Exhibit No. 106

Ameren – Exhibit 106
Antonio Lozano Testimony
Surrebuttal
File No. EO-2023-0136

Exhibit No.:	
Issue(s):	MEEIA
Witness:	Antonio M. Lozano
Type of Exhibit:	Surrebuttal Testimony
Sponsoring Party:	Union Electric Company
File No.:	EO-2023-0136
Date Testimony Prepared:	May 30, 2024

MISSOURI PUBLIC SERVICE COMMISSION

FILE NO. EO-2023-0136

SURREBUTTAL TESTIMONY

OF

ANTONIO M. LOZANO

ON

BEHALF OF

UNION ELECTRIC COMPANY

D/B/A AMEREN MISSOURI

St. Louis, Missouri
May, 2024

TABLE OF CONTENTS

SURREBUTTAL TESTIMONY

OF

ANTONIO M. LOZANO

FILE NO. EO-2023-0136

I. INTRODUCTION

Q. Please state your name and business address.

A. My name is Antonio M. Lozano. My business address is One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, MO 63103.

Q. By whom and in what capacity are you employed?

A. I am employed by Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company") as its Director of Energy Efficiency and Demand Response.

Q. Are you the same Antonio M. Lozano that submitted direct and rebuttal testimony in this case?

A. Yes, I am.

II. PURPOSE OF TESTIMONY

Q. To what testimony or issues are you responding?

A. I am responding to a handful of key patterns I have seen emerge from the rebuttal testimony of the Missouri Public Service Commission Staff ("Staff") and the Office of Public Counsel ("OPC") regarding the Company's proposed Missouri Energy Efficiency Investment Act ("MEEIA") Plan. Specifically, I demonstrate how the Company's Plan is backed by sufficient evidence, how over the last ten years of offering MEEIA programs, the Company consistently learned, built, and improved upon its successful MEEIA offerings, and how the Plan operates under MEEIA; despite contrary claims from Staff and OPC.

Q. Are you including any schedules with your testimony?

A. Yes, I am including the following schedules:

Schedule AML-S1 – Trade Ally-Customers Incentive Analysis.

Schedule AML-S2 – Staff response to Company DR 154.

Schedule AML-S3 – 4Q Stakeholder – Savings Achieved with Increase

Schedule AML-S4 – Staff response to Company DR 156 and OPC Response to Company DR 1.3.

Schedule AML-S5 – Staff Response to Company DR 157.

Schedule AML-S6 – Staff Response to Company DR 158.

Q. Please introduce and summarize the testimony of the Ameren Missouri witnesses who have filed surrebuttal testimony.

A. The following is a summary of Ameren Missouri's surrebuttal testimony from other witnesses:

- Surrebuttal Testimony of Mr. Timothy Via. Mr. Via responds to various rebuttal testimony from Staff and OPC, focusing on portfolio and program design, including the impacts of federal funding.
- Surrebuttal Testimony of Mr. Neil Graser. Mr. Graser responds to various rebuttal testimony from Staff and OPC, focusing on evaluation, measurement, and verification ("EM&V") and related impacts.

- Surrebuttal Testimony of Mr. Matt Michels. Mr. Michels responds to various rebuttal testimony from Staff and OPC, focusing on the Integrated Resource Plan ("IRP"), MEEIA's inclusion within it, and related topics.
- Surrebuttal Testimony of Mr. Steve Wills. Mr. Wills responds to various rebuttal testimony from Staff and OPC, focusing on the total resource cost ("TRC") test, expected rate impacts, the rate impact measure ("RIM") test, the reallocation of revenue requirement, the fuel adjustment clause ("FAC"), and other details.

III. SUMMARY OF SURREBUTTAL

Q. Please summarize your surrebuttal testimony.

A. The Company filed its MEEIA 4 Plan in order to continue to offer successful energy efficiency and demand response programs for customers to participate in through 2027 and receive benefits from past 2040.

The MEEIA 4 Plan is directly aligned with the Company's preferred resource plan[1] ("PRP"), operates in accordance with the MEEIA fundamentals,[2] and builds on more than a decade of programs that Ameren Missouri has delivered in the state under MEEIA which have unequivocally proven to benefit all the Company's customers.[3]

Staff and OPC recommend the Commission not approve the MEEIA 4 Plan at this time. Staff contends it is reasonable for Ameren Missouri to forgo investing $370 million in energy efficiency and demand response because customers will not see all the benefits immediately.[4]

[1] Amended Application p. 16.
[2] *See* RSMo 393.1075, 20 CSR 42-20.093 and 20.094.
[3] *See also* Lozano direct pages 8 – 9; Lozano Rebuttal Testimony pp. 28 – 29.
[4] File No. EO-2023-0136, Sarah Lange Rebuttal Testimony pp. 42 – 48; Luebbert Rebuttal Testimony p. 24.

If the Commission adopts Staff's and OPC's position, then customers will be expected to pay $4.197 billion more than Ameren Missouri's PRP.[5]

The Commission's choice is simple – not complicated as Staff and OPC claim. This Plan is reasonable, cost effective, needed, and produces $303 million in net benefits for our customers and the state.[6] If the Plan is not adopted, the repercussions for customers include higher energy bills.

Q. What are the key aspects from Staff's and OPC's claims that you will touch on below?

A. At a high level, there are three. Staff and OPC claim the Company's Plan is not backed by sufficient evidence; the Company has not consistently learned, built, and improved upon the successful MEEIA offerings for over a decade and the Company has not incorporated those learnings into this Plan; and that the Plan does not operate under the Missouri Energy Efficiency Investment Act ("MEEIA") as it is written.

Each of these three assertions are unfounded. Combined, these assertions obfuscate the case as it becomes difficult for those not close to MEEIA to see and hear anything but confusion. The confusion makes it unclear how the MEEIA 4 Plan was developed and why; and makes it difficult for all parties to find a path forward under the same framework. I will expand on each of these three claims below.

IV. THE COMPANY'S PLAN IS BACKED BY SUFFICIENT EVIDECE

Q. Can you discuss Staff and OPC's criticism of the evidence for the Plan?

[5] File No. EO-2024-0020, Notice of Filing Correction to 2023 Integrated Resource Plan, Description of Correction and List of Revisions (Public, Confidential and Highly Confidential), Chapter 10 – Strategy Selection.pdf, page 50 Table 10.4 EVBI Analysis Results, excludes earnings opportunity.

[6] File No. EO-2023-0136, Amended and Supplemented Application to Approve DSIM and Demand-Side Management Portfolio and Plan, and Request for Variances (Public, Confidential and Highly Confidential), MEEIA 2025-2027 Amended Application, page 14 Table 1 – Portfolio Cost-effectiveness Summary (NPV).

A. As I read Staff and OPC rebuttal testimony discussing this topic, it became clear that while the Company has operated its MEEIA portfolios and filed this Plan consistent with the MEEIA rules, suddenly, Staff and OPC now expect a materially different standard of operation throughout the entire lifecycle of a MEEIA portfolio, from research and design, all the way through finalizing EM&V. This is unreasonable and undermines the MEEIA rules.

Q. Please provide examples where Staff and OPC find the Plan so unreasonable that they do not recommend adoption at this time.

A. Below, I will lay out a few of the most salient points and address those. Please note, this list is not all-inclusive.

- 11-Step Process – Staff witness Kiesling suggests that the Company uses the 11-Step Process to inappropriately manipulate participation.[7] Mr. Kiesling also states that contractors and trade allies are specifically waiting until the 4th quarter to do projects because they know that incentive levels will rise.[8]
    - Staff claims that energy efficiency participation is manipulated but does not provide any documentation or analysis demonstrating this manipulation. Nowhere in the record does it show that the Company acknowledged that contractors and trade allies are waiting until the 4th quarter to start projects. The Company does not believe this has happened or is happening, and in fact, the Company recently provided Staff and OPC analysis on this very subject which showed

[7] File No. EO-2023-0136, Mark Kiesling Rebuttal Testimony, p. 8.
[8] File No. EO-2023-0136, Mark Kiesling Rebuttal Testimony, p. 8.

no pattern of the claims from Mr. Kiesling being confirmed after incentives being raised.[9] The Company sent Mr. Kiesling a data request on this topic, and while he responded with a multitude of information (i.e., 63 attachments, all unrelated to directly answering the questions), there still was no evidence to support the claims made above. *See* Schedule AML-S2 – Staff Response to DR 154.

- Being good stewards of the MEEIA budget, at the beginning of the year the incentive levels are designed at the lowest levels that have been determined to achieve year end savings targets. Throughout the planning year, the Company tracks savings across all measures to update the end of year saving's forecast. If a significant drop is seen in the forecast, an incentive increase may be initiated through an 11-Step Process notice. Consistent with the MEEIA statute, the Company uses the 11-Step process to make stakeholders aware of changes that are intended to drive participation based on current program participation,[10] not manipulate it. In the Q4 PY23 quarterly stakeholder meeting, Ameren Missouri shared the calculated business program savings that would not have been achieved without the incentive increase.[11] The 11-Step Process is also used to reduce incentives rates or remove measures as appropriate.

[9] *See* Schedule AML-S1, Trade Ally-Customers Incentive Analysis.
[10] *See* RSMo 393.1075, Section 3(2), which provides, "[e]nsure 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. . . "
[11] *See* Schedule AML-S3 – 4Q Stakeholder – Savings Achieved with Increase.

- Principal Agent Problem – both Staff witness Tevie[12] and OPC witness Marke[13] discuss the principal agent problem, and how it is an issue for the Company's Plan.
    - Staff and OPC did not provide any support for this assertion. I discussed in rebuttal the futility of only taking theory and applying it as fact without data and structured problem solving.[14] There is no evidence that this issue exists in Ameren Missouri's MEEIA portfolio or will in the proposed Plan. Here too, the Company reached out to Mr. Tevie and Dr. Marke via data requests in an attempt to understand if evidence exists that shows otherwise. Neither OPC nor Staff provided any supporting documentation. *See* Schedule AML-4 – Staff response DR 156 and OPC response to DR 1.3.
- MEEIA 4 Continued Discussions – Staff witness Luebbert's rebuttal states that part of the stipulation and agreement for a one year extension for 2024 was to buy the Company time to provide support and citation.[15]
    - The 2024 extension was not done to *"buy time for the Company to provide support and citations,"*. The record shows the Company began engaging stakeholders at the beginning of 2022[16] and continued doing so consistently from then on. Additionally, the

[12] File No. EO-2023-0136, Justin Tevie, Rebuttal Testimony pp. 2 – 3.
[13] File No. EO-2023-0136, Geoff Marke, Rebuttal Testimony p. 13.
[14] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, p. 29 – 31.
[15] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, pp. 3 – 4.
[16] File No. EO-2023-0136, Anthony Lozano Direct Testimony, pp. 14 – 16.

details for each part of the Plan and supporting appendices were consistent with prior MEEIA filings, and in a variety of cases, more detailed based off of discussions with stakeholders on what may be helpful to them. Staff's reliance on one specific subpoint out of several is misleading.[17] The reasons behind the 2024 one year extension include an attempt to provide stakeholders with additional time and opportunities to voice concerns; see/absorb updated supporting citations and references; and receive additional education on how everything tied together.

  - The Company was and is objectively confident that the Plan is backed by sufficient evidence, an improvement based on learnings from prior MEEIA offerings, and in line with MEEIA. This is why we filed in March of 2023; and after offering up the additional time for stakeholders, why we again filed a largely similar plan in January of 2024.

- Prudence Reviews – Staff witness Luebbert discusses the exemplar tariff sheets included in Appendix J of the Plan, and why he believes they are not reasonable because the Company's proposed tariffs would make it difficult for Staff to perform future prudence reviews.[18]
  - Appendix J is consistent with what the Company has filed in all three past MEEIA cycles. While the claim states that this makes a

[17] EO-2018-0211 Order Approving Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024 and Approving Tariff Sheets, page 8.
[18] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, pp. 41 – 42.

prudence review unworkable, Staff filed its report of its prudence review for Ameren Missouri on April 28, 2023.[19] In this report, Staff stated that the review was complete, and they found no signs of imprudence.[20] Staff did not mention the Company's current MEEIA tariffs made it difficult for Staff to perform its prudence review. Additionally, Liberty's MEEIA tariffs do not contain Mr. Luebbert's suggested language. The Company performed a cursory comparison of our Appendix J (exemplar tariff) to Liberty's current tariff sheets applicable to the most recent extension of its Cycle 1 programs, Ameren Missouri found no material differences relevant to Staff's argument. Additionally, Staff's report on Liberty's prudence review for the program period January 1, 2022 – September 30, 2023 came out on April 3, 2024.[21] In its report, Staff stated its review was complete and showed no signs of imprudence.[22] Further, nowhere does Staff's report indicate that Liberty's tariffs are either deficient or made it difficult to satisfactorily perform a prudence review. Also, the Commission has approved both aforementioned Staff prudence reviews.[23]

- Nothing in the record suggests that the proposed tariffs, currently in use by Ameren Missouri for more than 10 years and in used by other

[19] EO-2023-0180 Staff Report.
[20] EO-2023-0180 Staff Report p. 5.
[21] EO-2024-0151 Notice of Correction to Staff Report.
[22] EO-2024-0151 Notice of Correction to Staff Report p. 3.
[23] E0-2023-0180 Order Approving Staff's Prudence Review, and EO-2024-0151 Order Approving Staff's Prudence Review.

Missouri utilities, represents a fatal flaw that must be addressed if the Company's Plan is to be approved. While Ameren Missouri is open to tariff changes that would make Staff's work easier to perform, the amount of detail suggested by Staff does not need to be codified in a tariff. There are clear customer benefits to the current approach, allowing the Company to administer the programs at a pace that maximizes those benefits for customers.

- Earnings Opportunity – OPC witness Marke dedicates a section of his rebuttal to what he calls an earnings opportunity ("EO") problem of windfall profits.[24]
  - The approach Dr. Marke uses is not accurate. The titling of this section in his rebuttal testimony is meant to shock the reader. Windfall, per Merriam-Webster, is defined as "an unexpected, unearned, or sudden gain or advantage." [25] Please keep this in mind when reviewing the below facts.
  - Dr. Marke starts out discussing the $70,234,362 figure[26], which as stated in the Appendix N of the Plan, is the maximum earnings opportunity target. The maximum earnings opportunity would only be achieved if a) all targets were achieved for customers, and b) all bonus performance targets were achieved as well. The more achievable target earnings opportunity is $56,188,289 for the

[24] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, pp. 35 – 38.
[25] https://www.merriam-webster.com/dictionary/windfall
[26] As shown in Appendix N of our filing, the EO Maximum is $70,235,362; a slightly different figure from what Dr. Marke stated in his rebuttal testimony.

entirety of the Plan. Hence, the name "target." If the maximum earnings opportunity were to be achieved, that ensures that the maximum benefit would too be delivered to the customers.

- Dr. Marke describes the throughput disincentive ("TD") as earnings, to combine with the maximum earnings opportunity. TD is lost revenues, as Dr. Marke states in at a different point in his rebuttal testimony.[27] The TD is not new revenues or revenues associated with the earnings opportunity, and to discuss and treat them as such is not correct. Company witness Wills discusses TD further in his surrebuttal.
- Dr. Marke compares apples to oranges in an attempt to compare the Company's proposed MEEIA programs to the programs the Missouri Division of Energy might role out under the IRA. These programs a) will not have the same impacts, b) are not used for the same roles, and c) are not actuated under the same frameworks. The purpose of MEEIA, as recognized by the Commission, is "[v]aluing avoided generation as the means to show benefits to all customers overlooks the purpose of MEEIA, which is to encourage energy efficiency. Utilities should be endeavoring to increase customer participation in energy efficiency programs…"[28] Indeed, the Commission recognized the purpose of the MEEIA law (emphasis added), which provides, "**3. It shall be the policy of the state to**

[27] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, p. 35.
[28] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 15, number 42.

value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall: (1) Provide timely cost recovery for utilities; (2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and **(3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.**"[29] I will discuss later in this surrebuttal why it is not appropriate to compare a MEEIA plan to those programs potentially administered through non-profit organizations and other agencies, and Company witness Via further provides detail how federally funding efforts should be viewed in context with utility programs. Additionally, Mr. Graser explains how the evaluation process will account for how to handle the fair attributions of any savings.

- Tying back to the definition of windfall, one may notice the word "unearned" is included in there. However, the Company does earn any earnings opportunity associated with our MEEIA portfolios. Ameren Missouri has been willing to give up alternative forms of earnings that the Company would otherwise have had an

[29] See 393.1075(3), emphasis added.

opportunity to pursue. Additionally, the Company's hard work to deliver on these programs merits an earnings opportunity under MEEIA.

  - I disagree with Dr. Marke's position, set of comparisons, and overall positioning here. It does not fully consider why MEEIA is here, what is in the law, and the role a MEEIA portfolio does play in our state. Discontinuing MEEIA programs will make it more difficult for customers to manage their electric bills and inhibit the customers from receiving the proposed $303 million in net benefits from this Plan. The Company's IRP without DSM shows customers will pay $4.197 billion more than Ameren Missouri's PRP.[30]

- EM&V Contracts and Contractors – beginning on page 34 of his rebuttal, Staff witness Luebbert claims that 1) if an EM&V contractor determines that savings are overstated, the utility may be less inclined to work with that contractor for future cycles; 2) the utility is more likely to award future contracts to a contractor that presents results that are favorable to the utility; and 3) an implication that those contractors benefit from future cycles with larger budgets, so that would drive behavior today.
  - Mr. Luebbert alleges there is a bias present between utility and EM&V contractors since the utility is allowed to provide oversight and guidance to the contractor. Staff, however, does not provide any

[30] File No. EO-2024-0020, Notice of Filing Correction to 2023 Integrated Resource Plan, Description of Correction and List of Revisions (Public, Confidential and Highly Confidential), Chapter 10 – Strategy Selection.pdf, page 50 Table 10.4 EVBI Analysis Results, excludes earnings opportunity.

documentation or analysis demonstrating this alleged bias. The Company followed up with Staff, including Mr. Luebbert with a formal data request in an attempt to understand what documentation was relied upon to support these positions. There, Staff did not provide documentation to support its claims.[31] Staff, however, clarified there is not a specific allegation for an existing contract and Staff was highlighting a bias under the existing framework.[32]

- The potential impacts of the allegations, should they exist, would be hugely detrimental to all involved (including the required independent auditor, whose task is to ensure the program evaluator is adhering to best practices).
- The design of EM&V now and proposed changes in this Plan are prudent, appropriate, reasonable, and necessary. Furthermore, the independent nature of the evaluator and the State's independent auditor is crucial to ensuring an effective EM&V process.[33]

- Ameren's Incentives and Other Funding – Staff witness Eichholz discusses other funding that could be used for energy efficiency measures, such as grants, Federal Housing Administration loan incentives, Fannie and Freddie's Green Loan incentives, tax credits and deductions, and Energy Financing mechanisms. Ms. Eichholz states she has concerns as Ameren Missouri's incentives are free money that get tacked on top of all assistance

[31] *See* Schedule AML-S5 – Staff Response to Company DR 157.
[32] *See* Schedule AML-S5 – Staff Response to DR 157.
[33] Amended Application, pp. 53 – 62.

that is currently available and are very likely not the driver of the customer's participation.[34]

- The Company reached out to Ms. Eichholz to understand what documentation exists to back up the claim that Ameren's incentives are "very likely" not the driver of the customer's participation. Ms. Eichholz was unable to provide any evidence to support this statement.[35]
- It is common and best practice to stack incentives for customers, and to rely on a robust EM&V process to correctly attribute what did/did not happen due to the utility programs. The Plan as filed allows the opportunity for both of these happenings to play out.

Q. Are Staff's and OPC's criticisms on these issues reasonable?

A. No. I encourage the Commission to understand the pattern of Staff and OPC making statements that are not backed up by documentation or analysis. The Commission should weigh the merits of this Plan compared to the MEEIA law, rules, procedures, and documented evidence. The record evidence is clear; if the Commission were to discontinue the Company's MEEIA portfolio, the result is that customers will be expected to pay $4.197 billion more for electric service.

[34] File No. EO-2023-0136, Amy Eichholz Rebuttal Testimony, p. 5.
[35] See Schedule AML-S6 – Staff response to Company DR 158.

V. THE PLAN IS TRUE PROGRESS, BACKED BY ACTUAL DATA FROM MULTIPLE ANGLES, ALIGNED WITH THE PREFERRED RESOURCE PLAN

Q. In Staff and OPC's rebuttal, a pattern of claims emerges that the one-year extensions were progress, and this Plan is a step backwards. Can you summarize these claims?

A. Yes, Staff witness Fortson and OPC witness Marke assert these claims in their rebuttal testimony as well as their direct testimony. Mr. Fortson claims that the Plan does not improve upon the previous agreements, and alleges the Plan is a step back to MEEIA 2.[36] He states that improvements included modifying programs and adding additional parameters based on certain changing conditions.[37] Similarly, Dr. Marke states that the one-year extensions negotiated by Staff, OPC and the Company were attempts to make things better, and this application erases that progress. He also states, "it doesn't regress things back to the gamesmanship that took total advantage of ratepayers in Cycle 1, but it is a regression nonetheless.[38]"

Q. Is this true?

A. No, and I want to be clear on a few items. Simply because Staff and OPC frame the one-year extensions as progress or improvements does not make them so. If Ameren Missouri were to talk in the same way, it also would not make it so. Those statements are opinions, not facts. Furthermore, stating that the negotiations for the one-year extensions were "admirable attempts at making things better"[39] is too, an opinion.

[36] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, p. 6.
[37] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, p. 5.
[38] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony pp. 38 – 39.
[39] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, p. 38.

Q. What are the facts behind the one-year extensions?

A. As stated in the Plan and throughout Company witness's testimonies, energy efficiency and demand response through MEEIA has been and continues to remain an objectively key resource within the PRP. With that, the Company seeks to file and gain approval for MEEIA portfolios that most closely align with the energy efficiency and demand response targets in the PRP. Due to a variety of factors, including various stakeholders' feedback, opportunities for one-year extensions in PY22, PY23 and PY24 have been presented. While each of those extension opportunities did not fully reach the targets the Company had built into the PRP for a MEEIA portfolio, they represented the best opportunity to move forward at each of those times. It was determined by the Company that while the portfolios were not ideal, they represented the best next step.

Q. Please explain what targets were set under the extensions.

A. Tables 1 and 2 below show demand and energy savings targets that the Company included in the PRP, compared to what was approved for each of the three one-year extensions in the Company's MEEIA 3 portfolio. It may be valuable to remind all now that RAP, or Realistic Achievable Potential, is the level of energy efficiency and demand response the Company built into the preferred resource plan of the IRP. While the Company is confident in the value of delivering the level of energy and demand savings shown below to our customers, Ameren Missouri has determined that RAP levels are the most appropriate amount for the given time periods shown in the table. If what energy and demand savings that ultimately come to fruition differ from what is built into the PRP, then that will need to be considered when making other resource decisions. The larger and more prolonged the deviations between what energy and demand savings are being delivered and what was planned for in the PRP, the bigger the resource adjustments elsewhere will need to happen. Company witness Michels is an expert in the IRP and PRP process and speaks to MEEIA's involvement in it, including why RAP levels represent the least-cost solution for our customers. To be clear, the Company's preference is to design and seek approval for a MEEIA Plan the aligns as closely as possible to the PRP, as that will be most beneficial for customers.

Table 1

MWs			
	PY2022	PY2023	PY2024
RAP in PRP	242	266	297
Approved Targets (net)	221	226	253
Net vs RAP	91%	85%	85%

Table 2

MWhs			
	PY2022	PY2023	PY2024
RAP in PRP	300,575	276,554	288,827
Approved Targets (net)	214,680	170,188	136,936
Net vs RAP	71%	62%	47%

Q. How does the MEEIA 4 Plan differ from the one-year extensions?

A. As I stated in my direct testimony, the tenets of a well-designed and executed MEEIA portfolio exist today and are presented in the Company's Amended Application. Given that, all parties continue to benefit in 2024 from an extension to MEEIA 3[40]. I go on from there to discuss a variety of enhancements, including:

- Increasing budgets for low-income programs[41]
- Re-designing aspects of EM&V to a more prospective nature[42]
- Growing the portfolio contingency[43]

[40] File No. EO-2023-0136, Anthony Lozano Direct Testimony, p. 20.
[41] Amended Application p. 13 figure 7.
[42] Amended Application pp. 55 – 57.
[43] Amended Application p. 65.

- Increasing the budgets overall[44]
- Changing the earnings opportunity to be more explicitly based on energy and demand savings[45]
- Formally including a process (with funding) for pilot/innovative programs[46]

Each of these items are addressed within this proposed Plan, and I have footnoted appropriately. This is not regression, a step towards gamesmanship, or any other thought one may want to imply by their words. Instead, each of these moves individually, and packaged together, show the Company believes a) in the efficacy of this resource as part of the PRP, b) the positive impact the resource is having on our customers, and c) how the resource needs to evolve to continue playing a key role for the years to come.

Q. Are Staff and OPC contradicting themselves when making this argument?

A. They are. Staff cites progress, and then proceeds to attempt to dismantle the Plan and related appendices which have as much or more detail as the years they believe are progress, and which Staff has had many opportunities for interaction with. To reiterate, Mr. Fortson believes the one-year extensions are progress[47], and these one-year extensions are largely built on a level of detail which is equal to or less than what the Company provided in this amended application.

The Company has engaged stakeholders since the beginning of 2022 to provide numerous opportunities for input, including providing Staff and OPC the ability to see the filing a month before it was filed.[48]

---

[44] Amended Application p. 13 figure 7.
[45] Amended Application pp. 72 – 77.
[46] Amended Application pp. 50 – 53.
[47] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, p. 5.
[48] File No. EO-2023-0136, Anthony Lozano Direct Testimony, p. 16.

Annually, the Company provides clean and redlined versions of Appendix F, and any of Appendices G, H and I that have updates, in both clean and redlined versions. Additionally, the Company provides a summary of the changes beyond the standard EM&V updates with explanations of why Ameren Missouri is making the change(s) in advance of the filing to allow for review and comments. In fact, Ameren Missouri included a letter in our most recent filing which stated "Ameren Missouri provided these proposed revisions to Commission Staff on September 14, 2023. Commission Staff provided communication to Ameren Missouri that based on their review to date, they do not have any concerns at this time."[49]

However, Staff witness Luebbert talks extensively about the deficiencies of this Plan and related appendices, and how the complexity of any MEEIA filing combined with this lack of support makes it impossible for Staff to verify conclusions are just and reasonable and designed properly.[50] Mr. Luebbert claims:

- The Plan lacks transparency.[51]
- The Commission and ratepayers should be especially concerned with the inability of Ameren to allow stakeholders to thoroughly analyze the estimated benefits that Ameren has used to support the proposed programs and prudence of the program implementation.[52]

He provides reasons why the TRM, the Deemed Savings Table, Appendix A, Appendix B, Appendix C, Appendix D, Appendix E, Appendix F, Appendix G, Appendix H, Appendix

[49] EO-2018-0211 Request to Revise Technical Resource Manual and Deemed Savings Table and Motion for Expedited Treatment, and workpaper "RE: Ameren Missouri Proposed TRM updates – please respond by 9/21/2023" p. 4.
[50] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, p. 3.
[51] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, p. 6.
[52] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, p. 7.

I, Appendix J, Appendix K, Appendix L, Appendix M, Appendix N, and Appendix O are insufficient.[53]

If we have been operating in a world of progress up until this filing, and that world of progress has relied upon all of these documents structurally similar to now for support, how have they instantly become materially deficient? Staff does not adequately support this claim.

Q. Along the lines of viewing progress differently, OPC recommends millions of dollars from programs be redirected towards PAYS. Can you please react to this?

A. To be clear on what the recommendation is from Dr. Marke, it is to not offer residential education, multi-family market rate, residential new construction, and kits; and redirect $17 million from the budget to the PAYS program.[54]

This is premature without first seeing the trends in program participation and looking at the benefits these other programs offer. Dr. Marke does not provide any analysis on how eliminating the funding in these other programs will increase the participation in PAYS and provide additional MEEIA portfolio benefits.

We, as a Company, and we, as a state, are still working to see how an on-bill financing program such as PAYS could be viable. Specifically, cost effectiveness for the Company's PAYS program was 0.68 in 2021, 0.61 in 2022, and preliminary results are showing 2023 data do not show a trend upward to 1.0. The amount of dollars available to PAYS from Ameren Missouri going into 2022 was $2.6M and participation rates were such that only $860,000 ended up being utilized. While preliminary, those numbers for 2023 are $2.5M for dollars available and $1.4M for dollars utilized. Based on the participation rate, a change to the PAYS budget is not warranted at this time.

[53] File No. EO-2023-0136, J. Luebbert Rebuttal Testimony, pp. 8 – 13.
[54] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, pp. 15 – 18.

Dr. Marke laid out what he believes are some of the struggles that utilities have run into attempting to implement PAYS so far.[55] There is validity to these items, and more root causes exist, as he suggests.

Additionally, there are conflicting happenings at play with PAYS in design and roles, namely a desire to see if the effort can be a statewide program while at the same time giving the utility a performance penalty should specific levels not be hit.[56] These are in direct conflict with each other as one takes control away from the utility while the other assumes a level of performance from the utility due in part, to them having control over the process. This is another aspect of PAYS that needs to be solved moving forward.

Overall, there is much more work to be done on the program, roles, design, standards, and what success looks like. Until more progress is made here, adding more resources to it only exacerbates the issues the Company is experiencing with PAYS outlined above; it does not fix them.

Q. Somewhat similarly, on demand response, Dr. Marke states that free market alternatives exist that do not require customer subsidies for business demand response programs, using this as justification to stop those programs[57]. Is this proposal to stop the Company's Business Demand Response programs appropriate?

A. No.

There are a couple items I want to highlight here. 1) Dr. Marke does not fully consider what happens if a utility business demand response program goes away, and 2) the

[55] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, pp. 18 – 19.
[56] EO-2018-0211 Order Approving Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024 and Approving Tariff Sheets, pp. 5, 7
[57] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, pp. 5 – 7.

Commission's order partially lifting the prohibition for aggregators of retail customers ("ARCs") in the state[58] show the Commission did not intend to remove utility programs from the balance.

To point number 1, the planning landscape changes in an impactful way if the Company's business demand response programs were to go away. These are resources that are counted on in our PRP of the IRP and would have to be replaced. These too are resources that help protect against cost volatility for our customers in the Midcontinent Independent System Operator ("MISO"), providing additional revenues and/or mitigating against further charges.

To point number 2, the Commission stated in its Order that "this modification allowing C&I customers to participate in wholesale demand response programs does not include C&I customers participating in retail demand response programs. The Commission will continue to evaluate dual participation for future consideration."[59] The Commission did not intend to remove utility programs from the equation with its Order, but instead, the Order opened up the possibility for ARCs to also take part at certain levels.

In further reviewing both the Commission Order on this matter, and the Lawrence Berkeley National Laboratory report that was relied on, in part, by the Commission as part of the docket to partially lift the prohibition on ARCs, I note that nowhere in either document is it contemplated that the utility demand response programs be eliminated with as part of the consideration to allow ARCs to participate.

One final material and suitable data point for consideration here is the release of North American Electric Reliability Corporation's ("NERC") 2024 Summer Reliability Assessment.[60] In it, MISO is currently considered at an elevated risk for potential for insufficient operating

[58] EW-2021-0267 Order Partially Modifying the Commission's 2010 Order Regarding ARCs pp. 1-2
[59] EW-2021-0267 Order Partially Modifying the Commission's 2010 Order Regarding ARCs p. 5
[60] https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_SRA_2024.pdf

reserves in above-normal conditions,[61] and NERC states "…Above-normal summer peak load and extreme generator outage conditions could result in the need to employ operating mitigations (e.g., load-modifying resources and energy transfers from neighboring systems) and EEAs."[62]

Figure 1

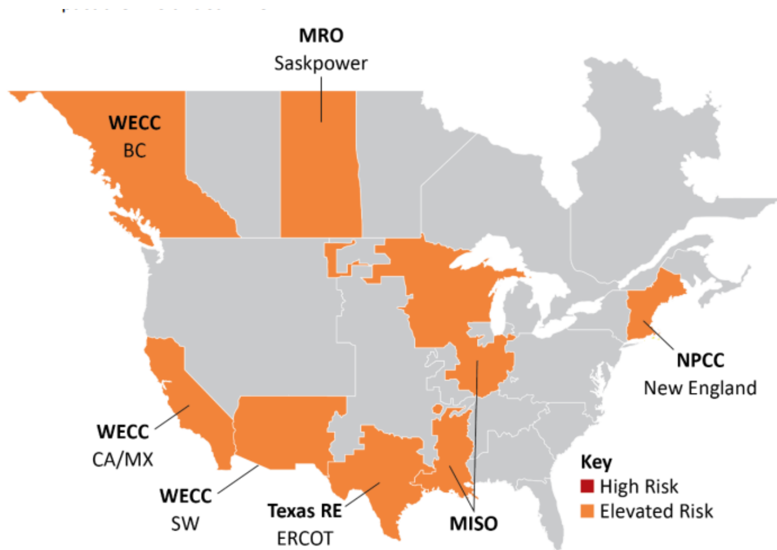

Figure 1: Summer Reliability Risk Area Summary

Seasonal Risk Assessment Summary	
High	Potential for insufficient operating reserves in normal peak conditions
Elevated	Potential for insufficient operating reserves in above-normal conditions
Normal	Sufficient operating reserves expected

[63]

To say ARCs will come in and provide effective reliability and affordability in 2025 is difficult to imagine. The Commission's Order partially lifting the prohibition on ARCs in the state did not remove utility programs providing demand response to customers that ARCs may also pursue, and the Order did not eliminate the retail demand response programs. Instead, the Commission wanted to wait in order to gather additional information on how the ARCs

[61] Same report, p. 6, figure 1.
[62] Same report, p. 18.
[63] Same report, p. 6, figure 1.

programs progressed. I expect that both the utility and ARC offerings will evolve to the benefit of customers; the roles may as well.

The Commission's approach in gathering information and re-evaluating the markets will help the state learn and evolve prudently. Ensuring that all of this potential program and role evolvement happens based on real data from real experiences is paramount to preserving the most effective framework for our customers and the state moving forward.

Q. Administrative costs are another line of discussion in Dr. Marke's rebuttal testimony, with the ongoing recommendation to cap those costs at 20%.[64] Is this an appropriate comparison to MEEIA programs?

A. This is not an appropriate comparison. It is evaluating two different implementation approaches for two different purposes. The Company is not aware of a commonly accepted standard for how utilities, non-profits, and other agencies should consider and subsequently calculate administrative costs for energy efficiency and demand response related programs. Given that, it cannot be appropriate to compare different sets of administrative percentages at face value without deeper analysis, as there is no objective comfort; we are comparing the same thing. Company witness Via will discuss this further in his surrebuttal testimony.

VI. TO REITERATE, THE PLAN IS BACKED BY MEEIA FUNDAMENTALS

Q. Throughout Staff testimony, we see a repeat of many of the same arguments from their direct testimony. Can you lay these repeated arguments out?

A. Yes, the main claims include:

[64] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, p. 40.

- MEEIA is not avoiding, deferring, or offsetting supply side resources.[65]
- Ameren Missouri has not shown it will be beneficial to all customers in a class.[66]
- The Company should have never received an earnings opportunity.[67]

Q. Please summarize the Company's response to "MEEIA is not avoiding, deferring, or offsetting supply side" from rebuttal testimony.

A. In short, Ameren Missouri 1) disagrees that the MEEIA 4 portfolio will not avoid, defer, or offset supply side demand, and 2) regardless of this disagreement, the purpose of MEEIA is not to avoid, defer or offset supply side resources.[68] Company witnesses talked at length on this area in rebuttal testimony, with a few key items highlighted below:

- The Company's MEEIA portfolios have been and are generating savings, which are impacting the supply side by deferral and avoidance.[69]
- The Company's approach to the process which analyzes what is possible in a MEEIA portfolio, how it is considered in an IRP, and how the ultimate impact is confirmed on the back end all tie to the MEEIA law, the Commission's rules, and precedence.[70]
- The Commission previously recognized that "[n]owhere does the MEEIA statute say that a supply-side resource must be avoided or deferred[71] "and

---

[65] File No. EO-2023-0136, Geoff Marke Rebuttal Testimony, p. 4, Brad J. Fortson Rebuttal Testimony, pp. 6 – 14
[66] File No. EO-2023-0136, Sarah Lange Rebuttal Testimony, p. 3 – on.
[67] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, p. 14.
[68] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 13.
[69] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony pp. 28 – 29, Matthew Michels Rebuttal Testimony, pp. 3 – 12, Steven Wills Rebuttal Testimony, pp. 8 – 15.
[70] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 6 – 8, 17 – 19, 27 – 28.
[71] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 22.

> "MEEIA is not a program for managing generation and providing supply-side power.[72]"

Staff is attempting to add a requirement to MEEIA that is not required to be met and then argues the requirement must be met for MEEIA to be successful and continued. Staff continues to claim MEEIA must be used to avoid or defer generation and use this claim as a basis for the lack of credibility and efficacy of the Plan. Staff's arguments that Ameren Missouri's MEEIA programs did not avoid generation must be rejected as that was not and is not the intent of MEEIA.

Q. Please summarize Ameren Missouri's response to "the Company has not shown it will be beneficial to all customers in a class" from rebuttal testimony.

A. This too was addressed in rebuttal testimony. The most significant items are:

- The portfolio is cost effective at the portfolio, sector, and rate class levels.[73]
- The Commission stated "…Non-participating customers benefit from cost-effective programs, because cost-effective programs save more money than they cost. Simply put, all customers benefit, but participating customers benefit more."[74]

Q. Please summarize the Company's response to Staff's claim "the Company should have never received an earnings opportunity."

A. Staff's basis for not recommending an earnings opportunity is the Company's MEEIA portfolios have not, and will not, defer or avoid supply-side resources. Staff (and OPC) go on to provide a variety of claims building on this in an attempt to substantiate their

[72] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 13.
[73] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 25 – 26.
[74] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 15 *see also* Lozano Rebuttal Testimony pp. 25 – 26.

recommendation of no earnings opportunity.[75] These include: 1) the Company has not shown the Plan will be beneficial to all customers in a class (above), 2) benefits are hard to establish,[76] 3) it is not reasonable for the Commission to order earnings opportunities when the Company is spending billions on generation-related investments and generation-related rate base has grown since it began offering MEEIA portfolios.[77]

The Company has reasonably shown that 1) savings are being generated[78] and independently verified;[79] 2) the MEEIA law and rules are being followed;[80] 3) a supply-side resource does not need to be avoided or deferred;[81] and 4) all customers in a class do benefit;[82] then, the only remaining question given stakeholder's continued challenge to an earnings opportunity is the concept of the Company spending on generation while proposing a MEEIA plan. This too, was addressed in the rebuttal by Company witness Michels. Mr. Michels articulates the nature of integrated resource planning, the reason one would not only need to consider more than one resource at a time, but also more than one type of resource at a time, and also other important concepts such as avoiding attempts to sharpshoot.[83]

The Plan is consistent with the MEEIA law and rules, it objectively shows why it needs to be a resource to be included in the Company's IRP, and it clearly articulates how it benefits

[75] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 15 – 16.
[76] File No. EO-2023-0136, Brad J. Fortson Direct Testimony, p. 6.[77] File No. EO-2023-0136, J. Luebbert Direct Testimony, pp. 3, 17, 18, J. Luebbert Rebuttal Testimony, pp. 2, 20 – 21.
[77] File No. EO-2023-0136, J. Luebbert Direct Testimony, pp. 3, 17, 18, J. Luebbert Rebuttal Testimony, pp. 2, 20 – 21.
[78] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 28 – 29, Matthew Michels Rebuttal Testimony pp. 3 – 12, Steven Wills Rebuttal Testimony, pp. 8 – 15.
[79] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 22 – 24, Neil Graser Rebuttal Testimony, pp. 3 – 18.
[80] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 6 – 8, 17 – 19, 27 – 28.
[81] File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 22.
[82] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 25 – 26, File No. EO-2019-0132, Amended Report and Order, Issued March 11, 2020, p. 15.
[83] File No. EO-2023-0136, Matthew Michels Rebuttal Testimony, pp. 12 – 16.

the customers and the state. Given this, considering an earnings opportunity is appropriate under the MEEIA statute.

Q. To follow-up on earnings opportunity, can you please respond to the statement that benchmarking to past portfolios is not appropriate?

A. Staff witness Fortson states that the Company ultimately based its earnings opportunity on benchmarking to past MEEIA cycles and other vertically integrated utilities, and that this is not a reasonable means for determination of the earnings opportunity.[84] He states this is not reasonable because 1) Staff does not believe there will be any future supply-side generation avoided, meaning there is no foregone earnings, and 2) 15.2% is an arbitrary number.[85]

This is incorrect for a few reasons.

- It is not a full characterization of the benchmarking (see below).
- Past MEEIA portfolios have saved energy and demand (see above).
- Past MEEIA portfolios have avoided and deferred supply-side resources (see above).
- This Plan is designed to save energy and demand and avoid/defer supply-side resources.[86]
- The Commission has stated that "[n]owhere does the MEEIA statute say that a supply-side resource must be avoided or deferred" (see above).

I want to look at Mr. Fortson's determination that the benchmarking is not reasonable as it is based on past MEEIA cycles and other vertically integrated utilities. There is a more

[84] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, pp. 16 – 17.
[85] File No. EO-2023-0136, Brad J. Fortson Rebuttal Testimony, pp. 16 – 17.
[86] File No. EO-2023-0136, Anthony Lozano Rebuttal Testimony, pp. 9 – 10.

complete picture here. Yes, the Company provided evidence of how the proposal in this Plan compares to previous MEEIA cycles.[87] Yes, the Company also provided evidence of how earnings opportunities at vertically integrated utilities (of which Ameren Missouri is one) have trended.[88] Both are reasonable and prudent data points to consider. The Company also provided an entire section of the amended application on foregone earnings, which shows an opportunity of $64 million a year to be appropriate.[89] When you triangulate these three data points, you will find:

Table 3

Past MEEIA Cycles

	MEEIA 1	MEEIA 2	MEEIA 3	MEEIA 4 EO Target
%	13.7%	15.2%	15.6%	15.2%

[90]

Table 4

Other Utilities

	Vertically Integrated Utilities	MEEIA 4 EO Target
%	17.7%	15.2%

[91]

Table 5

Foregone Earnings

		Foregone Earnings	MEEIA 4 EO Target
%	$ (millions)	$ 64.00	$ 18.73

[92]

The Company's earnings opportunity proposed in this Plan is reasonable, objective and quite conservative, when considered from each and every one of the above perspectives. While

[87] Amended Application, pp. 79 – 80.
[88] Amended Application, p. 80.
[89] Amended Application, pp. 77 – 79.
[90] Amended Application, pp.79 – 80.
[91] Amended Application, p. 80.
[92] Amended Application, pp. 77 – 79.

looking at the dollar amount only for the earnings opportunity, one will see the average annual amount in MEEIA 4 to be higher than the $12.155M target earnings opportunity for PY24 of MEEIA 3.[93] However, the Company's filed Plan is proposing to spend more and save more energy and demand in each year. If you view the data below in Table 6, there is a noticeable growth from PY2024 to the MEEIA 4 years in MWhs, MWs, total program costs and target earnings opportunity.

Table 6

Annual Trends				
	PY2024	**PY2025**	**PY2026**	**PY2027**
Incremental Gross MWh	189,904	335,419	342,298	344,681
Incremental Gross MWs	110.12	354.72	364.73	373.80
Total Program Costs *(millions of dollars)*	$ 76.25	$118.80	$123.50	$127.65
Target Earnings Opportunity *(millions of dollars)*	$12.155	$18.101	$18.788	$19.299

[94]

Q. Staff witness Lange introduces the new idea of a move towards prospective EM&V being punitive to customers.[95] Can you please discuss why Ms. Lange believes this move is punitive?

A. Ms. Lange states that customers are worse off in certain scenarios than if programs had not occurred, and this move towards prospective EM&V will ensure that in those scenarios, customers pay instead of implementors.

93 EO-2018-0211 Order Approving Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024 and Approving Tariff Sheets, p. 3 – 4.

94 PY2024 data originates from EO-2018-0211, Order Approving Non-Unanimous Stipulation and Agreement Regarding the Implementation of Certain MEEIA Programs Through Plan Year 2024 and Approving Tariff Sheets, pp. 3 – 4 (target earnings opportunity), attached Appendix A page 1 (total program costs), p. 7 (incremental gross MWh savings), p. 9 (incremental gross MW savings); MEEIA 4 (PY2025, PY2026 & PY2027) data originates from EO-2023-0136, Amended and Supplemented Application to Approve DSIM and Demand-Side Management Portfolio and Plan, and Request for Variances (Public, Confidential and Highly Confidential), Revised Appendix A p. 1 (total program costs), p. 7 (incremental gross MWh savings), p. 9 (incremental gross MW savings), Revised Appendix N p. 1 (target earnings opportunity).

95 File No. EO-2023-0136, Sarah Lange Rebuttal Testimony, pp. 14 – 18.

Q. Is she correct?

A. No, this is not an appropriate view of how a portfolio should be set up to deliver maximum benefits to customers. Company witness Graser will further discuss prospective EM&V in his surrebuttal. It is dangerous to think that everything known after the fact should have somehow been known at the time, and doubly dangerous to retroactively punish those involved as long as prudent decisions can be shown to have been made.

Suffice it to say, the current approach can be punitive to implementers. These implementers are key in delivering effective energy efficiency and demand response programs. These programs deliver substantial financial and other societal benefits to our customers and the state. If the system design includes an opportunity to harm the implementers after the fact and on a seemingly chaotic basis, it is difficult to assume this would not disincentivize implementers up front, and also raise the cost to participate. These actions ultimately hurt the customers now and in the long run. Not only is the move to prospective EM&V not punitive to customers, but it should also save them administrative costs.

VII. SUMMARY

Q. Can you please summarize your surrebuttal for the readers?

A. What the Company has filed with the Plan is directly aligned with the MEEIA law and Commission's rules, and will benefit all Ameren Missouri customers, as have our MEEIA portfolios for over a decade. While there is distraction out there, this reality still exists.

Q. Does this conclude your Surrebuttal testimony?

A. Yes, it does.

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.	))))	File No. EO-2023-0136

AFFIDAVIT OF ANTONIO LOZANO

STATE OF MISSOURI)
) ss
CITY OF ST. LOUIS)

Antonio Lozano, being first duly sworn on his oath, states:

My name is Antonio Lozano, and hereby declare on oath that I am of sound mind and lawful age; that I have prepared the foregoing *Surrebuttal Testimony*; and further, under the penalty of perjury, that the same is true and correct to the best of my knowledge and belief.

____
Antonio Lozano

Sworn to me this _30th_ day of May 2024.