

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

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

AGREEMENT IN LIEU OF CHANGE REQUESTS

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or the "Company"), the Staff of the Missouri Public Service Commission ("Staff") and the Office of the Public Counsel ("OPC") (collectively, the "Signatories"), and submit this *Agreement in Lieu of Change Requests* ("*Agreement in Lieu*"). In support of their position, the Signatories state as follows:

INTRODUCTION

1. On October 25, 2018, several parties to this proceeding, including the Signatories, executed a *Stipulation and Agreement* ("*October 2018 Stipulation*") which contained an evaluation, measurement, and verification ("EM&V") schedule in its attached MEEIA 2019-21 Report. The *October 2018 Stipulation* was approved by the Missouri Public Service Commission ("Commission") on December 5, 2018. In accordance with the approved EM&V schedule, the parties engaged the process for plan year 2019 ("PY 19"). This informal stage of the process included the circulation of a draft PY 19 report by the independent, third-party evaluator seventy (70) days after the plan year ended, the submission of comments on the report by interested stakeholders, and the hosting of a conference call to discuss the comments received.

2. Consistent with this schedule, on March 10, 2020, the independent, third-party evaluator, Opinion Dynamics, circulated its Draft PY 19 EM&V Report to stakeholders.¹ Ameren Missouri submitted its comments on the report to Opinion Dynamics and the other stakeholders on May 5, 2020, and the Commission's auditor, Evergreen Economics, submitted comments to Opinion Dynamics and the stakeholders on May 12, 2020.

3. On June 3, 2020, Ameren Missouri submitted a request to amend the EM&V schedule anticipated by the *October 2018 Stipulation* to provide the independent evaluator additional time to finalize its PY 19 EM&V report, which the Commission approved on June 17, 2020.

4. In accordance with the revised schedule, on June 22, on behalf of the independent evaluator, Ameren Missouri submitted the *Ameren Missouri Program Year 2019 Annual EM&V Report* ("*PY 19 EM&V Report*"). On July 2, 2020, the Commission's independent auditor submitted its *Independent EM&V Audit of the Ameren Missouri PY 2019 Program Evaluations – Final Report* ("*PY 19 Auditor Report*"). According to the revised schedule, the next step is for the submission of change requests by the stakeholders by July 9, 2020. The submission of change requests that cannot otherwise be resolved will trigger a Commission proceeding for resolution of the issues raised.

5. While the Signatories do not believe a full Commission proceeding is necessary to address the points raised in the *PY 19 Auditor Report* or in the comments provided by Ameren Missouri during the informal stage of the process, they do feel that certain matters should be reserved for additional discussion. Accordingly, the Signatories are entering into this *Agreement*

¹ Opinion Dynamics provided Volume 1 of its Draft PY2019 EM&V Report one week later, on March 16, 2020. This Volume includes a summary of materials provided in Volumes 2 through 4.

in Lieu described below, and request the Commission find these compromises constitute a fair and reasonable resolution to the PY 19 EM&V process.

SPECIFIC TERMS AND CONDITIONS

6. Collaborative Meetings. Ameren Missouri will host two or more technical working sessions² regarding EM&V issues before September 15, 2020. These sessions will be open to the Company, stakeholders, the third-party independent evaluator (Opinion Dynamics), and the Commission auditor (Evergreen Economics). The purpose of these technical conferences is to work collaboratively and prospectively to identify potential changes for the program year 2020 EM&V plan based on issues that were raised in the *PY 19 Auditor Report* and through the informal portion of the EM&V process that were not ultimately addressed in the final and filed *PY 19 EM&V Report*. Participation in the additional technical conferences will not preclude any party from submitting change requests addressing future EM&V reports.

7. Earnings Opportunity. Ameren Missouri agrees to a \$200,000 reduction to its PY 2019 earnings opportunity.

8. Throughput Disincentive. The Company will rely on the final and filed *PY 19 EM&V Report* for the purposes of calculating its throughput disincentive as part of the Energy Efficiency Investment Charge rider.

GENERAL PROVISIONS

9. This *Agreement in Lieu* is being entered into solely for the purpose of settling the issues specifically set forth above, and represents a settlement on a mutually-agreeable outcome without resolution of specific issues of law or fact. This *Agreement in Lieu* is intended to relate

² These conferences will be in addition to those already conducted during the PY 19 EM&V process.

only to the specific matters referred to herein; no Signatory waives any claim or right which it may otherwise have with respect to any matter not expressly provided for herein. No party will be deemed to have approved, accepted, agreed, consented, or acquiesced to any substantive or procedural principle, treatment, calculation, or other determinative issue underlying the provisions of this *Agreement in Lieu*. Except as specifically provided herein, no Signatory shall be prejudiced or bound in any manner by the terms of this *Agreement in Lieu* in any other proceeding, regardless of whether this *Agreement in Lieu* is approved.

10. This *Agreement in Lieu* has resulted from extensive negotiations, and the terms hereof are interdependent. If the Commission does not approve this *Agreement in Lieu*, approves it with modifications or conditions to which a party objects, or issues an order in another Commission case that negates its approval or conditions or modifies the *Agreement in Lieu* in a manner to which any party objects, then this *Agreement in Lieu* shall be null and void, and no Signatory shall be bound by any of its provisions.

11. If the Commission does not approve this *Agreement in Lieu* unconditionally and without modification, and notwithstanding its provision that it shall become void, neither this *Agreement in Lieu*, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any Signatory has for a decision in accordance with Section 536.080 RSMo 2016 or Article V, Section 18 of the Missouri Constitution, and the Signatories shall retain all procedural and due process rights as fully as though this *Agreement in Lieu* had not been presented for approval, any suggestions or memoranda, testimony or exhibits that have been offered or received in support of this *Agreement in Lieu*, shall become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not

be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

12. If the Commission unconditionally accepts the specific terms of this *Agreement in Lieu* without modification, the Signatories waive, with respect only to the issues resolved herein: their respective rights (1) to call, examine and cross-examine witnesses pursuant to Section 536.070(2), RSMo 2016; (2) their respective rights to present oral argument and/or written briefs pursuant to Section 536.080.1, RSMo 2016; (3) their respective rights to seek rehearing pursuant to Section 386.500, RSMo 2016; and (4) their respective rights to judicial review pursuant to Section 386.510, RSMo 2016. These waivers apply only to a Commission order respecting this *Agreement in Lieu* issued in this above-captioned proceeding, and do not apply to any matters raised in any prior or subsequent Commission proceeding, or any matters not explicitly addressed by this *Agreement in Lieu*.

13. This *Agreement in Lieu* contains the entire agreement of the Signatories concerning the issues addressed herein.

14. This *Agreement in Lieu* does not constitute a contract with the Commission and is not intended to impinge upon any Commission claim, right, or argument by virtue of the *Agreement in Lieu's* approval. Acceptance of this *Agreement in Lieu* by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigative or other power which the Commission presently has or as an acquiescence of any underlying issue. Thus, nothing in this *Agreement in Lieu* is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information, or any statutory obligation.

15. The Signatories agree that this *Agreement in Lieu*, except as specifically noted herein, resolves all issues related to these topics, and that the agreement should be received into the record without the necessity of any witness taking the stand for examination.

WHEREFORE, the Signatories respectfully request that the Commission approve this *Agreement in Lieu of Change Requests*.

Respectfully submitted,

/s/ Paula N. Johnson
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**For THE OFFICE OF THE PUBLIC
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on all parties of record via electronic mail (e-mail) on this 9th day of July 2020.

/s/ Paula N. Johnson

Paula N. Johnson

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