

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

PUBLIC COUNSEL’S STATEMENT OF POSITIONS

COMES NOW the Office of the Public Counsel (“Public Counsel”) and submits its statement of positions:

LIST OF ISSUES

Issue 1: Should the Commission approve, reject or modify Ameren Missouri’s MEEIA Cycle 2 Plan (hereafter the “Plan”)?

OPC Position:

The Commission should reject Ameren Missouri’s MEEIA Cycle 2 plan. Ameren Missouri’s proposed plan includes excessive and unsupported variances from applicable MEEIA rules and is predicated on artificially downward-adjusted saving targets that understate the overall potential for energy efficiency adoption. Of particular concern to Public Counsel, among the plan’s many deficiencies, is the design of the cost recovery mechanism that would virtually ensure that the Company continues to over-recover from ratepayers. Without a more appropriately designed cost recovery mechanism that utilizes the total resource cost test when calculating the net shared benefits and includes the utility performance incentive as a cost, ratepayers will continue to remit excessive amounts to Ameren Missouri. The Commission should reject Ameren Missouri’s application until the company demonstrates that its plan is beneficial to all customers in the customer class in which the programs are proposed regardless of whether the programs are utilized by all customers.

Issue 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)?

OPC Position:

No, Ameren Missouri’s proposed plan does not include all cost-effective demand side programs. The parties have identified programs, including small business direct, that were cost-effective under the total resource cost test, but not included in the Company’s application. Additionally, Ameren Missouri’s Plan excludes

consideration of joint delivery of programs when evaluating a whether or not a program is cost-effective. As a consequence, the proposed plan does not include all cost-effective demand-side programs. The Company's proposal further departs from state policy of achieving all cost-effective demand-side savings by understating the potential energy and demand savings associated with the programs included in the proposed plan. The Plan relies on a flawed potential study that is further distorted by a downward adjustment to potential energy savings based on the results of secondary data. As proposed, Ameren Missouri's plan is a reduction from the energy savings targets in the Company's MEEIA Cycle 1 and fails to demonstrate progress toward achieving all cost-effective demand-side savings.

Issue 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?

OPC Position:

If the Commission approves a Plan, despite the opposition of all parties except for Ameren Missouri, the Commission should require certain protections to ensure that ratepayers and the utility will share the financial benefits resulting from the energy efficiency programs. Any investment mechanism similar to Ameren Missouri's proposal would include three components: program costs, throughput disincentive (TD-NSB), and a utility performance incentive.

Public Counsel supports the contemporaneous recovery of prudently incurred program costs subject to true-up mechanisms proposed in the testimony of Staff witness Mr. Mark Oligschlaeger.

If the Company is allowed to recover a throughput disincentive for lost revenues, the amount should be determined in accordance with the Commission's rules and reflect full retrospective evaluation, measurement, and verification of energy savings. The determination of net shared benefits should be calculated by applying the total resource cost test and include any utility performance incentive as a cost.

Any utility performance incentive should only be included for recovery in a demand-side programs investment mechanism after full retrospective evaluation, measurement, and verification of the Company's efficiency savings. Importantly, any incorrect calculation of the net shared benefits amount should be addressed in MEEIA prudence reviews to ensure the company collects only the appropriate approved amount from ratepayers.

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

OPC Position:

The Company's proposed plan fails to comply with the Commission's applicable MEEIA rules without good cause, and so, should be rejected. Rather than design a program that fits within the Commission's rules, Ameren Missouri requests variance from twenty-seven separate rules contained in 4 CSR chapters 3, 14, and 20, seeking a MEEIA plan that would likely perpetuate and increase the over-collection from ratepayers that has occurred in Ameren Missouri's MEEIA Cycle 1. Moreover, Ameren Missouri has not articulated good cause for the Commission to grant variance from its rules – because no good cause exists. Instead of approving a plan that requires significant variance from the MEEIA rules without good cause, the Commission should reject Ameren Missouri's proposal in full.

Office of the Public Counsel's Issues:

Issue 1: If the Commission approves a plan, should the total resource cost test (TRC) be applied uniformly when calculating net shared benefits?

OPC Position:

Yes, the total resource cost test should be used as expressed in the MEEIA statute and Commission's rules. Utilizing the TRC evaluates the costs and benefits to both participants and program administrators of energy efficiency programs. Public Counsel agrees that the TRC should be used on the front end of evaluating potential benefits. However, Public Counsel disagrees with Ameren Missouri's abandonment of the TRC when calculating the net shared benefits for purposes of determining the throughput disincentive and the utility performance incentive. Doing so mismatches how evaluations are performed and serves to inflate artificially savings and revenues. Rather than mismatch the application of cost effectiveness tests, the Commission should require that the TRC be applied uniformly when calculating net shared benefits.

Issue 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?

OPC Position:

Yes, the utility performance incentive is a material cost borne by ratepayers as a result of the utility offering a MEEIA program. Best practice literature and the Commission's rules are consistent with Public Counsel's position that the proper calculation of net shared benefits includes the utility performance incentive as a cost. The consequence of omitting this cost as an input in the calculation of net shared benefits is that Ameren Missouri would recover an increased amount of money from ratepayers in its proposed throughput disincentive mechanism just as it has in MEEIA Cycle 1.

Sierra Club’s Issue:

Issue: In assessing the cost-effectiveness of demand-side programs, should Ameren Missouri consider the results of the utility cost test (UCT)?

OPC Position:

No, the total resource cost test should be used as expressed by the MEEIA statute and Commission’s rules. Excluding out-of-pocket costs, as would be done under the UCT, overstates the net shared benefit amount. If the TRC is utilized on the front-end to set Ameren Missouri’s targets and available measures, then it should also be utilized on the back-end to determine the net shared benefits. Uniform application of the TRC ensures that neither ratepayers nor the utility are disadvantaged monetarily.

Missouri Division of Energy’s Issue:

Issue: If the Commission modifies Ameren Missouri’s MEEIA Cycle 2 Plan what modifications should the Commission adopt?

OPC Position:

The Commission should reject Ameren Missouri’s MEEIA Cycle 2 Plan entirely. When pursuing an energy efficiency program, the responsibility and burden to design a program within the bounds of the MEEIA statute and applicable Commission rules rests, in the first instance, with Ameren Missouri. The plan proposed by Ameren Missouri includes excessive variances from applicable MEEIA rules and is predicated on artificially downward-adjusted saving targets that understate the overall potential for energy efficiency adoption. The many deficiencies in the plan’s program design and potential study cannot be remedied by making minor modifications. As proposed by Ameren Missouri, the plan virtually ensures that the company will over-collect for lost revenues and utility incentives, as the Company has done in MEEIA cycle 1. Rather than attempting to modify this clearly flawed proposal, the Commission should reject Ameren Missouri’s plan as a whole.

WHEREFORE, the Office of the Public Counsel respectfully submits the foregoing statement of positions.

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 11th day of May 2015:

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