

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a       )  
AmerenUE's Tariffs to Increase its Annual       )       Case No. ER-2012-0166  
Revenues for Electric Service       )

**REPLY BRIEF OF NRDC, SIERRA CLUB, AND RENEW MISSOURI**

NRDC et al. submit this Reply Brief on the critical issue of rate design, specifically Ameren Missouri's proposal to increase by 50 percent the customer charge for the Residential and Small General Services customer classes. We respond herein to several mischaracterizations of the record in this case made by Ameren Missouri in its initial brief and to the Staff's argument that the SGS customer charge and inclining block rates issues were resolved by stipulation.

**Class Cost of Service Study**

Ameren asserts that the Company's Class Cost of Service Study (CCOSS) "fully supports the proposed customer charge increases for both the Residential and Small General Services rate" and that the study "justifies an increase in the Residential customer charge to approximately \$20, an amount that is well above the \$12 level Ameren Missouri is requesting." (Ameren Brief at 139; Exhibit 39, Davis Rebuttal, p. 7)

Ameren fails to acknowledge two compelling reasons not to rely on their CCOSS study for justification of this increase. First, its conclusions have been rebutted by two additional CCOSS studies that find the proposed increase is much higher than can be justified on the basis of cost of service. Second, rate design decisions are made on the basis of weighing a much wider set of considerations beyond just CCOSS studies. NRDC witness Pamela Morgan presented testimony on both of these points.

With respect to the first point, that Ameren's CCOS study findings were disputed by other such studies in the record, witness Morgan summarized,

While Ameren Missouri does support the proposed rate design with its cost of service study, Commission Staff and Public Counsel provide competing cost of service studies which show far lower numbers. Just looking at the residential class, Ameren Missouri identifies the costs appropriately allocated to the customer charge to be \$20 per billing cycle; Commission Staff finds them to be approximately \$9; and Public Counsel's cost of service study finds them to be under \$6.

(Exhibit 650, Morgan testimony, p. 14.) These alternative studies cast significant doubt on the appropriateness of a 50 percent increase in the customer charge, even if one disregards the other factors that regulators weigh in making rate design decisions.

As to the second point, witness Morgan further testified,

reliance on cost of service studies in support of rate design changes . . . is problematic. Cost of service is not solid support for the proposed rate design change, particularly given the need to consider price signals and the overriding state policy for energy efficiency, which the change undercuts.

(Exhibit 650, Morgan testimony, p. 15.) NRDC reiterates that any increase of the fixed rate should be rejected unless there are compelling competing goals that demand such an adjustment. Here, there is simply an absence of such a justification.

### **Changes in the Wrong Direction Should Be Rejected Regardless of the Magnitude**

Ameren's brief relies heavily on the testimony of witness Davis to argue that the increase in the rate would have a negligible impact (Ameren Brief at 140). Based on witness Davis's testimony, Ameren argues that no customer would see an annual increase in energy costs of more than \$48, and almost all of these customers are those who would have virtually no monthly usage. (Ameren brief at 140). In turn, Davis's quantitative analysis shows that the

annual increase in the fixed customer charge would increase the weighted average payback for energy efficiency measures offered in its programs by about 12 days (Exhibit 40, p. 3).

None of these arguments presents a compelling reason to allow a rate design change that will make energy efficiency investments less attractive to Ameren Missouri customers. While NRDC does not confirm or refute Ameren's numbers, there is no disagreement that the impact of the proposed change would be to increase payback periods for energy efficiency measures, and to make conservation of electricity less beneficial to customers. The magnitude of impact of this incremental change is immaterial. The policy choice to increase the fixed rate without a compelling reason creates a precedent for utilities to request a series of incremental adjustments that will, taken together, create a large, new barrier to successful energy efficiency programs. A more relevant analysis would look at the impact on a variety of desired outcomes, including energy efficiency payback periods and revenue stability, at every point along a continuum of fixed charge scenarios that would allow the Commission to compare the proposed fixed charge with a set of options including the current fixed charge and even lower fixed charges. In the absence of this kind of analysis, the Commission has before it simply a choice between the status quo and a change that clearly undermines at least one public policy goal.

In addition, Ameren argues that total energy costs will decrease for approximately half of the Company's residential customers if the monthly customer charge is increased to \$12 (Ameren brief at 140; Ex. 39 p. 9, l. 20 – p. 10, l. 7). The corollary to this point is, as witness Morgan notes, that half of customers will be worse off as a result of the proposed change. She explains, "any rate design change like this will make half of the customers better off and half

worse off,” (Tr., volume 18, p. 411, lines 20–22), to which witness Davis concedes (Exhibit 39, Davis Rebuttal, p. 12, lines 1–3). Under this proposed rate change, customers using less electricity than others within the residential and small general service classes will experience higher rate increases than customers using more electricity. The half of the classes that presently use more than the average monthly amount of electricity will see a reduction in their bills by shifting costs from the variable to the fixed charge. This outcome is counterproductive to the State’s and the Company’s shared objective of promoting demand reduction.

Ameren also makes the argument that its monthly customer charge for residential customers is lower than any other utility’s in the state, even if the charge is increased to \$12. (Ameren brief at 140). Without knowing the background of other utilities, this comparison is a like comparing the contents of a whole book with a summary on the inside flap of another book. Ameren has recently gone through a complex multi-stakeholder process regarding its MEEIA filing that resulted in a unanimous stipulation. As witness Morgan testifies, contained in this stipulation is a \$150 million ratepayer investment in energy efficiency programs and “a net shared benefits mechanism” that “will hold Ameren Missouri harmless from losing fixed cost-related revenues as a result of its energy efficiency programs.” (Exhibit 650, Morgan testimony, p. 13.) The contents of this rate case have been shaped by that stipulation. We simply do not know what the other utilities have been doing as this information is not in the record. This kind of comparison with other utilities is simply not appropriate given the context of this case.

Finally, Ameren asserts that, “60 percent of Ameren Missouri’s LIHEAP customers will be better off, from a total energy cost standpoint, if the customer charge is increased to \$12...” (Ameren Brief at 140). However, this point is actually evidence in favor of keeping fixed charges

low. If Ameren is correct that 60 percent of LIHEAP customers would benefit from higher fixed charges, that is only because these LIHEAP customers are using more energy than the average customer – a sign that they disproportionately live in poorly weatherized homes that rely on outdated appliances and fixtures. They would benefit only in the sense that a rise in the customer charge is accompanied by a fall in the volumetric rate, allowing high electricity consumers to continue overusing at a comparative discount. (Tr. Vol. 30, pp. 2114–5, testimony of Mr. Davis.) To increase the fixed charge is to signal to these very customers not to make efficiency improvements to their homes or conservation decisions because doing so will have less impact on their bills. A better solution for these customers would be to lower fixed charges and aggressively market programs that will help them fall out of the higher consuming half of the Residential rate class.

#### **Ameren’s Market Potential Study Shows that Payback Periods Impact Efficiency Uptake Rates**

Ameren attempts to discredit witness Morgan’s testimony by stating that she “apparently misunderstood certain of the study results and data presented in the report, *AmerenUE Demand Side Management (DSM) Market Potential Study* (“Market Potential Study”)” by omitting “key details” that “provide necessary context of the finding about payback periods.” (Ameren brief at 142.) To address this “omission,” Ameren submitted Exhibit 46 and argues that “even if Ms. Morgan is correct that increased customer charges will make customers less willing to invest in energy efficiency measures, that effect would influence the behaviors of fewer than half of the customers in Ameren Missouri’s Residential and Small General Services rate classes.” (Ameren brief at 143.)

Ameren attempts to suggest that because its study shows that “even with a payback period of one year or less, no more than 45 percent of Ameren Missouri’s Residential class customers and 47 percent of its Small General Services class customers expressed a willingness to make any investment in energy efficiency measures,” this means that any sort of impact to customers should be disregarded. (Ameren brief at 143.)

Ameren misses the point, and witness Morgan understood the study results perfectly. What Morgan’s testimony shows is that the people who would be interested in making energy efficiency improvements are the ones who would likely be negatively affected by the increase in the fixed charge. These are the very people the State has made a concerted effort to support through its admirable policy goal of capturing the benefits of energy efficiency measures.<sup>1</sup> According to Witness Morgan, Ameren’s Market Potential Study showed that there would be a reduction in energy savings between a one year payback period and a three year payback period of approximately 30 percent, a significant drop in energy savings. (Exhibit 650, Morgan testimony, p. 8, as corrected at Tr. Volume 18, p. 405, line 18 – 406, line 9). Nothing in Ameren’s testimony controverts this simple observation.

Ameren also mischaracterizes Morgan’s statements under cross-examination. While she testified that there should be increased revenue stability and predictability for Ameren Missouri and increased rate stability for its customers when the fixed charge is increased, she did not conclude that these factors outweigh the downsides of Ameren’s proposals. (Ameren brief at 144; Tr. p. 427, l. 16 – p. 428, l. 9.) Witness Morgan testified that the current proposal calls for *weighing* established rate-making practices – the desire to ensure a strong price signal linking

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<sup>1</sup> See 2009 Missouri Energy Efficiency Investment Act (MEEIA) setting a statutory goal for electric utilities of “achieving *all* cost-effective demand-side savings.” § 393.1075.4, RSMo (emphasis added).

high monthly levels of electricity use to higher bills, the desire for fairness between customer classes or groups of customers in a class, and predictability and stability of revenues and electricity bills (Exhibit 650, Morgan testimony, pp. 9–12.) When weighing the consideration of stability and predictability, Morgan testified,

I do not see this as a significant consideration in this case, particularly given that Ameren Missouri presented no evidence of the amount of revenue the rate design change would make more predictable nor how variable this revenue has been. . . . In my experience, the consideration of predictability and stability in utility revenues is best addressed by a decoupling mechanism, which enables the Commission and stakeholders to set rate design in the manner most aligned with state policy.

(Exhibit 650, Morgan testimony, p. 12). As Morgan testified, Ameren’s proposal is not aligned with state policy and in fact is “directly at odds with achieving the state’s goal of capturing all cost-effective energy efficiency.” (Exhibit 650, Morgan testimony, p. 5.)

### **Staff’s Brief**

Staff says that the SGS customer charge and inclining block rates issues were settled by the Revised Non-unanimous Stipulation and Agreement filed on Oct. 10 (Staff brief p. 102). But paragraph 1.c of that stipulation only allocates the non-EE revenue increase and does not fix the customer charge, and the stipulation does not mention inclining block rates nor in any way exclude these issues from litigation. Furthermore, counsel for NRDC stated at the hearing on Oct. 11:

I only just saw the revised version of the Nonunanimous Stipulation & Agreement. I thought I had detected an ambiguity in paragraph 2A. I’ve been assured by Mr. Woodsmall and Ms. Mantle that this will not affect the issue we are here to try today concerning the residential and SGS charges. With that assurance and that understanding I would not oppose the revised stipulation.

(Tr. Volume 30, p 2060, lines 5–11.) Contrary to Staff, these issues have not been waived.

## **Conclusion**

No matter how Ameren attempts to frame the issue, it remains true that any increase in the fixed rate charge is a step backwards from Missouri's admirable policy in favor of energy efficiency. Ameren presents no compelling reasons for taking a step in the wrong direction except to argue that it is a small step. NRDC therefore urges the Commission to reject the proposed increase in the fixed customer charges for its residential and small general service classes.

Respectfully submitted,

/s/ Henry B. Robertson

Henry B. Robertson (Mo. Bar No.29502)  
Great Rivers Environmental Law Center  
705 Olive Street, Suite 614  
St. Louis, Missouri 63101  
(314) 231-4181  
(314) 231-4184  
[hrobertson@greatriverslaw.org](mailto:hrobertson@greatriverslaw.org)

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct PDF version of the foregoing was filed on EFIS and sent by email on this 15th day of November, 2012, to all counsel of record.

/s/ Henry B. Robertson