STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY	)	
d/b/a Ameren Illinois	)	
	)	Docket No. 13-0498
	)	
Approval of the Energy Efficiency and	)	
Demand-Response Plan Pursuant to	)	
220 ILCS 5/8-103 and 220 ILCS 5/8-104	)	

INITIAL BRIEF OF THE NATURAL RESOURCES DEFENSE COUNCIL

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INTRODUCTION

Ameren Illinois Company (Ameren) has proposed targets that fall well short of the amount of savings it could achieve within the allowable budgets, which is the standard by which the Commission must judge the adequacy of the plan. NRDC witness Jim Grevatt demonstrated that Ameren has used large, unsupported increases in its cost per unit of energy saved upon which to base low savings targets in several of the largest programs in the portfolio. Moreover, Ameren has failed to account for the considerable amount of carryover savings that it will count in PY 7-9 from measures that were sold in previous years. Counting this savings without having included it in the targets will provide the company a large, unaccounted for head-start toward its goals, and an excuse to underperform in the coming years. NRDC urges the Commission to reject the proposed savings targets and require Ameren to file a new plan reflecting increased savings goals of 92,000 MWh and 4.1 million therms across the three year plan period.

Ameren's proposal is consistent with its history of proposing goals that are substantially lower than its ability to achieve savings. In the previous case for approval of its energy efficiency plan[1] Ameren proposed an electric target of 584,000 MWh over the three year plan. The Commission found that this was too low and ordered the company to submit a revised plan. The revised plan that was later approved required Ameren to achieve 734,000 MWh, 25 percent more than the original plan would have required. However, even the revised plan clearly did not require Ameren to achieve as much savings as it could have within the budget limitations. In PY 4 and 5 combined Ameren exceeded its electric savings target by 18% while only spending 88% of its budget, and in PY 6 the company itself is projecting to exceed its target by 26%. If in PY6 the company follows its PY4-PY5 pattern of underspending by 12% it would mean that by fully expending the budgets it could have saved as much as 1,000,000 MWh over the three year period- 120,000 MWh more than currently projected, and 72% higher than its original proposal in that case.

Ameren Witness Goerss suggests that it would be "unfair" to raise Ameren's goals to levels the Company has demonstrated are achievable, stating that "Such a result would seem to create strange incentives to meet but not exceed savings goals and would punish Ameren Illinois for acting in good faith." (Ameren Ex. 6, Page 4, line 81). One can hardly blame Ameren for trying to construct a reality in which "fairness" means that it can set its own goals at a level that it can easily exceed without even spending its approved budgets. This desire, however, is at odds with the interests of Ameren's customers in achieving the highest level of savings possible within the spending limits set out by law. As explained in detail below, the Commission's role is

[1] *Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, Illinois Power Company d/b/a AmerenIP, Verified Petition for Approval of Integrated Electric and Natural Gas Energy Efficiency Plan*, ICC Docket No. 10-0568

to ensure that the revised savings targets only deviate from the statutory goals as much as necessary to avoid exceeding the spending limitations.

While Ameren's proposed targets are unacceptably low and effectively eliminate any risk of noncompliance, Ameren nonetheless also seeks Commission approval for risk-mitigation strategies at least two of which could undermine the goals of Section 8-103 to use energy efficiency to reduce electric system costs and customer bills. While some of these strategies are acceptable, NRDC urges the Commission to deny Ameren's request for unfettered flexibility to make program changes during the three-year planning period, and to deny Ameren's request to adjust program targets in response to changing assumptions about deemed savings estimates and evaluation factors.

Finally, NRDC responds to two new program suggestions. We urge the Commission to order that voltage optimization programs should be pursued outside the context of the capped 8-103 budgets and instead treated as a distribution system investment just as an investment in advanced metering would be treated. With respect to the proposed pilot program for large industrial customers, we support the development of the pilot, but object to Ameren seeking approval to move forward without having determined the details of the program design or parameters, and having not provided an opportunity for stakeholders or the Commission to review and provide input on the program details.

IV. Electric and Gas Savings Goals and Spending Limits

A. Proposed Modified Goals

2. Adequacy of Savings Goals

Ameren's Goals Should Be Reduced from the Statutory Targets Only As Much as Necessary to Stay Within the Budget Limitations.

(a) Introduction

Sections 8-103 and 8-104 of the Public Utilities Act make it the policy of the state that utilities must use energy efficiency to reduce both direct and indirect costs to electric customers by avoiding the need for new utility infrastructure and reducing environmental impacts of the utility system.

Section 8-103 of the Public Utilities Act requires electric utilities, including Ameren, to "implement cost-effective energy efficiency measures," in order to meet annual incremental savings goals. The savings goals specified for the years covered in the plan currently before the Commission are 1.8% of delivered energy for the year beginning June 1, 2014 (Program year 7, or "PY7") and 2% of delivered energy for the each year after, including program years 8 and 9 (PY8 and PY9). 220 ILCS 5/8-103(b)(1). Section 8-104 of the Public Utilities Act sets forth a similar provision for gas utilities, including Ameren to meet gas savings targets equal to a given proportion of sales which increases annually. 220 ILCS5/8-104(c).

In both 8-103 and 8-104, the amount utilities may spend on achieving these energy efficiency targets is capped at roughly two percent of revenues. 220 ILCS 5/8-103(d) and 8-104(d). The two sections include nearly identical language regarding how this cap is to apply. Specifically in each case, the utility must limit or reduce the amount of energy efficiency it undertakes "by an amount necessary" to avoid spending above the two percent budget limitation. Moreover, in 8-103 and 8-104 the utility files a plan every three years that must, "Demonstrate that its proposed energy efficiency measure will achieve," the savings targets, "as modified" by the budget caps. Under both the electric and gas sections, the Commission must issue an order approving or disapproving of the plan based in part on whether such a demonstration has been made by the utility.

In Ameren's last energy efficiency plan filing (10-0568), the Commission was similarly faced with a request by Ameren for modified goals in order to remain within the spending cap. The Commission's decision to reject the plan and require Ameren to make a compliance filing rested on an interpretation of the statute that the revised targets must be designed to maximize the savings achieved within the spending limitations. The order reads (at pages 31-32):

> Following a review of the party's arguments, and taking into account the Commission's findings presented here, it appears to the Commission that Ameren could achieve additional savings and achieve higher modified goals under Section 8-103 of the Act. The Commission finds, and Ameren acknowledges, that the revised plan does not contemplate meeting the energy savings goals expressed in Section 8-103(b). The Commission recognizes that Ameren indicates that it is constrained by the spending limitations imposed by Section 8-103; however, the Commission believes that a revised plan could be submitted by Ameren, implementing the findings expressed in this Order, which would encompass greater energy savings, while complying with the spending limitations. The Commission recognizes that the statute imposes an ever greater energy efficiency savings requirement on Ameren each year, without a proportionate increase in funding. The Commission believes that this will require Ameren and the various other stakeholders involved in this process to develop innovative processes to leverage the available funding to implement the will of the Legislature. The Commission believes it is appropriate to direct Ameren to make a compliance filing within 30 days of the date of this Order, as Ameren suggested in its Brief would be appropriate. The Commission directs that this compliance filing contain a revised Energy Efficiency and Demand Response Plan, which contains terms and provisions consistent with and reflective of the findings and determinations contained in this Order.

NRDC seeks a similar order in this case, recognizing the Commission's critical role in ensuring that the goals of sections 8-103 and 8-104 are met, and that utility customers benefit from cost-effective investments in energy efficiency to the maximum extent possible within the limits of the budget caps.

(b) Ameren Can Achieve Substantially Higher Savings Than Its Proposed Goals Reflect

i. Ameren's Projected Costs of Saved Electricity Are Unjustifiably High

Ameren's proposal rests on a projection that the cost of the average MWh of savings will be 75 percent higher in PY 7-9 than it was in PY4 and 27 percent higher than in PY4. As shown in Figure 1 of NRDC Witness Grevatt's testimony (NRDC 1, p. 6, Line 106), Ameren projects that for the next three years, the average cost of savings will be $192.47/MWh, compared to the PY 4 cost of $110.18 per MWh, and to the PY5 estimated cost of $151.55/MWh. Witness Grevatt describes Ameren's justification for these estimates as, "grossly insufficient." NRDC Ex.1, p. 5, Lines 93-94.

As described below, Witness Grevatt took a close look at the Residential Standard CFL Program and the Business Standard Program, which are to provide 44 percent of Ameren's electricity savings, and for which Ameren had projected the largest increases in the cost per MWh saved. Grevatt analyzed the given reasons for the cost increases, and concluded that with the existing budgets for these programs Ameren could achieve more than 70,000 MWh of additional savings as detailed below.

1. Residential Standard CFL Program

Ameren's proposed standard CFL program is based on a cost per bulb that is 46 percent higher than the cost per bulb it reported in PY5. Witness Grevatt explains that based on the information in JLH 1.09, the PY5 cost per standard CFL was $1.72, while in PY7 Ameren is projecting a cost of $2.52 per bulb. This is true even though Ameren eliminated more expensive specialty CFL bulbs, which made up 13 percent of the PY5 portfolio from the program, in future years – a change that would be expected to have reduced, not increased, the average cost per bulb. According to Grevatt, "Ameren offers no explanation for its proposed cost increase, and none is apparent to me based on industry knowledge." NRDC Ex 1, p 12, line 193-94. He then provides an estimate showing that if Ameren achieved savings through its Residential Standard CFL Program at a cost per bulb equal to its PY5 cost per bulb, it would be able to achieve 31,000 MWh in savings over and above the proposed goals for the program. NRDC Ex. 1, page 12, line 199.

In his rebuttal testimony, Ameren witness Andrew Cottrell offered a new calculation of proposed savings which he calls an "alternative scenario," under which he reduced the cost per bulb from $2.52 to $2.31, rather than to the $1.72 that was achieved in PY5. As an explanation, Mr. Cottrell explained that they reduced the cost to reflect lowering incentive levels, but noted that "The delivery fee per bulb, as per the projected implementation contractor, has not changed." Ameren Ex. 7, page 4, line 65-66. This implies that the difference between the $1.72 which was the cost per bulb in PY5 and the $2.31 projected in Ameren's "alternative scenario" amounts to some type of "delivery fee." This begs the common-sense question whether such a delivery fee could be avoided, as it evidently was in previous years. At the end of the day, the cost per bulb of $2.31 in the alternative scenario presented by Witness Cottrell achieves only 3000 MWh of additional savings, and leaves the Commission without any explanation for a 34% increase in the cost per bulb for one of the central programs of the portfolio.

Ameren Witness Cottrell provides two other reasons for the difference between his alternative scenario's additional 3000 MWh of savings, compared to NRDC Witness Grevatt's estimated additional savings of 30,000 MWh. First, Cottrell claims the Witness Grevatt used inflated savings estimates. He is incorrect. In reality, Witness Grevatt used Ameren's own estimated savings per bulb from a table that Ameren provided to NRDC in response to NRDC

DR 3.01. Second, Witness Cottrell noted that Ameren chose to put the new-found funds saved from lowering the incentive level into LED lighting instead of into more CFL lighting technology. He does provide the cost per bulb and savings per bulb data that would be necessary to assess whether shifting funds into LED technology would be expected to result in a precipitous decline in projected savings.

In response to a data request (NRDC 4.01), Ameren provides an explanation for the ramp up in cost per bulb in between program years 5 and 6, during which there was a large increase in the volume of bulbs Ameren proposed to discount. They note that in order to support the increased volume from 2.4 million bulbs in PY5 to 4 million bulbs in PY6, the implementation contractor added three staff people and increased the marketing budget. This explanation does not illuminate why the attached spreadsheet (NRDC 4.01 attach) shows an increase in Standard CFL non-incentive costs from $0.45 per bulb in PY5 when the volume of bulbs was 2.4 million , to $0.90/bulb in PY7, when the volume of bulbs is just 2.5 million. Moreover, the data response does not explain why three additional staff people and additional marketing should increase the total program cost by $1.7 million, from $4.6 million in PY5 to $6.3 million in PY7.

Ameren has failed to justify either its original or its “alternative” cost per bulb of $2.52 or $2.31, respectively. Given that this single program is responsible for 11 percent of the total portfolio savings and 32 percent of residential savings, Ameren should be required to base its CFL savings on a reasonable and justified cost per bulb estimate. Absent compelling evidence to the contrary, the PY5 actual cost per bulb of $1.72 should be used. Using this estimated cost per bulb, Ameren can realize substantial cost savings that could be directed to either CFLs or LEDs. If directed to CFLs, Ameren should be held to a savings goal that is 31,000 MWh higher than proposed. However, if, as Ameren suggests, Ameren chooses to invest the cost savings in LEDs, Ameren should be required to thoroughly document the cost and savings per bulb and if the savings is substantially less than would be achieved with CFLs, Ameren should present a compelling policy reason for investing program dollars into measures that produce less savings per dollar spent.

2. Business Standard Program

Similarly, Ameren projects that the cost of saved energy for the Business Standard program will increase by 36 percent, from $125/MWh in PY 5 to $170/MWh in PY 7-9, without providing any justification for such an increase. One might guess that changing net-to-gross (NTG) values for the Business Standard program might cause some increase in the rising cost for saved energy. However, as Witness Grevatt explains, a NTG change would justify only a 3 percent increase in the cost of saved energy, not the 36 percent increase Ameren projects. NRDC Ex 1, p. 9, line 134. Moreover, changes in the federal lighting standards that will eliminate T12 lighting from the market would not impact the portfolio until January 2016, and even after that point only one-tenth of the Business Standard program would be impacted by the T12 elimination. A simple calculation of the impact of that change, using the Illinois TRM values suggests that the actual impact of that change would be to increase the cost of savings in the Business Standard Program to $141/MWH, rather than to $170/MWH. Witness Grevatt provides a transparent calculation of a reasonable savings target under this cost assumption of 237,000 MWh over the three year plan, which is an increase of 40,000 MWh. NRDC ex 1, p. 10, lines 158-163.

Ameren did not provide any concrete evidence to refute NRDC's critique of its Business Standard program costs in its rebuttal testimony at all. We therefore ask the Commission to increase the Business Standard target by 40,000 MWh.

ii. Ameren Did not Account for Carryover of CFL Savings from PY 4-6

The Illinois Technical Review Manuel (TRM) for residential CFLs assumes that 69.5 percent of bulbs incentivized in a given year are installed in that year, while 15.4 percent are installed in the following year, and 13.1 percent are installed in the next year. This means that Ameren will wait until PY7 and PY8 to count some savings from bulbs purchased in PY5 and PY6. However, Ameren's projections of savings for those years do not reflect this carryover savings at all, essentially assuming a zero value for carryover savings. Clearly the effect of this omission would be to provide Ameren with a substantial cushion to achieve its already low lighting program goals.

Specifically, Witness Grevatt estimated that the impact of carryover savings in PY 7-9 from bulbs rebated in PY 4-6 would be an additional 21,000 MWh, with 14,174 MWh counted toward the PY7 target, and 6,877 counted toward the PY8 target. This would increase the total three year savings for the portfolio by 3.5 percent. NRDC Ex 1, p. 15, lines 232-246.

Ameren's explanation for failure to include any CFL carryover savings was that the evaluations for PY 5 and 6 have not yet been completed. This uncertainty is a poor reason to ignore carryover savings. Projecting savings from PY 7-9 programs requires a large number of assumptions to be made in the face of some uncertainty.

Ameren's rebuttal testimony on carryover savings is likewise unhelpful. Witness Goerss explains that, "Ameren Illinois has not presently accounted for CFL carryover savings from PY5-6 in either its planned savings or proposed modified goal therefore calculating CFL carryover savings and then adjusting the corresponding goal upward will not add any meaningful changes to either the planned savings or the goal because the increases would simply cancel each other out." This seemingly misses the point. The current targets assume a carryover value of

0.0 MWh, and base the targets on what can be achieved without carryover savings. Ameren will nonetheless apply carryover savings substantially above 0.0 in PY7 and PY8. Therefore, without a specific Commission order on this point, Ameren will be able to carry over the savings and count it in PY 7-9 as "gravy" on top of the amount of savings achieved through incentives provided in PY7-9, or worse, as a substitute for the new savings Ameren is committing to in this plan. We urge the Commission to require that carry over savings in the amount of 21,000 MWH be added to the targets.

iii. Ameren's Gas Savings Targets Are Similarly Inadequate

As with its electric programs, Ameren has projected enormous increases in costs per unit of energy saved for its gas programs as well. Specifically, Ameren projects an increase in the cost per therm saved in the Gas Business Standard Program from $0.98 in PY 5 to $2.78 in PY 7-9. This is a 184 percent increase in costs for which Ameren provides no explanation. According to Witness Grevatt: "… I am not aware of any reason one should expect the increased cost per therm for Business Standard and Business Custom in its Plan. There do not appear to be any significant baseline changes in the mix of measures that are included in these programs, and the NTG for gas is consistent with prior years. If, as Ameren described, it has shifted costs for dual fuel measures from as to electric programs, the cost of saved gas should decrease." NRDC Ex 1, p. 23, Lines 377-381.

NRDC therefore urges the Commission to require Ameren to achieve the same level of savings per dollar spent in the Business Standard Program in PY 7-9 as it expects to achieve in PY 5 and 6, and to achieve savings of 6 million therms per year at the portfolio level. NRDC Ex 1, p. 24, Lines 388 to 395.

iv. <u>Ameren Has Consistently Underspent Its Allowed Budgets</u>

It has been noted by several witnesses, including NRDC Witness Grevatt, that Ameren has substantially underspent its approved budgets in past years. In fact, for Plan 3 (PY 4-6), if Ameren continues its pattern of underspending in PY6 the unspent portion of the electric budgets could have increased savings by 120,000 MWh. This fact should serve as compelling evidence that Ameren has a strong tendency to substantially understate the level of savings it can achieve with a given budget, in order to easily over-comply. Unfortunately, this tendency, while insulating the company from any level of compliance risk, works at odds with the goals of the statute, to deliver as much savings as possible within the budget limitations, to lower overall system costs for all electric and gas customers.

While NRDC agrees with Staff Witness Hinman who states that "AIC should be directed to spend all funding to the extent practicable on cost-effective energy efficiency measures…" we take issues with response of Ameren Witness Keith Goerss, who conflates NRDC's concern that the targets are low-balled based on unspent budgets, with Staff's concern that programs are being discontinued mid-course due to having met the targets. (Ameren Ex 6, page 4, line 90-91). To be clear, NRDC is not alleging that programs are being terminated early, but rather that the target is so low that the company can run the program with minimal efforts throughout the year, while planning to exceed the target and underspend the budget. If the savings targets were appropriately high, the company would need to spend more money throughout the year to achieve the target and would end the year with more savings and less unspent money in the bank. To be clear, NRDC is not seeking an order directing Ameren to spend 100 percent of its budget, which staff has requested. Rather, we are asking the Commission to address the issue of unspent budgets by setting targets that are sufficiently high that the company should need to spend the entire budget to achieve the goal.

Ameren Witness Goerss concedes that over the last six years the company spent roughly 90% of its budgets, which is consistent with NRDC Witness Grevatt's testimony that Ameren could have increased its savings by 10% simply by spending its allotted budget. Again, doing so over the last three years would have resulted in 120,000 additional MWH in savings, a substantial additional savings that would benefit Ameren's customers far more than simply refunding the unspent amounts.

V. Ameren Illinois' Energy Efficiency and Demand Response Plan

C. Staff and Intervenor Proposed Changes To The Plan

1. Proposed Changes to Ameren Illinois' Proposed Programs

(a) Removing Programs from the Plan to the IPA Procurement Plan

NRDC agrees with the recommendation of Mr. Mosenthal regarding the use of Section 16-111.5B IPA efficiency procurement funds to promote standard CFLs in addition to the specialty CFLs it is already promoting. NRDC believes that adoption of his proposal will allow Ameren to spend its funds to enhance its other programs, while at the same time allowing the CFL program to continue and perhaps even expand. AG Ex. 1.0 at 14. While NRDC prefers Mr. Mosenthal's primary proposal, it agrees that in the alternative, the Commission could adopt his alternate proposal that the Commission direct Ameren to include the standard CFL and Behavior programs in their package of programs presented to the IPA in years 8 and 9 (2015 and 2016) of this three-year plan.

2. Proposed New Programs

(a) Pilot C&I Program

In response to the Illinois Industrial Energy Consumers (IIEC) Ameren is proposing a pilot program described by Witness Goerss as, "similar to that identified by Illinois Industrial Energy Consumers ("IIEC") in its testimony as being included in Commonwealth Edison Company's Plan 3." (Ameren Ex 6, p. lines 560 to 561). The program description has very little detail, other than that Ameren intends to invest $5.1 million in this program over the next three years, to achieve approximately 55,000 MWh in savings. To develop the program details, Ameren Witness Goerss suggests that Ameren will, "will continue to work with IIEC and Ameren Illinois' commercial and industrial customers."

NRDC supports the development of a pilot program to better serve large industrial customers, but objects to the process by which Ameren proposes to develop a fairly substantial pilot program. The Stakeholder Advisory Group (SAG) should be involved in the development of the pilot, and the parameters of the pilot program should be subject to Commission review before the budget is approved. Such a pilot, which accounts for 13.6 percent of the business program savings even at the pilot stage and could grow substantially over time, should be subject to careful review to ensure that program dollars are being used in ways that maximize the savings captured by the portfolio.

(d) Conservation Voltage Reduction Program /Voltage

NRDC agrees with AG Witness Mosenthal's testimony in opposing the use of 8-103 funds for voltage optimization. As Mr. Mosenthal states, the purpose of Section 8-103 is to work directly with customers and trade allies to improve end use efficiency and to overcome the barriers to customer investment in energy efficiency. Voltage optimization, he opines, "is completely under the control of the utilities, is invisible to customers, and does not require any customer action to be successful." NRDC agrees with other parties that voltage optimization should be encouraged, but it should be pursued as a distribution system investment that utilities can and should make to increase the efficiency of its distribution system, just as it is investing in poles, wires and smart meters.

VI. Policy Issues:

D. Portfolio Flexibility

Ameren Should Be Allowed Reasonable Flexibility to Make Program Changes Within Limits.

Ameren seeks a Commission order explicitly granting the company broad flexibility to make changes in its programs during the course of implementing the three year plan. Ameren Witness Obeiter specifies that, "Such authority should include, but not be limited to, changing the level of rebates paid to participants, adding or deleting measures from programs, shifting budget dollars between programs within the natural gas or electric portfolios, and discontinuing unsuccessful programs." Ameren Ex. 10, p. 2, lines 35-38. Ameren's direct testimony suggests that this flexibility should extend to changing program targets as well. Ameren Ex. 1.1, p. 18.

NRDC agrees that it is important for portfolio administrators to be empowered to make changes in the portfolio or programs in response to unanticipated changes in the marketplace. However, this flexibility must be bound by reasonable limitations. If, for example, the Commission orders Ameren to adopt higher savings goals for certain programs as part of the final plan, Ameren should not be able to unilaterally lower these goals post- plan adoption. Likewise, if Ameren gains approval for its proposed industrial pilot program as part of this filing, it should not be given so much flexibility that it could eliminate that pilot program without agreement of the parties to this case or the Commission. To grant such broad flexibility would be to render this process largely moot.

NRDC Witness Grevatt and the Attorney General's Witness Mosenthal both suggested allowing the Company flexibility to make changes that would impact any given program's budget by less than a fixed percentage. Mosenthal suggested 20 percent, while Grevatt suggested that stakeholders should collaborate to define this limit, but noted that "10% of the portfolio budget could be a good place to start the discussion." Both witnesses suggested that larger changes should be contingent on a stakeholder process and/or Commission approval.

Ameren Witness Obeiter disagrees with Mosenthal and Grevatt, opining that such a limitation would be burdensome, and that Ameren can be trusted to use broad, unfettered flexibility responsibly. However, none of Ameren's witnesses presented any evidence that a 10 or 20 percent limitation on such authority would have hindered any decision that Ameren has made in the past regarding program changes, nor do any of the Ameren witnesses suggest an alternative threshold (25 or 30 percent, for example), or another mechanism to ensure that the company is prohibited from making the kinds of changes described above that would plainly undermine the plan approval process.

NRDC therefore seeks a Commission determination that Ameren may make program changes that impact any program budget by no more than 20 percent without seeking stakeholder or Commission approval, and that any larger changes must be presented to the SAG. If the SAG is unable to arrive at a consensus view regarding a proposed program change within a time frame agreed upon by the parties, the Company could seek Commission approval.

F. Aligning Savings Goals According to Changes in Values

Savings Targets Should Not Be Adjusted Following Changes in TRM or NTG Assumptions

Ameren proposes that any adjustments in the TRM or NTG assumptions regarding deemed savings values or deemed free ridership and spillover factors for a given measure should trigger an adjustment in the savings target for programs relying on that measure. NRDC strongly objects to this proposal.

Witness Grevatt uses the example of a change in the NTG value applied to CFLs. In his example, a lowering of the NTG value, which should normally result in the program administrator shifting program funds to higher yielding measures or programs, would instead have simply result in lower targets and less savings per dollar spent for Ameren customers. The purpose of measuring and updating deemed savings and NTG values is to trigger action on the part of program administrators to make appropriate changes so that the energy savings promised to the utility customers can be achieved. As Witness Grevatt explains, under Ameren's proposal, the company "would have no incentive to design programs that minimize free ridership, which in turn maximizes ratepayer benefits."

Staff Witness Hinman suggests that NRDC's concern should be minimized if the Commission "explicitly required that AIC be held accountable to prudently respond to such changes in the implementation of its programs. Staff Ex. 3.0, p. 7, lines 142-144. We disagree. This would require the Commission to carefully investigate how Ameren responded to a large variety of changing market conditions, to determine after the fact whether the company made prudent adjustments, having eliminated the strongest incentive that the company would have had to make such adjustments. If the Commission were to accept the company's proposal to adjust targets after each change in the TRM or NTG values, it will be sending a strong signal to the company that it need not make otherwise prudent adjustments to maintain progress toward savings targets. It would be ironic and ineffective to then expect the Commission to thoroughly investigate each case in which the company should have made a "prudent" response to a changing market to determine whether its response was in fact adequate.

Ameren Witness Goerss mischaracterizes NRDC concern, saying that we need not worry that Ameren would "game the system" if given the ability to change savings targets in response to modified TRM or NTG values. On the contrary, NRDC is not concerned that Ameren would "game the system," but rather that they system would be designed to produce an outcome that insulates the Company and undermines the customers' benefits. If the system encourages bad outcomes, the Company would not be "gaming the system" if it in fact acted accordingly.

G. Banking of Savings

Banking Between 3-Year Plans Should be Allowed Only If Targets Are Adjusted Upward to Account for the Projected Banked Savings

While Ameren has conceded that it has not applied any achieved or planned banked savings to its current PY 7-9 program goals, it does request that if the Commission makes a policy decision to allow banked savings from Plan 2 to be used in Plan 3 for any utility, that it would allow it for all utilities. Ameren Ex 6, p. 13.

NRDC agrees with the AG Witness Mosenthal and other parties who have suggested that any savings from a previous plan should be either retired, or if used in the subsequent plan it must be accounted for by a proportional increase in the savings targets for the new plan.

CONCLUSION

NRDC believes that the most critical function the Commission performs in approving plans under 8-103 and 8-104 is to ensure that the utility has fulfilled its obligation to, "Demonstrate that its proposed energy efficiency measure will achieve," the savings targets, "as modified" by the budget caps. In both 8-103(f)(1) and 8-104(f)(1), the statute lists this obligation as the first standard by which the adequacy of the plan is to be assessed. In this case, as in previous cases, Ameren has not met that obligation. Instead, NRDC Witness Grevatt and several other witnesses have provided ample compelling evidence to conclude that Ameren has proposed goals that it can easily exceed. First and foremost, we seek a Commission order requiring Ameren to propose higher program goals consistent with the suggestions made by Witness Grevatt, as well as AG Witness Mosenthal. Further, we ask the Commission to carefully consider Ameren's risk mitigation requests and provide limited new flexibility within reasonable bounds, but not to allow for the goal changes in response to changing assumptions regarding TRM and NTG values. Finally, we ask the Commission to require Ameren to pursue voltage optimization outside the parameters of the 8-103 energy efficiency portfolio standard, and to require Ameren to work with stakeholders to develop a detailed large industrial pilot and to seek Commission approval for the pilot once the details have been negotiated.

Dated: December 3, 2013

Respectfully submitted,
Natural Resources Defense Council

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of Natural Resources Defense Council's Initial Brief has been served upon the parties reported by the Clerk of the Commission as being on the service list of this docket, on the 3rd day of December, 2013, by electronic mail.

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