Exhibit No.:	
Issues:	Statutory Requirements of MEEIA
Witness:	James Owen
Sponsoring Party:	Renew Missouri Advocates
Type of Exhibit:	Surrebuttal Testimony
Case Nos.:	EO-2018-0211
Date Testimony Prepared:	September 17, 2018

MISSOURI PUBLIC SERVICE COMMISSION

EO-2018-0211

SURREBUTTAL TESTIMONY

OF

JAMES OWEN

ON BEHALF OF

RENEW MISSOURI ADVOCATES

September 17, 2018

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's 3rd Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA.	))))	File No. EO-2018-0211

<u>AFFIDAVIT OF JAMES OWEN</u>

STATE OF MISSOURI)
) ss
COUNTY OF BOONE)

COMES NOW James Owen, and on his oath states that he is of sound mind and lawful age; that he prepared the attached surrebuttal testimony; and that the same is true and correct to the best of his knowledge and belief.

Further the Affiant sayeth not.

James Owen

Subscribed and sworn before me this 17th day of September 2018.

Notary Public

My commission expires: 1-19-20

MATTHEW PATTERSON
Notary Public, Notary Seal
State of Missouri
Boone County
Commission # 11274306
My Commission Expires 01-19-2020

TABLE OF CONTENTS

I. INTRODUCTION

Q: Please state your name, title, and business address.

A: James Owen, Executive Director, Renew Missouri Advocates d/b/a Renew Missouri ("Renew Missouri"), 409 Vandiver Dr. Building 5, Suite 205, Columbia, MO 65202.

Q: Please describe your education and background.

A: I obtained a law degree from the University of Kansas as well as a Bachelor of Arts in Business and Political Science from Drury University in Springfield.

Q: Please summarize your professional experience in the field of utility regulation.

A: Before becoming Executive Director of Renew Missouri, I served as Missouri's Public Counsel, a position charged with representing the public in all matters involving utility companies regulated by the State. While I was Public Counsel, I was involved in several rate cases, CCN applications, mergers, and complaints as well as other filings. As Public Counsel, I was also involved in answering legislators' inquiries on legislation regarding legislation impacting the regulation of public utilities. In my role as Executive Director at Renew Missouri, I continue to provide information and testimony on pieces of proposed legislation that may impact how Missouri approaches energy efficiency and renewable energy.

Q: Have you been a member of, or participant in, any workgroups, committees, or other groups that have addressed electric utility regulation and policy issues?

A: In May 2016 I attended the National Association of Regulatory Utility Commissioners ("NARUC") Utility Rate School. In the Fall of 2016, I attended Financial Research Institute's 2016 Public Utility Symposium on safety, affordability, and reliability. While I was Public Counsel, I was also a member of the National Association of State Utility

Consumer Advocates ("NASUCA") and, in November of 2017, the Consumer Council of Missouri named me the 2017 Consumer Advocate of the Year.

Q: Have you testified previously, participated in cases, or offered testimony before the Missouri Public Service Commission ("Commission")?

A: In my prior role as Acting Public Counsel I participated in a number of PSC cases as an attorney and director of the office. During that time period I also offered testimony in rulemaking hearings before the Commission. Since becoming Executive Director of Renew Missouri I contributed to Renew Missouri's filed Comments on Distributed Energy Resource Issues in EW-2017-0245.[1] On January 9, 2018, I participated in the panel discussions on the "Indiana Model" and the value of a DER Study.[2] I submitted rebuttal testimony on Empire's Customer Savings Plan in EO-2018-0092; surrebuttal testimony on Ameren Missouri's Green Tariff in ET-2018-0063; and rebuttal and surrebuttal testimony on the "Indiana Model" in ER-2018-0145 and ER-2018-0146.[3]

II. STATUTORY REQUIREMENTS OF MEEIA

Q: What is the purpose of your testimony in this matter?

A: On behalf of Renew Missouri, I wish to respond to the testimony provided by the Commission's Staff ("Staff"), through the testimony of Ms. Natelle Dietrich and in its "Rebuttal Report", that the Company's Application "does not comply with the statutory requirements of MEEIA."[4] While the Staff appropriately "acknowledges there are public

[1] EFIS File No. EW-2017-0245, Doc. No. 46.
[2] EFIS File No. EW-2017-0245, Doc. No. 79.
[3] EFIS File No. EO-2018-0092, Doc. No. 60; EFIS File No. ET-2018-0063, Doc. No. 49; EFIS File No. ER-2018-0145, Doc. Nos. 114 and 176; EFIS File No. ER-2018-0146, Doc. Nos. 121 and 185.
[4] Staff's Rebuttal Report p. 77; Dietrich Rebuttal p. 3.

policy reasons to support DSM and DR" it inappropriately asserts that Ameren Missouri's MEEIA plan does not comply with the statutory requirements.[5]

Q: What are the statutory requirements of MEEIA that Staff alleges are not met?

A: There are two main portions of the statute Staff points to: Sections 393.1075.3 and 393.1075.4 RSMo.[6] Section 393.1075.3 states:

> 3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:
>
> (1) Provide timely cost recovery for utilities;
>
> (2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
>
> (3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

Section 393.1075.4 states:

> 4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose.

[5] Dietrich Rebuttal, p. 3.
[6] Staff's Rebuttal Report, p. 77.

Q: How does the Staff's Report apply Section 393.1075.3 RSMo to the current Application?

A: In its Report, Staff refers to statutory policy found at 393.1075.3 RSMo emphasizing the phrase "value demand-side investments equal to traditional investments in supply and delivery infrastructure" while claiming that the application does not value demand-side investments appropriately.[7] The crux of Staff's argument on this point is that, because Ameren Missouri does not have a need to invest in supply-side resources (i.e. new generation), it does not have a need to invest in demand-side (efficiency) resources.[8] According to the Staff's logic, adding demand-side programs now does not value the investments equally.

Q: How do you respond?

A: Staff's focus on that portion of the state's written policy is too narrow and inappropriately restricts a utility's ability to pursue energy efficiency programs. First, the Staff relies on only half of the statutory policy. Importantly, to "allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs"[9] is also found in the statute. Both of the policies should be read together in the context of how the Commission financially incents Missouri utilities to pursue energy efficiency programs. The policy to "value demand-side investments equal to traditional investments in supply and delivery infrastructure" is not meant to be a barrier that prohibits a utility from having a MEEIA program; rather, it is a policy that should guide how the utility is compensated.

[7] Staff's Rebuttal Report, p. 25.
[8] Staff's Rebuttal Report, p. 26.
[9] Section 393.1075.3 RSMo.

As the MEEIA cost-recovery mechanisms have evolved in Missouri, interested stakeholders agree on the need for three components: 1) program cost recovery; 2) a mechanism to compensate the utility for value of energy and demand savings caused by its programs; and 3) an earnings opportunity. Of those three categories, the earnings opportunity should be most affected by the policy to value demand-side programs equal to investment in supply-side resources. In fact, the Commission discussed this point in its *Report and Order* in Ameren Missouri's Cycle 2 Application, stating:

> The sole purpose of a "performance incentive" under MEEIA is to give the company an earnings opportunity to place shareholders in a financial position comparable to the earnings opportunity they would have had if those shareholders made a future supply-side investment. **A successfully implemented performance incentive would accomplish the policy goal of valuing equally supply-side and demand-side investments**. (emphasis added).[10]

At most, Staff's argument that the Company does not currently need additional supply-side resources is a reason to adjust the earnings opportunity available to Ameren Missouri. Moreover, using Staff's argument about valuing the resources equally as a basis to reject the Application entirely ignores the statute's policy to "allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs."[11]

Q: The Staff's Report also discusses cost-effectiveness of the proposed program on pages 42-46. How does the Staff approach evaluating the cost-effectiveness of the Application?

A: Staff disputes the inclusion of certain benefits and avoided costs from the avoided cost calculations because, again, it argues that Ameren Missouri has no need to upgrade its system. Staff then excludes certain avoided transmission and distribution costs when it

[10] EFIS Case No. E)-2015-0055, Doc. No. 289, Report and Order, p. 11.
[11] Section 393.1075.3 RSMo.

performs its own analysis to calculate Total Resource Cost ("TRC") test values for each proposed program.[12] I will not address the exclusion of specific costs other than to reiterate my belief that the Staff's focus on Ameren Missouri's ability to serve its customers without adding additional generation is too narrow.

In its Report, the Staff includes a table comparing the TRC values for each program using Ameren Missouri's avoided cost figures to the TRC values using Staff's adjusted avoided cost figures.[13] This table reflects the Company's nine (9) proposed residential programs, eight (8) business programs, and three (3) low-income programs. Using the Staff's figures, the lighting program, EE Kits program, and Appliance Recycling program all continue to have a TRC above 1.0. In other words, those programs – even using Staff's adjusted figures – are cost-effective. The Staff's table also shows that "most of the Business Programs are still cost-effective" utilizing the Staff's figures.[14] The only Business Program that is not cost-effective - using Staff's figures - is the Business Social Services program, at a level of .98, for which Ameren Missouri proposes as a low-income program.[15] However, despite these findings, the Staff does not recommend rejecting only the programs it believes are not cost-effective. Instead, the Staff recommends rejecting the entire portfolio. Once again, Staff relies on a narrow interpretation of the statute to broadly exclude an entire portfolio. In doing so, Staff ignores the policy of the state to "allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs."[16]

[12] Staff's Rebuttal Report, p. 34, 42-45.
[13] Staff's Rebuttal Report, p. 44.
[14] Staff's Rebuttal Report, pp. 44-45.
[15] Low-income programs do not need to meet a cost-effective test.
[16] Section 393.1075.3 RSMo.

Q: How does the Staff's Report apply Section 393.1075.4 RSMo to the current Application?

A: Staff states the provisions in Section 393.1075.4 RSMo require the programs to "deliver benefits to customers who do not participate in the Plan's programs[.]"[17] Here, too, Staff's experts perform an analysis, but take a very narrow view of the law. In pertinent part, Section 393.1075.4 states:

> 4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

This section includes two mandates: 1) that the goal is to achieve *all* cost-effective demand-side savings and 2) that the programs "are beneficial to all customers in the customer class in which the programs are proposed". The Staff's recommendation to reject the Company's Application is not supported by either mandate.

First, I note that Ameren Missouri has proposed a robust MEEIA portfolio. The Staff Report, in its own way, recognizes as much, stating: "[t]his is an aggressive expansion of programs, budget, and cycle length as compared to the previous two Ameren Missouri MEEIA Cycles."[18] However, rather than commending the Company for making strides to pursue the statutory mandate to achieve all cost-effective demand-side savings, Staff recommends the Commission reject the entire portfolio – even to reject the programs Staff's own chosen analysis shows are cost-effective. A robust and aggressive Application

[17] Staff's Rebuttal Report, p. 41.
[18] Staff's Rebuttal Report, p. 43.

is consistent with the mandate in Section 393.1075.4 RSMo to achieve all cost-effective demand-side savings and should be encouraged by the Commission. Staff's Report only mentions this provision in the MEEIA statute in a passing manner instead choosing to focus on the language that programs must be "beneficial to all customers in the customer class in which the programs are proposed".

Q: Staff concludes that Ameren Missouri's programs do not meet the requirement that programs must be beneficial to all customers in the customer class in which the programs are proposed. [19] Do you agree with the Staff's conclusion?

A: No. The Company's application offers customers overall benefits of $920 million in net benefits. I recognize that the Staff disputes certain inputs in Ameren Missouri's calculations, but even the Staff's analysis shows $145 million in overall net benefits from 2034 to 2044.[20] Notably, the Staff's analysis takes into consideration the Company's earnings opportunity at the target level of performance.[21] The Staff's method for evaluating the overall benefits to customer from the Cycle 3 programs mixes and matches various inputs (generally detrimental) to reach a result that *still* shows a benefit to customers. Furthermore, Staff recognizes that the plan enables Ameren Missouri to defer the startup of a 600 MW CC from 2034 to 2036.[22] Based on these benefits alone, the requirement that the program offered be beneficial to all customers is satisfied. Lastly, even though Renew Missouri believes the company's application will offer benefits to all customers, I want customers to realize the full benefits of MEEIA by participating in the programs.

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[19] Staff's Rebuttal Report, p. 41.
[20] Staff's Rebuttal Report, p. 41.
[21] Staff's Rebuttal Report, p. 41 footnote 72.
[22] Staff's Rebuttal Report, p. 41.

Q: Does this conclude your testimony?

A: Yes.