

ILLINOIS COMMERCE COMMISSION

DOCKET NO. 11-0341

REBUTTAL TESTIMONY

OF

KENNETH C. WOOLCUTT

Submitted On Behalf

Of

**AMEREN ILLINOIS COMPANY
d/b/a Ameren Illinois**

May 31, 2012

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6 **I. INTRODUCTION AND QUALIFICATIONS**

7 **Q. Please state your name.**

8 A. My name is Kenneth Woolcutt.

9 **Q. Are you the same Kenneth Woolcutt who provided Direct Testimony in this**
10 **proceeding?**

11 A. Yes, I am.

12 **II. PURPOSE AND SCOPE**

13 **Q. What is the purpose of your Rebuttal Testimony in this proceeding?**

14 A. The purpose of my testimony is to respond to the Direct Testimony of Staff
15 Witnesses Jennifer Hinman and Scott Tolsdorf. I also introduce Dr. John
16 Chamberlin of the Pacific Economics Group, who will explain the application of
17 the Total Resource Cost (“TRC”) test and provide his expert opinion on its use as
18 well as other policy recommendations made by Staff.

19 **Q. Will you be sponsoring any exhibits with your Rebuttal Testimony?**

20 A. Yes. Ameren Exhibit 4.1 contains certain data request responses by Staff.

21 **Q. How is your Rebuttal Testimony organized?**

22 A. First, I respond to Ms. Hinman’s recommendation that the Commission disallow
23 Ameren Illinois’ costs incurred in connection with its Small Business HVAC

24 (“SB HVAC”) Program. I then raise certain concerns with Staff’s vague policy
25 recommendations and ask that the Commission reject them. Finally, I address a
26 question raised by Mr. Tolsdorf regarding whether Ameren Illinois has yet to
27 reflect an Ordered Reconciliation Adjustment from Program Year (“PY”) 1 in the
28 Rider EDR rates.

29 **Q. Do you address every issue raised by Staff in its Direct Testimony?**

30 A. I do not, but my silence on an issue or failure to address any statement or position
31 offered by Staff in this proceeding should not be construed as an endorsement or
32 criticism of that statement or position.

33 **III. REBUTTAL TOPICS**

34 **Q. Please summarize the Staff testimony to which you are responding.**

35 Staff witness Hinman recommends a disallowance of \$131,771 to be refunded to
36 ratepayers due to perceived imprudence on the part of Ameren Illinois’
37 implementation of its SB HVAC Program. Ms. Hinman also asks the
38 Commission to make vague “policy” decisions which would lead to directives
39 that Ameren Illinois: (1) monitor on an on-going basis the “projected benefits and
40 costs of the SB HVAC Program and to only continue the program if and when
41 projected benefits exceed projected costs;” and (2) “always monitor projected
42 benefits and costs of all its energy efficiency programs and to only continue to
43 spend ratepayer fund on a program if and when projected benefits exceed
44 projected costs.” (ICC Staff Ex. 2.0 at 18-19, Lns. 322-334.) Staff Witness
45 Tolsdorf presents Ms. Hinman’s recommended adjustments to Ameren Illinois’
46 reconciliation statement, including the disallowance of \$131,771, and also raises a

47 question as to whether the Company has yet reflected an Ordered Reconciliation
48 Adjustment (“ORA”) of \$8,754 contained in the Final Order entered in Docket
49 No. 09-0535. I address each issue, in turn, below.

50 **A. Staff’s Proposed Disallowance**

51 **Q. Staff recommends that the Commission disallow all costs incurred by**
52 **Ameren Illinois associated with implementing the SB HVAC Program. Can**
53 **you please provide some background on the SB HVAC Program and explain**
54 **how it became a part of Ameren Illinois’ natural gas EE Portfolio?**

55 A. In 2007, Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois
56 Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a
57 AmerenIP (collectively the “AIU”), sought and received Commission approval in
58 Docket No. 07-0539 to implement a mandatory portfolio of electric energy
59 efficiency programs to eligible retail customers. That docket constituted the first
60 ever Commission review and approval of the AIU’s plan to manage and
61 implement a portfolio of energy efficiency programs and measures.¹ In 2008, the
62 AIU, who provided both electric and gas service, voluntarily sought and received
63 Commission approval in Docket No. 08-0104 to provide complementary natural
64 gas energy efficiency programs to certain other eligible retail customers,
65 specifically those customers who took gas service under Rate GDS-1 Residential
66 Gas Delivery Service and Rate GDS-2 Small General Gas Delivery Service.² The

¹ An energy efficiency portfolio is made up of programs, which, in turn, are made up of individual measures.

² The remaining customer classes were ineligible at the time of Commission approval to receive natural gas energy efficiency programs.

67 SB HVAC Program (referred to as the Small Business Tune-Up Program in
68 Docket No. 08-0104), was one of the voluntary gas programs that passed the TRC
69 test submitted by the AIU and reviewed and approved by the Commission to be
70 implemented by the AIU during PY 1-3.³ Consistent with the other programs
71 reviewed and approved by the Commission, the SB HVAC Program met certain
72 criteria, including having an acceptable TRC test result for planning purposes⁴
73 and the potential to penetrate and transform the small business market such that
74 small businesses would eventually make energy efficient choices.

75 **Q. Please further explain the SB HVAC Program.**

76 A. The SB HVAC Program was designed specifically to target small businesses in
77 PY 1 through PY 3, with the goals of penetrating the small business sector and
78 incentivizing small businesses to tune-up or replace old, less-efficient furnaces.
79 To meet the program's goals, Ameren Illinois relied heavily on trade allies that
80 already provided HVAC service to small businesses.

81 **Q. Can you provide background on the small business market to which the SB**
82 **HVAC Program was offered?**

83 A. While developing the plan that was ultimately approved by the Commission,
84 Ameren Illinois anticipated that small businesses were a particularly difficult
85 market to penetrate due to the fact that they traditionally have limited funds to

³ It is important to note that, in order to align the voluntary gas portfolio with the mandatory electric portfolio, PY 1 of the gas portfolio comprised the time period between January 1, 2009 and May 31, 2009; PY 2 of the gas portfolio comprised the time period between June 1, 2009 and May 31, 2010. Final Order, Docket No. 08-0104 at 22.

⁴ In an effort to select programs and measures that are projected to be cost effective, potential programs and measures undergo the TRC test at the planning stage.

86 spend on energy efficiency investments and the relatively lower savings that can
87 be calculated on the small business scale (as opposed to large commercial and
88 industrial businesses). However, Ameren Illinois believed it was worthwhile to
89 try to penetrate this market and offer programs to small businesses, particularly
90 because they were a portion of the target customer class approved by the
91 Commission as being eligible to participate (the other customer class being
92 certain residential customers). Therefore, Ameren Illinois worked with trade
93 allies (comprising primarily of plumbing or HVAC service providers) to offer
94 furnace tune-ups and new efficient equipment purchases coupled with a financial
95 incentive from Ameren Illinois. Doing so would hopefully build capacity among
96 trade allies to address the market penetration issue and increase future
97 participation in the SB HVAC Program and other energy efficiency programs in
98 future plan years.

99 **Q. What was the amount of costs incurred for implementing the SB HVAC**
100 **Program during the reconciliation period?**

101 A. Contrary to Staff's calculation and recommended disallowance, the total SB
102 HVAC Program cost was \$119,550 and not \$131,771. The difference reflects a
103 charge of \$12,222 against PY 1 program costs that was made pursuant to a
104 subsequent "true-up" calculation of PY 1 costs.

105 **Q. What costs comprised the \$119,550?**

106 A. The total program costs consisted of paying out financial incentives to trade allies
107 implementing the program. In an effort to maximize the yield on ratepayer funds,
108 the SB HVAC Program required trade allies to submit all tune-up projects for pre-

109 approval (and other projects which were greater than a \$5,000 incentive) before
110 any commitments could be made to customers or any financial incentives would
111 be paid and the projects later went through a verification process.

112 **Q. Staff proposes to disallow \$131,771 in costs. Do you agree with Staff's**
113 **proposed disallowance of the costs incurred in connection with the SB HVAC**
114 **Program?**

115 A. No.

116 **Q. Please explain.**

117 A. First, the Commission should not disallow the \$12,222 that reflects a “true-up”
118 charge with PY 1. Those were not costs that were either contested or disallowed
119 in PY 1 reconciliation proceeding. Second, Staff’s recommendation to disallow
120 the remaining \$119,550 is based exclusively on a misuse of Total Resource Cost
121 (“TRC”) test results calculated in the summer of 2009, which showed that the SB
122 HVAC Program had TRC values of less than 1.0.⁵ However, as explained by Dr.
123 Chamberlin, TRC test results should not be the sole consideration when Ameren
124 Illinois is determining if a program should be discontinued. This is particularly
125 true when TRC test results reflect only a few months of data that comprised
126 essentially all of the upfront program costs (e.g., program design, marketing start-
127 up, database preparation) but only a few completed projects (and therefore lower
128 savings), as are the TRC test results relied upon by Staff. Therefore, I
129 fundamentally disagree with Staff’s position that Ameren Illinois should have

⁵ According to Staff, a program with a TRC value of 1.0 or greater is considered “cost-effective” for purposes of the TRC test and a program with a TRC value of less than 1.0 is “ineffective.” Ameren Ex. 4.1 (Resp. to AIC-ICC 1.14(a)).

130 relied on the SB HVAC Program's TRC test results and discontinued the
131 program. To do so would have been a flawed basis to rely on when analyzing the
132 program because the test results reflected the higher ratio of costs to benefits
133 associated with starting up a new program. Instead, I believe that Ameren Illinois
134 acted prudently and reasonably when it considered other factors – and did not
135 blindly follow TRC test results – when it decided to continue and modify the
136 newly started SB HVAC Program.

137 **Q. As an initial matter, do you agree with Staff that the TRC test results are**
138 **relevant to planning a portfolio?**

139 A. Yes, I do. As explained by Dr. Chamberlin, the TRC test is required and serves a
140 purpose when planning how to develop an overall cost effective portfolio. As
141 noted above, the SB HVAC Program passed the TRC test at the planning stage.
142 But this does not mean that Staff's proposed use of the TRC test on a program
143 level as a basis for disallowance is appropriate.

144 **Q. Has the Commission provided guidance on the use of the TRC test?**

145 A. Yes, in the Commission's Final Order in Docket 07-0539, it found that the TRC
146 test should be used to analyze cost effectiveness on a portfolio level and not on a
147 program or measure level. That is to say, program cost effectiveness should be
148 evaluated in the context of the overall portfolio instead of in isolation because
149 "[c]alculation of the total resource cost test at the portfolio level provides utilities
150 with greater flexibility to ensure that measures with less short-term energy
151 savings value, but greater value over several years, will be included in any overall
152 portfolio of measures and programs." Final Order, Docket 07-0539, at 21. The

153 Commission later affirmed this policy determination in Docket 08-0104 when it
154 approved the residential low income gas EE program, which had a TRC value of
155 .94, Final Order, Docket No. 08-0104, at 14,⁶ as well as in Docket No. 10-0568,
156 when the Commission stated: “evaluating cost-effectiveness on a portfolio level is
157 necessary to ensure that Ameren not be penalized for planning assumptions that
158 turn out to be inaccurate...[and concluded that] it is appropriate to apply the TRC
159 test at the portfolio level, but Ameren Illinois and the DCEO should be allowed to
160 apply it at the measure or program level if they so choose. The Commission also
161 finds Ameren’s proposal to apply the TRC test at the measure level for planning
162 purposes, if it chooses, and apply any ex post TRC test at the portfolio level is
163 reasonable and is hereby adopted,” Final Order, Docket No. 10-0568, at 30.
164 Additionally, as explained by Dr. Chamberlin, the Commission has come to
165 similar conclusions – and, in fact, rejected Staff’s approach of relying on TRC test
166 results on a program level to determine program selection – in other energy
167 efficiency dockets as well. While I am not a lawyer, my understanding of the
168 Commission’s findings is that Ameren Illinois should develop a cost effective
169 portfolio. Therefore, program level TRC test results should not be used as a basis
170 to disallow costs simply because a program has a TRC value of less than 1.0 at
171 some point during the implementation period.

⁶ I would note that Staff did not seek disallowance of the costs associated with this program based on TRC values in the last reconciliation docket. Final Order, Docket No. 09-0535, at 6.

172 **Q. What other factors should be considered when determining if a program**
173 **should be modified or continued?**

174 A. As explained in the Final Order in Docket No. 08-0104, the Commission agreed
175 that Ameren Illinois should have “flexibility to modify” its portfolio “as
176 circumstances warrant.” Final Order, Docket No. 08-0104, at 18. Therefore,
177 there are many factors that could be considered when determining if a program
178 should be modified or continued, including whether market analysis concludes
179 that there are resources available and there exists market potential to cause the
180 installation of a volume of energy efficiency measures sufficient to achieve cost
181 effective savings. Another factor is whether a program could further the goal of
182 transforming the market such that Ameren Illinois could increase participation by
183 allies and customers in energy efficiency programs. Dr. Chamberlin also
184 addresses other factors to consider such as emerging technologies, pilot
185 programs appealing to hard to reach sectors and providing programs that
186 represent a diverse cross section of opportunities for customers of all rate classes
187 to participate in the programs that in and of themselves may not be cost effective.
188 All of these factors, of course, require Ameren Illinois to make on-going
189 judgment calls based on available information, including feedback from
190 implementers and stakeholders.

191 **Q. Did Ameren Illinois consider any of these factors when determining whether**
192 **the SB HVAC Program should be continued in PY 2?**

193 A. Yes. First, Ameren Illinois was aware that the program was in its start-up phase,
194 and as typical with start-up programs, costs would naturally exceed benefits,

195 which put the low TRC values in context. Also, because the SB HVAC Program
196 was in the initial stages of a multi-year plan, Ameren Illinois heavily considered
197 the opportunity for the program to introduce the concept of energy efficiency to
198 allies, and increase both ally and customer participation in other energy efficiency
199 programs. As traditional in most other HVAC programs throughout the country,
200 the tune-up measure is a standard tactic to cultivate ally participation and educate
201 consumers whereby an equipment's inefficiency is identified and the
202 opportunities for improved efficiency are explained. Only through introduction
203 and an increase in participation in, and education of, energy efficiency, can
204 Ameren Illinois achieve market transformation. While the TRC test results did
205 play a role in deciding whether to modify or continue the SB HVAC Program,
206 these other factors outweighed any concerns with a low TRC value, particularly
207 because we were confident that the overall portfolio remained cost effective.

208 **Q. Did Ameren Illinois modify the SB HVAC Program in PY 2?**

209 A. Yes. While Staff seems to base its disallowance recommendation on the fact that
210 Ameren Illinois continued its SB HVAC, in any form, Ms. Hinman also criticizes
211 Ameren Illinois for failing to "exercise its ability to modify" the program. (ICC
212 Staff Ex. 2.0 at Lns. 201-202.) This criticism is unfounded. Early in the program
213 implementation period, Ameren Illinois took steps to limit the number of tune-ups
214 and cultivate ally participation and installation of equipment.

215 **Q. Why did Ameren Illinois choose to modify the SB HVAC Program, rather**
216 **than discontinue it?**

217 A. The Commission approved the SB HVAC Program, which passed the TRC test at
218 the planning stage, and directed Ameren Illinois to implement it. Based on
219 analysis and recommendations from its SB HVAC Program implementer, the SB
220 HVAC Program had the potential to become cost effective within the first three
221 program years and also provided the other benefits identified above, including the
222 opportunities to increase awareness and participation in other energy efficiency
223 programs and measures. However, even if the program did not become cost
224 effective in the future, the Company relied on the Commission's directive to
225 remain cost effective at the portfolio level such that the programs that might not
226 yield significant savings in the short term be given the chance to benefit the
227 overall portfolio.

228 **Q. Staff recommends that the Company demonstrate in its Rebuttal Testimony**
229 **whether the SB HVAC Program, in particular, and the portfolio overall have**
230 **provided "net benefits" to Illinois ratepayers. Can you address this?**

231 A. Yes. Incentives for the SB HVAC Program were reviewed and approved by the
232 Commission and determined to be cost effective. While I am not a lawyer, it
233 appears to me that the appropriate time to demonstrate cost effectiveness to the
234 Commission is at the planning stage and not when reviewing whether the
235 Company has appropriately reconciled its costs with the revenues collected under
236 its Riders EDA and GDA, which is the scope of this docket.

237 **B. Staff's Policy Recommendations**

238 **Q. Would you like to comment on Staff's policy recommendations?**

239 A. Yes, while Dr. Chamberlin provides his expert opinions on Staff's policy
240 recommendations, I would like to raise a few concerns as well. First, it seems
241 fundamentally unfair for Staff to recommend disallowance based on program
242 level TRC test results when the Commission has repeatedly determined that
243 utilities should be developing portfolio level TRC results. Second, on a practical
244 level, Staff's vague policy recommendations are unnecessary and confusing and
245 would result in a regulatory environment that would significantly discourage the
246 implementation of new or breakthrough technology programs.

247 **Q. Why are Staff's policy recommendations unnecessary and confusing?**

248 A. Staff recommends that the Commission order Ameren Illinois to: (1) monitor on
249 an on-going basis the "projected benefits and costs of the SB HVAC Program and
250 to only continue the program if and when projected benefits exceed projected
251 costs;" and (2) "always monitor projected benefits and costs of all its energy
252 efficiency programs and to only continue to spend ratepayer funds on a program if
253 and when projected benefits exceed projected costs." (ICC Staff Ex. 2.0 at Lns.
254 322-334.) Yet, Ameren Illinois already does this. During the planning process,
255 Ameren Illinois chooses programs and measures that are believed will yield a
256 portfolio with net-benefits to ratepayers. The total portfolio is subjected to the
257 TRC test, which informs whether the planned portfolio is cost effective. During
258 the implementation process, programs and measures are analyzed to ensure they
259 are meeting intended objectives, and in preparation for the next year, the entire

260 portfolio is analyzed to determine whether changes must be made. So, other than
261 Staff's recommendation that the Commission order Ameren Illinois to blindly
262 follow TRC test results – which according to Staff should be calculated at
263 unknown intervals for an undefined period of time and to the exclusion of every
264 other factor – it is unclear what else Staff is asking the Commission to order
265 Ameren Illinois to do.

266 **Q. Has Staff provided any clarifications as to its recommendations?**

267 A. No. If anything, Staff has added to the confusion with its responses to data
268 requests. While Ameren Illinois asked Staff to specifically identify what it meant
269 by its recommendations, Staff responded that it “does not currently have a
270 specific position regarding how Ameren Illinois should monitor the cost
271 effectiveness of these changes in various markets or other program related
272 factors....Staff's analysis and investigation of this issue is on-going.” Ameren
273 Ex. 4.1 (ICC Staff Resp. to AIC-ICC 1.15). Additionally, when asked what it
274 means to “always” monitor projected benefits, Staff again stated that it “does not
275 currently have a specific position regarding exactly how Ameren Illinois should
276 always monitor the programs, but the Company should at a minimum review
277 information as it becomes available and continually assess whether the programs
278 are meeting their stated objectives and providing net benefits. . . . Staff's analysis
279 and investigation of this issue is ongoing.” Ameren Ex. 4.1 (ICC Staff Resp. to
280 AIC-ICC 1.17). But as noted above, Ameren Illinois already reviews information
281 as it becomes available and does continually assess its programs.

282 **Q. Why would Staff's recommendations result in a regulatory environment that**
283 **would significantly discourage the implementation of new or breakthrough**
284 **technology programs?**

285 A. Energy Efficiency is constantly changing due to new or breakthrough technology,
286 and utilities are allowed by law to dedicate a portion of ratepayer funds to the
287 demonstration of breakthrough equipment and devices. However, nearly every
288 program fails the TRC test immediately upon launch because of program start-up
289 costs. Additionally, programs or measures that would pilot new or breakthrough
290 technology are assumed to not be cost effective beyond start-up, at least not until
291 further data is collected and analyzed on actual achieved savings. If Staff's
292 recommendation is adopted, and TRC test results become the sole consideration
293 during a prudence review, then the risk of disallowance associated with new
294 programs and technologies could lead Ameren Illinois to end all pilot programs.

295 **Q. Do you believe the Commission should accept Staff's proposed disallowance**
296 **and policy recommendations?**

297 I do not. First, it is inappropriate and improper procedure for new policy to be
298 recommended during mid-cycle of a 3-year plan that was approved by the
299 Commission. The utilities file 3-year energy efficiency plans on a tri-annual basis
300 and that planning docket is where policy, such as the application of portfolio level
301 TRC, has been and should continue to be determined, thereby providing
302 Commission-guidance on how Ameren Illinois should proceed to implement the
303 approved plan. The SB HVAC Program, which passed the TRC test at the
304 planning stage, was submitted, reviewed and approved by the Commission during

305 the initial plan approval stage. The Commission should reject mid-cycle reversals
306 of policy or recommendations of new policy that would negate the Commission's
307 prior directives and fundamentally change the implementation framework set up
308 by the Commission. Furthermore, it would be unfair to penalize Ameren Illinois
309 by retrospectively disallowing costs based on applying TRC test results at a
310 program level after the Commission has repeatedly rejected that policy decision in
311 the past. Staff's recommendations, if accepted, would also harm the future of
312 energy efficiency program planning and implementation by placing an
313 overemphasis on a mechanical calculation and an unnecessary level of
314 disallowance risk on Ameren Illinois at a time when energy efficiency programs
315 should be explored and expanded, not contracted.

316 **C. Ordered Reconciliation Adjustment**

317 **Q. Staff has raised questions as to whether the Company had yet reflected an**
318 **Ordered Reconciliation Adjustment ("ORA") contained in the Final Order**
319 **entered in Docket No. 09-0535. How do you respond?**

320 A. I agree that the Final Order in Docket No. 09-0535 contained an ORA of \$8,754
321 to be refunded to customers upon the Company's next filing. However, the
322 Company explained to Staff in a conversation with Mr. Tolsdorf after its Direct
323 Testimony filing, Ameren Illinois applied this ORA in its PY 3 reconciliation
324 filing (filed June 2011), even though the Final Order was not issued until
325 September 2011. Therefore, while the ORA was not explicitly referenced in the
326 reconciliation filing in this docket, Ameren Illinois has, in fact, complied with the
327 Final Order.

328 **IV. CONCLUSION**

329 **Q. Does this conclude your Rebuttal Testimony?**

330 **A. Yes, it does.**