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Issues: Strategy Selection  
Witness: John A. Rogers  
Sponsoring Party: MO PSC Staff  
Type of Exhibit: Surrebuttal Testimony  
File No.: EO-2011-0271  
Date Testimony Prepared: November 30, 2011

**MISSOURI PUBLIC SERVICE COMMISSION**

**REGULATORY REVIEW DIVISION**

**SURREBUTTAL TESTIMONY**

**OF**

**JOHN A. ROGERS**

**UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI**

**FILE NO. EO-2011-0271**

*Jefferson City, Missouri  
November 2011*

Staff Exhibit No. 17  
Date 12/15/11 Reporter JMB  
File No. EO-2011-0271

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

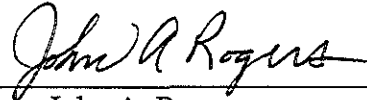
In the Matter of Union Electric Company's    )  
2011 Utility Resource Filing Pursuant to    )  
4 CSR 240 - Chapter 22                                )

File No. EO-2011-0271

**AFFIDAVIT OF JOHN A. ROGERS**

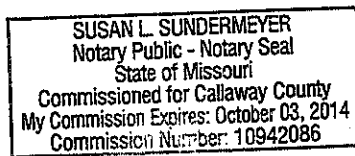
STATE OF MISSOURI    )  
                                      ) ss  
COUNTY OF COLE    )

John A. Rogers, of lawful age, on his oath states: that he has participated in the preparation of the following Surrebuttal Testimony in question and answer form, consisting of 21 pages of Surrebuttal Testimony to be presented in the above case, that the answers in the following Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true to the best of his knowledge and belief.



John A. Rogers

Subscribed and sworn to before me this 29<sup>th</sup> day of November, 2011.



  
Notary Public

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**OF**

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**SURREBUTTAL TESTIMONY**

**OF**

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Q. Please state your name and business address.

A. My name is John A. Rogers, and my business address is Missouri Public Service Commission, P. O. Box 360, Jefferson City, Missouri 65102.

Q. What is your present position at the Missouri Public Service Commission?

A. I am a Utility Regulatory Manager in the Energy Unit of the Regulatory Review Division.

Q. Are you the same John A. Rogers that contributed to Staff's Report on Electric Utility Resource Planning Compliance Filing ("Staff Report") filed on June 23, 2011 and that filed rebuttal testimony on October 28, 2011 in this case?

A. Yes, I am.

Q. Would you please summarize the purpose of your surrebuttal testimony?

A. I address certain reports and rebuttal testimony of witnesses for other parties<sup>1</sup> to this case with respect to the following areas that Staff identified as deficient in Union Electric Company's d/b/a Ameren Missouri's ("Ameren Missouri's" or "Company's") February 23, 2011 filing:

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<sup>1</sup> Other parties filing rebuttal testimony include: The Office of Public Counsel, Missouri Department of Natural Resources, National Resource Defense Council, Sierra Club, Renew Missouri, Mid-Missouri Peaceworks, and Great Rivers Environmental Law Center.

- 1           1. Ameren Missouri's failure to comply with 4 CSR 240-22.010(2)(B)<sup>2</sup>: *"Use*  
2                 *minimization of the present worth of long-run utility costs as the primary*  
3                 *selection criterion in choosing the preferred resource plan;"*
- 4           2. Ameren Missouri's failure to comply with 4 CSR 240-22.010(2)(C):  
5                 *"Explicitly identify and, where possible, quantitatively analyze any other*  
6                 *considerations which are critical to meeting the fundamental objective of the*  
7                 *resource planning process, but which may constrain or limit the minimization*  
8                 *of the present worth of expected utility costs;"*
- 9           3. Ameren Missouri's failure to comply with 4 CSR 240-22.010(2)(A):  
10                 *"Consider and analyze demand-side efficiency and energy management*  
11                 *measures on an equivalent basis with supply-side alternatives in the resource*  
12                 *planning process;"* and
- 13           4. Ameren Missouri's failure to comply with 4 CSR 240-22.070(6) and (6)(A):  
14                 *"The utility shall select a preferred resource plan from among the alternative*  
15                 *plans that have been analyzed pursuant to the requirements of 4 CSR 240-*  
16                 *22.060 and sections (1) – (5) of this rule. The preferred resource plan shall*  
17                 *satisfy at least the following conditions: (A) In the judgment of the utility*  
18                 *decision-makers, the preferred plan shall strike an appropriate balance*  
19                 *between the various planning objectives specified in 4 CSR 240-22.010(2)."*

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<sup>2</sup> Unless otherwise noted, all references to Chapter 22 Electric Utility Resource Planning rules are the rules that were in effect at the time that Ameren Missouri made its compliance filing.

1 Finally, I discuss the recommendations of other parties and present why Staff's  
2 recommendation<sup>3</sup> in this case represents the optimum course of action for Ameren Missouri,  
3 for its customers and investors/shareholders, and, therefore, best serves the public interest.

4 **Non-compliance with 4 CSR 240-22.010(2)(B)**

5 Q. Please summarize why Ameren Missouri is noncompliant with 4 CSR 240-  
6 22.010(2)(B).

7 A. 4 CSR 240-22.010(2)(B) requires that minimization of long-run utility costs –  
8 as measured through present value of revenue requirements ("PVR") - be the primary  
9 selection criterion when choosing a preferred resource plan.

10 The "use minimization of long-run utility costs as the primary selection criterion" as  
11 required by 4 CSR 240-22.010(2)(B) means that PVR be given all of the weight or at least a  
12 very large portion of the weight during the utility's preferred resource plan selection process.

13 By assigning a weight of only 25 percent to minimization of PVR during its  
14 preferred resource plan selection process, Ameren Missouri chose to assign a 75 percent  
15 weight to factors other than minimization of PVR and therefore did not comply with 4 CSR  
16 240-22.010(2)(B).

17 Q. Do other parties also contend that Ameren Missouri has not complied with 4  
18 CSR 240-22.010(2)(B)?

19 A. Yes.

20 Q. Please elaborate.

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<sup>3</sup> See rebuttal testimony of John A. Rogers at page 3 line 7 through page 4 line 13

Surrebuttal Testimony of  
John A. Rogers

1           A.     The Office of Public Counsel's ("OPC") deficiency 1<sup>4</sup> states: "UE<sup>5</sup> failed to  
2 use the minimization of present value of revenue requirements (PVRR) as the primary  
3 selection criterion in choosing the preferred resource plan." The rebuttal testimony of OPC  
4 witness Ryan Kind is an extensive analysis and discussion of this deficiency<sup>6</sup>. Mr. Kind  
5 concludes:

6                 ... the Company's "growing concerns with the current DSM regulatory  
7 framework" were the primary plan selection criteria utilized by UE. This  
8 concern entered into UE's plan selection process through the use of what  
9 UE termed a "decision factor" that UE used to justify not choosing plans  
10 that minimized PVRR, even though UE never received a waiver from the  
11 Commission that would permit the use of "decision factors" as part of its  
12 preferred plan selection process.  
13

14           Mr. Kind cites<sup>7</sup>, as I did in my rebuttal testimony, the Commission's *Order*  
15 *Concerning Compliance* in Case No. EO-94-360, in which the Commission reaffirmed that  
16 the electric utility shall use minimization of the present worth of long-run utility costs as the  
17 primary selection criterion when choosing the preferred resource plan.

18           Q.     Does Missouri Department of Natural Resources ("MDNR") contend that  
19 Ameren Missouri has not complied with 4 CSR 240-22.010(2)(B)?

20           A.     Yes, it does. MDNR's deficiency 6 states:

21                 Compliance with the "primary selection criterion" requirement in selecting  
22 the preferred resource plan: The company does not adequately demonstrate  
23 that it complied with rule requirements when it rejected the plan based on  
24 realistic achievable potential (RAP) DSM.  
25

26           The rebuttal testimony of MDNR witness John Noller concludes with<sup>8</sup>:

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<sup>4</sup> See OPC report filed June 23, 2011, at pages 3 through 4.

<sup>5</sup> Mr. Kind refers to Ameren Missouri as "UE."

<sup>6</sup> However, Staff does not agree with Mr. Kind's recommendation "that the Company correct for these deficiencies, conduct its analysis again, and then select a preferred resource plan ... based on the revised planning analysis ... ."

<sup>7</sup> See Deficiency 1 in OPC report filed on June 23, 2011, at pages 3 and 4, and rebuttal testimony of Ryan Kind at page 12, lines 5 through 15.

<sup>8</sup> See rebuttal testimony of John Noller at page 26, lines 5 through 18.

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... MDNR Deficiency #6 states the company's narrative does not demonstrate that cost minimization was used as the primary selection criterion at this final stage of decision process.

The documentation of the decision process in Section 1012 provides "scorecards" and other decision tools that staff prepared for senior management but does not provide any documentation [ ] by participants in the decision process of the weights or other criteria that they actually used in arriving at their decision. Furthermore, the scorecards do not indicate specific weights were assigned to planning objectives and display primarily qualitative rather than quantitative approaches to scoring scorecards[.]

Q. Did other intervenors contend that Ameren Missouri has not complied with 4 CSR 240-22.010(2)(B)?

A. Yes. The Natural Resources Defense Council, Sierra Club, Renew Missouri, Mid-Missouri Peaceworks, and Great Rivers Environmental Law Center (collectively "Coalition") included as their deficiency B<sup>9</sup>: "Ameren's Selection Criteria Failed to Prioritize Minimizing Present Worth, and Failed to Adequately Justify the Use of Alternative Criteria. 22.010(2)(B) and (C), 22.060(2) and (4)." The rebuttal testimony of Coalition witness Philip Mosenthal includes the following<sup>10</sup>:

Q. Does Ameren's<sup>11</sup> response address your concern that Ameren's selection criteria failed to prioritize minimization of PVRR, and failed to adequately justify the use of alternative criteria?

A. No. I contend that Ameren biased its analysis from the start, and by adopting a very complicated and poorly defined set of selection criteria wholly unrelated to the commission's planning rules, they end up with a "preferred plan" that increases PVRR, when the primary goal of the IRP is to minimize PVRR.

While Ameren denies this throughout its response, they also effectively admit this is the case. Specifically, in response to virtually every specific criticism of its scoring and scenario selection approach, Ameren answers that the individual criticism is irrelevant because the preferred plan would still have been selected. While this may be true when each is viewed in

<sup>9</sup> See Coalition report filed June 23, 2011, at pages 9 through 15.

<sup>10</sup> See rebuttal testimony of Philip Mosenthal at pages 7 through 9.

<sup>11</sup> The Coalition refers to Ameren Missouri as "Ameren."

isolation, it is only true because Ameren's assumptions and approach were chosen to force the outcome of dramatically limiting DSM in its plan. The criticisms in aggregate are clearly significant enough that addressing them would lead to a very different outcome.

**Non-compliance with 4 CSR 240-22.010(2)(C)**

Q. What does Rule 4 CSR 240-22.010(2)(C) require?

A. 4 CSR 240-22.010(2) establishes that when meeting the fundamental objective of electric resource planning<sup>12</sup>, the utility must satisfy three (3) other planning objectives, including 4 CSR 240-22.010(2)(C) which states:

(C) Explicitly identify and, where possible, quantitatively analyze any other considerations which are critical to meeting the fundamental objective of the resource planning process, but which may constrain or limit the minimization of the present worth of expected utility costs. The utility shall document the process and rationale used by decision makers to assess the tradeoffs and determine the appropriate balance between minimization of expected utility costs and these other considerations in selecting the preferred resource plan and developing contingency options. These considerations shall include, but are not necessarily limited to, mitigation of--

1. Risks associated with critical uncertain factors that will affect the actual costs associated with alternative resource plans;

2. Risks associated with new or more stringent environmental laws or regulations that may be imposed at some point within the planning horizon; and

3. Rate increases associated with alternative resource plans.

Q. Please summarize why Ameren Missouri is not in compliance with 4 CSR 240-22.010(2)(C).

A. To comply with 4 CSR 240-22.010(2)(C) a utility may constrain or limit its use of only minimization of PVRR when selecting its preferred resource plan, if the utility identifies and quantitatively analyzes other considerations—including but not limited to: risk associated with critical uncertain factors, more stringent environmental laws or regulations

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<sup>12</sup> 4 CSR 240-22.010(2) states: The fundamental objective of the resource planning process at electric utilities shall be to provide the public with energy services that are safe, reliable and efficient, at just and reasonable rates, in a manner that serves the public interest.

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John A. Rogers

1 and rate increases—which may constrain or limit the utility’s ability to minimize PVRR.  
2 Compliance with this subsection also requires that the utility assess and document the process  
3 and rationale used by its decision makers to assess the tradeoffs and determine the appropriate  
4 balance between the minimization of PVRR and these other considerations in selecting its  
5 preferred resource plan and in developing contingency options.

6 Plan R0 is clearly the candidate resource plan with the lowest present worth of  
7 expected utility costs (PVRR). To comply with Rule 4 CSR 240-022.010(2)(C), Ameren  
8 Missouri must *identify, quantitatively analyze and assess and document any other*  
9 *considerations* which may constrain or limit the minimization of present worth of expected  
10 utility costs. Since Ameren Missouri has not identified, quantitatively analyzed and assessed  
11 the impact on earnings and on PVRR for a “fair<sup>13</sup>” Commission-approved DSIM for its RAP  
12 DSM plan, it has not shown it *determined the appropriate balance between minimization of*  
13 *expected utility costs and any other consideration* for its Plan R0.

14 Q. Do other parties contend Ameren Missouri is noncompliant with Rule 4 CSR  
15 240-22.010(2)(C)?

16 A. Yes.

17 Q. Please elaborate.

18 A. MDNR deficiencies 2 and 3<sup>14</sup> relate to violation of this rule. The rebuttal  
19 testimony of MDNR witness John Noller includes the following<sup>15</sup>:

20 ...the company’s failure to provide a contingency analysis for the demand  
21 side cost recovery factor was a deficiency with respect to two different rule  
22 requirements. A contingency analysis would, in words that the company  
23 used during a stakeholder meeting, permit the company to “determine what  
24 kinds of cost recovery would be required to achieve different levels of

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<sup>13</sup> A fair DSIM will result from a Commission order which complies with 4 CSR 240-20.093(2).

<sup>14</sup> See MRND report filed on June 23, 2011, at pages 11 through 13.

<sup>15</sup> See rebuttal testimony of John Noller at page 5, line 13 through page 6, line 2.

1 demand side savings. ... the company cited this decision factor as the  
2 constraint that prevented selection of the lowest cost plan, the company was  
3 required under 4 CSR 240-22.010(2)(C) to provide a quantitative analysis  
4 demonstrating the outcomes and tradeoffs within which this constraint  
5 applied and under which it would no longer apply.  
6

7 The Coalition deficiency C states: "Ameren Missouri Refuses to Acknowledge the  
8 Existing Regulatory Framework for Energy Efficiency." In discussing this deficiency in its  
9 report filed on June 23, 2011, the Coalition contends<sup>16</sup>:

10 Ameren makes it abundantly clear that it is not satisfied with the regulatory  
11 framework that Missouri policymakers have created for investment in  
12 energy efficiency and for that matter for utility resource investment more  
13 broadly. However, the regulatory framework that does exist does not  
14 envision or tolerate Ameren refusing to take advantage of the least-cost  
15 resource choices, effectively holding hostage the consumer benefits of doing  
16 so in order to gain leverage in securing more favorable ratemaking policies  
17 for shareholders.  
18

19 **Non-compliance with 4 CSR 240-22.050(3) and 4 CSR 240-22.010(2)(A)**

20 Q. Please summarize why Ameren Missouri is not in compliance with 4 CSR 240-  
21 22.010(2)(A).

22 A. 4 CSR 240-22.050(3) requires cost-effectiveness screening of all known  
23 demand-side measures. 4 CSR 240-22.010(2)(A) requires that the electric utility "consider  
24 and analyze demand-side efficiency and energy management measures on an equivalent basis  
25 with supply-side alternatives in the resource planning process." Because it has chosen to not  
26 identify and analyze a well-established customer education program such as OPOWER, the  
27 Company is not in compliance with 4 CSR 240-22.050(3) and 4 CSR 240-22.010(2)(C).

28 Q. Do other parties contend Ameren Missouri is noncompliant with Rule 4 CSR  
29 240-22.010(2)(A)?

30 A. Yes.

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<sup>16</sup> See Coalition report filed June 23, 2011, at page15.

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1 Q. Who?

2 A. MDNR and the Coalition.

3 Q. Where?

4 A. MDNR deficiency 8 states<sup>17</sup>: "Ameren Missouri has not considered DSM on  
5 an equivalent basis with supply-side alternatives[.]"

6 Coalition deficiency 1 states<sup>18</sup>: "Ameren did not consider demand-side options on an  
7 'equivalent basis' with supply-side alternatives as required under 4 CSR 240-22.010(2)(A)."

8 **Non-compliance with 4 CSR 240-22.070(6) and (6)(A)**

9 Q. What does Rule 4 CSR 240-22.070(6) and (6)(A) require?

10 A. 4 CSR 240-22.070(6) and (6)(A) states:

11 (6) The utility shall select a preferred resource plan from among the  
12 alternative plans that have been analyzed pursuant to the requirements  
13 of 4 CSR 240-22.060 and sections (1)–(5) of this rule. The preferred  
14 resource plan shall satisfy at least the following conditions:

15 (A) In the judgment of utility decision-makers, the preferred plan  
16 shall strike an appropriate balance between the various planning  
17 objectives specified in 4 CSR 240-22.010(2)  
18

19 Q. Please summarize why Ameren Missouri is not in compliance with 4 CSR 240-  
20 22.070(6) and (6)(A).

21 A. Ameren Missouri's decision-makers failed to strike an appropriate balance  
22 between the various planning objectives specified in 4 CSR 240-22.010(2) when selecting  
23 Ameren Missouri's preferred resource plan, because Ameren Missouri:

- 24 1. Did not consider and analyze demand-side resource on an equivalent basis with  
25 supply-side resources;

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<sup>17</sup> See Joint Filing filed on August 8, 2011, at Appendix A, page 3.

<sup>18</sup> See Joint Filing filed on August 8, 2011, at Appendix A, page 3.

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1           2. Did not use minimization of PVRR as the primary selection criterion when  
2           selecting its preferred resource plan; and

3           3. Did not analyze the DSM cost recovery solution through a filing under the  
4           MEEIA rules as an "other consideration" to assess and document the impact on  
5           shareholders and customers resulting from a "fair" DSM cost recovery solution  
6           should the Company adopt Plan R0 as its preferred resource plan.

7           Q.     Do other parties contend that Ameren Missouri has not complied with 4 CSR  
8           240-22.070(6) and (6)(A)?

9           A.     Yes.

10          Q.     Please elaborate.

11          A.     MDNR's deficiencies 1, 3, 5, 9 and 10 each allege noncompliance with 4 CSR  
12          240-22.070(6)<sup>19</sup>. In his rebuttal testimony MDNR witness John Noller states<sup>20</sup>:

13                 In the Commission's rule, the analysis of critical uncertain factors takes  
14                 center stage in the contingency planning that is to be included in the utility's  
15                 resource acquisition strategy. In the Company's filing, analysis of critical  
16                 uncertain factors is pushed to the periphery and decision factors take center  
17                 stage.

18                 In summary, the company introduced a concept ("decision factors") that is  
19                 not defined or even mentioned in the Commission's rules nor the waivers  
20                 granted by the Commission in this docket and gave that concept a central  
21                 role in its risk analysis and strategy selection. In MDNR's view, this  
22                 created an obligation to adhere to an appropriately rigorous set of ground  
23                 rules for identifying and analyzing decision factors. This obligation was not  
24                 acknowledged or met in the company's original filing and it is also not  
25                 acknowledged or remedied in the company's response to MDNR or other  
26                 parties in this case.

27                 He further states<sup>21</sup>:

19 See MDNR report filed June 23, 2011, at pages 9, 14, 20, 28 and 28 for discussion of MDNR's deficiencies 1, 3, 5, 9 and 10, respectively.

20 See rebuttal testimony of John Noller at page 6, lines 11 through 21.

21 See rebuttal testimony of John Noller at page 10, lines 13 through 23.

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1 ... even if the company was constrained from selecting a more aggressive  
2 demand side portfolio under the current regulatory provisions ("outcomes")  
3 related to the cost recovery decision factor, the company was required by 4  
4 CSR 240-22.010(2)(C) to provide a contingency analysis that would  
5 indicate how alternative outcomes of the cost recovery decision factor  
6 would affect its selection of a plan based on more aggressive demand side  
7 resources. During the stakeholder process, a company representative  
8 demonstrated that the company had a clear concept of the purpose and  
9 analytic framework for such an analysis and was planning to include it in its  
10 filing when he said: "we'll look at our potential [demand side] portfolios  
11 under different cost recovery mechanisms and be able to determine what  
12 kind of cost recovery does it take in order to enable achievement of different  
13 levels of demand-side savings." (Transcript, September 14, 2010  
14 Stakeholder Meeting, P. 239)

15  
16 Finally, Mr. Noller concludes<sup>22</sup>:

17  
18 If the Commission's purpose for including (070)(10)(C) and (D) was to  
19 assure robust contingency planning accomplished through analysis of the  
20 full range of possible values for critical uncertain factors, that p[ur]pose is  
21 not achieved in the company's filing. Under the company's preferred plan,  
22 because decision factors are treated as constraints, contingency planning  
23 based on critical uncertain factors is always trumped by contingency  
24 planning based on decision factors. Moreover, the company has not  
25 identified the "extreme outcomes" or any other possible outcomes for the  
26 demand-side cost recovery decision factor and therefore it has not taken  
27 even the first step toward applying the requirements of Paragraph (10)(C)  
28 and (10)(D) to contingency planning based on this particular decision  
29 factor[.]

30  
31 The company's identification of [DSM cost recovery solution] decision  
32 factor as a constraint has operated to insulate the preferred plan from any  
33 impact by the critical uncertain factors, and its failure to set ground rules for  
34 analyzing this decision factor has insulated the company's contingency  
35 analysis from the requirements of Paragraphs (10)(C) and (10)(D). As a  
36 result, the company's filing does not provide a robust contingency analysis  
37 that identifies the boundaries within which the preferred plan is appropriate  
38 and beyond which it is not appropriate. Its preferred plan will remain  
39 unchanged regardless of circumstance until the utility judges that outcomes  
40 for the decision factor reach some critical point but because the company  
41 provides no contingency analysis, that critical point is not defined in the  
42 resource acquisition strategy and is known only to the company.  
43

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<sup>22</sup> See rebuttal testimony of John Noller at page 18, lines 4 through 21.

**Recommendation to resolve the alleged deficiencies and concerns in this case**

Q. Has Staff's recommendation for resolving the deficiencies Staff has identified changed?

A. No.

Q. What is Staff's recommendation?

A. Staff recommends the Commission find that Ameren Missouri has not complied with the versions of Rules 4 CSR 240-22.010(2), 4 CSR 240-22.050(3), 4 CSR 240-22.070(6) and 4 CSR 240-22.070(6)(A) that were in effect on February 23, 2011, when Ameren Missouri made its compliance filing. However, rather than recommend the Commission order Ameren Missouri to redo its analysis and to file a revised electric utility resource planning filing in this case, Staff suggests it would be more efficient and effective for Ameren Missouri to commit to certain provisions to finalize this compliance filing. Therefore, if Ameren Missouri commits to the provisions, Staff recommends the Commission direct Ameren Missouri to:

1. Utilize minimization of PVRR as its primary selection criterion when selecting its preferred resource plan and as the objective of the electric utility resource planning process;

- 1           2. Notify the Commission<sup>23</sup> that its preferred resource plan and resource  
2           acquisition strategy have changed to contingency resource Plan R0<sup>24</sup>  
3           conditioned only upon the Company receiving Commission approval of its  
4           RAP DSM programs and for approval of a fair DSIM under the Missouri  
5           Energy Efficiency Investment Act of 2009 ("MEEIA") rules;<sup>25</sup>  
6           3. File for approval of its RAP DSM programs and for approval of a DSIM  
7           under MEEIA<sup>26</sup>; and  
8           4. Address the remaining deficiencies and concerns identified by the various  
9           parties during the annual update stakeholder workshops and filings in April  
10          2012, and in April 2013, and during the Company's next triennial  
11          compliance filing on April 1, 2014, under the recently revised 4 CSR 240-  
12          22.

13           If the Company is unwilling to agree to these provisions, the Staff recommends the  
14          Commission order Ameren Missouri to redo its analysis and to file a revised electric utility  
15          resource planning filing in this case.

16           Q.     Do the other parties agree with Staff's recommendation?

17           A.     No.

---

<sup>23</sup> Notification to the Commission shall comply with currently effective 4 CSR 240-22.080(12).

<sup>24</sup> Ameren Missouri's notification should also: 1) identify Plan B1 as its contingency resource plan should the Company not receive approval of its RAP DSM programs and approval of a fair DSIM under the MEEIA rules and should aggressive environmental regulations not be enacted; 2) identify Plan C3 as its contingency resource plan should the Company not receive approval of its RAP DSM programs and approval of a fair DSIM under the MEEIA rules and should aggressive environmental regulations be enacted by the federal government; and 3) identify Plan R3 as its contingency resource plan should the Company receive approval of its RAP DSM programs and approval of a fair DSIM under the MEEIA rules and should aggressive environmental regulations be enacted by the federal government.

<sup>25</sup> 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094, which all have an effective date of May 30, 2011.

<sup>26</sup> A MEEIA filing should be in compliance with both the MIEEA statute (Section 393.1075, RSMo. Supp. 2010) and the MEEIA rules (Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094) as well as any other applicable laws and regulations.

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1 Q. Did Ameren Missouri and parties to this case<sup>27</sup> reach a joint agreement on a  
2 plan to remedy the identified deficiencies during the 45-day review period provided by 4 CSR  
3 240-22.080(8)?

4 A. No. They did not reach agreement on any deficiency or concern.

5 Q. Please summarize the difference between Staff's recommendation and the  
6 recommendations of other parties.

7 A. Other parties recommend that significant new analyses be performed, that a  
8 significant amount of analyses in this case be redone and that a revised IRP filing be made in  
9 this case under the old Chapter 22 rules.

10 Staff does not recommend the Commission order Ameren Missouri to redo its analysis  
11 and to file a revised electric utility resource planning filing in this case if, with Ameren  
12 Missouri's agreement, the Commission directs the Company to: 1) utilize minimization of  
13 PVRR as the objective of the electric resource planning process; 2) adopt Plan R0 as it  
14 preferred resource plan conditioned only upon the Company receiving Commission approval  
15 of its RAP DSM programs and for approval of a fair DSIM under the MEEIA rules; 3) file for  
16 approval of its RAP DSM programs and for approval of a DSIM under MEEIA; and 4)  
17 address the remaining deficiencies and concerns identified by the various parties during the  
18 annual update stakeholder workshops and filings in April 2012 and in April 2013 and during  
19 the Company's next triennial compliance filing on April 1, 2014, under the new Chapter 22  
20 rules.

21 Q. Have you compared Staff's recommendation and the recommendations of  
22 other parties?

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<sup>27</sup> Parties to this case include: Ameren Missouri, Staff, OPC, MDNR, Missouri Industrial Energy Consumers, Missouri Energy Group, Grain Belt Express Clean Line, LLC, Natural Resources Defense Council, Sierra Club, Renew Missouri, Mid-Missouri Peaceworks and the Great Rivers Environmental Law Center.

Surrebuttal Testimony of  
John A. Rogers

1           A.     Yes. Schedule JAR-1 contains timelines for important analyses, filings,  
2 hearings and orders related to Ameren Missouri's DSM programs, MEEIA cases and Chapter  
3 22 cases. Schedule JAR-1 is provided to enhance the level of understanding of the  
4 Commission and all parties in this case related to the important differences between Staff's  
5 recommendation and the recommendations of other parties.

6           Q.     What are the most important differences?

7           A.     The following significant observations of the information in Schedule JAR-1  
8 characterize the most important differences between the Staff's recommendation and the  
9 recommendations of other parties:

- 10           1. A revised IRP filing under the old Chapter 22 rules – if ordered by the  
11 Commission – would likely not occur until approximately the first quarter of  
12 2013 which is only about one year prior to the required April 1, 2014 triennial  
13 compliance filing under the new Chapter 22 rules. Thus, any revised preferred  
14 resource plan as a result of a revised IRP filing will likely have a “life” of only  
15 about one year;
- 16           2. Ameren Missouri's Residential Energy Efficiency Program and Business  
17 Energy Efficiency Program expired on September 30, 2011<sup>28</sup>;
- 18           3. Ameren Missouri very recently filed a “bridge” Residential Energy Efficiency  
19 Program and a “bridge” Business Energy Efficiency Program<sup>29</sup>;

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<sup>28</sup> Ameren Missouri MO.P.S.C Schedule 5 Sheet Nos.: Original 229, Original 235, 1<sup>st</sup> Revised 235.6, Original 235.9, 2<sup>nd</sup> Revised 236, Original 241, Original 241.1, 1<sup>st</sup> Revised 256, and Original 258.

<sup>29</sup> See File No. YE-2012-0011 for Ameren Missouri's Residential Energy Efficiency “Bridge” Program tariff sheets effective November 25, 2011 by operation of law, and File No. YE-2012-0231 for Ameren Missouri's Business Energy Efficiency “Bridge” Program proposed tariff sheets with a proposed effective date of December 18, 2011.

- 1           4. The results of Ameren Missouri's planned 2012 – 2013 update of its DSM  
2           potential study<sup>30</sup> can flow smoothly into the analyses for the required April 1,  
3           2014 triennial compliance filing, but cannot benefit the analyses for a revised  
4           IRP filing in this case;
- 5           5. The Company's anticipated first quarter 2012 DSIM filing under 4 CSR 240-  
6           20.093 and its anticipated first quarter 2012 DSM programs filing under 4 CSR  
7           240-20.094 should be given a very high priority by the Company and other  
8           parties, so implementation of the Company's initial MEEIA DSM programs  
9           can begin in early 2013 and the "bridge" DSM programs can terminate at that  
10          time;
- 11          6. Initial Commission-approved MEEIA DSM programs can run a full two  
12          program years (2013 and 2014) prior to the Company making a possible  
13          MEEIA filing in late 2014 or early 2015 to revise its DSM programs at the  
14          conclusion of the review<sup>31</sup> by Staff and intervenors in the Company's 2014  
15          triennial compliance filing case; and
- 16          7. The analyses for the special contemporary issues ordered by the Commission  
17          for the April 2012 annual update and for the April 2013 annual update can both  
18          flow smoothly into the analyses for the April 1, 2014 triennial compliance  
19          filing, while the analyses for the April 2013 annual update will likely occur at  
20          about the same time as and, therefore, cannot benefit the filing of a revised IRP  
21          in this case.

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<sup>30</sup> Ameren Missouri Response document filed 9/15/2011, pages 34 - 35: "Assuming the next triennial filing would occur in 2014, in order to support the development of the DSM portion of that filing, a refresh of the DSM Potential Study would occur in the 2012 to 2013 time frame. The next such study would be completed in accordance with MEEIA rules."

<sup>31</sup> See 4 CSR 240-22.080(8) effective June 30, 2011.

Surrebuttal Testimony of  
John A. Rogers

1 Q. Have you drawn any conclusion from these differences?

2 A. Staff's recommendation is a more efficient and effective plan to remedy the  
3 deficiencies and concerns of all parties and, therefore, best serves the public interest.

4 Q. Does Staff agree with any of the deficiencies with Ameren Missouri's resource  
5 planning that OPC, MDNR and/or Coalition allege?

6 A. Yes. Staff, OPC, MDNR and Coalition each identify deficiencies related to 4  
7 CSR 240-22.010(2), 4 CSR 240-22.050(3), 4 CSR 240-22.070(6) and 4 CSR 240-  
8 22.070(6)(A).

9 Q. Does Staff agree with any of the deficiencies OPC, MDNR and/or Coalition  
10 allege aside from those related to 4 CSR 240-22.010(2), 4 CSR 240-22.050(3), 4 CSR 240-  
11 22.070(6) and 4 CSR 240-22.070(6)(A)?

12 A. No. Following its review of the reports the parties filed on June 23, 2011, the  
13 Response document the Company filed on September 15, 2011, and the rebuttal testimony  
14 filed on October 28, 2011, Staff is still of the opinion that, other than those related to 4 CSR  
15 240-22.010(2), 4 CSR 240-22.050(3), 4 CSR 240-22.070(6) and 4 CSR 240-22.070(6)(A), all  
16 the deficiencies OPC, MDNR and/or Coalition allege are concerns, and do not represent  
17 failures of Ameren Missouri to comply with all other sections of Chapter 22.

18 Q. Why should the Commission adopt Staff's recommendation?

19 A. Staff's recommendation best serves the public interest for the following  
20 reasons:

21 1. By finding Ameren Missouri not in compliance with 4 CSR 240-22.010(2), 4  
22 CSR 240-22.050(3), 4 CSR 240-22.070(6) and 4 CSR 240-22.070(6)(A) that  
23 were in effect when Ameren Missouri made its compliance filing on February

23, 2011, the Commission will provide important guidance to Ameren Missouri and other Missouri electric utilities regarding the meaning of these *fundamental rules*, which Staff, OPC, MDNR and the Coalition all contend are deficiencies in this case;

2. By changing its preferred resource plan and resource acquisition strategy to contingency resource Plan R0 conditioned only upon the Company receiving Commission approval of its RAP DSM programs and for approval of a fair DSIM under the MEEIA rules, Ameren Missouri will be making a *commitment*<sup>32</sup> to pursue its RAP DSM strategy;
3. Ameren Missouri has indicated its intention to make a MEEIA filing no later than the end of the first quarter of 2012<sup>33</sup> and has filed notification of a potential contested case for such a MEEIA filing<sup>34</sup>;
4. Re-performing the analyses in this case would require considerable time and other Company and stakeholder resources<sup>35</sup> and is not expected to have a different overall result, specifically that Plan R0 and Plan R3 clearly have the lowest expected PVRR of all comparable candidate resource plans<sup>36</sup>;
5. Ameren Missouri's RAP DSM programs are cost effective and include estimated annual energy savings and annual demand savings in future years

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<sup>32</sup> Staff notes that although the Company's Decision Roadmap (See Ameren Missouri Chapter 22 compliance filing on February 23, 2011, at Chapter 1, page 21) identifies the RSP DSM Plan R0 as the contingency resource plan should a DSM cost recovery solution be achieved, this alone does not represent a commitment by the Ameren Missouri to actively pursue its Plan R0 contingency resource plan.

<sup>33</sup> See Response of Ameren Missouri to Alleged Deficiencies and Concerns filed on September 15, 2011, Exhibit A, page 15.

<sup>34</sup> See File No. EO-2012-0142.

<sup>35</sup> See Ameren Missouri Chapter 22 compliance filing on February 23, 2011, at Chapter 1, page 2 Stakeholder Involvement.

<sup>36</sup> Alternative resource plans which are comparable to Plan R0 assume current environmental regulations and Meramec continuing to operate "as is" and include Plans B1, B2, B3 and B4. Alternative resource plans which are comparable to Plan R3 assume aggressive environmental regulations and Meramec either retired, converted to natural gas or emissions controlled and include Plans R1, R2, C1, C2, C3, H1, H2 and H3.

1           which may represent reasonable progress towards the MEEELA goal of  
2           achieving all cost effective demand-side savings<sup>37</sup>;

3           6. Implementation of the RAP DSM strategy will postpone the need for any new  
4           supply-side resource to beyond 2029 and will allow the Company to retire the  
5           854 MW coal-fired Meramec generation station should aggressive  
6           environmental regulations be enacted without adding additional supply-side  
7           resources; and

8           7. Finally, a commitment by Ameren Missouri to address the remaining  
9           deficiencies and concerns identified by the various parties during the annual  
10          update stakeholder workshops and filings in April 2012 and in April 2013 and  
11          during the Company's next triennial compliance filing on April 1, 2014, under  
12          the recently revised 4 CSR 240-22, provides the necessary amount of time for  
13          Ameren Missouri to advance development and improvement of its electric  
14          utility resource planning process with the active involvement and advice of its  
15          stakeholders.

16          Q.    Has the Commission recently provided direction to Ameren Missouri  
17          concerning its electric resource planning process?

18          A.    Yes. On October 19, 2011, the Commission issued its *Order Establishing*  
19          *Special Contemporary Resource Planning Issues* for Ameren Missouri in File No. EO-2012-  
20          0039. The order includes seven (7) special contemporary issues to be analyzed and discussed  
21          with stakeholders as part of the Company's 2012 annual update report and includes the  
22          following:

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<sup>37</sup> 4 CSR 240-20.094(2).

1 It is important to note that the Commission's IRP rules require Ameren  
2 Missouri to file a full IRP study once every three years. Ameren Missouri  
3 last filed an IRP study in February 2011 and that study is still under  
4 consideration by the Commission in Case No. EO-2011-0271, with a  
5 hearing scheduled for December 2011. Ameren Missouri does not need to  
6 file its next full IRP study until April 1, 2014. That means Ameren  
7 Missouri will need to address the special contemporary issues identified in  
8 this order in its 2012 annual update report, not in a full IRP study.

9  
10 *That distinction is important because in its annual update report, the*  
11 *electric utility is only expected to address "changing conditions since the*  
12 *last filed triennial compliance filing or annual update filing." For that*  
13 *reason, the requirement to examine special contemporary issues should not*  
14 *be allowed to expand the limited annual update report into something more*  
15 *closely resembling a triennial compliance report.*

16  
17 In preparing a list of special contemporary issues, the Commission is also  
18 mindful of the limited amount of time available to Ameren Missouri to  
19 address the identified issues. The company must file its annual update  
20 report no less than 20 days before its annual update workshop, which must  
21 be held on or about April 1 of each year. That means Ameren Missouri will  
22 have only a few months in which to prepare and report its analysis of the  
23 identified issues. *Therefore, the Commission must choose the identified*  
24 *issues wisely to allow Ameren Missouri an opportunity to thoroughly*  
25 *address the chosen issues. Requiring the company to address every issue*  
26 *proposed by the various parties within the available time would only result*  
27 *in a superficial analysis that would be less helpful than a more detailed*  
28 *analysis of the appropriately limited issues. [Emphasis added]*

29  
30 The Commission's *Order Establishing Special Contemporary Resource Planning*  
31 *Issues* for Ameren Missouri in File No. EO-2012-0039 signals to all parties the Commission's  
32 desire to have Ameren Missouri focus its electric utility resource planning process between  
33 now and April 1, 2012, on analyzing, documenting and reporting the seven (7) Commission-  
34 ordered special contemporary issues. By April 1, 2012, the Commission will likely have  
35 provided additional direction to the Company regarding some of the alleged deficiencies and  
36 concerns in this case. Also, should the Company file for approval of its RAP DSM programs  
37 and for approval of a DSIM under the MEEIA rules in the first quarter of 2012 as the

1 Company has indicated, it is expected that the RAP DSM programs and a fair DSIM will be  
2 approved within 120 days of the filing date, i.e., no later than the end of July 2012.

3 Implementation of Ameren Missouri's RAP DSM portfolio and a fair Commission-  
4 approved DSIM together form the cornerstone for the Ameren Missouri resource acquisition  
5 strategy which will best serve the public interest, i.e., the interest of both customers and  
6 investors/shareholders of Ameren Missouri. More specifically, implementation of the RAP  
7 DSM strategy is expected to:

- 8 1. Save customers several billions of dollars over the next twenty (20) years;
- 9 2. Provide the Company's shareholders more earnings through incentive  
10 payments, and possibly some lost revenues;
- 11 3. Postpone the need for any new supply-side resource to beyond the 20-year  
12 planning horizon, and allow the Company to retire the 854 MW coal-fired  
13 Meramec generation station without adding any supply-side resources should  
14 aggressive environmental regulations be enacted without adding additional  
15 supply-side resources; and
- 16 4. Provide more time for Ameren Missouri to carefully perform the analyses of  
17 contemporary issues and other requirements of the electric utility resource  
18 planning for its April 1, 2014 triennial compliance filing.

19 Q. Does that conclude your rebuttal testimony?

20 A. Yes, it does.

## Schedules Related to Recommendations for Ameren Missouri's Next Chapter 22

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### Notes:

- (1) Ameren Missouri Response document filed 9/15/2011, pages 34 - 35: "... next triennial filing would occur in 2014, ... refresh of the DSM Potential Study would occur in the 2012 to 2013 time frame. ... in accordance with MEEIA rules."
- (2) Old 4 CSR 240-22 rules in effect at the time of Ameren Missouri's filing in File No. EO-2011-0271 and effective through June 29, 2011.
- (3) New 4 CSR 240-22 rules effective June 30, 2011.
- (4) Parties include: OPC, MDNR, NRDC, Sierra Club, Renew Missouri, Mid-Missouri Peaceworks and Great Rivers Environmental Law Center.
- (5) Ameren Missouri Response document file 9/15/2011, page 15: "... Intends to make a filing under MEEIA no later than the end of the first quarter of 2012."

### Reports

120 days and 150 days for Staff and intervenors analyses and reports under 22.080(7) and 22.080(8) of old rules and new rules, respectively.

### HG

Hearing

### OR

Order

### SCI

Special contemporary issues required by 22.080(4) (effective 6/30/2011)

### File

File case

### CMI

Comments by Staff and parties regarding the annual update reports as allowed by 22.0803(D) (effective 6/30/2011)

### AR

Annual report required by 20.093(8) to include information required by 3.163(5)

### AU

Annual update workshop and report required by 22.080(3) (effective 6/30/2011)

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Assumed period of twelve (12) months for analysis and preparation prior to a major filings