

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-Real~~-Time Pricing program.

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. ~~h~~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). ~~r~~ 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. ~~b~~The Rider EDR programs are the programs Ameren implemented in response to
61 ~~the~~ 2007 statutory mandates 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-Docket no~~ 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 ~~energy Energy efficiency Efficiency portfolio Portfolio~~
86 ~~standard Standard (“EEPS”)~~ programs for both gas and electric programs. Regarding the
87 two recommendations made by Ms. Hinman that have broad policy implications, I
88 explain how they conflict with existing state policy, why this prudency review is an
89 inappropriate venue for litigating such sweeping and impactful issues, and why the
90 ramifications of her recommendations would be injurious to ratepayers.

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

95

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

97 A. While I am not an attorney, I believe that the cost-effectiveness standard in Illinois is the
98 Total Resource Cost (“TRC”) test. The Illinois Power Agency (“IPA”) Act defines the
99 TRC test as “a standard that is met if, for an investment in energy efficiency or demand-
100 response measures, the benefit-cost ratio is greater than one.” 20 ILCS 3855/1-10. The
101 PUA defines "cost-effective" energy efficiency measures as measures that “satisfy the
102 total resource cost test,” and requires utilities to “demonstrate” that the “overall portfolio
103 of energy efficiency and demand-response measures... are cost-effective using the total
104 resource cost test and represent a diverse cross-section of opportunities for customers of
105 all rate classes to participate in the programs.” 220 ILCS 5/8-103(a) and 220 ILCS 5/8-
106 103(f)(5). Of note is the PUA’s specification that the “overall portfolio” of measures
107 must be cost-effective, not individual measures.

108

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

111 A. Yes. Utilities are required to provide an annual independent evaluation “of the
112 performance of the cost-effectiveness of the utility's portfolio of measures... as well as a
113 full review of the 3-year results of the broader net program impacts and, to the extent
114 practical, for adjustment of the measures on a going-forward basis as a result of the
115 evaluations.” 220 ILCS 5/8-103(f)(7). Essentially, annual evaluations of the EEPS

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

118

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

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

124

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

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

128 “Calculation of the total resource cost test at the portfolio level provides
129 utilities with greater flexibility to ensure that measures with less short-
130 term energy savings value, but greater value over several years, will be
131 included in any overall portfolio of measures and programs. This
132 contention is reasonable and it is hereby approved. However, the utilities
133 and DCEO are not precluded from applying the TRC test at the
134 —measure^l or program level, if they so choose.” Final Order in 07-0539 at
135 21.

136

137 **Q. Do you agree with the Commission’s conclusions?**

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

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

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

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

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

176

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

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

188

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

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

198

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

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

203

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

218

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

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

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

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

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

238 A. No.

239

240

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

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

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

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

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264

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

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

267

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

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

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

277

278 Since I am confident based on my participation in the SAG that the utilities already

279 routinely monitor and ~~in~~ publicly report the costs and benefits of their energy efficiency
280 programs, I want to address the second part of her recommendations.

281

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

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

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

303

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

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

310

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

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

314 from realizing the economic and societal benefits of cost-effective energy efficiency
315 programs.

316

317 **CONCLUSION**

318

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

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

324

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

326 A. Yes.