

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

In the Matter of Union Electric Company d/b/a     )  
Ameren Missouri's Filing to Implement             )  
Regulatory Changes in Furtherance of Energy     )  
Efficiency as allowed by MEEIA.                    )

**Case No. EO-2012-0142**

**STAFF RESPONSE TO AMEREN MISSOURI'S  
PROPOSED PROCEDURAL SCHEDULE FILING**

**COMES NOW** the Staff of the Missouri Public Service Commission and responds to Union Electric Company d/b/a Ameren Missouri's filing of February 17 2012, titled, "Ameren Missouri's Proposed Procedural Schedule," as follows

1. Ameren Missouri primarily argues in its February 17 2012, filing that the procedural schedule in this case is constrained by the following sentence in Commission Rule 4 CSR 240-20.093(3):

The commission shall approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans within one hundred twenty (120) days of the filing of an application under this section only after providing the opportunity for a hearing.

and the fact that Ameren Missouri is implementing its "bridge" demand-side programs through voluntarily negotiated six-month term contracts that end June 30, 2012; renewable for an additional six months.

2. As Staff fully addressed in its February 17, 2012, *Motion for Variance Determinations and Motion for Expedited Treatment*, Staff believes the Commission did not promulgate that sentence in Rule 4 CSR 240-20.093(3) with the expectation the Commission would address variances within that one hundred twenty (120) days. Staff believes the 120-day constraint is for a MEEIA rule-compliant application, or one for which the utility had already obtained the variances that its MEEIA filing requires.

3. As to Ameren Missouri's argument that because its "bridge" demand-side programs end June 30, 2012, with the possibility of a six-month extension, Staff's response is that the Commission should not let itself be cornered into the "box" Ameren Missouri has constructed, and rush itself and the parties through Ameren Missouri's Missouri Energy Efficiency Act ("MEEIA") filing because of the "stick" of when Ameren Missouri's demand-side programs may expire. Ameren Missouri's demand-side programs lapsed for months in 2011 before its "bridge" demand-side programs tariff sheets took effect.<sup>2</sup>

4. This is not the first time Staff has raised to the Commission its concerns about this timing "box." When Ameren Missouri filed its tariff sheets to implement its "bridge" demand-side programs, Staff stated its concerns in both its November 14 and December 8, 2011, memoranda, Case Nos. ET-2012-0011 and ET-2012-0156, respectively. Staff neither contemplated nor addressed the complexity that would be added by Ameren Missouri seeking variances from the Commission's MEEIA rules when Staff expressed those concerns in late 2011.

5. As Ameren Missouri states in its February 17 2012, filing, "[T]he Commission has the option to 'approve, approve with modification acceptable to the electric utility, or reject' Ameren Missouri's MEEIA Application." If the Commission takes the variances with the case, Staff and the other parties will be forced to address the possible modifications to Ameren Missouri's MEEIA application for each of the possible permutations of the variances the Commission might grant. If the Commission addresses the variances at the outset of this case then the parties will need only to review the proposed programs allowed with those variances and one DSIM. Staff believes the Commission did not intend for the 120-day deadline to

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<sup>2</sup> Staff's recommendations to approve Ameren Missouri's "bridge" demand-side programs tariff sheets in Case Nos. ET-2012-0011 and ET-2012-0156, respectively.

shortchange the Commission on the quality of the analysis and input it receives from the parties.

6. As the Commission undoubtedly recalls, after recounting relevant history as follows:

The roots of this tariff filing go back to Ameren Missouri's most recent rate case, ER-2011-0028. In that case, Ameren Missouri threatened to drastically reduce its spending on energy efficiency programs unless the Commission approved its proposed revenue recovery plan. The Commission refused to approve that plan in the rate case and Ameren Missouri responded by allowing all its energy efficiency tariffs to expire on September 30, 2011. Currently, Ameren Missouri has no business electric energy efficiency tariffs in effect.

on page four of its December 14, 2011, *Notice in Response to Tariff Filing* issued in Case No. ET-2011-0156, the Commission stated:

The Commission is not—as it previously indicated in its notice regarding Ameren Missouri's residential tariffs [(Issued November 22, 2011, in Case No. ET-2012-0011.)]—powerless in these matters. While it cannot assume management control of the company by ordering Ameren Missouri to spend additional money on energy efficiency programs, Ameren Missouri at some point in the future will once again come before the Commission in a rate case. At that time, the Commission will look closely at the company's willingness to reduce the long-run cost of providing service to its ratepayers by pursuing energy efficiency, as well as the prudence of any decisions Ameren Missouri may make to obtain additional energy supplies that might not be needed if energy efficiency programs were appropriately implemented.

7. Staff takes issue with the following Ameren Missouri statement appearing at the top of page five of its February 17, 2012, pleading: “The Company hopes that other parties share in this desire, although Staff’s motion in this case, filed earlier today, strikes the Company as a clear indication that Staff may not share in that goal”—“to implement programs and a DSIM that promotes energy efficiency in Missouri while also remaining faithful to the mandates in MEEIA, including the mandate that the Commission align utility financial incentives with helping customers use energy more efficiently.” It is not Staff who is asking the Commission to depart in a major way from the MEEIA rules that the Commission recently promulgated and adopt the

approach Ameren Missouri advocated, and the Commission rejected, in the rulemaking. The Cole County Circuit Court upheld these rules on November 4, 2011, (Case No. 11AC-CC00236) and the Western District Court of Appeals is now reviewing them in Case No. WD74676. The Commission should be wary of taking any action in this case that would undermine its position in that appeal.

8. Staff is working diligently on both Ameren Missouri's and KCP&L Greater Missouri Operations Company's MEEIA applications. In both cases, at Staff's suggestion, the parties are holding weekly technical conferences as a means for all of them to better understand the applications, and Staff initiated meetings with them to learn how they used DSMore software. Staff appreciates their time and efforts given to help Staff understand how each used DSMore.

9. With its "stick" of no demand-side programs for a period of time, Ameren Missouri offers a "carrot" of all the benefits it asserts will flow from the demand-side programs and demand-side programs investment mechanism it filed. What Ameren Missouri has studiously avoided telling the Commission is the difference in the benefits to both its customers and its shareholder between its MEEIA filing and a MEEIA filing without variances from the Commission's MEEIA rules; rules the Commission promulgated after lengthy workshops and a rulemaking, complete with both filed comments and a hearing. Staff is committed to providing to the Commission information and recommendations to the best of its ability to aid the Commission in fulfilling the mandate of the MEEIA as passed by the Legislature and signed by the Governor.

**WHEREFORE**, Staff submits the above in response to Ameren Missouri's February 17, 2012, filing titled, "Ameren Missouri's Proposed Procedural Schedule."

Respectfully submitted,

**/s/ Nathan Williams**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 24<sup>th</sup> day of February, 2012.

**/s/ Nathan Williams**