

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

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

**REPLY BRIEF OF  
THE MISSOURI INDUSTRIAL ENERGY CONSUMERS**

Comes now the Missouri Industrial Energy Consumers (“MIEC”) and for its Reply Brief states as follows:

MIEC reiterates its support for the non-utility stipulation, to which it is a signatory. Both the OPC’s and the Staff’s Initial Briefs make compelling arguments for why this Commission should adopt the terms of that stipulation. While this Commission should adopt all features of that stipulation, its most important feature addresses the throughput disincentive. The calculation of the throughput disincentive is important to consumers, and to Ameren Missouri as well, because consumers compensate Ameren Missouri for the sales that it would have made, but did not make, as the result of its energy efficiency programs. If the calculated amount is too high, consumers overpay and Ameren Missouri over-collects. We know that “deemed energy savings” contemplated by Ameren Missouri in its stipulation are different than actual realized energy savings (Ex. 301, p. 44). They certainly were in the past (Ex. 710, p. 17; Ex. 118; Tr. Vol. 3, p. 769). Moreover, if a utility is allowed predetermined throughput compensation, it is given a perverse incentive to implement less, rather than more, effective energy efficiency programs since it will realize less sales shrinkage. Given that fact, it makes no sense whatsoever to calculate Ameren Missouri’s throughput disincentive as if the theoretical savings are the same as the actual realized savings. For that reason, this Commission should verify energy savings using the EM&V calculation contemplated in the non-utility stipulation in order to increase confidence in the level of compensation ratepayers pay to Ameren Missouri for

its lost sales. Otherwise, Ameren Missouri will collect from ratepayers twice, once when it makes sales that were “deemed” not to be made and a second time via throughput disincentive compensation. Verification of the actual energy savings is common sense.

Ameren Missouri argues that EM&V would cause delay recovery of compensation and potentially disallow compensation. Ameren Initial Br. 6-8, 18-24. But its arguments in that regard are gross overstatements. As to the delay, the non-utility stipulation allows up-front recovery of 75 percent of the deemed energy savings, with only 25 percent recovered after an EM&V determination. The delay in recovery of that fraction of the compensation is not so significant as to justify a process having no verification protection.

Ameren Missouri claims that the recovery of compensation after EM&V will erode its earnings because of GAAP standards (Ameren Initial Br. 6-8, 18). But Staff witness Oligschlaeger clearly identified the accounting standard that applies in this case, and it does not prevent Ameren Missouri from booking the throughput compensation pending EM&V review. He showed that to the extent allowed compensation is not subject to refund, Ameren Missouri may properly report the same as part of its earnings:

**Q. Mr. Oligschlaeger, I believe the question I asked you was not answered before the objection so I'll ask again. Is that why ASC-980-605-25 doesn't prohibit -- doesn't apply in this situation?**

A. Again -- yes, in my professional judgment, the situation where a Company recovers revenue simultaneously with the occurrence of lost revenues, the accounting for that phenomenon is governed by other provisions within GAAP, not ASC 980-605-25.

**Q. Mr. Oligschlaeger, do you know of any case when this standard, ASC 980-605-25, was applied to prevent recording revenues concurrently with the MEEIA program?**

A. Are you talking about other jurisdictions or within Missouri or –

**Q. I guess my question is any case. So either -- let's start within Missouri.**

A. Okay. Within Missouri, I don't believe that issue has gone before the Commission in the past.

**Q. And taking a step back, what about in any other jurisdiction?**

A. I have done what I consider a reasonably comprehensive review of some of the orders and other pertinent case information involving -- which involve issues of lost revenue recovery and the imposition of true-up procedures. And I have not found any proceeding in which a utility raised either the same or a highly similar accounting concern regarding the provisions of ASC 980-605-25 than to that raised by Ameren Missouri in this proceeding.

**Q. Is it fair to say that Ameren Missouri is seeking to recover an amount that is based on forecasted values in this case?**

A. For throughput disincentive?

**Q. Yes.**

A. Yes.

**Q. And in your experience, when forecasted values are used to set rates, is there usually a true-up?**

A. The general policy I am aware of in this state is that in most -- I would say almost all instances in which forecast values are used, there is some sort of true-up procedure to later synchronize or reconcile the amount of the ultimate recovery from customers with the actual costs in question incurred by the utility.

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**Q. Now, Mr. Oligschlaeger, I don't recall the specific question that Mr. Lowery asked you, but in response you indicated that there was additional evidence from PWC that contradicts Ms. Barnes' testimony. Do you recall that?**

A. I do.

**Q. And what evidence is that? Is that -- would it be fair to say that Exhibit 716, which is Staff -- the Response to Staff Data Request Number 8 includes that -- that piece of information?**

A. That is the information I am referring to. That document, which was discussed with Ms. Barnes I believe on the stand yesterday, concerns general accounting guidance from PWC in terms of how the ASC 980-605-25 is to be interpreted and implemented. And that guidance specifically and solely comes from the perspective of a utility's ability to book regulatory assets related to demand-side programs. It specifically -- PWC expresses the opinion within that document -- it summarizes the intent of all three provisions within the ASC, that it makes booking of a -- revenues by a utility related to demand-side programs very difficult prior to billing and collection of the amounts. That is directly supportive of my interpretation that I've expressed in testimony of how the ASC works. Further, there is nothing within that guidance that even addresses in any way the Company's interpretation that somehow it should be interpreted as forbidding a utility to book revenues even when they have

received those revenues in cash from customers. That would be such an unusual accounting finding, that to the extent it was applicable, I would find PWC's omission of even mentioning it within its guidance to be truly remarkable.

Tr. 847-848, 901-902. Ameren Missouri witnesses, on the other hand, offer nothing but speculation and were unable to provide any examples of where the EM&V methodology proposed by Staff had failed to pass accounting muster.

The non-utility stipulation does not measure throughput compensation based upon the difference between actual sales volumes and sales volumes assumed in setting Ameren Missouri's rates. Rather, consistent with the MEEIA Cycle 1 programs, that stipulation allows for compensation even where actual sales volumes exceed the volumes used to set Ameren Missouri's rates. That is a major concession to Ameren Missouri in that stipulation and is the "carrot" intended to induce Ameren Missouri to engage in discretionary energy efficiency programs.

The MIEC suggests that the Commission give considerable weight to the strongly expressed opinions of both Staff and OPC witnesses that no energy efficiency programs would be a better result for consumers versus the option of having them overcompensate Ameren Missouri for offering energy efficiency programs as contemplated in the Ameren Missouri stipulation.

Last, all parties apparently agree that decoupling should not be addressed by decision in this case, particularly since it is under consideration in working docket Case No. AW-2015-0282.

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 emailed this 26<sup>th</sup> day of August, 2015, to all parties on the Commission's service list in this case.

/s/ Edward F. Downey