STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION On Its Own Motion -vs- AMEREN ILLINOIS COMPANY d/b/a Ameren Illinois Reconciliation of revenues collected under Rider EDR with the actual costs associated with energy efficiency and demand-response plans. Reconciliation of revenues collected under Rider GER with the actual costs associated with natural gas energy efficiency plans.	)))))))))))))))))	Docket No. 11-0341

<u>AMEREN ILLINOIS COMPANY'S REPLY BRIEF</u>

June 7, 2013

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I. INTRODUCTION

As Staff of the Illinois Commerce Commission ("Staff") confirmed in its Initial Brief, the only contested issue in this docket is whether the Illinois Commerce Commission (the "Commission") should disallow $119,500 in costs Ameren Illinois Company d/b/a Ameren Illinois ("Ameren Illinois" or "AIC") incurred implementing the gas portion of a small business HVAC program (the "SB HVAC Program"). No party contests the reasonableness and prudence of the remaining costs. Staff's sole argument against the SB HVAC Program, however, is that the Commission should disallow the SB HVAC Program costs because preliminary, interim Total Resource Cost ("TRC") results calculated by a program implementer (not AIC or Staff) early in Plan Year (PY) 2 somehow raised doubts about the Program's cost-effectiveness.

Staff stands alone in seeking disallowance of the costs associated with the SB HVAC Program. The Citizens Utility Board ("CUB"), the People of the State of Illinois (the "AG"), and the Natural Resources Defense Council ("NRDC") have filed Initial Briefs arguing against Staff's proposed disallowance and supporting the positions set forth in AIC's opening brief.[1] These strong reactions to Staff's position primarily stem from the negative policy implications of Staff's proposal to make unverified and preliminary TRC results at the measure or program level effectively dispositive, such that a utility would be required to immediately discontinue any measure or program based on TRC results or risk disallowance, notwithstanding the fluid nature of TRC results or any other benefits the measure or program may bring to the overall portfolio. Such a result would run counter to Illinois law and Commission precedent and would serve as a basis to fundamentally change the way energy efficiency programs would get implemented – particularly, new or inventive programs. As set forth below and in AIC's Initial Brief, the

[1] CUB and the AG filed a joint Initial Brief (hereinafter, "CUB/AG Initial Brief"); NRDC filed separately.

Commission should reject Staff's recommendation and approve the costs incurred and revenue recovered for implementing the SB HVAC Program as reasonable and prudent.

II. ARGUMENT

A. Uncontested Issues

Approximately \$31.1 million of the over \$31.2 million in total costs incurred and revenue recovered under Rider EDR – Energy Efficiency and Demand-Response Cost Recovery ("Rider EDR") and Rider GER – Gas Energy Efficiency Cost Recovery ("Rider GER") for the time period of June 1, 2009 through May 31, 2010 are uncontested. Aside from \$119,550 in costs Ameren Illinois incurred implementing its SB HVAC Program, which is contested by Staff alone, all parties who have entered an appearance in this docket agree that the remainder of the costs incurred under Riders EDR and GER were reasonable and prudent. (*See* Staff Initial Brief at Appx A & B; CUB/AG Initial Brief; NRDC Initial Brief.) Thus, the record supports only one conclusion – that these costs were reasonably and prudently incurred and properly recovered from ratepayers. Ameren Illinois respectfully requests that the Commission approve the reconciliation statements with respect to these costs.

B. Contested Issues

The sole contested issue is whether \$119,550 in costs AIC incurred implementing its SB HVAC Program were reasonable and prudent. In its Initial Brief, Staff argues these costs should be disallowed because preliminary TRC test run by the program implementer in early PY2 somehow provided "clear evidence" that the Program would not be cost-effective, and, for this reason alone, AIC should have discontinued the Program. (Staff Initial Brief at 4-6.)

Staff is wrong. First, Staff's single-minded focus on preliminary TRC results improperly ignores several factors relevant to AIC's decision to continue the SB HVAC Program, including the timing of the TRC results, the program implementer's recommendation to continue the

Program, the Program's projected cost-effectiveness, and the impact discontinuing the Program would have on the overall portfolio. Based on these factors alone, AIC's decision to continue the Program consistent with the implementer's recommendations was reasonable and prudent. Second, Staff's recommendation, if adopted, would needlessly hamper implementation and growth of energy efficiency programs in Illinois. Requiring all measures or programs to have a positive TRC at all times throughout the life of a plan would stunt measures or programs that may evolve into becoming cost-effective or assist the portfolio in other ways. As AIC, CUB, the AG, and NRDC explained in their Initial Briefs, this result would be contrary to Illinois law and Commission precedent. The Commission should thus reject Staff's recommended disallowance and approve AIC's recovery of costs incurred implementing the SB HVAC Program.

1. SB HVAC Costs Were Reasonable and Prudent

a. Staff Selectively Ignores Facts Demonstrating the Reasonableness and Prudence of Continuing the SB HVAC Program

In its Initial Brief, Staff ignores a number of factors relevant to the reasonableness and prudence of AIC's decision to continue the SB HVAC Program. Implementation of the SB HVAC Program sought to foster market transformation by targeting underserved small businesses in PY1 through PY3, with the goals of penetrating the market, informing small businesses of energy efficiency, and incentivizing small businesses to replace less-efficient furnaces. (AIC Initial Brief at 11.) AIC worked with trade allies to offer furnace tune-ups and facilitate new efficient equipment purchases. (*Id*. at 11-12.) By incentivizing trade allies and small business customers to learn about energy efficiency, AIC increased awareness and participation in energy efficiency programs and reasonably believed this would benefit the overall portfolio. (*Id*. at 11-12.)

In August 2009, just two months into PY2, the program implementer ran preliminary TRC tests as part of a broader portfolio management and implementation analysis, which suggested that, under unknown inputs chosen by the program administrator, the SB HVAC Program was not cost-effective at that time. (*See* Staff Ex. 4.1; 4.2.) The implementer did not believe the TRC results were cause to discontinue the Program, however. Rather, in its October 2009 Final Report, the implementer explained its belief as to why its TRC results were low and the basis for its recommendations going forward:

> The SB HVAC program was developed in the latter half of PY1. As such there was limited time to develop significant relationships with many of the key channel stakeholders, and the time period for HVAC maintenance activities had already occurred (pre-and-early heating season in the September through November timeframe). PY2 activities will expand outreach/marketing to take advantage of the customer awareness and interest when the next heating season begins. As noted above, the "fix on failure" mentality of this market needs to be tapped when heating systems are first turned on after being idle for the first four or five months leading into the heating season.

(Joint Cross Ex. 1 at 160; 393 (PY2 Implementation Plan, 10/12/09 Final Draft.[2]) As the implementer made clear, the TRC results were largely driven by timing, and the implementer recommended expanding the Program through additional outreach and marketing in advance of the heating season. (*Id.*) In the Final Draft, the implementer further recommended bundling the SB HVAC tune-ups with AC tune-ups and the highly cost-effective thermostat measure to cut costs and increase efficiency. (*Id*. at 154, 160; 387, 393.) The implementer projected that, with the modifications, the SB HVAC Program was expected to have a positive TRC over the life of the plan. (*Id*. at 120; 353.)

[2] For clarity, drafts of Staff Ex. 4.1 and 4.2 are also included in the Joint Cross Exhibit.

Based on this, AIC continued the Program consistent with the implementer's recommendations. AIC agreed that the preliminary TRC values did not tell the whole story with respect to Program costs and benefits since the Program was in its initial stages. (AIC Initial Brief at 15-16.) Consistent with the implementer's findings, AIC reasonably believed the Program would become more cost-effective as customer awareness grew, and, in any event, it would continue to benefit the overall portfolio by introducing energy efficiency to trade allies and the small business market. (*Id*. at 14-16.) And, as the implementer made clear, it made little sense to cut short its attempts to penetrate the small business market during the fall months, the time of year when customers traditionally seek services relating to gas furnaces. (*See* Joint Cross Ex. 1 at 160; *see also id*. at 76, AIC Natural Gas EE Plan ("This program will likely attract the largest participation in the fall, prior to the heating season.").)[3] Indeed, AIC was targeting a hard to reach sector and it knew that penetrating the market would take time. (*See* AIC Initial Brief at 14-16; CUB Initial Brief at 10-11 ("Market transformation is an important goal in utility decisions related to the implementation of energy efficiency programs, especially when customers funds may be limited and the embrace of efficiency measures through a particular program are in its nascent stages."). Discontinuing the SB HVAC Program less than a year into the Program because of interim TRC values not only would have been contrary to the implementer's recommendations, but would have wasted the investments made by AIC and program allies to develop the SB HVAC Program, hindering future attempts to reach those trade allies and small business customers. (AIC Initial Brief at 14; CUB Initial Brief at 11-12.)

[3] Staff finds it important that few customers had purchased new high efficiency equipment at the time the preliminary TRC test was run, August 2009. (Staff Initial Brief at 16-17.) But, as set forth above, this was not surprising to AIC or the program implementer as the SB HVAC Program developed in "the latter half" of PY1, which ran from January 2009 through May 2009, and so AIC and the implementer reasonably believed the Program would lead to more new equipment installations as the fall heating season approached. (Joint Cross Ex. 1 at 76, 160.)

Finally, the Commission previously held that cost effectiveness should be evaluated at the portfolio level and not at the program or measure level. (AIC Initial Brief at 17-18.) These factors all weighed towards continuing the SB HVAC Program.

Based on this information, AIC's decision to continue the SB HVAC Program was reasonable and prudent. As Staff admits, "determining whether to continue or discontinue an energy efficiency program or measure is largely a matter of *independent judgment* depending on the specific circumstances." (Joint Cross Ex. 1 at 2 (emphasis added)); *see Illinois Commerce Comm'n v. The Peoples Gas Light and Coke Co*., Docket 00-0720, 2002 Ill. PUC LEXIS 170, at *11 (Ill. PUC Jan. 24, 2002) (prudence review requires looking at the "same circumstances encountered by utility management at the time decisions had to be made."). In exercising its judgment, AIC assessed all of the information available – including the TRC results in proper context, the program implementer's recommendation to continue the SB HVAC Program, the Program's projected cost-effectiveness, and the impact on the overall portfolio – and modified the Program consistent with the flexibility approved by the Commission in Docket No. 08-0104. AIC's decision was thus squarely "within the range of decisions reasonable persons might have made." *Illinois Commerce Comm'n v. Commonwealth Edison Co*., Docket 95-0119, 1998 Ill. PUC LEXIS 1018, at *12-14 (Ill. PUC Nov. 5, 1998). That Staff ignores these factors, and argues after-the-fact that AIC should have discontinued the SB HVAC Program based on preliminary TRC results, is improper, irrelevant, and cannot serve as a basis for disallowance. *See The Peoples Gas*, 2002 Ill. PUC LEXIS 170, at *11 ("Imprudence cannot be sustained by substituting one's judgment for that of another. The prudence standard recognizes that reasonable persons can have honest differences of opinion without one or the other necessarily being 'imprudent.'"); *Illinois Power Co. v. Illinois Commerce Comm'n*, 245 Ill. App. 3d 367, 376 (3d Dist. 1993) (reversing finding of imprudence where the Commission relied solely on one fact at the expense of all facts "known to management" during the relevant time period).

AIC's decision to continue the SB HVAC Program was thus reasonable and prudent, and the Commission should reject Staff's proposed disallowance.

b. Staff's Arguments For Disallowance Have No Merit

Staff offers a number of arguments in its Initial Brief for why the Commission should disallow the SB HVAC costs. As follows, each should be rejected.

First, Staff argues that AIC ignored "clear evidence" showing that the SB HVAC Program was not cost-effective. (*See* Staff Initial Brief at 4.) This is flat wrong. Again, the only evidence cited by Staff to support this claim is the implementer's preliminary TRC results from August 2009. (*Id*. at 4-6, 8-9, 14; Joint Cross Ex. 1 at 2.). But prudence review requires examining all of "those facts available at the time judgment was exercised." *The Peoples Gas*, 2002 Ill. PUC LEXIS 170, at *11; *see Illinois Power*, 245 Ill. App. 3d at 376 ("The Commission is required to determine prudence on the basis of what was known to management"). As set forth above, far from ignoring the TRC results, AIC analyzed the results in proper context along with the other facts at its disposal, including the implementer's recommendations to continue the Program and to bundle tune-ups with cost-effective measures to increase the Program's efficiency. (*See* Joint Cross Ex. at 154 (bundling measures is cost-effective).) All of these factors weighed in favor of continuing the SB HVAC Program pursuant to the implementer's recommendations – Staff's limited arguments to the contrary fall short.

Second, Staff argues that AIC had "no compelling reason" to continue the SB HVAC Program (Staff Initial Brief at 10), since it had "no expectation that the SB HVAC Program would provide net benefits to ratepayers in PY2" (*id*. at 8 (citing 3/13/13 Tran. at 98)). Again, Staff's assertion is incorrect and unsupported by the record. AIC did expect the Program would be cost-effective to ratepayers; the implementer's Final Report projected as much. (Joint Cross Ex. 1 at 120; 353.) In fact, Staff's citation to testimony purporting to show that AIC did not expect positive TRC results in PY2 (*see* Staff Initial Brief at 8 (citing 3/13/13 Tran. at 98)) ignores the testimony (one page later in the transcript) showing exactly the opposite – at the hearing, AIC witness Mr. Woolcutt testified that the Program "would" achieve cost-effectiveness, in both PY2 and over the course of the three-year plan.[4] (3/13/13 Tran. at 98:15-99:21.) As a result, AIC had the same compelling reason to continue the Program as it had when the Commission originally approved the plan in Final Order 08-0104 – to develop the energy efficiency market and provide energy efficiency programs across eligible customer classes by attempting to transform the small business market. (AIC Initial Brief at 16.) Indeed, AIC recognized that the small business sector funds energy efficiency programs the same as other customer sectors and should therefore receive benefits from these programs. (*See id*.; CUB Initial Brief at 11 ("If Ameren had discontinued the program, it would not have provided benefits to the small business customers who were paying for Ameren's energy efficiency programs.").)

Third, Staff suggests that AIC knew it would not achieve cost-effectiveness because it "had plans to complete 340 gas tune-ups within PY2, which directly contradicts the limitation of 300 gas tune-ups over the three-year period which AIC relied upon to justify continuing the program." (Staff Initial Brief at 17.) Staff's argument, once again, is unsupported by the record. In its Final Report, the implementer stated that "[i]f gas tune-ups are limited to 300 and balance of the incentive dollars for this program over the three year period go to new equipment installs

[4] Staff similarly miscites the record in asserting that "AIC acknowledges that the SB HVAC Program was not projected to be cost-effective in PY2," citing page 85 of the March 13 Hearing Transcript. (Staff Initial Brief at 13.) Nowhere does page 85 of the transcript – or any other evidence in the record, for that matter – support this proposition.

an overall TRC > 1 should be achieved." (Joint Cross Ex. 1 at 158.) But this recommendation does not take into account additional efficiencies saved by bundling the SB HVAC tune-ups with AC tune-up and thermostat measures. As the implementer found, "bundling these together can drive each measure quickest to its completion goal, along with minimizing the overall program cost." (*Id*. at 154.) The implementer concluded that "after about 340 bundled offers the economics change and it will no longer make sense to include the furnace tune up in the bundle because the PY2 therm goal for the Small Business Tune-up Program will have been met." (*Id*. at 155.) Based on this, AIC reasonably believed the 340 bundled tune-ups recommended by the implementer would help the total SB HVAC Program become cost-effective.[5]

Fourth, Staff argues that AIC should not have permitted "cost-ineffective HVAC tune-ups to occur" following the preliminary TRC results because the SB HVAC Program's savings came from installations of efficient boilers and furnaces, not tune-ups. (Staff Initial Brief at 12-13.) This argument misunderstands the relationship between tune-ups and new equipment installs. As the implementer stated in October 2009: "[m]ore than any other program, the Small Business HVAC program needs to be accepted and promoted by the HVAC market stakeholders. There needs to be enough economic incentive and marketing support provided to make it worthwhile for them to change their business practices." (Joint Cross Ex. 1 at 159; *see also id*. at 160 (recommending that AIC "expand outreach/marketing to take advantage of the customer awareness and interest").) Consistent with the implementer's recommendations, AIC marketed energy efficiency through its trade allies, which used the tune-up measures to cross the small

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[5] AIC's decision to bundle the measures also demonstrates the inaccuracy of Staff's unfounded claim that AIC "made no efforts to limit the number of cost-ineffective tune-ups." (Staff Initial Brief at 18; c.*f.* CUB/AG Initial Brief at 8-9 ("Ameren did modify the program in response to [the implementer's] information" and "took steps to limit the number of tune-ups and cultivate ally participation and installation of equipment").)

business customer's threshold and educate small businesses about energy efficiency, including the installation of new energy efficient and cost-effective equipment. (AIC Initial Brief at 11, 23; Joint Cross Ex. 1 at 159.) In this way, the tune-up measures complimented other aspects of the Program, and benefited the portfolio, to achieve cost-effectiveness at the portfolio level. Cutting the tune-ups as, Staff would have done, would have hindered AIC's ability to engage eligible customers at the beginning stages of energy efficiency and to foster future growth of programs in the market, including, through the installation of new, cost-effective equipment.

Fifth, Staff makes much of the fact that the third-party implementer did not retain the "cost-effective analysis" that gave rise to its preliminary TRC results and subsequent recommendations. (Staff Initial Brief 18-19.) Yet, Staff itself stated a belief that the preliminary TRC results were performed by an "intern," raising questions as to why Staff continues to push the importance of the TRC calculation or value. (3/13/13 Tran. at 139:7-16 (Q: And you would agree with me that the implementer is the one who calculated these TRC values that are cited in your testimony, correct? A: My understanding, I think there is an intern that worked for the implementer who is no longer with the Company.").) In any event, the analysis itself is irrelevant to disallowance. "In determining whether a judgment was prudently made, only those facts available at the time judgment was exercised can be considered." *The Peoples Gas*, 2002 Ill. PUC LEXIS 170, at *11. Here, in determining whether to continue the SB HVAC Program, AIC relied on the implementer's findings and projections, including those facts contained in the implementer's August 2009 PY2 Implementation Plan Overview (*see* Staff Ex. 4.1) and the multiple drafts of the PY2 Implementation Plan (*see* Staff Ex. 4.2). There has been no evidence that AIC was aware of the analysis itself or what factors went into it. Rather the record supports that, based on many factors, AIC reasonably and prudently relied on the implementer's projection that the Program would be cost-effective over the life of the plan and its recommendation to continue the Program consistent with its modifications.

Finally, Staff argues that "all planned measures should be cost effective . . . unless the circumstances warrant an expectation that the cost-effectiveness would change in the future or benefits elsewhere in the program were tied to cost-ineffective measures." (Staff Initial Brief at 19.) But, as set forth below, the Commission has rejected similar arguments from Staff in the past. *See* Docket 10-0564, Final Order at 79, 92 (May 24, 2011) (rejecting Staff's recommendation "that only measures that are cost-effective be included in any programs or the portfolio."); *infra* Part II.B.2.a. In any event, even if the Commission were to subject the SB HVAC Program to Staff's newly defined "test" (which it should not), the Program would pass. First, the Program was cost-effective at the planning stage. (*See* 08-0104 Final Report at 14 (SB HVAC had a TRC of 1.48).) And, notwithstanding the preliminary TRC results in early PY2, AIC reasonably believed the SB HVAC Program would be cost-effective over the life of the three-year plan based on the implementer's forecast. (AIC Initial Brief at 13-14.) Finally, one of the SB HVAC Program's goals was to introduce energy efficiency to trade allies and the small business market, which would expand energy efficiency in the underserved market, benefiting the overall portfolio. (*Id*. at 15-16.) So, by Staff's own metric, AIC's decision to continue the SB HVAC Program despite the TRC results was reasonable and prudent.

Consequently, Staff's recommended disallowance should be rejected.

2. Approving Staff's Recommendation Would Establish Bad Policy

Tellingly, Staff's Initial Brief largely ignores the implications of its proposed disallowance, despite significant testimony from AIC, its expert witness Dr. John Chamberlain, and CUB witness Ms. Devens directly addressing these important issues. There is no evidence in the record refuting the conclusion that Staff's proposal is contrary to Illinois law and Commission precedent and would stunt the growth of energy efficiency programs in Illinois going forward. For these additional reasons, Staff's proposed disallowance should be rejected.

a. Staff's Recommendation is Contrary to Illinois Law and Commission Precedent

AIC, CUB, the AG, and NRDC all filed Initial Briefs demonstrating that Staff's proposal would violate Illinois law and is inconsistent with Commission precedent. (*See* AIC Initial Brief at 24-26; CUB/AG Initial Brief at 4-6 (arguing that "[t]he Commission explicitly rejected Staff's" proposal in prior dockets); NRDC Initial Brief at 5-6 ("Adoption of the Staff's proposal would violate all three elements of Section 8-104(f)(5) . . . [and] is also inconsistent with this Commission's recent orders".) As set forth in these Initial Briefs, Illinois law requires that a utility's *overall portfolio* of energy efficiency and demand response measures are cost-effective using the total resource cost test *and* represent a diverse cross-section of opportunities for customers of *all* rate classes to participate in the programs. *See* 220 ILCS 5/8-104(f)(5); *see also* Docket No. 07-0539, Final Order at 20; Docket No. 10-0568, Final Order at 30 ("The Commission finds that evaluating cost-effectiveness on a portfolio level is necessary to ensure that Ameren not be penalized for planning assumptions that turn out to be inaccurate."); Docket 10-0564, Final Order at 79 (May 24, 2011) ("The Commission agrees with the Utilities that Section 8-104 does not require each measure to meet the TRC test, but it does require the portfolio (except for the low income portion) to meet the TRC test.")

This means, contrary to Staff's proposal, TRC results should not be analyzed at the measure or program level in the manner advocated by Staff. It further means that Staff's recommendation to make mid-year TRC results at the program level dispositive as to whether a utility should continue a program ignores the requirement and policy objective that all eligible rate classes – including underserved and hard to reach ratepayers – have the opportunity to benefit from energy efficiency. (*See* NRDC Initial Brief at 7 ("Staff's recommendation would prevent Illinois consumers from accessing the benefits of cost-effective energy efficiency as envisioned by the legislature." (quoting CUB Ex. 1.0 at 15).) Finally, adopting Staff's recommendation to immediately discontinue cost-ineffective programs would prevent AIC from trying to modify such programs in the future, which is also inconsistent with the flexibility the Commission granted AIC in Docket No. 08-0104. (Docket 08-0104 Final Order.)

b. Staff's Recommendation Would Stunt the Growth of Energy Efficiency Programs in Illinois

AIC, CUB, the AG, and NRDC further agree that adopting Staff's recommendation would stunt the growth of energy efficiency programs in Illinois. (*See* AIC Initial Brief at 26-28; CUB/AG Initial Brief at 11 ("Staff's recommendation would curtail energy efficiency programs"); NRDC Initial Brief at 2 (adoption of Staff's proposal "would have a serious negative impact on the development of effective energy efficiency in Illinois"). The basis for Staff's recommended disallowance is AIC's decision to continue the program following the TRC results in August 2009. (*See* Staff Initial Brief at 4-6, 8-9; CUB/AG Initial Brief at 9; NRDC Initial Brief at 2-3.) Disallowing the SB HVAC costs would mean that measure or program level preliminary TRC results alone would (and should) be dispositive when deciding whether to discontinue or modify an energy efficiency program. So, if adopted by the Commission, Staff's recommendation would give notice to utilities that they should cease spending on a program the moment the TRC drops below 1.0 (without providing any guidance as to when or how such a calculation should be made). (CUB/AG Initial Brief at 11-12; AIC Initial Brief at 26.)

This would fundamentally change how AIC – and perhaps other utilities – develop, plan, and implement energy efficiency programs. Utilities would have no incentive to implement a measure or program that, in the short term would not be cost effective, but in the long term could evolve into becoming cost effective or assist the overall portfolio in other ways to become cost effective. In particular, this would impact new and innovative programs, educational programs, and programs targeting underserved markets, because these are often not cost effective in the early years (as there are more cost and less savings). (AIC Initial Brief at 26-27; CUB Initial Brief at 12.) Effectively, measures and programs would have to be cost-effective from the start or utilities would risk disallowance. This could lead to investment in less expensive, short term measures and programs with high TRC results, and, as a result, underserved and difficult to penetrate markets might never receive the benefits of energy efficiency. (*See* CUB/AG Initial Brief at 12; NRDC Initial Brief at 2.)

In addition, forcing utilities to halt programs mid-year based on preliminary TRC results would prevent utilities from working with implementers and trade allies to modify the programs to make them more cost-efficient. (AIC Initial Brief at 26-27.) Not only would this waste investments made by utilities and program allies to develop the program, but could damage relationships with contractors and allies who market and implement these programs, further hindering future attempts to reach those groups and the small business customers they serve. (AIC Initial Brief at 14; CUB Initial Brief at 12.)

Finally, jeopardizing future energy efficiency programs based on preliminary TRC results is bad policy because the test results vary dramatically based on a number of variables, including when the calculations are performed, who performs the test, and what inputs are part of the calculation. (AIC Initial Brief at 27-28.) So, given the uncertainty of these preliminary results, binding utilities to preliminary TRC values at the measure or program level would produce the very same regulatory uncertainty that the Commission-approved energy efficiency plans were intended to alleviate. (AIC Initial Brief at 28.) As summed up by AIC witness Dr. John Chamberlin, in his 30 years evaluating energy efficiency programs he is "not aware of any instance where the TRC was applied to determine cost recovery and to do so would be a very dangerous policy." (AIC Initial Brief at 20; *see also* CUB/AG Initial Brief at 12 (Staff's proposal would "prevent Ameren from meeting the Act's requirement to reach *all* customer sectors funding the EEPS programs, including those who may be hard to reach, such as small businesses.") (emphasis in original); NRDC Initial Brief at 2 (Staff's proposal "would encourage utilities to overemphasize measures that obtain short term benefits").)

As established above, Staff's proposed disallowance of the SB HVAC costs would stunt the growth of energy efficiency; the proposal should be rejected.

III. CONCLUSION

For these reasons, set forth above and in AIC's Initial Brief, Ameren Illinois Company respectfully requests that the Commission find that the costs Ameren Illinois incurred and the revenue it recovered under Rider EDR and Rider GER for PY2 were reasonable and prudent and approve the proposed reconciliation statements accordingly.

Dated: June 7, 2013

Respectfully submitted,

The Ameren Illinois Company

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CERTIFICATE OF SERVICE

I, Mark W. DeMonte, an attorney, certify that on June 7, 2013, I caused to be served a copy of the foregoing Ameren Illinois Company's Reply Brief by electronic mail to the individuals on the Commission's Service List for Docket No. 11-0341.

s/ Mark W. DeMonte
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