

ILLINOIS COMMERCE COMMISSION

DOCKET No. 11-0341

SURREBUTTAL TESTIMONY

OF

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Submitted On Behalf

Of

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

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22 **Q. Will you be sponsoring any exhibits with your Surrebuttal Testimony?**

23 A. Yes. Ameren Exhibit 6.1 reflects a compilation of certain data request responses
24 provided by Staff in this docket.

25 **Q. How is your Surrebuttal Testimony organized?**

26 A. After providing a summary of the testimony to which I am replying, I then
27 address certain points raised by the witnesses.

28 **Q. Do you address every issue raised by Staff in its Rebuttal Testimony and by
29 CUB 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 in this proceeding should not be construed as an endorsement or criticism of that
32 statement or position.

33 **II. SURREBUTTAL TOPICS**

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

35 A. In her Direct Testimony (CUB Exhibit 1.0), Ms. Devens expressly disagrees with
36 Staff's recommendations that the Commission: (1) disallow the costs of the Small
37 Business HVAC Program, and (2) direct Ameren Illinois "to only continue to spend
38 ratepayer funds on a program if and when projected benefits exceed projected costs."
39 CUB Exhibit 1.0 at 3:32-38 (citing Staff Exhibit 2.0 at 4:61-70, 19:330-34). In doing so,
40 Ms. Devens states that:

41 Ms. Hinman's recommendations, if adopted by the Commission,
42 would conflict with existing statutory and regulatory policy on
43 cost-effectiveness criteria for energy efficiency programs [and]
44 could also hinder the success of Illinois's energy efficiency

45 programs as envisioned by the legislature, and prevent ratepayers
46 from realizing the economic and societal benefits of energy
47 efficiency. Therefore, I recommend the Commission reject her
48 recommendations.

49 CUB Exhibit 1.0 at 3:39-44.

50 Ms. Devens also explains that the TRC test should be applied at the portfolio level, as
51 opposed to the measure level. CUB Exhibit 1.0 at 7:118-41. She notes that using the
52 TRC test at the portfolio level is also consistent with the Public Utilities Act. CUB
53 Exhibit 1.0 at 6:95-106.

54 Ms. Devens also discusses how the Commission has addressed the use of the TRC
55 test in other dockets, and that the Commission has emphasized the importance of utility
56 discretion. CUB Exhibit 1.0 at 8:142-161. Ms. Devens believes that the Commission's
57 emphasis on utility discretion in the planning stages is relevant to this docket because it
58 illustrates Commission policy in similar situations. CUB Exhibit 1.0 at 8:157-59. Ms.
59 Devens believes Staff's recommendation to disallow SB HVAC Program costs
60 "contradicts existing Commission policy granting Ameren Illinois discretion to modify
61 programs as the Company sees fit" and "Commission policy requiring programs to pass
62 the TRC only at the portfolio level." CUB Exhibit 1.0 at 12:240-47.

63 **Q. How do you respond to Ms. Devens' testimony?**

64 A. I commend Ms. Devens for providing testimony on these important issues and
65 note that Ms. Devens also agrees with many of the points made by Ameren Illinois
66 witnesses (Dr. Chamberlin and me). CUB Exhibit 1.0 at 5:74-78. I also support her
67 recommendation that the Commission reject Staff's proposed disallowance and policy
68 recommendations.

69 **Q. Please summarize the Staff Rebuttal Testimony to which you are responding.**

70 A. In her Rebuttal Testimony (Staff Exhibit 4.0), Staff witness Ms. Hinman
71 continues to recommend a disallowance of all Plan Year (“PY”) 2 costs incurred when
72 implementing the Small Business (SB) HVAC Program and recovered through Rider
73 GER for PY 2. Ms. Hinman has adjusted her proposed disallowance downward from
74 \$131,771 to \$119,550 to exclude those SB HVAC implementation costs incurred in PY 1,
75 which she acknowledges were not imprudently incurred. Ms. Hinman now bases her
76 proposal on a position that Ameren Illinois acted unreasonably simply because the
77 Company continued the SB HVAC program in PY 2 in light of information that Ms.
78 Hinman believes should have made clear to the Company that the SB HVAC Program
79 should have instead been discontinued. Ms. Hinman also withdraws her policy
80 recommendation, opposed by both the Company and CUB, that the “Commission make a
81 policy decision in this case and direct that the Company should always monitor projected
82 benefits and costs of all of its energy efficiency programs and to only continue to spend
83 ratepayer funds on a program if and when projected benefits exceed projected costs.”¹
84 Staff Exhibit 4.0 at 21:475-79. Finally, there are other statements or implications in
85 Staff’s Rebuttal Testimony that require correction, including that the Company: (1)
86 should apply the Total Resource Cost (“TRC”) test at the measure level, instead of the
87 portfolio level; (2) “mischaracterized” her testimony; and (3) did not provide certain

¹ When doing so, Ms. Hinman identifies a possible exception to this now withdrawn “policy.” This exemplifies how difficult it can be to identify the “policy” that will be applied during the Commission’s prudence review and why it is unfair to seek disallowance based on “standards” and “policies” (as well as exceptions) identified years after the reconciliation period at issue.

88 information to the Commission regarding gas furnace tune-up activities and the planned
89 savings attributed to them. I address each of these points, in turn, below.

90 **A. Staff's Adjusted Proposed Disallowance**

91 **Q. Has Ms. Hinman's testimony persuaded you to agree with Staff's adjusted**
92 **proposed disallowance of the PY 2 costs incurred in connection with implementing**
93 **the SB HVAC Program?**

94 A. No. I do not agree with Staff's adjusted proposed disallowance for the same
95 reasons I disagreed with Staff's original proposed disallowance in my Rebuttal
96 Testimony (Ameren Exhibit 4.0). I still believe that it would be fundamentally unfair to
97 disallow the costs associated with the SB HVAC Program because of the gas furnace
98 tune-up activities, which I believe were prudently incurred.

99 **Q. Staff now states that it does not base its adjusted disallowance on the fact**
100 **that the SB HVAC Program had a TRC value that was less than 1.0, but rather**
101 **because the Company chose to continue the SB HVAC Program, and gas furnace**
102 **tune-ups particularly, in the face of a projected TRC value that was less than 1.0.**
103 **How do you respond?**

104 A. Staff's rebuttal position rests on the same premise and evidence as the position set
105 forth on direct, namely that a TRC value, whether calculated ex post or ex ante, should
106 dictate the decision to continue a program without consideration of other factors. For the
107 reasons set forth in Dr. Chamberlin's testimony (Ameren Exhibit 5.0), as well as my
108 testimony, TRC values – which I understand can fluctuate widely depending on the

109 inputs used and the time they are calculated – should be a consideration, but not the
110 driving force of such decisions. CUB appears to agree with this position.

111 **Q. Staff states that ratepayers have been harmed by the Company’s offering of**
112 **the SB HVAC Program, particularly gas furnace tune-ups, to small business**
113 **customers. Do you agree?**

114 A. No. I note that Staff has not identified a specific harm to “ratepayers” other than
115 the fact that small business customers had to incur the costs associated with offering the
116 gas furnace tune-ups to them. Ameren Exhibit 6.1, Staff Resp. to AIC-ICC 2.1. This
117 should not be considered a "harm" because, while I am not a lawyer, I believe the costs of
118 trying to develop the energy efficiency market and provide energy efficiency programs
119 across diverse customer classes is consistent with the Public Utilities Act and was
120 approved by the Commission in ICC Docket No. 08-0104 (the three year gas planning
121 docket). Also, small businesses benefited from, and were not harmed by, money being
122 spent on developing energy efficiency programs that worked with program allies to
123 penetrate the small business market and increase awareness and participation in energy
124 efficiency programs. I believe it is good policy to try to develop a robust energy
125 efficiency portfolio in order to achieve market transformation in this regard.

126 Additionally, as noted in previous testimony filed by the Company and CUB, the
127 Commission has provided direction that calculation of TRC values is done at the
128 *portfolio* and not measure level. For example, see ICC Docket No. 07-0539, Final Order
129 at 21. It would be unfair to find that the Company "harmed" ratepayers because it
130 followed the Commission's direction.

131 **Q. Staff also asserts that the Company failed to appropriately adjust or**
132 **discontinue the SB HVAC Program in PY 2 in light of the Company's program**
133 **implementer's projected TRC values for the gas furnace tune-up activities. How**
134 **you do respond?**

135 A. First, I do not agree with Staff's characterization of what occurred. PY 2
136 represented the first full year implementation of the Company's voluntary gas energy
137 efficiency portfolio. As such, it was in its initial stages, and the SB HVAC Program had
138 started only months earlier during a period of the year that customers do not traditionally
139 seek furnace tune-ups. As noted in prior testimony, the Company's implementer did not
140 just provide a single TRC value, projected or otherwise. The implementer provided
141 multiple interim TRC values (that at times trended upwards), as well as updated
142 recommendations on how to modify certain programs based on a variety of factors. In
143 October 2009, the Company's implementer provided an interim TRC value for SB HVAC
144 tune-ups for the gas program that was higher than values previously reported, though it
145 still reflected a high-level of costs and, due to the timing of the calculation, a low level of
146 benefits.² Importantly, the implementer did not recommend pulling the plug on the
147 Program, but rather recommended modifying it to include further outreach to program
148 allies and the small business community. As part of these outreach activities, the
149 implementer suggested increasing the incentives for HVAC tune-ups and bundling them
150 with other outreach activities. The goal of these outreach activities was to penetrate the
151 hard to reach and underserved small business market so that Ameren Illinois could

² I understand that the TRC values calculated by the implementer only included gas benefits. While I am not a lawyer, I understand that the current definition of the TRC test as set forth by the Public Utilities Act requires the Company to include both electric and gas benefits when calculating TRC values.

152 hopefully develop, early in its portfolio, a robust customer awareness of (and
153 participation in) energy efficiency programs. As noted above, such development of the
154 market and increase in customer awareness and participation were important aspects of
155 Ameren Illinois' energy efficiency portfolio. Additionally, the implementer noted that
156 with the modifications to the SB HVAC Program as set forth in the updated
157 recommendation, the Program was expected "to yield a TRC" that was greater than 1.
158 See Staff Exhibit 4.2 at 5. Cutting short the SB HVAC in light of such information
159 would have meant disregarding the implementer's recommendations to continue the
160 Program with modifications and would have meant cutting short Ameren Illinois' attempt
161 to penetrate the small business market at a time in the year when customers traditionally
162 seek services relating to gas furnaces. The Company's decision to follow the
163 implementer's recommendation demonstrates prudence, not imprudence.

164 **Q. Does Staff agree that the TRC value represents only one factor to consider**
165 **when determining whether to continue the SB HVAC Program?**

166 A. Yes, though Staff does not identify what other factors should be considered. Staff
167 Exhibit. 4.0 at 22:487-92; Ameren Exhibit 6.1, Staff Resp. to AIC-ICC 1.6. This lack of
168 clarity also exemplifies why the Company has a concern with injecting policy
169 recommendations into dockets such as this one instead of resolving policy considerations
170 during the three year planning docket.

171 **Q. In its Rebuttal Testimony, does Staff appear to take issue with the entirety of**
172 **the SB HVAC Program?**

173 A. No. Staff has taken issue with only one portion of the SB HVAC Program,
174 activities relating to gas furnace tune-ups, even though Staff proposes to disallow the
175 entirety of the SB HVAC Program costs.

176 Staff specifically takes issue with how the Company, in light of interim TRC
177 values being less than 1, followed the recommendation of the implementers and began
178 "bundling" the gas furnace tune-ups with other SB HVAC activities, like those related to
179 AC tune-ups and the installation of "Smart" thermostats. ICC Staff Exhibit 4.0 at 459-
180 465. Staff also takes issue with how the Company followed the implementer's
181 recommendation to combine tune-up activities with other aspects of the SB HVAC
182 Program. Staff Exhibit 4.0 11: 110-115. But as explained in my testimony, in addition to
183 trying to increase the TRC value of the SB HVAC Program, these activities were aimed
184 to increase awareness and participation of both program allies and ratepayers in small
185 business energy efficiency.

186 **Q. Are there other policy objectives that justified continuing the SB HVAC**
187 **program?**

188 A. Yes. Dr. Chamberlin addresses these in his Rebuttal Testimony. Ameren Exhibit
189 5.0. I believe Dr. Chamberlin's testimony to be persuasive and note that CUB appears to
190 agree.

191 **B. Staff's Policy Recommendation**

192 **Q. Do you support Staff's withdrawal of its policy recommendation that the**
193 **Company monitor projected benefits and costs, and only continue a program if**
194 **projected benefits exceed projected costs? (Staff Exhibit 4.0 at 23:534-36)**

195 A. Yes. As noted by both CUB and the Company, Staff's monitoring
196 recommendation is inconsistent with the Commission's prior findings and I believe it
197 would add unnecessary expense to ratepayers and would be detrimental to the
198 development of energy efficiency in Illinois, if adopted.

199 **Q. Do you have anything further to add on this point?**

200 A. Yes. Even though Staff has withdrawn its broad policy recommendation, I
201 believe that if Staff's proposed disallowance is approved, it would send a clear signal to
202 utilities that activities, and particularly measures, that have a negative TRC value at some
203 point during a plan year should be discontinued regardless of whether they serve
204 purposes other than simply yielding short term benefits (as opposed to long term benefits
205 like penetrating underserved markets and developing a robust energy efficiency
206 portfolio). I believe such a decision would establish bad policy. I also believe such
207 policy issues should be resolved in the three year planning dockets and not through
208 retrospective review in dockets like this one, which I believe should be focused on the
209 reconciliation of costs incurred with revenues collected for PY 2.

210 C. Other Issues Raised By Staff

211 1. Level at Which to Measure Cost Effectiveness

212 Q. Do you agree that Ameren Illinois is using portfolio level cost effectiveness as
213 “a defense”? (Staff Exhibit 4.0 at 5:99-100)

214 A. No. The Company's reference to measuring TRC at the portfolio level is not a
215 defense to anything, but rather a statement of what the Company, and apparently CUB,
216 believes is the Commission-approved policy with respect to how TRC values should be
217 viewed during implementation.

218 Q. Why does the Company measure cost effectiveness at the portfolio level?

219 A. First, the Commission has repeatedly approved this approach. Second, in his
220 Rebuttal Testimony, Dr. Chamberlin identifies a number of reasons why evaluating cost
221 effectiveness at the Company's portfolio level is more appropriate than doing so at the
222 program or measure level. See Ameren Exhibit 5.0 at 7:138-13:287.

223 Q. Ms. Hinman cites to two “best practices” documents in her testimony. Do
224 those documents address a recommended level at which to apply the TRC test?

225 A. Yes. While Staff remains focused on measure level TRC values of gas furnace
226 tune-ups, the two “best practices” documents that Ms. Hinman cites actually recommend
227 against applying the TRC test at the measure level.³ To be clear, I am not citing to these

³ See Staff Ex. 4.0 at 13, fns. 5-6 (“2012 Best Practices Survey” at 55 (“Screening at the measure level is the most restrictive application of the cost-effectiveness tests, and can create a barrier to greater savings levels.”); 56 (“Evaluating cost-effectiveness at the portfolio level means that all of the programs taken together must be cost-effective, but individual programs can be positive or negative. This is the most flexible application of cost-effectiveness testing, as program administrators have the ability to experiment with different strategies and technologies that may not be immediately cost-effective or require further testing, such as pilot programs, market transformation programs, or emerging technologies.”); 57 (“Energy efficiency programs should not be screened at the measure level, because this is overly restrictive and

228 2012 documents to make an affirmative point, but merely to show that Staff's position
229 that the Company should have acted in a particular way in light of interim TRC values on
230 a measure level is not considered "best practices" by the very literature Staff cites and
231 relies on.

232 **Q. Do you agree that Ameren Illinois failed to follow Commission guidance on**
233 **the use of cost-effectiveness testing from the GEE Plan Order in ICC Docket No. 08-**
234 **0104? (Staff Exhibit 4.0 at 10:238-39)**

235 A. No, I do not agree. First of all, Staff mis-cites the GEE Plan Order in her Rebuttal
236 Testimony and when responding to a data request issued by the Company on this point.
237 See Ameren Exhibit 6.1 at Staff Resp. to AIC-ICC 2.7. While I am not a lawyer, it seems
238 that Staff quotes language from the Order about Ameren Illinois' position in ICC Docket
239 08-0104, not what the Commission actually found or ordered. Staff Exhibit 4.0 at
240 10:225-29. Ms. Hinman also fails to note a section of the Order that contradicts her
241 position that the Company was somehow only granted flexibility for the purpose of
242 increasing cost effectiveness:

243 Once the programs have been rolled out, AIU says it will
244 retain flexibility to modify them as circumstances warrant.
245 AIU believes this is consistent with the Commission's
246 Order in Docket No. 07-0539, which recognized that
247 flexibility is key to the success of energy efficiency
248 programs.

(continued...)

ignores the important interactions between measures, especially the fact that some measures that might not be cost-effective on their own but might nonetheless have important benefits in terms of encouraging customers to participate in programs or adopt other measures."); see also "ACEE 2012 Study" at 36.

249 GEE Plan Order at 18. Thus, Ameren Illinois' position in Docket 08-0104 is consistent
250 with that in this docket and the Commission did not approve utility flexibility only to
251 increase cost-effectiveness of the Company's portfolio. I note that CUB agrees with
252 Ameren Illinois on this point as well.

253 2. Characterization of Staff's Testimony

254 **Q. Do you agree that Ameren Illinois mischaracterized Staff's Rebuttal**
255 **Testimony, as Staff asserts? (Staff Exhibit 4.0 at 5:88-90.)**

256 A. No. Staff's testimony was based exclusively on the premise that Ameren Illinois
257 should have discontinued its SB HVAC Program because it "knew" that the SB HVAC
258 Program was not cost-effective (based on interim TRC values that were calculated not by
259 Staff or the Company) and was projected to remain so. Staff's current position, while
260 worded slightly differently, remains premised on the same notion. I also note that CUB,
261 which is often not on the same side of issues as the utilities, agreed with the Company's
262 interpretation of Staff's testimony, provided testimony against Staff's recommendations
263 that were similar to the Company's, and also urges the Commission to reject Staff's
264 recommendations in this docket.

265 **Q. Do you agree with Ms. Hinman that it is inappropriate for the Company to**
266 **assert that a disallowance of the SB HVAC costs would be "fundamentally unfair"?**
267 **(Staff Exhibit 4.0 at 10:230-239.)**

268 A. No, I do not. The Company followed Commission direction and acted prudently
269 and reasonably when it implemented the SB HVAC Program, including the activities
270 related to gas furnace tune-ups. Staff's proposed disallowance is unfair for the reasons set

271 forth in my testimony, Dr. Chamberlin's testimony, and CUB's testimony. I would also
272 note that the Company has sought to understand the bases of Staff's disallowance in this
273 docket through a series of data requests, including guidance on when and how Staff
274 contends the Company should have calculated and used TRC test results (as Staff points
275 to different values calculated at different times), but unfortunately the Company still does
276 not have a good understanding of this issue. See Ameren Exhibit 6.1, Staff Resp. to AIC-
277 ICC 1.6; 1.9; 1.14-1.15; 1.17; 2.8-2.9; 2.11-12; 2.13-2.14.

278 3. Information Regarding Gas Furnace "Tune-Ups" in the SB HVAC
279 Program

280 **Q. Do you believe that Ameren Illinois failed to inform the Commission of the**
281 **gas furnace tune-up activities and the savings attributable to them? (Staff Exhibit**
282 **4.0 at 14:332-33)**

283 A. No, I do not. The Company identified for the Commission the "weighted Gas
284 TRC" values for the SB HVAC Program. Docket No. 08-0104, Ameren Exhibit 1.1, p.
285 B-2. Ameren Illinois also explained that the tune-up activities were a part of the SB
286 HVAC Program (and as such would require ratepayer funds to implement) and the
287 Company did not attribute savings to those activities. Docket No. 08-0104, Ameren
288 Exhibit. 1.1, p. 39; 52-54; and p. B-4. However, despite reviewing this information for
289 the Plan filing in Docket No. 08-0104, Staff only took issue with the griddles and spray
290 valve measures proposed by the Company – Staff did not take issue with the Company's
291 identification of the tune-up activities or the fact that no savings were attributed to them.
292 It was not unreasonable for the Company to understand that the Commission had

293 reviewed the tune-up activities of the SB HVAC Program and had approved it without
294 attributable savings.

295 **III. CONCLUSION**

296 **Q. Do you believe the Company acted reasonably and prudently with respect to**
297 **the gas furnace tune-up activities in the SB HVAC Program?**

298 A. I do. The Company was reasonable and prudent when it incurred the costs
299 associated with SB HVAC Program, including those related to gas furnace tune-up
300 activities and acted in a manner consistent with the Company's understanding of the
301 Commission's Final Orders, and good policy.

302 **Q. Does this conclude your Surrebuttal Testimony?**

303 A. Yes, it does.