BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's 4th Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA	)))))	**Case No. EO-2023-0136**

STAFF'S STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and for its *Statement of Positions* respectfully states as follows:

1. **Benefits: Is Ameren Missouri's demand-side plan, as proposed, expected to provide benefits to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers as required by § 393.1075.4 RSMo.?**

No. The implementation of the programs will not result in the realization of benefits that Ameren Missouri claims in its application, the attached report, and appendices.[1] Ameren Missouri has little to no financial risk associated with the implementation of the MEEIA programs as proposed, but ratepayers will be responsible for the costs without receiving the benefits that Ameren Missouri claims (without support) will occur in its Amended MEEIA 4 Application ("Application"). The workpapers underlying Ameren Missouri's Application drastically overstate the assumed benefits of the entirety of the proposed programs. The realized ratepayer costs of MEEIA programs are far too high to rely on potential benefits that might occur when, in reality, Ameren Missouri is actively investing billions of dollars (and has plans to invest billions more in the near future) in

[1] Luebbert rebuttal page 1 lines 14-17.

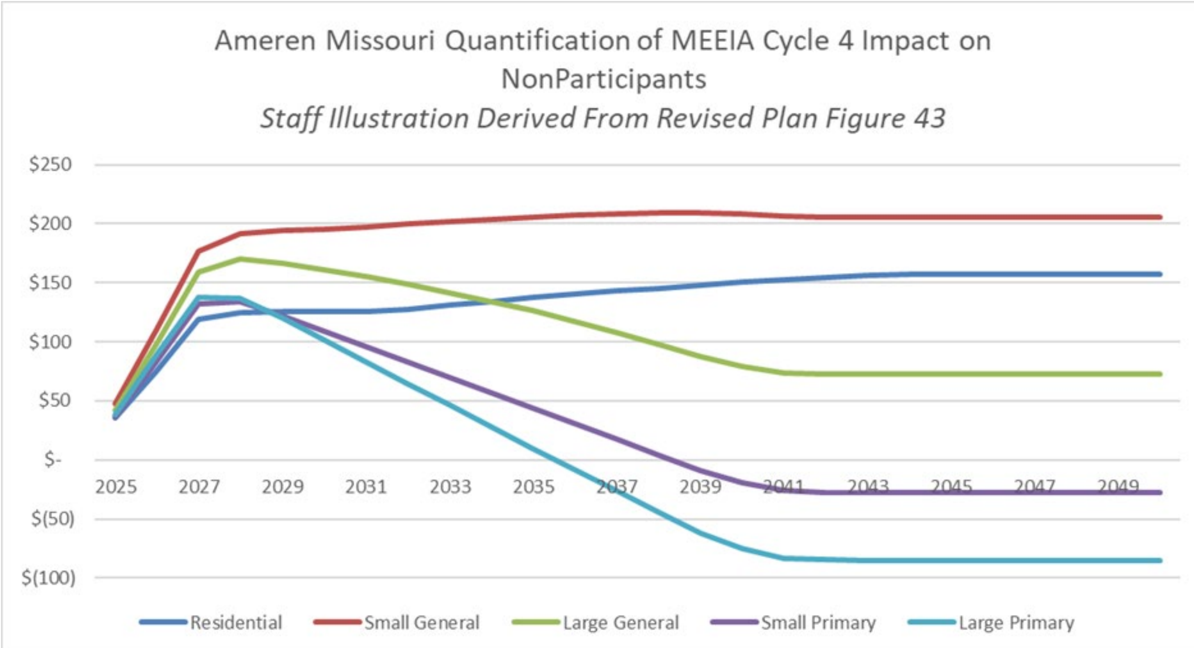
traditional utility infrastructure, while seeking rate recovery of those investments, regardless of the impacts of the MEEIA programs.[2]

Ameren Missouri has not provided an analysis to demonstrate that customers in any given customer class will be provided with benefits that exceed the cost of the Demand-Side Programs Investment Mechanism ("DSIM"). Ameren Missouri's analysis ignores the literal program costs,[3] ignores the impact of the fuel adjustment clause on redistributing avoided energy benefits among customers, and relies on unreasonable avoided cost assumptions. Based on Ameren Missouri's workpapers, Staff understands that Ameren Missouri anticipates recovering approximately $626,090,903 for MEEIA Cycle 4 through the Rider Energy Efficiency Investment Charge (EEIC).[4] Further, Ameren Missouri requests significant flexibility in program implementation, so variances of up to 20% should be anticipated.[5]

Staff has taken the rate estimates prepared by Ameren Missouri, and calculated Ameren Missouri's quantification for annual bills per 1,000 kWh per month of usage, which demonstrates that ratepayers in the Residential, Small General Service and Large General Service classes will be worse off if Ameren Missouri's MEEIA Cycle 4 Amended Application is approved:

[2] Luebbert rebuttal page 1 line 22 through page 2 line 9.
[3] Lange rebuttal page 19 line 17 – 16.
[4] Lange rebuttal page 2 lines 9 – 11.
[5] Lange rebuttal page 3 lines 2-3.

SLKL Figure 1

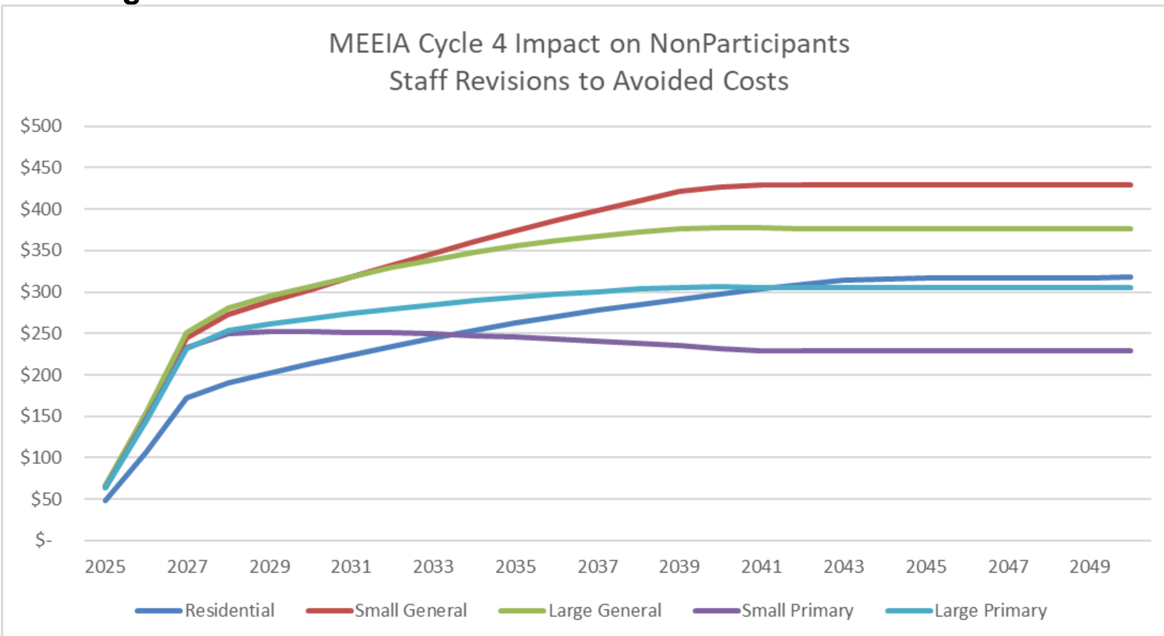


[6]

Staff's calculations further show that non-participants in all rate classes are worse off if Ameren Missouri's Amended MEEIA Cycle 4 Application is approved. The cumulative bill impacts per 1,000 kWh of energy per month are illustrated below:

[6] Lange rebuttal page 4 line 12 – page 5 line 2

SLKL Figure 2



[7]

Even accepting Ameren Missouri's other estimates, and even assuming that program costs are properly treated as transfer payments, Ameren Missouri's TRC result includes a mathematical error in the treatment of the program costs as transfer payments. To obtain a TRC result of 1.64, Ameren Missouri divided $729 million in benefits by $446 million in non-program costs. However, if program costs were being treated as a transfer payment, the proper math would be to divide $909 million in benefits by $625 million in costs, producing a TRC result of 1.45.[8]

For purposes of statutory compliance, it is not reasonable to treat program costs as transfer payments. The MEEIA statute, § 393.1075, RSMo, allows approval of a Demand Side Programs Investment Mechanism (DSIM) **only** if the MEEIA Cycle is 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 TRC results if program costs are considered

[7] Lange rebuttal page 5 line 6 – page 6 line 2.
[8] Lange rebuttal page 20 lines 14 – 17.

a cost, not a transfer payment, are $729 million in benefits divided by $625 million in costs, which produces a TRC result of 1.16.[9]

Ameren Missouri's modeling as presented in Appendix A includes a mismatch between modeled Earnings Opportunity recovery and production of benefits. Correction of this error results in a reduction of the TRC results to a range of 1.07 – 0.93, relying on Ameren Missouri's avoided cost assumptions.[10]

In addition, the Ratepayer Impact Measure (RIM) test results Ameren Missouri provides in Appendix A of its Amended MEEIA Cycle 4 Application provide a portfolio total result of 0.70. Because the RIM result is less than one, then by Ameren Missouri's own modeling the program costs customers more than it benefits them.[11]

In order for all customers to benefit, what customers pay through MEEIA rates should be lower than the increase to general rates otherwise would be due to new supply-side investment, absent MEEIA programs. Historically, the statute language has been interpreted to mean an earnings opportunity should be based on a foregone earnings opportunity from avoiding or deferring a supply-side investment.[12],[13] Ameren Missouri has not done the analysis, and therefore cannot show its work identifying the specific supply-side generation investment that will be avoided or deferred if its Amended MEEIA Cycle 4 Application is approved.[14] Ameren Missouri has not provided "the impacts from all demand-side programs included in the application on any postponement or new supply-side resources and the early retirement of existing supply-side resources, including annual and net present value of any lost utility earnings related thereto" as required

[9] Lange rebuttal page 21 lines 6 – 14.
[10] Lange rebuttal page 22 line 5 – 23 line 11.
[11] Lange rebuttal page 24 lines 2 – 5.
[12] Fortson rebuttal, pages 6 – 7.
[13] Report and Order issued on October 22, 2015, in Case No. EO-2015-0055.
[14] Fortson rebuttal, page 9.

by 20 CSR 4240-20.094(4)(C)4 for its current Amended Application, or for any past MEEIA cycle for that matter.[15]

A. Are the avoided cost assumptions in Ameren's MEEIA Cycle 4 Amended Application reasonable estimations of ratepayer benefits of avoided energy and demand?

No. The concept behind MEEIA is that all customers pay certain amounts today with an expectation that all customers will avoid potential costs in the future. The basic premise of MEEIA is that all customers may benefit from avoided costs in the future in exchange for socializing energy efficiency costs and utility incentives today. If the avoided costs used to evaluate MEEIA programs are not reasonable estimates of the benefits realized by ratepayers through demand-side programs, the underlying premise falls apart.[16]

Ameren Missouri's alleged support for the application, the attached report, and workpapers utilized to "estimate and quantify" benefits are unrealistic and inappropriate estimates that should not be considered reliable. This is especially true considering the lack of specific citations to sources that are prevalent throughout the workpapers that Ameren Missouri has provided Staff.[17]

The assumed avoided capacity, transmission, and distribution benefits are unlikely to ever be realized by ratepayers. Ameren Missouri's calculation of benefits in its Application grossly overstate the magnitude of the benefits,[18] and approval is likely to result in ratepayer harm through implementation of programs that are not cost-effective.[19]

[15] Fortson rebuttal, page 10.
[16] Luebbert direct page 3 lines 1-6.
[17] Luebbert rebuttal page 1 lines 17-21.
[18] Luebbert rebuttal page 16 lines 9-12.
[19] Luebbert rebuttal page 9 lines 2-3.

Ameren Missouri's approach to estimating avoided capacity costs is nearly identical to Evergy's approach that the Commission recognized as inappropriate in the Evergy MEEIA 3 Report and Order.[20]

Ameren Missouri's Rate Impact analysis assumes that avoided cost benefits will directly offset the EEIC rate impacts on a per kWh basis. Only costs, not benefits, will flow through Ameren Missouri's proposed EEIC. Furthermore, since Ameren Missouri's assumed avoided cost benefits are drastically overstated, the rate impact analysis understates the rate impacts that are likely to occur if its Application is approved.[21]

The implementation of Ameren Missouri's Amended MEEIA 4 Plan will not avoid the MISO Cost of New Entry (CONE) (i.e. the annualized capital cost of a combustion turbine) for summer demand reductions that result from the programs.[22] Ameren Missouri's Application[23] drastically overstates the avoided costs related to its expected demand reductions, and its analysis does not include demand reduction totals for programs in the Fall, Winter, or Spring MISO Planning Resource Auction ("PRA") pricing periods.[24]

Ameren Missouri's requested approval of the avoided cost values in Appendix C of the MEEIA 4 Plan will expose ratepayers to the costs of programs[25] that are unlikely to provide benefits near the magnitude suggested by Ameren Missouri.[26]

The costs associated with Ameren Missouri's MEEIA 4 plan are much more certain than any benefits that may be realized. Inflated benefit estimates give the appearance of cost-effective programs, but if the benefits are unlikely to ever be realized by ratepayers,

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[20] Luebbert surrebuttal page 10 lines 18-20.
[21] Luebbert rebuttal page 40 lines 12-16.
[22] "Avoided capacity costs" section of Luebbert rebuttal testimony in this case.
[23] Those listed in Appendix C of the Ameren Missouri MEEIA 4 Plan.
[24] Luebbert surrebuttal page 6 lines 9-17.
[25] This would also include costs associated with earnings opportunities, throughput disincentive, Evaluation, Measurement & Verification (EM&V), and additional administrative costs.
[26] Luebbert surrebuttal page 6 lines 20-23.

the estimates should be rejected. Overestimated “benefits,” as included in Ameren Missouri’s Application, increase the likelihood that programs are implemented in a manner that are not cost-effective, and are ultimately detrimental to ratepayers, especially non-participants.[27]

i. If not, how should avoided costs be determined?

Identification of the specific costs targeted for avoidance or deferral through energy and demand savings should be the starting point for any MEEIA portfolio. If future investment is not reduced, deferred, or avoided, then no foregone earnings opportunity will have been achieved through the demand-side portfolio implementation, i.e. shareholders will still have an opportunity to earn a return on future supply-side investment.[28]

The first step to designing a compliant MEEIA portfolio is the identification of investments that can be reduced, deferred, or avoided in order to benefit all ratepayers, including non-participants. Reduction, deferral, or avoidance of these investments is the ultimate end-goals of the MEEIA process.[29]

It is bad public policy and against the spirit of the MEEIA statute to assume benefits associated with avoided generation, transmission, and distribution investments, and award Ameren Missouri millions of dollars in earnings opportunities for MEEIA programs while the Company is simultaneously seeking a return on investments in generation, transmission, and distribution plant that will not be reduced or avoided as a result of MEEIA Cycle 4.[30]

To determine the appropriate avoided costs, Staff recommends relying on a market-based approach associated with demand reductions because supply-side resource

[27] Luebbert surrebuttal page 17 lines 13-18.
[28] Luebbert direct page 3 lines 7-11.
[29] Luebbert direct page 34 lines 21-23.
[30] Luebbert direct page 41 lines 16-17.

investments are not expected to be avoided or deferred. Reliance on a market-based approach requires the ability to determine accurate demand reductions in each season and accounting for the interaction of the FAC and ratepayer benefits in order to determine if the programs meet statutory requirements for benefits. Ameren Missouri has not provided evidence in this case that enable such an analysis to be done with reasonable accuracy.[31] For more detail, see pages 4-10 of the direct testimony of J Luebbert.

B. Does Ameren's Fuel Adjustment Clause ("FAC") affect the distribution of potential benefits projected from its MEEIA Cycle 4 Amended Application?

Yes. Ameren Missouri has not accounted for these effects in its support for the Application in this case.

Through the operation of the FAC, even if the avoided energy sales reduce (rather than increase) the FAC rates, those benefits are socialized across all customers. Analysis of whether a demand-side program is cost-beneficial must include consideration of the extent to which avoided costs (or facilitated capacity revenues) flow through the Ameren Missouri FAC, which complicates the Commission's statutory directive to fairly apportion the costs and benefits of MEEIA among classes.[32]

First, because of the FAC, while avoiding energy sales may nominally create avoided costs, the relative cost of the energy avoided determines whether any benefit or detriment accrues to Ameren Missouri's customer base.

Second, because of the FAC, even if avoiding an energy sale does create a benefit, that benefit may not be fairly apportioned among the customer classes.

Third, because of the FAC, while a Demand Side Mechanism (DSM) program may

[31] Luebbert surrebuttal page 8 lines 8-15.
[32] Luebbert direct page 3 lines 15-20.

enable capacity revenues, the enabled revenue may not be fairly apportioned among the customer classes.[33],[34] The FAC distorts the allocation of potential benefits to customer classes in a manner that is not consistent with the recovery of the cost of demand-side programs.[35]

The FAC cannot be ignored in attempting to quantify the avoided costs associated with a given MEEIA program. Consideration should be given to, at a minimum, (1) the relative value of wholesale energy purchases expected to be avoided by a given measure, and (2) the classes that benefit from avoided costs, and the classes that pay for the creation of the avoided costs through demand-side programs.[36]

See pages 22-31 of the direct testimony of J Luebbert for additional detail.

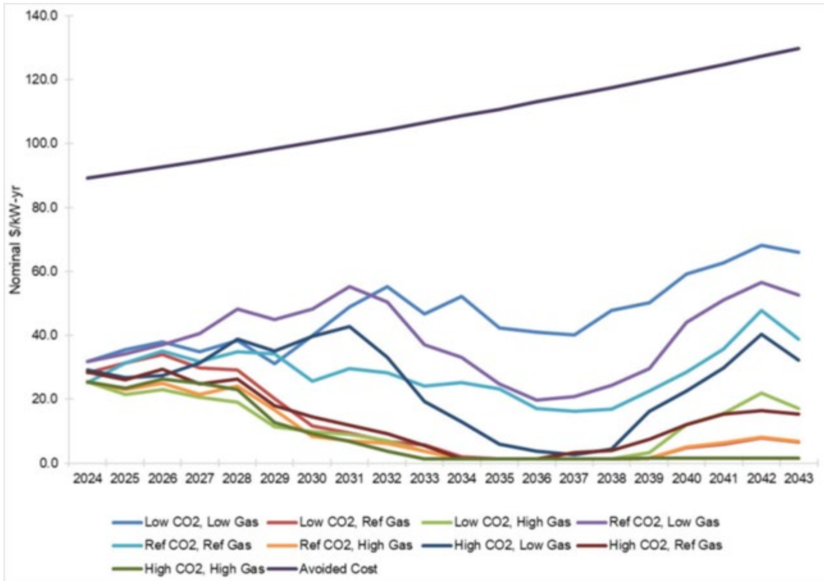
C. Does Ameren Missouri's demand side plan value demand-side investments equal to traditional investments in supply and delivery infrastructure?

No. Ameren Missouri has not made a demand side investment since 2011.[37]

The avoided capacity costs utilized by Ameren Missouri in this case are inconsistent with the assumed capacity costs for serving Ameren Missouri load in its most recent Integrated Resource Plan ("IRP"). The graphic below is an excerpt from Ameren Missouri's 2023 IRP representing Ameren Missouri's "Capacity Price Assumptions".

[33] Luebbert direct page 23 lines 7-13
[34] Section 393.1075.5, "In setting rates the commission shall fairly apportion the costs and benefits of demand-side programs to each customer class except as provided for in subsection 6 of this section," and Section 393.1075.4, "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."
[35] Luebbert direct page 29 lines 2-3.
[36] Luebbert direct page 26 lines 9-13
[37] Lange surrebuttal page 6 line 10-11.

Figure 1: Ameren Missouri's 2023 IRP Capacity Price Assumptions



As seen in the graphic above, the straight top line represents the value that Ameren Missouri assumes as an "avoided generation cost" or "avoided capacity cost" for demand-side measures in the MEEIA 4 Plan, [38] while the remainder of the lines below represent the capacity price assumptions for serving load and sales of generation capacity from supply-side resources.

In its IRP, Ameren ran various scenarios of capacity cost forecasts over the next 20 years. As shown in the chart, those costs range from slightly above zero to a max of approximately $60/MW-yr. However, Ameren has assumed an avoided cost that starts at around $90/MW-yr. up to approximately $130/MW-yr. This assumption is unsupported and unreasonable. The avoided capacity cost values utilized in support of Ameren's MEEIA 4 Plan are unreasonable given the various market forecasts included in the Integrated Resource Plan ("IRP"). The avoided capacity costs utilized by Ameren Missouri

[38] According to pages 20-21 of Chapter 2 of Ameren Missouri's 2023 IRP Filing, "a separate capacity price curve was also developed to be used in future demand-side resource cost effectiveness analyses. This curve reflects the cost of new entry (CONE) value published by MISO."

for demand-side resources do not account for the seasonal nature of the Midcontinent Independent System Operator's ("MISO") Planning Resource Auction ("PRA") and is clearly an outlier in terms of assumed value, even when comparing to Ameren Missouri's highest cost alternative pricing assumptions. The overestimated avoided cost in the screening of DSM results in flawed assumptions of ratepayer benefits and cost-effectiveness. Furthermore, simply reproducing the values of avoided capacity cost in the IRP is not equivalent to the requirement that "[t]he utility shall use the integrated resource plan and risk analysis used in its most recently adopted preferred resource plan to calculate its avoided costs."[39] The avoided generation cost values are not a result of the IRP analyses by mere inclusion in a table within the IRP report.[40]

Instead of treating the assumed MEEIA 4 Plan demand reductions on an equivalent basis as the accredited capacity of Ameren Missouri's generation resources, the MEEIA 4 Plan inflates the assumed benefit of DSM by 300 to 500% to an escalated MISO CONE value in each year.[41]

D. Do the programs in the demand-side plan, and associated incremental energy and demand savings, demonstrate progress toward the goal of achieving all cost-effective demand-side savings?

No. Staff demonstrated in its rebuttal testimony in this case that no supply-side resources have been avoided by MEEIA and no supply-side resources will be avoided with Ameren Missouri's proposed MEEIA Cycle 4 (see the rebuttal testimony of Brad J. Fortson, pgs. 11 – 14). With no avoided supply-side generation, the previous MEEIA cycle programs were very likely not cost-effective. Further, with no anticipated

[39] Commission Rule 20 CSR 4240-20.092(1)(C)
[40] Luebbert rebuttal page 16 line 16 through page 18 line 14.
[41] Luebbert rebuttal page 18 line 18 through page 19 line 1.

actual avoided supply-side generation in the currently proposed MEEIA cycle 4, the programs are more than likely not cost-effective.[42]

2. **Inflation Reduction Act ("IRA")/Market Dynamics: Does Ameren's MEEIA Cycle 4 Amended Application sufficiently address the interaction of the IRA and other market dynamics with MEEIA?**

No. The IRA offers numerous energy efficiency upgrades, including but not limited to Heating, Ventilation and Air Conditioning ("HVAC") units, weatherization materials, and a host of prescriptive energy efficiency measures. The similarity between programs offered through MEEIA and the IRA increases the potential for huge free-ridership, which if not accounted for, would mistakenly attribute Ameren Missouri's MEEIA programs as having an impact when in reality they are not. Ameren Missouri does not, at this time, have a plan on how to address this or account for this within the IRA or through the Evaluation, Measure, and verification ("EM&V") process.[43]

3. **Administrative Overhead: What should be included as administrative costs?**

    A. **Should there be a cap on administrative costs?**
    Ameren Alternative Issue: **Should the Commission modify the proposed programs to place a cap on administrative costs if the portfolio is determined cost effective?**
    If yes, what should the cap be?

Staff did not take a position on this issue within its testimony. However, Staff supports the position of Dr. Geoff Marke from the Office of the Public Counsel.

4. **Earnings Opportunity ("EO"): If the Commission determines that Ameren may implement a MEEIA Cycle 4, should the Commission authorize an Earning Opportunity?**

No. The intent of the Earnings Opportunity as a component of a MEEIA mechanism should be to compensate shareholders for a return not earned on investments not made.

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[42] Fortson rebuttal, page 18.
[43] Kiesling Rebuttal, page 5 lines 16 – 23 and page 6 lines 1 thru 3.

The EO should be designed to result in utility shareholders receiving compensation to approximate the present value of the earnings opportunity on capacity-related investments that they would receive if the utility did not facilitate DSM programs, all else being equal.[44]

To the extent that a MEEIA cycle is not reducing, deferring, or avoiding future investment opportunities, an Earnings Opportunity ("EO") is not appropriate. Even if a MEEIA cycle was initially assumed to reduce, defer, or avoid investment opportunities, and an EO mechanism was included in the initial program design, if those avoided investments cannot be reasonably established through measured and verified efficiency savings, then the award of an EO is inappropriate.[45]

Further, the Company invests no shareholder dollars in MEEIA. Ratepayers are the sole funder of any MEEIA program. However, if one wanted to consider MEEIA program budget as an "investment" by the Company, the return or earnings opportunity should be commensurate with the return that the utility receives on actual shareholder investments. Further, and as mentioned earlier, Ameren Missouri has proposed EO performance bonuses that are essentially a maximum EO above the targeted EO. Any EO above that which is targeted is equivalent to an over-earnings.[46]

A. In valuing demand side investments equal to supply side investment as required by § 393.1075.3 RSMo.:

i. Who bears the risk of Ameren not achieving its projected energy targets?

Ameren Missouri has little to no financial risk associated with the implementation of the MEEIA programs as proposed, but ratepayers will realize the full breadth of the costs without the return in the form of benefits that Ameren Missouri falsely claims will occur as

[44] Luebbert direct page 11 line 20 through page 12 line 2.
[45] Luebbert direct page 12 line 9 through page 13 line 2.
[46] Fortson rebuttal, page 17.

a result of its proposed MEEIA program implementation.[47]

Ameren Missouri shareholders have nearly no risk associated with its MEEIA 4 Plan but stand to gain millions if awarded the requested earnings opportunity amounts. Furthermore, the MEEIA 4 Plan appears to have no impact on Ameren Missouri's plans for future generation, transmission, and distribution investments and the cost of the MEEIA 4 Plan does not affect the rate cap limitations in place due to Ameren Missouri's utilization of Plant in Service Accounting ("PISA").[48]

Ameren Missouri's ratepayers, on the other hand, assume all of the risk. The costs associated with Ameren Missouri's MEEIA 4 plan are much more certain than any benefits that may be realized. Inflated benefit estimates give the appearance of cost-effective programs, but if the benefits are unlikely to ever be realized by ratepayers, the estimates should be rejected. Overestimated "benefits," as included in Ameren Missouri's Application, increase the likelihood that programs are implemented in a manner that are not cost-effective, and are ultimately detrimental to ratepayers, especially non-participants. [49]

Ameren Missouri has not identified specific investments that can be reduced, deferred, or avoided as a result of MEEIA program implementation.[50] Reduction, deferral, or avoidance of these investments are the ultimate end-goals of the MEEIA process.

Ameren Missouri has not identified the time periods of energy and demand savings that are most likely to coincide with those reductions, deferrals, or avoided investments. The identified time periods that are likely to result in reduced or deferred investments were not utilized to design programs. Ameren Missouri appears to have designed many of the

[47] Luebbert rebuttal page 1 line 24 through page 2 line 4.
[48] Luebbert surrebuttal page 17 lines 6-11.
[49] Luebbert surrebuttal page 17 lines 12-18
[50] As discussed in the Section of Mr. Luebbert's rebuttal testimony titled "Avoided capacity Costs", the MEEIA 4 Plan will not defer any supply-side resource.

programs around summer demand reductions despite the fact that winter peak demand has been identified as a near term need by the company.[51]

Because specific investments will not be reduced through implementation of the MEEIA 4 Plan, foregone earnings opportunities do not exist for Ameren Missouri's shareholders, and Ameren Missouri's proposed earnings opportunities are not tied to achievement of reduced shareholder investment opportunities.[52]

Lastly, Ameren Missouri has not provided evidence that indicates that the programs have been designed to maximize ratepayer benefits and minimize free-ridership. In fact, it appears that the programs have been designed in a manner that maintains potential shareholder investment opportunities by not deferring any supply-side investments. [53]

ii. Is Ameren's proposed EO (reward) commiserate with the risk it bears?

No. Ameren Missouri's proposed EO is not commiserate with the risk it bears. Based on Ameren Missouri's previous Rider EEIC filings, and its projections through the remainder of its MEEIA Cycle 3, Ameren Missouri ratepayers have paid over $108 million (for EO). Ameren Missouri shareholders have invested zero dollars, but have received millions of dollars due to unwarranted EO. [54]

B. Are any of the proposals regarding the Earnings Opportunity ((1) Ameren's proposal, (2) Dr. Marke's proposal in Surrebuttal Testimony, or (3) Ms. Lange's proposal in Surrebuttal Testimony) consistent with § 393.1075.3(3) RSMo.'s requirement that any earnings opportunity be "associated with cost-effective measurable and verifiable efficiency savings"?

[51] Luebbert rebuttal page 45 line 10 through page 46 line 16.
[52] *Id*.
[53] *Id*.
[54] Fortson rebuttal, pgs. 14 – 15.

Ms. Lange's proposal in surrebuttal testimony is most consistent with § 393.1075.3(3) RSMo.'s requirement that any earnings opportunity be "associated with cost-effective measurable and verifiable efficiency savings."

Section 393.1075.5 authorizes capitalization of program costs, and accelerated depreciation of the investment in program costs. Either real-time recovery through the DSIM or a recovery approach where program costs are capitalized and the utility has an opportunity to earn a return on the capitalized amount (and recover amortizations or depreciation expense for the return of the capitalized amount) are lawful and can be reasonable. However, there are two areas where this treatment has suboptimal outcomes: first, as a matter of perception, Ameren Missouri's frequent references to its "supply-side investments," or its "investments in energy efficiency," are factually inaccurate and misleading. Second, Ameren Missouri's decision, made in a prior investment environment, to forego an investment opportunity in supply-side resources results in Ameren Missouri's scramble to justify other "earnings opportunities," for hypothetical future investments in generation, transmission, and distribution facilities.[55]

Essentially, Ameren Missouri in each MEEIA cycle has the option to either request real time recovery of demand-side program costs, as it has done since 2011, or to actually invest in demand-side programs. Under the first option, ratepayers will pay the program costs in real time each year, and Ameren Missouri has no opportunity to earn a return because Ameren Missouri has no investment. Under the second option, ratepayers will pay for the program over the selected amortization period (in this example, 10 years from expenditure, 12 years total for a 3-year MEEIA cycle). Ultimately, ratepayers would pay more under the second option, similar to paying off a credit card in full the month a charge

[55] Lange Surrebuttal page 6 line 11 – page 7 line 6.

is made, versus using the line of credit over time. However, if Ameren Missouri's desire is to make investments in demand-side programs consistent with investment in supply-side programs, this second approach gives it that opportunity.

If a MEEIA mechanism includes an unreasonable Earnings Opportunity, as Ameren Missouri has requested here, than capitalization of program costs can present a middle ground alternative.[56] Ratepayers should not be saddled with an unreasonable Earnings Opportunity payout, but if the Commission is concerned that Ameren Missouri will take its figurative ball and go home if a MEEIA cycle does not include an Earnings Opportunity, then capitalization of supply-side resources allows a utility to **actually earn a return** on actual dollars invested. Capitalization can also address some of the intergeneration equity concerns inherent in MEEIA. [57]

i. If so, and if the Commission determines that Ameren may implement a MEEIA Cycle 4, which, if any, proposal should be used to calculate any earnings opportunity?

If the Commission determines that Ameren may implement a MEEIA Cycle 4, the Commission should order that Ms. Lange's proposal be used to calculate any earnings opportunity.

5. Evaluation, Measurement, and Verification ("EM&V"): If the Commission approves Ameren Missouri's MEEIA Cycle 4 Amended Plan, should the Commission approve Ameren Missouri's EM&V plans?

No. Ameren Missouri has not fully developed plans for measurement and verification of demand savings for each program. Free-ridership will likely increase with the availability of millions of federal dollars to Missourians for energy efficiency measures that overlap with the proposed programs. Programs should either be redesigned to

[56] See testimony of Staff witnesses Brad Fortson and J Luebbert for additional information on Staff's position regarding the unreasonableness of Ameren Missouri's Earnings Opportunity.
[57] Lange surrebuttal page 8 line 12 – page 9 line 1.

minimize the overlap, or evaluation plans should be fully developed and documented prior to Commission approval.[58]

A relatively simple improvement to EM&V would be to multiply the savings by the DA-LMPs[59],[60] as existed in real time while the measures were in place. While review of enabled capacity revenues would be more complicated, some analysis using real capacity auction results would be more meaningful than current practices. The disbursement of these avoided costs through the FAC would have to be considered. This would provide a more meaningful opportunity for the Commission to review whether or not the statutory requirement that a MEEIA portfolio is beneficial to all customers in the customer class in which the programs are proposed regardless of whether the programs are utilized by all customers has been satisfied.[61]

A. In addressing this question, should the results of the EM&V of Ameren Missouri's MEEIA Cycle 4 be applied on a prospective or retrospective basis?

The results of EM&V should be applied on a retrospective basis**.** Staff does not directly address this in testimony, but supports the testimony of OPC witness Dr. Geoff Marke.[62]

B. Should EM&V consider:

i. the rebound effect;

[58] Luebbert rebuttal page 48 lines 17-22.
[59] Day-ahead Locational Marginal Prices.
[60] Locational Marginal Pricing (LMP) is a market-based pricing mechanism used in electricity markets to determine the cost of electricity at a specific location on the power grid. It reflects the cost of supplying electricity at a particular point, taking into account the cost of generation, transmission losses, and congestion on the power grid. LMP is used to allocate the costs of electricity generation, transmission, and distribution to different locations and to serve as the basis for settling energy transactions. Changing every five minutes or less, LMP reflects changes in supply and demand on the power grid.
https://www.misoenergy.org/meet-miso/market-basics/
[61] Luebbert direct page 33 line 14 through page 34 line 3.
[62] Marke Rebuttal, pg. 34, ln. 9-11.

Yes. In general, rebound effects have been neglected when assessing the potential impact of energy efficiency policies. The existence of the rebound effect has been clear for a long time. The existing literature demonstrates that the failure to take account of rebound effects could contribute to shortfalls in the assessment of the contribution that energy efficiency can realistically make. An assessment of the state of knowledge in this area should therefore make a valuable contribution to contemporary MEEIA program evaluation.[63]

Any MEEIA approval should include a requirement that the energy efficiency impact evaluation be well planned and evaluate the effects on energy savings accounted for in the upfront estimated energy savings and evaluated energy savings.[64]

The exclusion of analysis of the rebound effect will result in a substantial overestimation of the net benefits and lost margins.[65] The importance lies in the fact that neglecting rebound effects can lead to significantly inflated net benefits and lost margins. Hence, Ameren Missouri should take into account the influence of the rebound effect on energy savings in the MEEIA application.[66] Staff recommends using 10% reduction in energy savings estimations in the TRM.[67]

ii. interactive effects;

Yes. Ameren Missouri must provide a transparent plan, with specific details, to adjust downwards the benefits that accrue to all secondary measures after the primary measure has been identified. There has to be a formula or algorithm for adjusting downwards the savings of the secondary measures. This algorithm must be made explicit by Ameren Missouri and all

[63] Poudel Rebuttal page 16 line 14-19.
[64] Poudel Rebuttal page 17 lines 11-20.
[65] Poudel Rebuttal page 14 lines 2-3.
[66] Poudel Surrebuttal page 5 lines 18-21.
[67] Poudel Rebuttal page 14 lines 7-8.

the underlying assumptions in its derivation must be justified. It is worth noting that this algorithm may be informed by empirical studies based on specific samples sizes. The plan must also have as a point of reference a representative household that uses, for example, cooling, building shell, and thermostats. The primary measure should be identified in advance for the sake of simplicity. It must then subsequently include a detailed algorithm that includes the percentages or fractions that will be applied to the secondary measures to adjust them downwards after the primary measure has been established. Finally, the plan must explain how Ameren Missouri accounts for the interaction effects of measures within the application for MEEIA Cycle 4, EM & V, the throughput disincentive, and how Ameren Missouri intends to use this to inform future MEEIA cycles.[68]

iii. the principal/agent issue;

Yes. The principal-agent problem occurs when one of the parties to a contract, the Principal (rate payers), cannot directly observe the actions or effort of the other party, the Agent (Ameren Missouri), but can only observe the outcome of the Agent's actions.[69] The traditional business of Ameren Missouri is to sell more electricity to customers for higher profits through its rates. The concept of energy efficiency does not align with its objectives. Simply put, Ameren Missouri will increase profits if customers use more electricity and vice versa. Promoting energy efficiency will not be in its best interest, so there is a misalignment of interests between Ameren Missouri and ratepayers. Since the actions of the Agent cannot be observed the Principal cannot coerce the Agent to pursue the optimal action. The real issue at stake here is that rate payers cannot see the intent of Ameren Missouri because it is

[68] Tevie Rebuttal, pg. 9, ln. 27 through pg. 10, ln. 13.
[69] Tevie Rebuttal, page 2, line 16.

intangible and hence cannot tell if Ameren is acting in its own self interest or in the interest of rate payers.[70]

iv. the IRA;

Evergreen Economics suggests that IRA projects be excluded entirely from the Ameren Missouri savings claims. If participants in the IRA and Ameren Missouri MEEIA programs are to be included, Evergreen Economics further suggest a negotiated net-to-gross ratio that is very low (e.g. 10%). This low rate would reflect the dominant influence provided by the IRA programs for these projects. Staff agrees with Evergreen Economics' assessment that if IRA projects are to be included at all, that a very low amount, such as 10%, should be allowed.[71]

v. operational inefficiencies;

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

vi. free ridership;

Yes. Currently, Ameren Missouri's Proposed MEEIA Cycle 4 does not provides restrictions and safeguards to prevent and/or minimize Free Ridership.

Ameren Missouri argues that its current marketing and outreach actions are designed to minimize free ridership. Those outreach programs are aspirational actions and do not translate into precautionary or regulatory measures.[72]

The implementation of a MEEIA Cycle 4 will require Ameren Missouri to implement a program that will be paid for by all Ameren Missouri ratepayers. What is more, Inflation

[70] Tevie Rebuttal, page 3, line 5.
[71] Kiesling Surrebuttal, page 5, lines 9-17.
[72] Del Pozo Rebuttal, page 7, line 15-17.

Reduction Act (IRA) funds are becoming available.[73] The rebates being offered from the IRA could potentially have a dramatic impact on free-ridership in Ameren Missouri's MEEIA programs. The rebates being offered through the IRA could be the driving force that will lead individuals and businesses to make energy efficiency upgrades, and not the rebates that are being offered by Ameren Missouri through its MEEIA programs.[74]

The IRA is offering energy efficiency upgrades with HVAC units, weatherization materials, and a host of prescriptive energy efficiency measures. This is concerning because of the potential for huge free-ridership which, if not accounted for, would mistakenly show that the programs are having an impact when in reality they are not.[75] Ameren Missouri does not, at this time, have a plan on how to address this or account for this with the IRA or through the Evaluation, Measure, and verification ("EM&V") process.[76]

vii. spillover;

The evaluation must be carefully designed to account for spillover effects before the program is implemented. Spillover effects cannot be accurately detected ex post unless the design considers their existence from the start. It is important to know the potential size of spillover effects for a given program or portfolio so appropriate policy decisions can be made by the Commission about energy efficiency investments.[77]

viii. time-based rates; and

EM&V must account for time-based rates. Highly precise and updated savings data are necessary to determine more realistic net impacts. Staff witness Hari Poudel details the

[73] Del Pozo Rebuttal, page 8, line 2-4.
[74] Kiesling Rebuttal, page 6, line 4-8.
[75] Kiesling Rebuttal, page 5 lines 1 thru 23.
[76] Kiesling Rebuttal, page 6 lines 1 thru 3.
[77] Poudel Direct Testimony, page 13, lines 13-17.

lack of accuracy and precision associated with Net Throughput Disincentive ("NTD").[78]

ix. any other issues.

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

C. Should the EM&V be completed by a single independent, Commission- approved consultant with no utility oversight?

Yes. The independence of EM&V is crucial to identifying net benefits achieved in a MEEIA cycle. Commission Rule 20 CSR 4240-20.093(8) states in part that "The utility shall provide oversight and guidance to the independent EM&V contractor, but shall not influence the independent EM&V contractor's report(s)." It is hard, if not impossible, for EM&V to not be influenced by the utility when the utility is providing most of the inputs the EM&V contractor is relying on for final EM&V results.[79]

The EM&V process to date has relied on several assumptions, and the verification has occurred for a relatively small sample size of measures. Further, after final EM&V reports are filed for any given program year, there is not a process in place to ensure those evaluated savings actually occurred as they were deemed to have.[80]

D. Should the TRM and deemed savings tables included in Ameren's MEEIA Cycle 4 Amended Application be approved, approved with modifications, or rejected?

The TRM and Deemed Savings Tables included in Ameren's MEEIA Cycle 4 Amended Application should be rejected. Both are voluminous and give the appearance of providing very accurate estimates of energy and demand savings, but the sources utilized for thousands of assumptions included are opaque. Many of the assumptions

[78] Poudel Surrebuttal, pages 2-3.
[79] Fortson direct, page 6.
[80] Fortson direct, page 7.

within the Deemed Savings Table are hardcoded without citations. Many of the citations that do exist within the TRM and Deemed Savings Tables are no longer valid.[81] Citations that are still valid within the TRM and Deemed Savings Tables are largely vague references to entire documents that are often hundreds of pages.[82] In this case, Staff performed a limited review of the TRM and Deemed Savings Tables and identified assumed values that do not appear reasonable, are reliant on studies that are likely outdated, and many of which did not provide clear citation to justification for the assumptions.[83]

Considering that Ameren Missouri's MEEIA 4 Plan is projected to cost ratepayers more than $600 million and the statutory requirement of ratepayer benefits,[84] the ability to accurately quantify estimated and realized ratepayer benefits is paramount to future reviews of the portfolio implementation.[85]

The Technical Research Manual ("TRM") and deemed savings tables are not well documented and include overstated savings estimates. Those overstated savings are carried forward into Ameren Missouri's Submittal Tool and ultimately its energy and demand savings estimates, benefits estimates, and all related figures (in Ameren Missouri's application, report, and workpapers) that utilize that information, rendering each value inaccurate.[86]

The Deemed Savings Tables rely on a single Coincident Peak Factor ("CP") for each measure type. The demand savings that will occur from different energy efficiency measures varies by season and the time of day that the coincident peak occurs in each season. The failure to account for that seasonality renders the resulting demand reduction

81 See Ameren Missouri's response to Staff DR No. 0124, attached as Schedule JL-r4.
82 *Ibid*.
83 Luebbert rebuttal page 32 line 20 through page 33 line 6.
84 As described more thoroughly in the direct testimony of Sarah L.K. Lange.
85 Luebbert rebuttal page 7 lines 4-7.
86 Luebbert rebuttal page 35 lines 16-19.

estimates meaningless for at least three seasons based on the MISO PRA.[87]

In order to verify the accuracy of the assumptions included within the TRM and the Deemed Savings Tables, detailed citations and support for each assumption are necessary. One of the variables included for each measure is the deemed lifetime of the energy efficiency measure. The measure lifetime is utilized by Ameren Missouri to calculate assumed incremental and cumulative energy savings associated with MEEIA Cycle 4. If approved, the measure life will also be utilized by evaluators to determine lifetime energy savings from programs during the evaluation of MEEIA Cycle 4.

i. Prior to approval, should the Commission require Ameren to submit a TRM and deemed savings table with serviceable links and page- specific citations of the assumptions underlying the TRM and deemed savings table themselves?

Yes. Ameren Missouri's application for MEEIA Cycle 4 should not be approved prior to submission of a TRM and deemed savings tables that are reasonable, justified, and well documented. That is not the case with Ameren Missouri's current TRM and deemed savings tables. Ameren's filed TRM has over 3,500 measures in it. Staff believes that Ameren's TRM needs to be paired down to a certain number of measures (that are actually measures offered in its MEEIA portfolio) and any measures that are load building measures should be removed.

There are several broken or non-functional links that are the basis for deemed savings for measures. These prevent Staff from verifying the accuracy of the deemed savings values which then also hinders Staff from calculating accurate savings for measures. Staff recommends these links be updated and be fully functional.[88]

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[87] Luebbert rebuttal page 36 lines 12-16.
[88] Kiesling Rebuttal, page 12 lines 17 thru 23 and page 13 line 1.

The TRM filed in Ameren Missouri's Amended MEEIA Cycle 4 Application is a three-part, 379-page document. The deemed savings table filed in Ameren Missouri's MEEIA Cycle 4 Application is a 42-page document (with an Excel workpaper) that again includes hundreds, if not thousands, of cells (more than in MEEIA Cycle 3).

Staff's review of the Deemed Savings Tables and TRM quickly discovered (1) sources utilized for a multitude of assumptions are opaque, (2) citations that are no longer valid, (3) citations that are still valid are largely vague references to entire documents that are often hundreds of pages, (4) assumed values that do not appear reasonable, and (5) reliance on studies that are likely outdated, many of which did not provide clear citation to justification for the assumptions.[89],[90]

Given the complexity, size of the documents, and the importance of the assumptions included within the TRM and deemed savings tables on the estimated benefits associated with Ameren Missouri's MEEIA application, the submission must be accompanied by a reasonable amount of review time, as well as the ability of other parties to respond to deficiencies and assumptions flaws included therein. The appropriate time for this submission was the submittal of direct testimony and the application by the company.

The lack of reasonable citations for thousands of assumptions that have such a large impact on the estimates included in support of Ameren Missouri's MEEIA 4 Plan, but also on the future costs to ratepayers through the EEIC, is unacceptable. Staff recommends that the Commission reject both the TRM and Deemed Savings Tables and require that any future use of these documents be accompanied by full documentation of all assumptions including page specific and cell specific citations as applicable.[91]

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[89] Luebbert rebuttal, pages 32 – 33.
[90] Fortson rebuttal, pages 12 – 13.
[91] Luebbert rebuttal page 36 line 20 through page 37 line 3.

a. **If not prior to approval, when must Ameren submit these items?**

As explained above, these items must be submitted prior to approval of any proposed MEEIA plan.

6. **Throughput Disincentive Mechanism: If Ameren's MEEIA Cycle 4 Amended Application is approved, should it include a Net Throughput Disincentive Mechanism as requested by Ameren Missouri, or a Net Variable Revenue Mechanism as proposed by Staff?**

If Ameren Missouri's MEEIA Cycle 4 Amended Application is approved, the Commission should order it include the Net Variable Revenue Mechanism proposed by Staff.

The EEIC tariff would set out the Rate Case Net Variable Revenue ("RCNVR") for the Residential Class and the Small General Service ("SGS") class by month. Each month, Ameren Missouri will prepare a report of its actual billings, and calculate the Actual NVR (ANVR) for that month for each of the two classes. At the time of an EEIC rate change, Ameren Missouri will provide as its workpapers the running difference between RCNVR and ANVR for all months for which billing is complete at that time. The difference for each class will be incorporated into the new EEIC rate for the Residential Class and the SGS Class, respectively.[92]This calculation is significantly easier to implement. The mechanism currently in use requires dozens of margin rate calculations,[93] hundreds of TRM load shape calculations,[94] assumptions about the level of avoided energy sales that actually occurs, and reliance on EM&V.[95]

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[92] The subsequent EEIC rate calculation will include any months for which billing was not complete at the time of the EEIC rate calculation.
[93] See testimony of Hari K. Poudel, PhD.
[94] See testimony of Justin Tevie.
[95] See testimony of Justin Tevie and Hari K. Poudel, PhD.

As Ameren Missouri nears completion of its AMI deployment, delayed meter read reporting and rebills for faulty reads should essentially be a thing of the past, enabling reliance on reported monthly billing without significant concern for substantial future revisions. Further, with a substantial portion of Ameren Missouri's residential customers taking service on a time-based rate, the mechanism Staff proposes in this case eliminates the need to create dozens or hundreds of time-and measure-specific margin rates to continue to limp the 2014 mechanism along.

Staff's proposed MEEIA avoided revenue mechanism further provide benefits to Ameren Missouri by essentially eliminating volumetric revenue risk from the Residential and SGS classes.[96]

A. If a Net Throughput Disincentive Mechanism is authorized, what, if any, modifications are necessary to address the changes in circumstances associated with the proliferation of time-based rates and the passage of the federal Inflation Reduction Act ("IRA")?

The current NTD will become unworkably complex if modified to address time-based rates, but modifications must be made to address time-based rates. The current NTD fails to account for the variations in wholesale energy costs and market capacity costs that occur in real time. The current NTD preserves the utility incentives to maximize throughput, creates a new incentive to minimize actual reductions to throughput while maximizing deemed reductions to throughput, and to be indifferent as to the realization of the avoided wholesale energy and capacity costs that were used to justify a MEEIA cycle. This is not a fault of the utility; it is utility management's fiduciary obligation to shareholders to maximize shareholder value. This incentive to maximize shareholder value is the genesis of MEEIA. The existing NTD, knowing what Staff knows now, is simply

[96] Lange page 26 line 3 - page 27 line 19.

another tool for utility management to maximize shareholder value, as opposed to a tool to align ratepayer and utility incentives.[97]

B. If a Net Throughput Disincentive Mechanism is authorized, is the proposed Technical Resource Manual and planned Evaluation, Measurement, and Verification reasonable for its administration?

No. The NTD calculation formula includes monthly savings. The monthly savings values are the estimated values determined by Ameren Missouri, and Ameren Missouri's TRM is the source of the initial savings values used in the NTD calculation. The accuracy of these estimates is dependent on the reliability of the TRM.[98] Highly precise and updated savings data are necessary to determine more realistic net impacts. The lack of precise savings data is more likely to be attributed to inappropriate adjustments for any significant changes that would impact the savings estimate.[99]

C. Does § 386.266.3 RSMo., which authorizes Plant in Service Accounting ("PISA"), prohibit the Commission from authorizing a Net Throughput Disincentive Mechanism under § 393.1075, RSMo?

No. Subsection 386.266.3 RSMo provides:

> Subject to the requirements of this section, any gas or electrical corporation may make an application to the commission to approve **rate schedules authorizing periodic rate adjustments outside of general rate proceedings to adjust rates of customers in eligible customer classes to account for the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in either weather, conservation, or both**. For purposes of this section: for electrical corporations, "eligible customer classes" means the residential class and classes that are not demand metered; and for gas corporations, "eligible customer classes" means the residential class and the smallest general service class. As used in this subsection, "revenues" means the revenues recovered through base rates, and does not include revenues collected through a rate adjustment mechanism authorized by this section or any other provisions of law. This subsection shall apply to electrical corporations beginning January 1, 2019, and shall expire for electrical corporations on January 1, 2029. **An electrical corporation may make a one-time application to the**

[97] Lange surrebuttal page 10 line 7 – page 11 line 10.
[98] Poudel direct page 3 lines 12-16.
[99] Poudel direct page 14 lines 16-18.

> **commission under this subsection if such corporation has provided notice to the commission under subsection 5 of section 393.1400, provided the corporation shall not concurrently utilize electric rate adjustments under this subsection and the deferrals set forth in subsection 5 of section 393.1400. [Emphasis added.]**

Section 393.1400 RSMo authorizes Plant In Service Accounting (PISA) deferrals, which Ameren Missouri has elected. Because Ameren Missouri has elected PISA deferrals, the Commission may not authorize a MEEIA mechanism to account between rate cases for the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations caused by supply-side programs.

If the Commission decides that a MEEIA mechanism that accounts for the "impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in either weather, conservation, or both" does not conflict with a utility's election of PISA, Staff's RCNVR is easier to implement and administer, and does not rely on estimates of net margin rates or deemed avoided energy sales. It is also more compatible with time-based rate structures.

If the Commission determines that it would be lawful for it to authorize (under § 393.1075.3.(2)) a mechanism like the existing NTD for a utility that has elected PISA, then it would also be lawful for the Commission to authorize, under § 393.1075.3.(2), some other mechanism that accounts "for the impact on utility revenues of increases or decreases in residential and commercial customer usage due to variations in" conservation[100] so long as it also "ensure[s] 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" [101]"[102]

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[100] 386.266.3.
[101] 393.1075.3.(2).
[102] Lange direct p 22 ln 12 – p 24 line 5

7. **Programs: Should the Commission approve, approve with modifications, or reject Ameren's proposed tariff programs?**

The Commission should reject Ameren's proposed tariff programs. The rejection of a given application is not an attack on the benefits of ratepayers utilizing electricity more efficiently, but rather an indication that the programs offered by a utility in a given application are not reasonable, are not well supported, and/or did not meet the various requirements that must be achieved prior to approval and cost recovery from all ratepayers. In this case, Ameren's Amended MEEIA Cycle 4 Application fails to address any of these three concerns.[103]

Since the utility profits without spending shareholder dollars in MEEIA programs, it is imperative that the estimated benefits to ratepayers identified in a MEEIA application are reasonable and well supported. In this application, there is insufficient support for the Commission to make the conclusion that ratepayers are better off paying for the MEEIA 4 Plan, regardless of their participation.[104]

Ameren Missouri shareholders are incentivized to invest in addition generation resources through a rate of return in traditional ratemaking. Designing energy efficiency programs that are ineffective in deferring, reducing, or avoiding those investments benefits shareholders to the detriment of ratepayers.[105]

A. In regards to programs, specifically:

i. Residential:

a. HVAC

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

[103] Luebbert rebuttal page 14 lines 9-14.
[104] Luebbert rebuttal page 14 line 21 through page 15 line 4.
[105] Luebbert rebuttal page 34 lines 10-13.

b. PAYS

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

c. New Construction

Staff is opposed to the Whole Home New Construction program that is being proposed by Ameren. Staff is opposing this program for a number of reasons:

1. Individuals and contractors that are building new homes are going to have to install insulation, air conditioners, furnaces, windows, and water heaters. These measures, along with others, are going to be installed regardless of any program offered by Ameren. This is another example of free-ridership and allows Ameren to receive payment from ratepayers by claiming savings attributed to the measures installed without actively influencing the customers decision to install various appliances. This is not a prudent use of ratepayers' money.

2. Another potential issue is a contractor that is building the house could get the rebates associated with the measures being installed in a new home construction and be a non-Ameren customer that is taking advantage of something that is offered and benefitting from it. This contractor could collect the rebates and pocket the money and the ratepayers of Ameren are the ones footing the bill.[106]

d. Demand Response

- **Specifically, should Ameren be allowed to incentivize new thermostats?**

No. Ameren Missouri offers free products to customers as part of MEEIA. Ameren Missouri customers routinely receive promotional materials in the mail from Ameren Missouri during the 4th quarter of a MEEIA year stating that they are giving away

[106] Kiesling Rebuttal, page 11 lines 9 thru 22.

free Nest thermostats until the end of the year. When Staff asked Ameren Missouri in a data request (attached as schedule MBK-R1) if it tracks and verifies if the thermostats that are given away are installed, Ameren Missouri responded that the thermostats are not tracked, nor is it verified whether the thermostats are actually installed. In the same Data Request ("DR") response, Ameren Missouri stated that the savings from the thermostats are counted as soon as they are shipped to the customer. Ameren Missouri cannot verify that the thermostats have been installed and are helping customers with energy efficiency, but Ameren Missouri is making sure to get savings credit for the thermostats in order to achieve its savings goals. This could be costing ratepayers millions of dollars for savings that are not benefitting them at all. Staff would like to see Ameren Missouri discontinue giving away free thermostats or free products through MEEIA programs, especially since the programs are funded using ratepayer money.[107]

e. Education/Energy Efficiency ("EE") Kits

Staff is to the proposed Education Programs in the Residential portfolio, in particular the Building Science Training program, Residential Code Compliance, Building Operator Certification program, and Real Estate Education.

Staff is opposed to these programs because Staff believes that it is not Ameren Missouri's place to be setting building codes, and the IRA offers free money that can be used to accomplish what Ameren Missouri is proposing with these programs. Staff believes that instead of using ratepayer money, communities in Ameren Missouri's service

[107] Kiesling Rebuttal, page 9 lines 16 thru 21 and page 10 lines 1 – 13.

territory could take advantage of the IRA funding and still accomplish the same things without costing ratepayers' money. [108]

ii. Business:

a. Business Lighting

Staff is opposed to the Business Lighting program. The Energy Independence and Security Act (EISA) enacted by the Federal Government in 2007 set baseline standards for production of energy efficient products across several different areas. One targeted area was light bulbs. The EISA minimum efficiency standards for light bulbs was set so that the old incandescent light bulbs do not meet the new requirement and have essentially been phased out and eliminated, thus evolving and creating the standard for light bulbs to eventually be LED. This is one example of how the EISA standards are helping to transform the market with higher energy efficiency products being produced across the board for a wide range of products and becoming the only option for consumers. EISA standards continue to be raised to help ensure the most energy efficient products are being produced[109].

Staff agrees with OPC witness Dr. Geoff Marke's assessment of what could be the driving factor for the proposed business programs if no cap is put on lighting projects. Staff also agrees with Dr. Marke's statements about how the lighting market is inundated with higher efficient lighting because it has been mandated to do so because of the higher Energy Independence and Security Act ("EISA") standards for lighting.

[108] Kiesling Rebuttal, page 10 lines 17 thru 22 and page 11 lines 1 – 7.
[109] Kiesling Direct, page 2 lines 4 thru 13.

In addition, Ameren Missouri has indicated that lighting currently incentivized under its business energy efficiency programs are affected by EISA or any other federal code. Staff is concerned about what lighting incentives could be offered in the business programs if Ameren Missouri is not offering lighting in compliance with EISA standards. It is Staff's position that ratepayers should not be[110] funding programs that are not at the very least promoting energy efficient products that meet the standards set forth by the EISA standards that are mandated by the Federal Government[111].

b. Demand Response

If the Commission were to determine that the Business Demand Response Program should continue, the program should be modified to account for the seasonality of the MISO PRA.[112]

c. Midstream

Staff did not take a position on this issue within its testimony. However, Staff supports the position of Dr. Geoff Marke from the Office of the Public Counsel.

d. Custom/Standard

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

iii. Income-Eligible:
a. Multi-family
b. Single Family

Staff opposes the income-eligible programs. Staff believes that other federal, state, and Ameren Missouri non-MEEIA programs have rendered MEEIA income-eligible

[110] Kiesling Surrebuttal, pg. 2 lines 1 thru 21.
[111] Kiesling Surrebuttal, pg. 3 lines 1 thru 2.
[112] Rebuttal testimony of J Luebbert discusses the seasonality of the MISO PRA.

programs unnecessary. These federal and state programs will continue allowing low-income customers to receive services and benefits through these programs absent MEEIA programs. Furthermore, interested stakeholders in future Ameren rate cases will have the ability to request new programs for Commission consideration.[113]

iv. Pilots/Research and Development

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

B. If the Commission approves the demand-side program plan, should the Commission adopt or modify the form of Ameren Missouri's DSM programs' exemplar tariff sheets which were attached as Appendix J?

If the Commission approves any part of Ameren Missouri's application, the Commission should order the tariff sheets to be modified. Staff recommends that if any MEEIA programs are approved, that the Company be ordered to file tariff sheets for each approved program that includes at least the following information:

1. Description of the purpose of the program including the desired outcome of implementation,
2. Descriptions of availability for each program,
3. Clear definitions of terms of the program,[114]
4. Program level budget, by year, broken down by cost categories, such as incentive amounts, administration, labor, measurement and verification,
5. Energy efficiency measures that are available through each program,
6. Incentive amount for each measure available through each program,
7. Description of the recovery of program administration, purpose, availability, descriptions, incentive amounts, applicable rates, restrictions, etc.

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[113] Rebuttal Testimony of Amy L. Eichholz, page 6, lines 8 through 21.
[114] Staff witness Amy L. Eichholz describes discrepancies in the definition of "low-income" in her rebuttal testimony at page 3, lines 1 through 21 & page 4, lines 1 through 2.

8. Explanation of the evaluation of each program including, but not limited to, how achieved savings will be measures or verified and the determination of goals achieved through program implementation.[115]

Broad language that provides the utility nearly unfettered discretion is inappropriate because the utility is disincentivized from implementing programs in a manner that aligns with ratepayer benefits.[116]

C. Do the DSM programs' exemplar tariff sheets comply with the Commission's Promotional Practices requirements found in 20 CSR 4240-3.150 and 20 CSR 4240-14.030? If not, how do they not comply, and should the Commission grant a variance(s) to the extent they are determined not to comply?

Staff does not have a position on this issue at this time, but reserves the right to modify or take additional positions as the case proceeds.

Respectfully Submitted,

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ATTORNEYS FOR THE STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION

[115] Luebbert direct page 40 line 13 through page 41 line 5.
[116] Luebbert rebuttal page 42 lines 5-7.

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 17th day of July 2024.

/s/ Travis J. Pringle