

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

In the Matter of the Second Prudence	)	
Review of Union Electric Company /d/b/a	)	
Ameren Missouri's Implementation of	)	<b><u>File No. EO-2017-0023</u></b>
Energy Efficiency Programs in Furtherance	)	
of the Missouri Energy Efficiency	)	
Investment Act (MEEIA).	)	

**OFFICE OF THE PUBLIC COUNSEL'S OBJECTION TO THE STIPULATION AND  
AGREEMENT REGARDING ADJUSTMENTS TO AMEREN MISSOURI'S EEIR**

COMES NOW the Office of the Public Counsel ("Public Counsel" or "OPC"), pursuant to Commission Rule 4 CSR 240-2.115(2)(B), and files its OBJECTION to the *Stipulation and Agreement Regarding Adjustments to Ameren Missouri's EEIR* ("Stipulation") filed on March 16, 2017 by Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") and the Staff of the Missouri Public Service Commission ("Staff"). In support of its objection, Public Counsel states:

**Background**

1. On July 25, 2016, Staff filed its *Notice of Start of Second MEEIA Prudence Audit* giving notice it started its second MEEIA prudence audit of the costs associated with Ameren Missouri's Demand Side Programs Investment Mechanism ("DSIM") (Doc. No. 1).
2. On December 22, 2016, Staff filed its *Report of Second MEEIA Prudence Review and Proposed Adjustments* (Doc. No. 13). In its pleading accompanying the report, Staff recommended a disallowance of \$92,456. The Staff's report gave greater detail about the proposed disallowance including identifying areas of imprudence for the following:

- Staff found Ameren Missouri did act imprudently by including inappropriate costs associated with its Energy Efficiency Programs and has recommended adjustments as detailed in sections B and C of this report (Staff Report p. 16)<sup>1</sup>;
  - Staff determined that Ameren Missouri acted imprudently by including inappropriate advertising costs which occurred after the DSM programs ended on December 31, 2015. Staff is proposing a disallowance of \$906 along with the associated adjustments to PI and TD-NSB as represented in Table one of this report (Staff Report p. 19); and
  - Staff found Ameren Missouri has acted imprudently by including inappropriate advertising costs related to the sponsorship of the St. Louis Cardinals baseball team (Staff Report p. 20).
3. On December 30, 2016, Ameren Missouri filed its *Request for Hearing* (Doc. No. 14). The only basis offered in its request for a hearing was that:

Pursuant to this rule, because it takes issue with portions of Commission Staff's Report and the impact on the already settled performance incentive, Ameren Missouri requests a hearing to fully and appropriately address the Commission Staff recommendations and their impacts.

(Doc. No. 14, pp 1-2). Ameren Missouri did not give any indication whether: (1) it disagreed with the dollar values contained in the Staff's report but agreed that it had acted imprudently; (2) it agreed with the Staff's dollar values but disagreed that it had acted imprudently in charging costs to customers; or (3) it disagreed with the dollar values and disagreed that it had acted imprudently.

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<sup>1</sup> Page number references are to the Highly Confidential document filed in EFIS. None of the information included in this pleading is labeled Highly Confidential but Public Counsel notes which version to reference because redactions cause the information to appear on different page numbers in the public version of the document.

4. On March 16, 2017, Ameren Missouri and Staff filed their Stipulation purporting to be a “compromise position regarding the amount of the adjustment to be made to Ameren Missouri’s Energy Efficiency Investment Rate (“EEIR”). As will be discussed below, the terms of the Stipulation do not indicate what portions or conclusions of Staff’s report Ameren Missouri disputes.

#### Objection to the Stipulation

5. It is important for the Commission to discern that this case is a *prudence review* not a rate adjustment case. Imprudent actions relating to costs included in the MEEIA line-item charge should result in an eventual rate adjustment. However, the adjustment is only one part of a remedy to address any imprudent actions identified and, as the Stipulation recognizes, will take place in a different filing. The remaining remedy is a finding that identifies what behaviors or actions are imprudent so that similar behavior will be curbed in the future.

6. Public Counsel OBJECTS to the Stipulation because it only addresses the adjustment and not the underlying imprudence, if any, requiring the refund. It may be that the adjustment is an appropriate remedy in terms of dollars to be returned to customers but Public Counsel does not know because this settlement is between Staff and Ameren Missouri only. Public Counsel presumes that Ameren Missouri is agreeing to return \$60,000 out of a disputed \$92,456 because the company acknowledges it acted imprudently in some way. However, there is no indication in the Stipulation about which of its actions identified by Staff, if any, were imprudent and so there is no guidance about which company behaviors will not be repeated.

7. Furthermore, Public Counsel OBJECTS to the Stipulation because its signatories agree that “no other adjustments to the EEIR will be necessary for the MEEIA review period of July 1, 2014, through December 31, 2015, and for the carry-over period of January 1, 2016, through

October 31, 2016.” (Doc. No. 22, p. 2). This provision concerns Public Counsel because prudence reviews are imperfect. For example, in the context of Kansas City Power & Light Greater Missouri Operations (“GMO”) recent rate case it was discovered the company had improperly collected \$4.6 million through its fuel adjustment clause. Notably, prudence reviews during the time of the improper collection did not detect this error. Upon discovery of its error, GMO took steps to return the improperly collected money. If the Commission were to adopt the provisions contained in the Stipulation what would happen if an error of the same magnitude is later discovered for Ameren Missouri’s MEEIA charge? Would the company make an adjustment to return money improperly collected? Or would the company point to this Stipulation to avoid paying a refund? The Commission can avoid such a situation by rejecting this provision.

8. For the reasons described above, Public Counsel OBJECTS to the *Stipulation and Agreement Regarding Adjustments to Ameren Missouri’s EEIR*.

WHEREFORE, Public Counsel respectfully files this objection.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been electronically mailed this 23<sup>rd</sup> day of March, 2017 to all counsel of record in this proceeding.

**/s/ Tim Opitz**