

**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 Energy Efficiency as)
As Allowed by MEEIA)

Case No. EO-2015-0055

**MOTION FOR DETERMINATION ON THE PLEADINGS ON
AMEREN’S
APPLICATION FOR APPROVAL OF FLEX PAY PROGRAM
PILOT AND REQUEST FOR ASSOCIATED VARIANCES**

COMES NOW the Office of the Public Counsel (“OPC”) and hereby respectfully requests the Public Service Commission (“Commission”) to dismiss the Application for Approval of Flex Pay Program Pilot and request for Associated Variances filed by Ameren Missouri on November 30, 2017. In support of said Motion, OPC states as follows:

1. 4 CSR 240-2.117 permits this Commission to issue a “determination on the pleadings.” Such a determination may be made “whenever such disposition is not otherwise contrary to law.” Thus, without any provision of law addressing the timeliness of a determination on the pleadings, this motion is timely.

2. Ameren Missouri’s Application, which it labels the “Flex Pay Program,” “is to incent [sic] energy efficient behavior by increasing customer awareness of electric energy usage and spending habits/trends.” Application ¶4, citing Davis Schedule WRD-DIR-1-1. “The pilot program focuses on electric energy consumption behavior changes that result in reduced energy usage” which relies upon “motivation for the customer to reduce energy usage.” *Id.* at WRD-DIR-1-2. Said motivation, while not explicitly

stated, is the threat of “disconnection.” See WRD-DIR-1-2 “Program Description” section; see also Application ¶¶6-7.

3. Ameren is requesting this program pilot pursuant to 4 CSR 240-20.094(4)(G) as “an energy efficiency behavior program.” Application, COMES NOW section. 4 CSR 240-20.094 governs “Demand-Side Programs.”

4. Deprivation of service (or disconnection) cannot qualify as a demand-side program under MEEIA rules according to this Commission’s own rules. 4 CSR 240-20.092(1)(M) states:

Demand-side program means any program conducted by the utility to modify the net consumption of electricity on the retail customer’s side of the electric meter, including, but not limited to, energy efficiency measures, load management, demand response, and interruptible or curtailable load, but not including deprivation of service or low income weatherization.

(emphasis added).

5. Based upon the rulemaking history, as detailed in Geoff Marke’s Rebuttal testimony, it is clear that the “deprivation of service” language that this Commission added to the rule was for pre-pay programs just like this. See Marke Rebuttal, pages 7-11.

6. Therefore, the pilot program requested by Ameren is unlawful on its face. No hearing would be needed because the facts, however they may be developed, amount to a pre-pay program that is unauthorized by law.

WHEREFORE, OPC respectfully requests that this Commission deny Ameren the pilot program requested and dismiss Ameren's Application accordingly.

Respectfully submitted,

/s/ Curtis Schube

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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 23rd day of March, 2017.

/s/ Curtis Schube