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	)	**File No. EO-2015-0055**
Regulatory Changes in Furtherance of Energy	)	
Efficiency as Allowed by MEEIA	)	

STATEMENT OF POSITION OF NATURAL RESOURCES DEFENSE COUNCIL

Pursuant to the Missouri Public Service Commission's ("Commission") April 8, 2015 Order Granting Revised Motion to Modify Procedural Schedule, NRDC, by and through undersigned counsel, hereby submits its Statement of Position in the above-captioned case. The issues addressed herein are numbered according to the *List of Issues*[1] Commission Staff filed on May 4, 2015. NRDC reserves the right to modify the positions provided herein and to take additional positions as the case proceeds.

1. Should the Commission approve, reject or modify Ameren Missouri's MEEIA Cycle 2 Plan (hereafter the "Plan")?

The Commission should approve Ameren's MEEIA Cycle 2 Plan[2] only on the condition that Ameren achieve significantly greater efficiency savings during the 2016–2018 period than what the Company currently proposes. Specifically, the Commission should modify the Plan so that the savings targets included reflect the savings levels provided in MEEIA's implementing regulations, 4 CSR 240-20.094. This modification would increase Ameren's energy savings from a flat rate of 0.4% per year (Ameren's proposal) to an increasing rate of 1.1–1.5% per year during the three-year period. The Commission should also modify the TD-

[1] *See* Dkt. Item No. 83, List of Issues, Order of Opening Statements, Order of Witnesses, and Order of Cross-Examination.
[2] This response reflects NRDC's position with respect to Ameren's proposed three-year demand-side program portfolio only.

NSB and Performance Incentive portions of the Plan.

As NRDC witness Phil Mosenthal explains in rebuttal testimony, Ameren can achieve and even exceed the minimum savings goals in the MEEIA rules by utilizing cost-effective efficiency resources and improving its underlying analyses. For example, Ameren can increase savings by modifying existing program designs, adding new programs of proven effectiveness, and improving customer take rates.

Ameren should begin by correcting flaws in its Potential Study that severely underestimate achievable efficiency savings. Even then, as Mr. Mosenthal's rebuttal points out, Ameren reduces the potential study's 0.6% energy savings level to an average of just 0.39%. Most of the parties that have presented testimony in this case – including Commission Staff, the Office of Public Counsel (OPC), and Sierra Club – agree that Ameren's proposed Plan includes savings levels that are too low, does not represent progress towards achieving all cost-effective energy efficiency savings, and should not be approved as filed. As OPC witness Marke observes in surrebuttal testimony, no party provided testimony supporting Ameren Missouri's proposed saving targets.

In sum, the Plan, as proposed, represents a significant step backwards on energy efficiency, particularly in light of the progress Ameren has made to date. To remedy this major deficiency, the Commission should only approve the Plan on the condition that it be modified to achieve significantly greater efficiency savings during the 2016–2018 period, consistent with the MEEIA savings guidelines.

The Plan's demand-side investment mechanism (the "throughput disincentive net shared benefits" (TD-NSB) approach) and the Performance Incentive should also be modified. The TD-NSB allows for over-recovery unless it is adjusted to reflect EM&V results. NRDC witnesses Mosenthal and Ashok Gupta recommend an annual revenue adjustment or true-up to eliminate the need for the TD-NSB and truly deal with the throughput disincentive.

Ameren proposes to self-adjust its energy savings goals. As Mr. Mosenthal's rebuttal testimony points out, this would allow the company to reap the full performance incentive without making any effort at replacing any lost savings. In addition, Ameren proposes that any performance incentive be based on deemed savings and not subject to after-the-fact EM&V results. The Commission should reject this proposal and require that any performance incentive earnings be based on retrospective EM&V studies to ensure Ameren is rewarded for actual performance achieved.

Although the Plan must be substantially improved, the Commission should decline to reject the Plan based on the rate impact analysis Staff witness Rogers presents in rebuttal testimony. A rate impact screen is not an accurate way to assess the benefits that demand-side programs provide to non-participating customers because it does not capture the system-wide benefits that efficiency provide to all customers, such as risk mitigation. As NRDC witness Phil Mosenthal explains in surrebuttal, requiring programs to pass a rate impact screen would harm consumers by taking millions of dollars of benefits off of the table. Moreover, screening efficiency programs based on a rate impact analysis is inconsistent with cost-effectiveness testing under MEEIA. Eliminating programs based on a rate impact screen would render the total resource cost (TRC) test and utility cost test (UCT) essentially meaningless and would prevent the pursuit of all cost-effective efficiency, contrary to MEEIA. As such, the Commission should reject the use of a rate impact program screen.

2. Do the programs in the Plan, and associated incremental energy and demand savings, demonstrate progress toward achieving all cost-effective demand-side savings consistent with state policy (as established by MEEIA)?

No. The programs and associated savings in Ameren's proposed Plan do not demonstrate progress toward achieving all cost-effective demand-side savings consistent with MEEIA. As NRDC witness Mosenthal explains in rebuttal, Ameren's 2016–2018 Plan dramatically understates the amount of cost-effective energy efficiency that is realistically achievable and, as a result, includes energy savings levels that are way too low. It is therefore unsurprising that no party provided rebuttal testimony demonstrating the Plan's progress toward achieving a goal of all cost-effective demand-side savings, as Staff witness Rogers observes in surrebuttal.

MEEIA is designed to encourage Missouri utilities to implement demand-side programs "with a goal of achieving all cost-effective demand-side savings." 393.1075(4), RSMo. The Commission's rule governing demand-side programs, 4 CSR 240-20.094, provides detailed guidance that the Commission must use to review progress toward an expectation that the electric utility's demand-side programs can achieve a goal of all cost-effective demand side savings. Specifically, the Commission must use, as a guideline, the greater of (i) the annual realistic achievable energy savings and demand savings as determined through the utility's market potential study, or (ii) incremental annual demand-side savings goals outlined in the rule, which include energy savings in the amount of 1.1%–1.5% per year from 2016–2018 and 1% per year of annual peak demand.[3] 4 CSR 240-20.094(2)(A).

The savings goals outlined in 4 CSR 240-20.094 are greater than the realistic achievable savings levels derived from Ameren's potential study. Thus, the Commission must use the savings guideline provided in the rule to review Ameren Missouri's progress toward an expectation that its programs can achieve a goal of all cost-effective demand side savings.

[3] The rule also provides similar guidelines with respect to cumulative savings – the Commission must use (i) greater of the cumulative realistic achievable savings as determined through the utility's market potential study or (ii) cumulative demand-side savings goals outlined in the rule. 4 CSR 240-20.094(2)(B).

Ameren's Plan clearly falls short. Ameren proposes flat energy savings that equal roughly 0.4% of retail sales per year during the three-year period. This represents between just 27–36% of the savings goals provided in the rule. Moreover, the Company's proposal reflects a significant drop in savings as compared to Ameren's MEEIA Cycle 1, both as planned and in practice. Ameren Missouri proposes energy savings levels that are roughly half of the amount of the savings in its 2013–2015 Plan, and less than half of the reported savings for the last two program years, 2013 and 2014. This does not reflect progress toward achieving all cost-effective demand-side savings. Rather, Ameren Missouri's proposal represents a step backwards in achieving the goals of MEEIA.

Ameren Missouri's justifications for why its proposed savings levels are substantially lower than its MEEIA Cycle 1 Plan are unconvincing. As one example, NRDC witness Mosenthal explains in rebuttal that a large number of cost-effective efficiency opportunities remain despite the enactment of federal energy efficiency codes and standards. The 2013 evaluation, measurement and verification (EM&V) estimates have little effect on the total amount of available cost-effective efficiency savings, and many of the Company's programs remain highly cost-effective despite lower avoided costs. Rather, the Plan's lower savings are largely driven by Ameren's flawed analyses in its Potential Study and IRP.

3. If the Commission approves a Plan, what are the components of the demand-side programs investment mechanism and how will each of the components be administered?

NRDC did not address this issue in testimony except to the extent addressed in our response to Issue No. 1 above, and reserves the right to present a position as the case proceeds.

4. If the Commission approves a Plan, what variances from Commission rules based on a showing of good cause are necessary?

If the Commission approves a Plan, the Commission should reject Ameren Missouri's request for a variance from the annual demand and energy savings target requirements in 4 CSR 240-20.094(1)(A), 20.094(3)(A), and 20.094(4)(A). Ameren has not shown good cause for this variance, which would allow Ameren to modify its energy savings targets without sufficient oversight by the Commission or input from stakeholders and would create a high degree of uncertainty with regard to the level of efficiency savings to be achieved over time and the magnitude of the performance incentive.

With respect to the other requested variances, NRDC reserves the right to present its position as the case proceeds.

Office of the Public Counsel's Issues:

1. If the Commission approves a plan, should the total resource cost test be applied uniformly when calculating net shared benefits?

NRDC did not address this issue in testimony and reserves the right to present its position as the case proceeds.

2. If the Commission approves a demand-side programs investment mechanism that includes a performance incentive, should the performance incentive be included as a cost when calculating the net shared benefits?

NRDC did not address this issue in testimony and reserves the right to present its position as the case proceeds.

Sierra Club's Issue:

In assessing the cost-effectiveness of demand-side programs, should Ameren Missouri consider the results of the utility cost test?

Yes. The utility cost test (UCT) provides valuable information concerning the cost-effectiveness of energy efficiency measures and programs, and the impact of such resources on customers' electric bills. Indeed, of all of the standard cost-effectiveness tests, the UCT provides the best indication of the extent to which energy efficiency can reduce electricity costs and, therefore, lower customer bills on average. Yet Ameren Missouri did not even report the results of the UCT in its Potential Study. By excluding measures and programs that pass the UCT but not the Total Resource Cost (TRC) test, Ameren understates available efficiency opportunities.

Missouri law and Commission regulations recognize the role that the UCT should play in assessing the cost-effectiveness of demand-side resources. Specifically, MEEIA provides that:

> The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. … The commission shall consider the total resource cost test as a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. *Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program* or through tax or other governmental credits or incentives specifically designed for that purpose.

393.1075.4, RSMo (emphasis added). The Commission rule on demand-side programs similarly provides that "the Commission shall approve demand-side programs which have a total resource cost test ratio less than one (1), if the commission finds ... the costs of such programs above the level determined to be cost-effective are funded by the customers participating in the programs." 4 CSR 240-20.094(C).

The TRC test includes participant costs whereas the UCT does not. As a result, programs that pass the UCT but not the TRC test generally are programs with costs that are "above the level determined to be cost-effective" under the TRC test and are "funded by the customers participating in the program." 393.1075.4, RSMo. The UCT should be considered along with the TRC.

Missouri Division of Energy's Issue:

If the Commission modifies Ameren Missouri's MEEIA Cycle 2 Plan what modifications should the Commission adopt.

NRDC does not think it is the role of intervenors to answer this question at such a level of detail at this stage in the proceedings. The first modification to be made is for Ameren to accept the minimum savings targets in the MEEIA rules since they are higher than the savings estimates in Ameren's potential study. Many modifications will necessarily follow.

That said, NRDC refers to the modifications suggested in its response to Staff Issues Nos. 1 and 2 above. NRDC witness Mosenthal's rebuttal also contains many examples of programs that could be added and of improvements to existing programs, e.g., an expanded low-income multifamily program, a new homes and energy analysis program, a small business direct-install program, more active C&I programs, residential behavior programs, inclusion of public sector buildings, LED street lighting, combined heat and power (CHP), "upstream" programs working with manufacturers and distributors to promote efficiency measures, and cooperation with St. Louis' 25 x 20 initiative by large C&I building owners.

Dated this 11th day of May, 2015.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and electronically mailed to all counsel of record on this 11th day of May, 2015.

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