

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	Docket No. 11-0341
v.)	
)	
Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	
Reconciliation of Revenues Collected)	
Under Riders EDR and GDR)	

**REVISED REBUTTAL TESTIMONY OF REBECCA DEVENS
ON BEHALF OF
THE CITIZENS UTILITY BOARD**

CUB Exhibit 1.0 Revised

October 9, 2012 Originally Filed

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1 **I. INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. My name is Rebecca Devens. My business address is 309 W. Washington, Suite 800,
5 Chicago, IL 60606.

6

7 **Q. What is your present occupation?**

8 A. I am a Policy Analyst for the Citizens Utility Board (“CUB”), where I have been
9 employed since 2008.

10

11 **Q. Please summarize your role at CUB.**

12 A. I research and evaluate state and federal legislative and regulatory proposals relating to
13 electricity, natural gas and telecommunications issues. I also review the impact of
14 legislative and regulatory proposals on Illinois consumers, and represent CUB at policy-
15 related meetings before the Illinois Commerce Commission (“ICC” or “Commission”). I
16 represent CUB in the Stakeholder Advisory Group (“SAG”), the collaborative group that
17 monitors utility implementation of energy efficiency and demand response programs, and
18 I review utility plans and evaluation reports for compliance with the Energy Efficiency
19 and Demand Response Portfolio Standards mandated in the Public Utilities Act (“PUA”).

20

21 **Q. Please describe your educational background.**

22 A. I graduated with honors from the University of Illinois at Urbana-Champaign with a
23 Bachelors degree in English.

24 **Q. Have you previously presented testimony before the Illinois Commerce**
25 **Commission?**

26 A. Yes, I have previously presented testimony before the Commission in ICC Docket No.
27 10-0567, regarding reconciliation of Nicor Gas's Rider 29 energy efficiency programs, as
28 well as in ICC Docket No. 11-0547, regarding the evaluation of Ameren Illinois
29 Company's ("Ameren" or the "Company") Residential Real-Time Pricing program.

30

31 **Q. What is the purpose of your testimony?**

32 A. I am responding to the recommendations made by ICC Staff Witness Jennifer Hinman in
33 ICC Staff ("Staff") Exhibit 2.0:

- 34 • That the Commission should disallow the costs of the Small Business HVAC
35 Program ("SB HVAC Program"). Staff Exhibit 2.0 at 4:61-70.
- 36 • That the Commission should direct Ameren to "to only continue to spend
37 ratepayer funds on a program if and when projected benefits exceed projected
38 costs." Staff Exhibit 2.0 at 19:330-334.

39 Ms. Hinman's recommendations, if adopted by the Commission, would conflict with
40 existing statutory and regulatory policy on cost-effectiveness criteria for energy
41 efficiency programs. They could also hinder the success of Illinois's energy efficiency
42 programs as envisioned by the legislature, and prevent ratepayers from realizing the
43 economic and societal benefits of energy efficiency. Therefore, I recommend the
44 Commission reject her recommendations.

45

46

47 **Q. What issues are under examination in this docket?**

48 A. This docket is a reconciliation of expenses under Riders EDR, Energy Efficiency and
49 Demand-Response Cost Recovery (“Rider EDR”), and Rider GER, Gas Energy
50 Efficiency Cost Recovery (“Rider GER”). Rider EDR is the cost recovery mechanism
51 for Ameren’s statutorily mandated electric Energy Efficiency and Demand-Response
52 Portfolio Standards (“EEPS”) programs. This reconciliation proceeding, which is
53 required by the PUA, is for the second year of the programs (“PY 2”), which ran from
54 June 2009-May 2010. 220 ILCS 5/8-103(e). Under Rider GER, Ameren recovered costs
55 for the Gas Energy Efficiency programs that resulted from the Final Order in ICC Docket
56 No. 08-0104. The second reconciliation period for Rider GER is also from June 2009-
57 May 2010. Ameren Exhibit 1.0 at 2:24-27.

58
59 **Q. Is this reconciliation for two types of programs?**

60 A. Yes. The Rider EDR programs are the programs Ameren implemented in response to the
61 2007 statutory mandate regarding electric energy efficiency programs, and the Rider
62 GER programs are the gas energy efficiency programs Ameren implemented on its own
63 which were approved by the ICC in Docket No. 08-0104.

64
65 **Q. How did Ameren come to be reconciling expenses for two distinct energy efficiency
66 programs in this docket?**

67 A. Ameren recommended that the Rider GER programs share a reconciliation period with
68 the EEPS programs to increase efficiencies in the review processes, and the Commission
69 agreed. Final Order in 08-0104 at 21-22 (October 15, 2008).

70 **Q. What materials did you review in preparation for your testimony?**

71 A. I have reviewed Ameren's direct and rebuttal testimony in this docket, as well as the
72 testimony of ICC Staff and discovery in this case.

73

74 **Q. What is your opinion of Ameren's testimony?**

75 A. While I agree with many of the assertions related to determining the cost-effectiveness of
76 energy efficiency programs made by both Mr. Woolcutt and Dr. Chamberlin, as a
77 representative of a consumer advocacy organization and a stakeholder in the SAG
78 process, I felt that it was important to add my own testimony to this proceeding.

79

80 **Q. How is your testimony organized?**

81 A. I review the existing state and regulatory policy on cost-effectiveness criteria for energy
82 efficiency programs, including any differences in requirements between the Rider EDR
83 and Rider GER programs, and address Ms. Hinman's use of the SB HVAC program as a
84 rationale for instituting sweeping policy changes which would impact the cost-
85 effectiveness requirements for the EEPSgas and electric programs. Regarding the two
86 recommendations made by Ms. Hinman that have broad policy implications, I explain
87 how they conflict with existing state policy, why this prudency review is an inappropriate
88 venue for litigating such sweeping and impactful issues, and why the ramifications of her
89 recommendations would be injurious to ratepayers.

90

91

92

93 **II. EXPENSES FOR THE SB HVAC PROGRAM SHOULD NOT BE DISALLOWED**

94

95 **Q. What is the cost-effectiveness standard for energy efficiency programs in Illinois?**

96 A. While I am not an attorney, I believe that the cost-effectiveness standard in Illinois is the

97 Total Resource Cost (“TRC”) test. The Illinois Power Agency (“IPA”) Act defines the

98 TRC test as “a standard that is met if, for an investment in energy efficiency or demand-

99 response measures, the benefit-cost ratio is greater than one.” 20 ILCS 3855/1-10. The

100 PUA defines "cost-effective" energy efficiency measures as measures that “satisfy the

101 total resource cost test,” and requires utilities to “demonstrate” that the “overall portfolio

102 of energy efficiency and demand-response measures... are cost-effective using the total

103 resource cost test and represent a diverse cross-section of opportunities for customers of

104 all rate classes to participate in the programs.” 220 ILCS 5/8-103(a) and 220 ILCS 5/8-

105 103(f)(5). Of note is the PUA’s specification that the “overall portfolio” of measures

106 must be cost-effective, not individual measures.

107

108 **Q. Does the PUA further address the cost-effectiveness of the overall portfolio of**
109 **energy efficiency measures?**

110 A. Yes. Utilities are required to provide an annual independent evaluation “of the

111 performance of the cost-effectiveness of the utility's portfolio of measures... as well as a

112 full review of the 3-year results of the broader net program impacts and, to the extent

113 practical, for adjustment of the measures on a going-forward basis as a result of the

114 evaluations.” 220 ILCS 5/8-103(f)(7). Essentially, annual evaluations of the EEPS

115 programs determine whether utilities met savings targets under the statutory criteria,
116 including the cost-effectiveness requirement.

117

118 **Q. Has the Commission issued orders related to the application or use of the TRC test?**

119 A. Yes. In Ameren's first three year electric energy efficiency plan filing, ICC Docket No.
120 07-0539, the Commission specified, in keeping with the PUA, that the TRC should be
121 applied at the portfolio level, as opposed to at the measure level. Final Order in Docket
122 No. 07-0539 at 21 (February 6, 2008).

123

124 **Q. Did the Commission provide an explanation as to why the TRC test should be**
125 **applied at the portfolio level and not at the measure level?**

126 A. Yes. In the Final Order, the Commission stated:

127 "Calculation of the total resource cost test at the portfolio level provides
128 utilities with greater flexibility to ensure that measures with less short-
129 term energy savings value, but greater value over several years, will be
130 included in any overall portfolio of measures and programs. This
131 contention is reasonable and it is hereby approved. However, the utilities
132 and DCEO are not precluded from applying the TRC test at the
133 —measure or program level, if they so choose." Final Order in 07-0539 at
134 21.

135

136 **Q. Do you agree with the Commission's conclusions?**

137 A. Yes. I agree that utilities need flexibility in implementing a suite of energy efficiency
138 programs for multiple customer classes. As the Commission stated, applying the TRC
139 test at the portfolio level insures that utilities do not have a bias towards measures that
140 only generate savings in the current program year, but instead are able to offer a mix of
141 programs, including measures with long lifetimes.

142 **Q. Has the Commission addressed the application of the TRC test to Ameren’s**
143 **programs in subsequent dockets?**

144 A. Yes. The Commission discusses the TRC test in relation to the Rider GER programs in
145 ICC Docket No. 08-0104. Final Order in ICC Docket No. 08-0401 at 7-11, 13-14, and
146 16-17. In that case, the only conclusion the Commission reached was that Ameren’s
147 overall TRC test result for the entire portfolio of Rider GER programs was 2.35. *Id.* at
148 17. The Commission determined again in Ameren’s second three year energy efficiency
149 plan filing for electric and gas programs that the TRC should be applied at the portfolio
150 level, and not the measure level, for evaluation purposes. Final Order in ICC Docket No.
151 10-0568 at 30 (December 21, 2010). The Commission also made determinations around
152 the use of the TRC in evaluations that may provide context for some of the policy
153 questions under discussion in this docket. The Commission stated that it is “necessary to
154 ensure that Ameren not be penalized for planning assumptions that turn out to be
155 inaccurate,” and also declined to” micromanage Ameren Illinois by ordering it to allocate
156 more or less money to individual programs that Intervenors’ claim are more cost-
157 effective.” *Id.* I think the Commission’s emphasis on utility discretion in the program
158 planning stages has relevancy to this docket because it illustrates Commission policy in
159 other cases with similar issues. The Commission clearly felt that it was the responsibility
160 of Ameren to select and manage the portfolio of measures and programs it would
161 implement in the next few program years.

162

163

164

165 **Q. Do you support the Commission’s finding that the Company should have discretion**
166 **to select individual measures and the overall portfolio of programs in the planning**
167 **stages, and should not be penalized for planning assumptions that turn out to be**
168 **inaccurate?**

169 A. Yes. As an overarching principle related to the Commission’s oversight of utility
170 energy efficiency programs, I believe utilities should have this discretion. And
171 though I am not an attorney, I believe the PUA created the proper incentives to
172 ensure that utilities are motivated to achieve the savings targets through the
173 provision of cost-effective energy efficiency programs by establishing financial
174 penalties if the utilities fail to meet the savings targets. 220 ILCS 5/8-103(i).

175
176 **Q. Do the Rider EDR and GER programs share the same cost-effectiveness criteria?**

177 A. Nothing in previous Commission orders leads me to believe that the Commission did not
178 envision the Rider GER programs would share the same cost-effectiveness criteria as the
179 Rider EDR programs. The cost-effectiveness criteria in the Final Order in 08-0104 are
180 less defined in the Final Order than in the PUA, which governs the EEPS programs.
181 Because this prudency review includes discussion of cost-effectiveness requirements
182 that could set important precedents for other EEPS cases, I believe the Commission
183 should adhere as closely as possible to the EEPS cost-effectiveness criteria for the Rider
184 GER programs. Consistency across programs and regulatory requirements is an
185 important goal for the state, and I think that was the intention of the Commission in
186 allowing the joint prudency review of the two programs

187

188 **Q. Do the Rider EDR and GER programs share the same evaluation methodology?**

189 A. Though I am not an attorney, I believe that they do. The Final Order in 08-0104 states
190 that Ameren's preference is for a single Evaluation, Measurement, and Verification
191 ("EM&V") contractor for both its natural gas and electric energy efficiency programs,
192 and that since it "expects to utilize a master EM&V contractor to support electric energy
193 efficiency programs, AIU will include consideration of the evaluation of natural gas
194 energy efficiency programs in tandem with electric EM&V development." Final Order in
195 08-0104 at 18. The Commission agreed with this approach and Ameren's recommended
196 language. *Id.*

197
198 **Q. Does anything else in the Final Order approving the Rider GER programs address**
199 **utility discretion?**

200 A. Yes. As in 10-0568, the Commission is explicit that Ameren should have discretion to
201 modify programs as the utility believes is warranted:

202
203 "Once the programs have been rolled out, AIU says it will retain
204 flexibility to modify them as circumstances warrant. AIU believes this is
205 consistent with the Commission's Order in Docket No. 07-0539, which
206 recognized that flexibility is key to the success of energy efficiency
207 programs. For example, AIU states that the delivery mechanisms,
208 incentive levels and/or types and overall projected load reductions could
209 change as a result of bid proposals from prospective third-party
210 implementers. According to AIU, individual program parameters based on
211 negotiations with third party implementers may also mandate other
212 changes. In AIU's view, flexibility is also necessary to address market risk
213 - the risk that, either because of a poor economic climate or the availability
214 of better investments, customers choose not to participate in energy
215 efficiency programs. The Commission agrees that this approach and
216 recommended language are appropriate." Final Order in 08-0104 at 18.
217

218 **Q. On what basis does Ms. Hinman allege that the costs for the SB HVAC Program**
219 **should be disallowed?**

220 A. Ms. Hinman argues that Ameren spent program funds imprudently on the SB HVAC
221 Program because it failed the TRC in the second year of the program. Staff Exhibit 2.0 at
222 5:88-93. She argues that the current and forecasted TRCs for the program, at 0.08 and
223 0.34 respectively, were “resoundingly insufficient to continue the program.” *Id.* Ms.
224 Hinman adds that “Ameren was provided clear evidence that the SB HVAC Program was
225 not providing net benefits to Illinois ratepayers nor was it forecasted to provide net
226 benefits to Illinois ratepayers.” Staff Exhibit 2.0 at 6:100-102. Ms. Hinman then goes on
227 to provide what she considers further detail about perceived mismanagement in the
228 administration and operation of the SB HVAC program.

229

230 **Q. Is the SB HVAC Program a Rider EDR or GER program?**

231 A. The SB HVAC program resulted from the Final Order in ICC Docket No. 08-0104,
232 which created the Rider GER energy efficiency programs.

233

234 **Q. Does the Final Order in 08-0104 specify whether the TRC should be applied at the**
235 **measure or portfolio level for Rider GER programs?**

236 A. No.

237

238

239 **Q. Should the failure of a measure to pass the TRC while the program is being**
240 **implemented be grounds for disallowance of recovery of costs for the measure?**

241 A. No. Ms. Hinman’s recommendation contradicts existing Commission policy granting
242 Ameren discretion to modify programs as the Company sees fit, as illustrated above in
243 the Final Orders in ICC Docket No. 08-0104 at 18, and ICC Docket No. 10-0568 at 30.
244 Her recommendation also contradicts existing Commission policy requiring programs to
245 pass the TRC only at the portfolio level, and not the measure level, as cited above in the
246 Final Orders in 07-0539 at 21 and 10-0568 at 30.

247

248 **Q. How should the Commission respond to the recommendation that costs for the SB**
249 **HVAC Program be disallowed?**

250 A. The Commission should reject the recommendation in keeping with previous
251 Commission orders specifying that the TRC be applied at the portfolio and not at the
252 measure level, and that utilities have discretion to adjust funding to measures within a
253 portfolio. While the program under dispute is a Rider GER program, this is the first
254 annual reconciliation proceeding for the Rider EDR EEPS programs. State policy has
255 been to allow utilities flexibility in managing individual energy efficiency programs,
256 flexibility that I believe is essential to promoting long-term investments and innovative
257 program design. In a reconciliation proceeding such as this, the TRC should not be used
258 as a basis for disallowance if it falls under 1 for an individual measure.

259

260

261

262

263 **III. THE COMMISSION SHOULD REJECT MS. HINMAN'S POLICY**

264 **RECOMMENDATION TO APPLY THE TRC AT THE MEASURE LEVEL**

265

266 **Q. Does Ms. Hinman make a policy recommendation in this docket related to her**
267 **recommendation that the costs of the SB HVAC Program be disallowed?**

268 A. Yes. Presumably based on the SB HVAC Program's failure to pass the TRC in PY1 and
269 PY2, Ms. Hinman recommends:

270 "The Commission make a policy decision in this case and direct that the
271 Company should always monitor projected benefits and costs of all of its
272 energy efficiency programs and to only continue to spend ratepayer funds
273 on a program if and when projected benefits exceed projected costs." Staff
274 Exhibit 2.0 at 330-334.

275

276 Since I am confident based on my participation in the SAG that the utilities already
277 routinely monitor and publicly report the costs and benefits of their energy efficiency
278 programs, I want to address the second part of her recommendations.

279

280 **Q. What would be the impact of this recommendation?**

281 A. This recommendation would require all individual energy efficiency measures to
282 always pass the TRC. This would contradict the language of the PUA, and the
283 Commission's directives in the final orders in Ameren's first and second energy
284 efficiency three year plan filing. The PUA states that EEPS programs "represent
285 a diverse cross-section of opportunities for customers of all rate classes to
286 participate in," in addition to passing the TRC at the portfolio level. 220 ILCS
287 5/8-103(f)(5). Programs intended for hard to reach customer segments may, in
288 particular, not pass the TRC, particularly in a program's early stages. Some
289 programs require time to become cost-effective, perhaps through customer

290 education or market changes. In the interim, even less cost-effective programs
291 serve an important function by generating awareness of or interest in other
292 programs. Provided the portfolio passes the TRC, the utilities can and should
293 offer them. Finally, a requirement that programs must pass the TRC at the
294 measure level could lead utilities to overemphasize measures that garner short
295 term and perhaps small savings over more comprehensive and long term
296 programs that require time to develop. I believe that the intention of the
297 legislature in requiring the EEPS programs was clear: to encourage the growth of
298 energy efficiency in Illinois. Ms. Hinman's recommendation would hinder the
299 viability of energy efficiency programs, and prevent consumers from reaping the
300 economic and societal benefits.

301

302 **Q. Is this docket appropriate for the litigation of this recommendation?**

303 A. No. The annual prudency review for one program implementer's programs is not the
304 appropriate place to litigate such drastic and sweeping recommendations. Her
305 recommendation would affect the providers of electric energy efficiency programs, as
306 well as program evaluators, and if they are to be addressed at all, they should be
307 addressed on a prospective basis during the utility EEPS planning cycle.

308

309 **Q. How should the Commission respond to this recommendation?**

310 A. The Commission should reject this recommendation because it counters the language of
311 the PUA, contradicts previous Commission policy, and could prevent Illinois consumers

312 from realizing the economic and societal benefits of cost-effective energy efficiency
313 programs.

314

315 **CONCLUSION**

316

317 **Q. How do you recommend the Commission respond to Staff's recommendations?**

318 A. I recommend the Commission reject Staff's recommendations, which would violate the
319 statutory cost-effectiveness criteria and the policy established in previous Commission
320 orders. I believe Staff's recommendations would prevent Illinois consumers from
321 accessing the benefits of cost-effective energy efficiency as envisioned by the legislature.

322

323 **Q. Does this conclude your direct testimony?**

324 A. Yes.