Performance Metric.

Staff Reply: Ameren proposes that 25% of its Performance Incentive be calculated from a demand-based metric, meaning that 25% of its ultimate PI is based on achieving a targeted 123 MW and 75% of its PI would be determined from energy savings performance. Ameren refers to footnote 6 on page 7 of its Response which refers to the June 30 Stipulation stating a portfolio demand

⁸ See Staff's Initial Brief, pp. 12-13.

target of 123 MW. However, there is no such demand target in the June 30 Stipulation. Moreover, any demand savings from Ameren's programs are merely incidental to energy savings and are not tied to achieving supply-side investment reductions.⁹

Ameren's Utility Stipulation/Plan PI payout of \$30 million for achieving approximately 123 MW of demand savings, in addition to energy savings, does not match the earnings opportunity that Ameren would forego as a result of its proposed program portfolio. Staff addressed this in its Initial Brief¹⁰, pointing out that Ameren's witness testified that the earnings annuity would be nearly \$23 million if Ameren implemented the RAP portfolio over a 20 year horizon. It would be unreasonable to provide Ameren with a PI earnings of \$30 million for so small of demand savings to be attained over a 3 year period with no expectation of persistence.

Also, as discussed above, Ameren's PI proposal does not include retrospective EM&V to determine the NTG for each program. Applying retrospective EM&V to each program is essential to determine whether Ameren's programs have achieved the projected energy and demand savings upon which its Performance Incentive award is based.

By deeming NTG at 0.9 and omitting retrospective EM&V of its programs, Ameren would be rewarded on the basis of deemed projected energy and demand savings and not on the basis of what it actually achieved for its customers. Such a result would leave customers in the position of paying

⁹ See Staff's Initial Brief, p. 48.

¹⁰ Staff's Initial Brief, p. 42, et seq.

Ameren for energy and demand savings that never happened – this is not a result contemplated under MEEIA.

Again, the Commission must reject Ameren’s Response proposal because there is too much ambiguity and lack of support for how the TD-NSB and PI mechanisms would operate.

DSIM Alternatives Workshop

While Staff is open to discussing alternative approaches to recovering lost revenues in this MEEIA docket, Staff notes that its report on decoupling in Case No. AW-2015-0282 is due in about 5 weeks. Therefore, Staff does not believe it would be productive to include discussion of alternative DSIM approaches on lost revenues in a separate docket while continuing to direct its resources to existing revenue decoupling issues in Case No. AW-2015-0282.

WHEREFORE, the Staff prays the Commission accept its *Reply to Ameren Missouri’s Response to Commission Order*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been electronically mailed this 1st day of October, 2015 to all counsel of record in this proceeding.

/s/ Robert S. Berlin