

IN 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)

NATURAL RESOURCES DEFENSE COUNCIL'S APPLICATION FOR REHEARING

Comes now the Natural Resources Defense Council (NRDC) and applies for rehearing pursuant to § 386.500, RSMo, in order to elucidate our concerns regarding some basic principles behind the concept of setting efficiency resources on an equal footing with supply-side resources as required by MEEIA, § 393.1075.3, RSMo.

The Importance and Value of a Retroactive EM&V True-up to the Throughput Disincentive

1. The Order states, "Looking at that mechanism [the throughput disincentive mechanism] after the fact, it is clear that Ameren Missouri benefitted significantly from deeming the savings and benefits rather than using EM&V to determine the actual energy and demand savings and actual annual NSB amounts." Commission order at 11.

2. NRDC agrees with the Commission that the throughput disincentive should ideally be calculated on net savings based on *ex-post* EM&V results. However, the fact that deemed savings were used in MEEIA Cycle 1 that were not adjusted based on *ex-post* EM&V **did not result** in any significant over-collection. Realization rates—the ratio of *ex-ante* deemed savings to *ex-post* evaluated savings for Cycle 1 were found to be 0.953 in 2014, and 1.03 in

2014.¹ This means that, in 2013, Ameren actually under-collected on the throughput disincentive as a result of failure to true up post-EM&V savings, and that the total MEEIA Cycle 1 throughput disincentive for years 2013 and 2014 combined was only over-collected by 1%. This is well within the level of uncertainty in precision of any evaluation effort, and thus effectively means that Ameren did not over-collect its throughput disincentive.

3. The Commission goes on to state: “In fact, under the Utility Plan, Ameren Missouri could be over-compensated by nearly \$25 million for its 2014 Net Throughput Disincentive (“NTD”) compared to what the NTD would be if the 2014 NTD was based upon the utility's portion of annual net shared benefits achieved and documented through EM&V reports.” Order at 10.

4. The assertion that Ameren over-collected about \$25 million in 2014 in NTD is incorrect, and based on mixing the issue of deeming savings estimates with the real-world variations in avoided costs and whether avoided costs should be deemed. As explained above, virtually none of this hypothetical overpayment was attributable to the issue of whether or not there was a retroactive EM&V savings adjustment. Rather, it is a result of the fact that avoided costs went down from what they were originally forecast to be when the Cycle 1 Plan was developed. As a result, providing Ameren with the same percent of net benefits estimated at the now-lower avoided costs would result in much less money if recalculated with the new lower net benefits. However, the throughput disincentive was first calculated based on expected savings and then set as a percent of the deemed net benefits based on prevailing avoided cost assumptions at the time, simply to return to Ameren a set amount of funds per

¹ EO-2015-0055, Surrebuttal Testimony of John Rogers, pp. 17-18.

kWh saved. As a result, the only appropriate way to effectively use this percent-of-net-benefits mechanism is to rely on deeming avoided costs (essentially fixing the assumed avoided cost forecast) throughout the MEEIA Cycle 1 Plan, as was explicitly required by Ameren's Cycle 1 stipulation and approved by the Commission.² Even though the throughput disincentive is expressed in terms of a percent of net avoided costs in Missouri, its primary goal is to compensate the utilities for lost revenue, and this is dependent on the kWh savings, not the avoided costs. The fact that avoided costs dropped over this period (compared to the original forecast) does mean ratepayers achieved less net benefits; however, it does not translate into less NTD that Ameren would have otherwise lost. In fact, it is likely that Ameren actually undercollected its true NTD because during the Cycle 1 time period its retail rates were fixed, while the avoided costs (and thus the variable costs to Ameren) of energy production went down, resulting in a larger NTD. As a result, this would have made the actual percent of net benefits needed to make Ameren whole larger than the fixed amount agreed to in the Cycle 1 settlement. Stated another way, if Ameren and the Commission had had perfect knowledge of the future lower avoided costs at the time the Cycle 1 Plan was approved, the NTD percentage of net benefits would simply have been set at a higher nominal percentage to recover the expected NTD.

5. Further, the existence of a throughput disincentive mechanism does not detract from the net benefits the efficiency program provides to Missouri. Rather, it is simply a shifting of how fixed costs already incurred are recovered. This is revenue that the ratepayers would have to pay regardless of whether there is a MEEIA program.

² EO-2012-0242, Unanimous Stipulation and Agreement, pp. 3-4.

6. The Ameren MEEIA Cycle 2 Plan calculates a total throughput disincentive of \$60 million. If you apply the MEEIA Cycle 1 evaluated realization rate as the expected EM&V savings true-up likely in Cycle 2, this would become \$59.4 million. This means that if Ameren achieves the same EM&V percentage adjustment, any overcompensation in Cycle 2 resulting from a lack of an EM&V savings true-up would be **\$600,000, not \$25 million** as implied by the Commission Order, p. 10.

Measuring Full Value and Benefits of Efficiency Programs to all Ratepayers and the Missouri Economy.

7. The Commission states: “Utility capacity requirements are driven chiefly by the maximum amount of usage in a single hour during the year, known as ‘peak demand.’ Even if thousands of kWh were saved, if the summer peak demands are the same with and without a MEEIA Cycle 2, then Ameren Missouri would likely require the same capacity. Thus, it would not forego a future supply-side investment opportunity.” Order at 12.

8. It is true that peak-hour capacity savings can be a primary driver of avoided additional supply-side capital investments. However, KCP&L has, for instance, significant callable load resources as part of its existing demand response that it has not had to use in the past several years. This indicates that KCP&L is likely not currently capacity-constrained, and thus energy savings are likely to have more value to ratepayers than demand savings. Further, energy savings also yield significant societal and consumer benefits as well. In fact, in most efficiency programs kWh savings produce a much greater portion of the overall benefits than the capacity savings. These significant benefits from energy savings should be reflected in the performance incentive, so that utilities are driven to propose and achieve strong targets with significant overall benefits to ratepayers. Utilities often already have a strong incentive to

pursue peak demand savings, since the wholesale price of power will often rise above the retail rate during peak summer days or hours. In other words, typically the utilities can gain rather than lose revenue from a sole focus on peak demand reduction. This makes it especially important that kWh savings are at least a component of the performance incentive.

9. Further, peak capacity is not the only driver of capital investment for Ameren. Ameren is part of MISO and can thus buy and sell kWh and peak capacity as needed in the market. Investment decisions are driven by the IRP process, and often relate to how much a plant will likely run in the future as well as simply the peak hour need. In other words, capital investment decisions are a function of the baseload energy as much as constraints during the few hours per year with the highest demand. Finally, energy savings at times other than peak hours result in less stress on the system overall, which leads to fewer line losses and long term benefits in terms of reduced O&M costs and T&D upgrades.

10. The Commission correctly states in the Order: “a successfully implemented performance incentive would accomplish the policy goal of valuing equally supply-side and demand-side investments.” Order at 11.

11. We agree with this statement. However, this does not mean that the only measures eligible for the performance incentive should be measures that directly forego additional capacity-related supply side investment. If this were the case, it would effectively shift MEEIA from a focus on capture of all cost-effective efficiency to one of simply maximizing demand response resources. Rather it means that the entire net benefits to ratepayers from all efficiency measures should be evaluated on the same financial metrics as supply side resources, and that the utility should be allowed to earn a similar rate of return – regardless whether the

measure is an efficiency program or a supply-side cost. Ameren's proposed performance incentive in fact properly weights the relative ratepayer net benefits from both energy and capacity avoidance because it rewards Ameren based on the entire net benefits accruing from its programs. To exclude the energy and T&D components of the overall net benefits would lead to a less efficient incentive mechanism and potentially create perverse incentives.

12. The Commission goes on to state: "Finally, the performance incentive in the Utility Stipulation lacks a component relating to a reduction of supply-side investment. Without such a component, ratepayers could continue to pay depreciation and rate of return on supply side investments, and then pay again for performance incentives on demand-side programs." Order at 18.

13. As discussed above, the long term value of efficiency programs to all consumers and the Missouri economy as a whole is best estimated by the entire net benefits, which are comprised of both savings in avoided capacity investment as well as avoided energy and T&D costs. Because the Ameren Stipulation proposed performance incentive is designed to provide a percent of the entire net benefits, it automatically weighs the respective value of each component of savings (energy and capacity) directly in proportion to their overall contribution to ratepayers. To restrict the performance incentive to only the capacity reductions would necessarily ignore a large fraction of the overall benefits accruing from these programs. Decisions regarding approval of future supply-side capital investments and the appropriate rate of return and depreciation are of course made by the Commission based on each circumstance, and the Commission has ample opportunity to ensure that ratepayers are not overpaying for supply-side resources.

The Commission Focus on the Benefit-Cost Ratio Rather Than the More Important Magnitude of Net Benefits.

14. The Commission states: “A Cost/benefit comparison of the Cycle 1 portfolio, the Cycle 2 Utility Plan portfolio, and the Cycle 2 Utility Stipulation portfolio shows that the Utility Stipulation provides for even higher costs and relatively lower net benefits for the customers as a whole and for non-participating customers than even the initial Cycle 2 Utility Plan. These costs, to be borne by Ameren Missouri ratepayers, are upwards of \$250 to \$300 million over 3 years.” Order at 13.

15. It is true that Ameren’s proposed budgeted program delivery costs have increased compared to those in Cycle 1 and the initial Cycle 2 Utility Plan. However, the projected additional benefits have increased even more, meaning that the portfolio is both cost-effective, and that this increase in investment actually provides greater net benefits to ratepayers. Further, larger programs allow the program to reach a larger participant base, thus minimizing the portion of consumers unable or unlikely to participate. The Commission should focus on the magnitude of net benefits, as the goal of MEEIA is to pursue all cost-effective achievable efficiency. In other words, achieving the MEEIA goal necessarily requires continued pursuit of incrementally cost-effective, but less cost-effective (in terms of benefit-cost ratio) resources, thereby driving down the benefit-cost ratio. Specifically, the utility stipulation increased the net benefits from \$135 million to \$172 million, a 28% increase. This means that the utility stipulation brings significantly more benefits to all Ameren ratepayers, despite requiring more up-front funding. Because overall net benefits increase significantly, all Ameren ratepayers are better off with this higher budgeted expenditure.

The Commission has Overestimated the Level of Non-Participants And Underestimated the Long Term Net Benefits Accruing to all Ratepayers.

16. The Commission states: “Simply put, the Commission would approve a MEEIA plan if non-participating ratepayers would be better off paying to help some ratepayers reduce usage than they would be paying a utility to build a power plant. Unfortunately, that is not the case here. The evidence in this case shows that most Ameren Missouri customers will likely receive very little, if any, overall net benefits from the Utility Plan. Approximately 87% of Ameren Missouri's customers are residential customers. And a vast majority of those do not participate in MEEIA. Staff's analysis estimates that residential customers who are non-participants will pay \$112 million with the expectation that they will receive benefits of \$119 million as a result of the programs and DSIM in the Utility Stipulation.” Order at 16–7.

17. First, the Order states that the Commission would approve a MEEIA plan if non-participating ratepayers would be better off. It then goes on to state that non-participating ratepayers would indeed be \$7 million better off under the Ameren proposed MEEIA Cycle 2 Plan, but appears to still reject the plan at least in part based on this criterion. Second, it is unclear why the Commission states the vast majority of residential customers does not or will not participate. Ameren rebated almost 4 million residential light bulbs in 2014 alone, and the addition of a behavioral program could provide participation opportunities for a significant portion of residential customers. The evidence is strong both in Ameren territory as well as for comprehensive efficiency portfolios across the United States that the vast majority of customers does participate in some way over time, and directly accrue benefits, when a comprehensive portfolio of efficiency programs is offered.

18. More importantly, NRDC submits that program merit shouldn't be evaluated based primarily on the non-participants, but rather on whether the overall benefits exceed the costs, and whether the program offerings are broad enough to allow everyone to participate. Typically even a small amount of participation – such as a residential customer simply installing a few light bulbs – will more than compensate for any short-term increase in rates to pay for the efficiency programs. Expanding the program therefore maximizes the societal benefits while minimizing the number of customers who see electric bill increases. The Non-Participant Test is inappropriate as a primary criterion for evaluating efficiency programs, and inconsistent with MEEIA direction to pursue all cost-effective efficiency resources based on a Total Resource Cost test. Every other state in the U.S. has now recognized this and moved away from a primary focus on the ratepayer impact measure (RIM) (also referred to as the Non-participant) test.³ First, as stated above, if a portfolio of efficiency programs truly goes after MEEIA goals to achieve all cost-effective efficiency, there will be a minority of customers who are non-participants. Further, even though these non-participants may see short-term rate impacts, efficiency programs that save energy, which is cheaper than supply, will ultimately mitigate future costs and rate increases, thus benefiting all ratepayers. Finally, there are many economic and environmental benefits from efficiency that do not exist for power plants, and which are not explicitly accounted for in the cost-effectiveness analysis. These include downward pressure on wholesale energy costs which benefit all energy consumers. Also, a large portion of the money spent on producing energy goes to the purchase of out-of-state fuel. Efficiency measure costs, by contrast, are spent almost entirely in state, creating local jobs and economic

³ Exhibit 303, Mosenthal Surrebuttal, pp. 8–9.

multiplier effects. Lower electric bills further allow program participants to increase local spending, thus creating additional economic multiplier effects. Efficiency programs also have significant environmental and risk reduction benefits, including avoided costs from potential future regulation compliance and improved health.

Conclusion

We believe that the Commission's conclusions do not match the record in this case, and do not reflect the true drivers of any over- or under-collection of the throughput disincentive, or the sources and relative magnitude and importance of all the net benefits that would accrue from the Cycle 2 Plan as modified in the utility stipulation. Further, we believe the Commission's Order does not reflect the MEEIA intent to put efficiency resources on an equal footing with supply-side resources, nor the MEEIA goal of pursuing all achievable cost-effective efficiency based on a Total Resource Cost test. For all these reasons, NRDC encourages the Commission to rehear the case.

Respectfully submitted,

/s/ Henry B. Robertson
Henry B. Robertson (Mo. Bar No. 29502)
Great Rivers Environmental Law Center
319 N. Fourth Street, Suite 800
St. Louis, Missouri 63102
(314) 231-4181
(314) 231-4184 (facsimile)
hrobertson@greatriverslaw.org

Attorney for NRDC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 12th day of November, 2015, to all counsel of record.

/s/Henry B. Robertson

Henry B. Robertson