STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois	:	
	:	**13-0498**
Approval of the Energy Efficiency and Demand-Response Plan	:	

ORDER

DATED: January 28, 2014

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PROPOSED ORDER

By the Commission:

I. INTRODUCTION

Ameren Illinois Company d/b/a Ameren Illinois ("AIC" or "Ameren" or "Company") is an integrated electric and natural gas company and is required to file an energy efficiency ("EE") Plan ("Plan" or "Plan 3") as required by Sections 8-103, 8-103A, and 8-104 of the Public Utilities Act ("Act" or "PUA") to include certain key elements in order to be approved by the Commission.

II. STATUTORY LANGUAGE

With respect to the electric portion of the Plan, the Act states:

> In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:
>
> (1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
>
> (2) Present specific proposals to implement new building and appliance standards that have been placed into effect.
>
> (3) Present estimates of the total amount paid for electric service expressed on a per kilowatt hour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e).
>
> (4) Coordinate with the [Illinois] Department [of Commerce and Economic Opportunity ("DCEO" or "Department")] to present a portfolio of

energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. The energy efficiency programs shall be targeted to households with incomes at or below 80% of area median income.

(5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), 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.

(6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

220 ILCS 5/8-103(f).

The Act also provides that:

No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.

220 ILCS 5/8-103(g).

An additional analysis is required for the 2013 submission of the electric Plan. Section 8-103A states:

Beginning in 2013, an electric utility subject to the requirements of Section 8-103 of this Act shall include in its energy efficiency and demand-response plan submitted pursuant to subsection (f) of Section 8-103 an analysis of additional cost-effective energy efficiency measures that could be implemented, by customer class, absent the limitations set forth in subsection (d) of Section 8-103. In seeking public comment on the electric utility's plan pursuant to subsection (f) of Section 8-103, the Commission shall include, beginning in 2013, the assessment of additional cost-effective energy efficiency measures submitted pursuant to this Section.

> For purposes of this Section, the term "energy efficiency" shall have the meaning set forth in Section 1-10 of the Illinois Power Agency Act, and the term "cost-effective" shall have the meaning set forth in subsection (a) of Section 8-103 of this Act.

220 ILCS 5/8-103A.

The Illinois Power Agency Act ("IPA Act") provides the definitions for demand-response, energy efficiency, and the total resource cost test ("TRC test"):

> "Demand-response" means measures that decrease peak electricity demand or shift demand from peak to off-peak periods.
> ….
> "Energy efficiency" means measures that reduce the amount of electricity or natural gas required to achieve a given end use. "Energy efficiency" also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or uses.
> ….
> "Total resource cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided natural gas utility costs, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

20 ILCS 3855/1-10.

With respect to the gas portion of the portfolio, Section 8-104(b) of the Act states:

> "[C]ost-effective" means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the

> total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to the sum of all incremental costs of end use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. The low-income programs described in item (4) of subsection (f) of this Section shall not be required to meet the total resource cost test.

220 ILCS 5/8-104(b).

With respect to the gas portion of the Plan, Section 8-104(f) of the Act requires:

> In submitting proposed energy efficiency plans and funding levels to meet the savings goals adopted by this Act the utility shall:
>
> (1) Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.
>
> (2) Present specific proposals to implement new building and appliance standards that have been placed into effect.
>
> (3) Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.
>
> (4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. Such programs shall be targeted to households with incomes at or below 80% of area median income.
>
> (5) Demonstrate that its overall portfolio of energy efficiency measures, not including programs covered by item (4) of this subsection (f), 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.

> (6) Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate.
>
> (7) Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.
>
> (8) Provide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period.

220 ILCS 5/8-104(f).

The Act further provides that:

> No more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of breakthrough equipment and devices.

220 ILCS 5/8-104(g).

III. PROCEDURAL HISTORY

On August 30, 2013, Ameren filed its Verified Petition for Approval of its Integrated Electric and Natural Gas Energy Efficiency Plan as well as testimony. The following parties intervened: the Environmental Law and Policy Center (“ELPC”); the Citizens Utility Board (“CUB”); the Natural Resources Defense Council (“NRDC); Archer Daniels Midland Company, Caterpillar Inc. and Keystone Consolidated Industries, Inc., collectively as the Illinois Industrial Energy Consumers (“IIEC”); and Comverge, Inc. ("Comverge"). A notice of appearance was also filed by the People of the State of Illinois (“AG”). Staff of the Illinois Commerce Commission ("Staff") also participated in this docket.

An evidentiary hearing was held on November 20, 2013 at the offices of the Commission at 527 E. Capitol, Springfield, IL. At the conclusion of the hearing, the record was marked "Heard and Taken." Briefs were filed by Ameren, Staff, IIEC, ELPC, NRDC, CUB, and the AG. Reply Briefs were filed by CUB, IIEC, NRDC, ELPC, Ameren, Staff and the AG. A Proposed Order was served on the parties. Briefs on Exceptions were filed by NRDC, Staff, CUB, ELPC, Ameren, and the AG. Briefs in Reply to Exceptions were filed by ELPC, IIEC, CUB, AIC, the AG, and Staff.

IV. ELECTRIC AND GAS SAVINGS GOALS AND SPENDING LIMITS

A. PROPOSED MODIFIED GOALS

AIC requests that the Illinois Commerce Commission ("Commission") modify the electric and gas savings goals for Plan Years 7, 8 and 9 as set forth in Table 5 of Plan 3. AIC represents that no party contests this request or the need for the Commission to modify the savings goals identified in the statute in order to comply with the spending limits prescribed by the Act. AIC suggests that substantial evidence establishes that AIC could not meet the savings goals identified in either Section 8-103(b) or 8-104(c) without exceeding the legislatively imposed spending limits. AIC therefore recommends that the Commission approve AIC's Plan 3 with the modified savings goals set forth therein.

The Commission understand that once the savings goals for PY7-9 have been set, the Act allows utilities to establish compliance by meeting the annual incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period was "equal to the sum of each annual incremental savings requirement." (220 ILCS 5/8-103(b); 5/8-104(c)).

1. Explanation of Proposed Modified Goals

a. Proposed Electric Goals

Pursuant to Section 8-103(f)(1) of the Act, the Company's Plan must demonstrate that its proposed energy efficiency ("EE") and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of Section 8-103, as modified by subsections (d) and (e) of that Section. 220 ILCS 5/8-103(f)(1). The Company proposes to modify the savings goals set forth in Section 8-103(b). Specifically, excluding the DCEO portion of the portfolio, AIC proposes the following utility-specific modified energy savings goals: 195,958 Megawatt Hours ("MWh") (EPY7), 203,018 MWh (EPY8), and 209,393 MWh (EPY9), for a cumulative 3-year modified savings goal of 608,369 MWh (Plan 3).

AIC indicates that it reserves its rights under the Act and does not propose for the electric savings goal, either an individual year or multi-assessment at this time. AIC represents that the following table summarizes the estimated electric savings on a per program basis, along with a cumulative total:

AIC Company Portfolio Summary – Electric Energy Savings Targets

Annual MWh	PY 7	PY 8	PY 9
RES-Appliance Recycling	4,476	4,131	3,715
RES-Behavior Modification	21,688	21,688	21,688
RES-ENERGY STAR New Homes	791	791	791
RES-HPwES	5,018	5,018	5,018
RES-HVAC	5,314	5,314	5,314
RES-Lighting	22,426	24,737	25,593
RES-Moderate Income	1,194	1,194	1,194
RES-Multifamily In-Unit	6,232	6,232	6,232
RES-School Kits	366	366	366
RESIDENTIAL PORTFOLIO TOTAL	67,503	69,469	69,909
BUS-Standard	60,073	65,400	71,567
BUS-Custom	33,108	32,934	32,760
BUS-RCx	17,075	17,017	16,959
BUS-Large C&I	18,199	18,199	18,199
BUSINESS PORTFOLIO TOTAL	128,455	133,549	139,484
PORTFOLIO TOTAL	195,958	203,018	209,393

b. Proposed Gas Goals

Pursuant to Section 8-104(f)(1) of the Act, the Company's Plan must demonstrate that its proposed EE measures will achieve the requirements that are identified in subsection (c) of Section 8-104 of the Act, as modified by subsection (d) of that Section. 220 ILCS 5/8-104(f)(1). AIC proposes to modify the energy savings goals set forth in Section 8-104(c) of the Act. Specifically, excluding the DCEO portion of the portfolio, the Company proposes the following AIC-specific modified energy savings goals: 4,540,780 therms (GPY4), 4,537,295 therms (GPY5), and 4,533,822 therms (GPY6), for a cumulative 3-year modified savings goal of 13,611,898 therms.

AIC indicates that it reserves its rights under the Act and does not propose for the gas savings goal, either an individual year or multi-assessment at this time. AIC represents that the following table summarizes the estimated gas savings on a per program basis, along with a cumulative total:

AIC Portfolio Summary – Gas Energy Savings Targets

Annual Therms	PY 7	PY 8	PY 9
RES-Appliance Recycling	0	0	0
RES-Behavior Modification	1,337,500	1,337,500	1,337,500

RES-ENERGY STAR New Homes	25,663	25,663	25,663
RES-HPwES	814,804	814,804	814,804
RES-HVAC	0	0	0
RES-Lighting	0	0	0
RES-Moderate Income	219,987	219,987	219,987
RES-Multifamily In-Unit	118,961	118,961	118,961
RES-School Kits	48,298	48,298	48,298
RESIDENTIAL PORTFOLIO TOTAL	2,565,214	2,565,214	2,565,214
BUS-Standard	950,625	950,625	950,625
BUS-Custom	891,260	888,230	885,210
BUS-RCx	133,681	133,227	132,774
BUS-Large C&I	0	0	0
BUSINESS PORTFOLIO TOTAL	1,975,567	1,972,082	1,968,609
PORTFOLIO TOTAL	4,540,780	4,537,295	4,533,822

2. Adequacy of Savings Goals

a. AIC Position

AIC understands that parties have differing views as to how it should model its Plan 3 and, in an effort to eliminate contested issues in this docket, the Company has submitted a remodeled portfolio that reflects the inclusion of certain of these recommendations (for example, the AG's recommendation to reflect higher savings and lower costs for the compact fluorescent lamp ("CFL") program). Ameren suggests however, that various other programmatic changes which are sought seem based on a notion that AIC should "do more," rather than on specific recommendations supported with adequate analysis and data. As explained below, AIC believes the savings goals set forth in its gas and electric Plans reflect a realistic assessment of the market, the current offering of energy efficiency programs available in Illinois, as well as the expert opinions of Applied Energy Group ("AEG"), Ameren Illinois' expert consultant who assisted with developing Plan 3. Ameren suggests that it is understandable that other parties would want the Commission to include each and every one of their respective proposals, but Ameren believes the Act places the responsibility on the utilities to meet the savings goals – not AG, NRDC or CUB.

Moreover, AG, NRDC and CUB premise their criticism of AIC's proposed goals, in part, on the fact that the Company has previously met its savings goals (and, indeed, has exceeded them). But to be clear, the only years for which the Commission has confirmed final savings amounts is for PY1 and PY2. (See ICC Docket No. 10-0519). The remaining plan years have not yet been verified and approved by the Commission. So while AIC expects that it will meet its goals, the Commission has not yet confirmed that is the case (and, consequently, Intervenors' reliance on preliminary savings values should not serve as a basis to increase Plan 3 goals). AIC believes it is also important to note that previous years' savings that Intervenors use as a comparison are estimated based on different and sometimes changing savings values (e.g., net-to gross ("NTG") and Technical Resource Manual ("TRM") values).

Additionally, AIC asserts that increasing its proposed savings goals on such a basis would be unfair. Ameren does not believe it should be put at risk in the future of not achieving savings goals because it has tried to go above and beyond its savings goals in the past. AIC contends that such a result would seem to create strange incentives to meet but not exceed savings goals and would punish Ameren for acting in good faith.

AIC recommends that the Commission approve its Plan 3, as modified by its rebuttal filing. AIC notes that Plan 3 comprises a mix of programs and measures that satisfy the requirements of the Act, plan to achieve optimal savings, and reflect a projection of what is realistically achievable within the spending limits set forth in the Act.

b. Staff Position

Staff supports the concept of modifying the statutory electric and gas savings goals. Given the low market prices for electricity and natural gas, Staff believes there are few cost-effective measures available. Staff notes that the lower gas and electricity prices also reduce the budget available for the EE portfolio; while low energy prices reduce incentives for customers to participate in EE programs. Staff suggests that all of these factors contribute to the difficulty in meeting the unmodified energy savings goals and therefore Staff supports the concept of modifying the goals.

c. AG Position

The AG notes that under Section 8-103 of the Act, electric utilities are required to implement cost-effective energy efficiency measures to reduce the amount of energy utilized by its retail customers in accordance with annual incremental annual energy savings goals specified in the statute. That subsection provides that electric utilities shall implement energy efficiency programs that achieve the following annual energy savings levels for the program years 2014 -- 2016:

(7) 1.8% of energy delivered in the year commencing June 1, 2014; and

(8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

220 ILCS 5/8-103(b).

Due to a recent amendment to the law, the AG recognizes that electric utilities may comply with this subsection (b) by meeting the annual incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period associated with measures implemented after May 31, 2014 was equal to the sum of each annual incremental savings requirement from May 31, 2014 through the end of the applicable year. In addition, the AG notes that electric utilities shall implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive. This requirement commences June 1, 2008 and continues for 10 years.

Notwithstanding the requirements of subsections (b) and (c) of this Section, the AG states that the Act requires that an electric utility shall reduce the amount of energy efficiency and demand-response measures implemented over a three-year planning period by an amount necessary to limit the estimated average annual increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to no more than the greater of 2.015% of the amount paid per kilowatt hour ("kWh") by those customers during the year ending May 31, 2007 or the incremental amount per kWh paid for these measures in 2011. Because of this cost cap, the AG notes that Ameren is seeking approval of reduced energy savings goals over the Plan Years ("PY") 7-9 time period.

Similarly, the AG notes that Section 8-104 establishes statutory gas annual energy savings goals that, like the electric requirements, can be achieved over the course of the three-year plan. For gas program years 4-6, AIC is required to achieve the following annual savings goals:

(1) 0.2% by May 31, 2012;
(2) an additional 0.4% by May 31, 2013, increasing total savings to .6%;
(3) an additional 0.6% by May 31, 2014, increasing total savings to 1.2%;
(4) an additional 0.8% by May 31, 2015, increasing total savings to 2.0%; and
(5) an additional 1% by May 31, 2016, increasing total savings to 3.0%;

220 ILCS 8-104(c).

Notwithstanding these savings requirements, the AG states that the Act requires that a natural gas utility shall limit the amount of energy efficiency implemented in any three-year reporting period established by subsection (f) of Section 8-104 of this Act, by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable three-year reporting period “if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period.” 220 ILCS 5/8-104(c).

The AG notes that AIC has proposed a portfolio of programs that would expend the available budget over the three year period, but would dramatically reduce goals from the statutory targets of 1.8%, 2% and 2% for electric PY7-9 and 0.8%, 1.0%, and 1.2% for gas PY4-6. The AG avers that Ameren claims the original goals articulated in the statute are unachievable given the budget limits, and the AG notes that all parties agree that the statutory goals must be modified downward because of the budget cap established in section 8-103 and 8-104. However, as noted by AG witness Mosenthal, Ameren's planned program costs, for some programs, seem excessive.

Specifically, the AG states that Ameren's initially proposed cost per first year kWh saved for PY7-9 is significantly higher than what has been achieved in earlier years. The AG indicates that the table below compares the proposal with evaluated results from PY4, and year end results from PY5:

$/kWh	**PY4**	**PY5**	**PY7**	**PY8**	**PY9**
RES-Appliance Recycling	0.21	0.40	0.35	0.35	0.35
RES-Behavior Modification	0.03	0.02	0.03	0.03	0.03
RES-ENERGY STAR New Homes	0.79	0.49	0.83	0.83	0.83
RES-HPwES	1.42	0.67	0.79	0.79	0.79
RES-HVAC	0.38	0.35	0.56	0.56	0.56
RES-Standard CFLs	0.05	0.06	0.32	0.29	0.28
RES-Moderate Income	3.19	1.61	1.26	1.26	1.26
RES-Multifamily In-Unit	0.24	0.11	0.17	0.17	0.17
RES-School Kits	0.34	0.38	0.32	0.32	0.32
RESIDENTIAL PORTFOLIO TOTAL	**0.09**	**0.10**	**0.29**	**0.28**	**0.28**
BUS-Standard	0.11	0.10	0.17	0.17	0.16
BUS-Custom	0.10	0.11	0.14	0.14	0.14
BUS-RCx	0.10	0.12	0.11	0.11	0.11
BUSINESS PORTFOLIO TOTAL	**0.10**	**0.10**	**0.15**	**0.15**	**0.15**
PORTFOLIO TOTAL	**0.10**	**0.11**	**0.23**	**0.23**	**0.22**

As seen, the AG notes that costs are higher across a wide swath of programs, with overall savings in PY7-9 costing about double what they cost in PY4 and PY5.

The AG believes that one significant driver of the increased electric portfolio program costs are tied to the AIC residential CFL program, which went from costing $0.05/kWh in PY4 to costing $0.32/kWh in PY7, an increase of more than a factor of six. Since this program represented 41% of total portfolio savings in PY4, the AG asserts that this particular cost increase has a very significant impact on the total portfolio numbers. While new regulations from the federal Energy Independence and Security Act ("EISA") and falling NTG ratios are real and legitimate reasons for the increase in costs for the CFL program, the AG does not believe that they can mathematically account for the full increase in PY7. The AG notes that the NTG ratios, which measure net savings after accounting for both free riders and spillover, go from 0.83 in PY4 to 0.44 in PY7, which leads to an increase in program costs by a factor of two, as compared to the total factor of six increase evident. The AG notes that regulations from

EISA decrease savings per bulb by another 30-40%. Even at the high end of this range, the AG believes that the resulting cost per kWh should still be well under the numbers in Plan 3, according to Mr. Mosenthal.

The AG indicates that the table below shows the cost per kWh from PY4, and how it would be affected if the baselines from EISA and the lower NTG ratios had been in place. The AG states that even after both adjustments, and assuming a 40% reduction in savings from EISA, the resulting costs are still only half of what Ameren is proposing in Plan 3. The AG notes that the table also includes ComEd's $/kWh for their Plan 3 residential lighting program for comparison purposes, which the AG avers is consistent with Mr. Mosenthal's estimate:

$/kWh PY4	$/kWh after NTG adjustment	$/kWh after EISA adjustment	AIC PY7 $/kWh	ComEd PY7 $/kWh
0.05	0.094	0.16	0.32	0.14

AG Ex. 1.0 at 10.

The AG states that Mr. Mosenthal identified two main factors besides EISA baseline adjustments and NTG ratios that are driving up program costs in Plan 3: higher program costs per rebated bulb, and lower savings claimed than what is indicated in the Commission-approved TRM.

According to Mr. Mosenthal, there appear to be no legitimate reasons for these additional cost drivers, noting that the costs for Plan 3 seem to be significantly higher than necessary. For example, Mr. Mosenthal opines that AIC's response to ELPC Data Request 1.29 shows that Plan 3 numbers assume an incremental cost per standard CFL of $2.50, and an incentive of $1.60. The AG notes that the Illinois TRM, by contrast, lists an incremental cost of $1.50 for the retail markdown program, lower than the incentive planned for PY7-9 and significantly lower than the incremental cost Ameren appears to be assuming. Further, it appears to the AG that AIC's assumed budget has increased total incentive and administrative program costs per rebated bulb have gone from $1.62/bulb in PY4 to $2.52/bulb in PY7, which seems incongruous as during this time, prices of CFLs have come down, promotion of the more expensive specialty CFLs has been transferred to the Illinois Power Agency energy efficiency procurement programs under Section 16-111.5B of the Act, and Ameren has gained experience administering the program. Taken in totality, these factors suggest to the AG that the cost per bulb, if anything, should be lower in PY7 than it was in PY4.

The AIC goals for PY7 assume 17.7 kWh saved per bulb, which appears to the AG to be lower than the savings indicated by the Illinois TRM. While the exact savings from the TRM depends on the specific wattage of the CFL rebated, the savings produced by the TRM are higher than 17.7 kWh for all cases, except CFLs replacing a 29-watt post-EISA-modification halogen incandescent bulb, which made up only 9% of all CFLs rebated in 2009. The AG states that the table below shows, for each type of incandescent, the post EISA baseline, the wattage for a typical CFL replacement, the post EISA wattage, and the percent of total PY4 activity represented by the class of bulb. As indicated in the TRM, assuming a first year in-service rate of 69.5%, 938 annual hours of operation, and a waste heat factor of 1.06, the weighted average savings comes out to 22.2 kWh, which is 25% higher than the assumption actually used for the program year:

Pre-EISA base	Post-EISA base	CFL equivalent	% of bulbs, PY4	kWh saved, post EISA
100	72	25.00	4%	32
75	53	20.00	82%	23
60	43	14.00	5%	20.0
40	29	10.00	9%	13.1
			Weighted Average	**22.2**

AG Ex. 1.0 at 13.

Given the totality of these factors, the AG suggests that the goals for the program should be updated to reflect higher energy savings. For the updated savings, the AG notes that it was assumed that the total program budget remains fixed, that the cost per CFL rebated will not change from PY4, and that savings per bulb average 22.2 kWh. The AG suggests that with these adjustments the resulting program costs of $0.17/kWh are very close to Mr. Mosenthal's high-level estimate of the impacts of EISA that resulted in $0.16/kWh. The AG asserts that Ameren's costs would also be much more in line with ComEd's proposed program, which will achieve savings at $0.14/kWh, under these updated cost figures. The AG avers that updating the AIC savings as suggested would change the total portfolio cumulative three-year goal from 599,553 MWh to 659,640 MWh, an increase of about 10% over Ameren's proposed goal, as shown in the table below:

Standard CFL Program	PY7	PY8	PY9
Costs	$6,351,096	$6,351,096	$6,351,096
Original Savings (MWh)	19,677	21,769	22,401
Updated Savings (MWh)	38,195	42,256	43,483
Original $/kWh	0.32	0.29	0.28
Updated $/kWh	0.17	0.15	0.15

AG Ex. 1.0 at 13.

The AG believes it should be noted that the $/kWh declines slightly from PY7 to PY9 because PY8 and PY9 include carry-forward savings from PY7 and PY8, while PY7 does not include CFL carry-forward savings from PY5 and PY6. The AG notes that excluding the carry-forward savings, there would be a slight increase in $/kWh, since it is assumed the NTG ratio will decline from PY7 to PY9.

In response to both Mr. Mosenthal's and NRDC witness Grevatt's stated concerns about the assumptions used by AIC to estimate electric program cost and savings, Ameren witness Cottrell suggested that Ameren is willing to reduce its incentive costs somewhat for CFLs, bringing the cost per bulb down from $2.52 to $2.31, however the AG suggests this is still significantly higher than the $1.58 per bulb cost for standard CFLs in PY5, and the bulk of this increase is related to significantly higher contractor costs, according to the AIC data. Ameren indicates this is primarily driven by substantial increases in contractor costs in PY6 to support a large increase in bulb volume from 2.5 million to 4.0 million; however the AG notes that PY7 is to only promote 2.5 million bulbs, consistent with PY5, and then decreases in further in future years. In addition, because of the phase in of federal lighting standards and general maturation of the CFL market during Plan 3, the AG avers that it should be easier for Ameren to reach these levels with lower contractor effort than in PY5. The AG sees no reason why Ameren should not be able to deliver this program in PY7-9 for costs per bulb similar to PY5.

The AG recognizes that AIC witness Cottrell disputes Mr. Mosenthal's calculation that Ameren underestimated savings from CFLs and was not consistent with the TRM. Specifically, the AG notes that Mr. Cottrell claims Mr. Mosenthal failed to account for two aspects in his savings calculation: 1) an 11% leakage factor based evaluation; and 2) shifting mix of measures as a result of the phase in of the Federal Standards. Cottrell recalculates the average per bulb savings to be 19.4 kWh, as opposed to the 22.2 kWh calculated by Mosenthal. The AG suggests however, that AIC itself failed to include the 11% "leakage"-- which refers to efficiency purchases that are installed outside of a utility's territory -- adjustment in its own original calculation of CFL savings, and does not state on what evaluation this is based. In addition, the AG states that the TRM does not include any adjustment for leakage, so at this point the AG believes it is not clear that leakage would ever be included in any Plan 3 deemed savings calculations.

The AG states that the other issue raised by Mr. Cottrell is that the mix of bulb wattages dramatically shifted between PY4 and PY5, moving from a majority of 75 watt equivalent bulbs to a majority of 60 watt equivalent bulbs. Mr. Cottrell states this is because of the federal Energy Independence and Security Act ("EISA") lighting standards phasing in. However, the AG asserts that this is not supported by the facts, noting that PY5 ended in May 2013, after only the 100 watt requirement began in June 2012, and prior to the phase-in of either the 75 or 60 watt standards beginning in June 2013 and June 2014, respectively. While it is not clear what caused this significant shift in bulb sizes, the AG suggests it clearly was not the EISA standards. The AG opines that there is no evidence in the record that the PY5 mix of sales is any more reflective of likely sales in PY7-9 than the mix that occurred in PY4.

The AG avers that correcting these standard CFL cost and savings assumptions is just one necessary step in increasing AIC's energy savings goals to a more fact-based and achievable level. The AG believes that the cost and savings figures presented by Mr. Mosenthal represent an objective, fact-based analysis that lowers assumed program costs and increases energy savings, thereby freeing up program dollars for other residential offerings. The AG suggests that another way to increase portfolio savings goals involves the transfer of standard CFLs program offerings to the Section 16-111.5B IPA procurement portfolio, which will also create the added benefit of freeing up limited program dollars to both deepen and enhance program offerings.

d. ELPC Position

ELPC notes that Illinois law requires AIC to reach certain kWh and Therms savings goals each year through its electric and natural gas energy efficiency portfolio, and that AIC expects to fall well short of these savings goals. According to AIC's own calculations of the statutory goals, and its estimates of the savings it will achieve under Plan 3, ELPC believes that AIC will fall 49% short of the statutory electricity savings goal and 34% short of the statutory natural gas savings goal.

ELPC asserts that by relying almost exclusively on cash incentives and behavior modification programs, AIC has not done everything it can to achieve more savings. ELPC opines that testimony by ELPC witnesses Crandall and Volkmann, as well as witnesses for the AG, the NRDC, and CUB, support the position that Ameren could do more to get closer to meeting its statutory goals. ELPC explains that there are a variety of programs and financing mechanisms that AIC has either not considered or chosen not to implement that could help it achieve greater savings.

ELPC suggests that the Commission require AIC to reevaluate and adjust its proposed savings goals to take advantage of additional savings that could be achieved by implementing Mr. Crandall's and Mr. Volkmann's recommendations. While these goals should be achievable, ELPC states these goals will also challenge AIC to be innovative in its approach to meeting the goals.

e. NRDC Position

NRDC notes that Ameren's proposal rests on a projection that the cost of the average MWh of savings will be 75 percent higher in PY7-9 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 PY4 cost of \$110.18 per MWh, and to the PY5 estimated cost of \$151.55/MWh. NRDC notes that Mr. Grevatt analyzed 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. Mr. Grevatt's testimony shows that with the existing budgets for these programs Ameren could achieve more than 70,000 MWh of additional savings as detailed below.

NRDC states that 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, despite AIC having eliminated more expensive specialty CFL bulbs, which made up 13 percent of the PY5 portfolio from the program, in future years – a change that NRDC would have expected to reduce, not increase, the average cost per bulb. Mr. Grevatt testified 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 notes that Ameren witness Cottrell offered a new calculation of proposed savings in his rebuttal testimony 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." NRDC suggests 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," which begs the question whether such a delivery fee could be avoided, as it evidently was in previous years. NRDC notes that the cost per bulb of $2.31 in the alternative scenario presented by Mr. 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.

AIC witness Cottrell provides two other reasons for the difference between his alternative scenarios additional 3000 MWh of savings, compared to Mr. Grevatt's estimated additional savings of 30,000 MWh. While Mr. Cottrell claims that Mr. Grevatt used inflated savings estimates, the NRDC avers that Mr. Grevatt used Ameren's own estimated savings per bulb from a table that Ameren provided to NRDC in response to NRDC DR 3.01. Mr. Cottrell also 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, and provides 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 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; claiming 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. NRDC opines that this explanation does not illuminate why the spreadsheet provided in response to NRDC 4.01 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, NRDC suggests 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.

NRDC claims that Ameren has failed to justify either its original or its "alternative" cost per bulb of $2.52 or $2.31, respectively, and 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, NRDC asserts that the PY5 actual cost per bulb of $1.72 should be used. NRDC notes that 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.

Similarly, NRDC notes that Ameren projects that the cost of saved energy for the Business Standard program will increase by 36 percent, from $125/MWh in PY5 to $170/MWh in PY7-9, without providing any justification for such an increase. While NRDC believes that changing net-to-gross (NTG) values for the Business Standard program might cause some increase in the rising cost for saved energy; as Mr. 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. Moreover, NRDC notes that 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. NRDC suggests that 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. As AIC did not appear to refute NRDC's critique of its Business Standard program costs in its rebuttal testimony, NRDC recommends that the Commission increase the Business Standard target by 40,000 MWh.

NRDC states that the 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. NRDC notes that 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. NRDC avers that the effect of this omission would be to provide Ameren with a substantial cushion to achieve its already low lighting program goals. Mr. Grevatt estimated that the impact of carryover savings in PY7-9 from bulbs rebated in PY4-6 would be an additional 21,000 MWh, with 14,174 MWh counted toward the PY7 target, and 6,877 counted toward the PY8 target, which would increase the total three year savings for the portfolio by 3.5 percent. NRDC opines that Ameren's explanation for not including any CFL carryover savings was that the evaluations for

PY5 and 6 have not yet been completed, which NRDC suggests is a poor reason to ignore carryover savings. Projecting savings from PY7-9 programs requires a large number of assumptions to be made in the face of some uncertainty.

While AIC witness Goerss explains that AIC has not accounted for CFL carryover savings in either its planned savings or proposed modified goal, as calculating CFL carryover savings and then adjusting the corresponding goal upward would not add any meaningful changes to either the planned savings or the goal because the increases would cancel each other out, NRDC suggests that this misses the point. While the current targets assume a carryover value of 0.0 MWh, and base the targets on what can be achieved without carryover savings; NRDC notes that AIC will nonetheless apply carryover savings substantially above 0.0 in PY7 and PY8. Therefore, without a specific Commission order on this point, NRDC believes Ameren will be able to carry over the savings and count it in PY7-9 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. NRDC suggests the Commission require that carry over savings in the amount of 21,000 MWH be added to the targets.

As with its electric programs, NRDC notes that Ameren has projected large increases in costs per unit of energy saved for its gas programs, and specifically, Ameren projects an increase in the cost per therm saved in the Gas Business Standard Program from $0.98 in PY5 to $2.78 in PY7-9, a 184 percent increase in costs for which Ameren provides no explanation. Mr. Grevatt testified that he was unaware of any reason there would be such an increased cost per therm for Business Standard and Business Custom in its Plan. He further testified that there did 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.

NRDC therefore urges the Commission to require Ameren to achieve the same level of savings per dollar spent in the Business Standard Program in PY7-9 as it expects to achieve in PY5 and 6, and to achieve savings of 6 million therms per year at the portfolio level.

It has been noted by several witnesses, including Mr. Grevatt, that Ameren has substantially under spent its approved budgets in past years, and for Plan 3 (PY4-6), if Ameren continues its pattern of under spending in PY6 the unspent portion of the electric budgets could have increased savings by 120,000 MWh. NRDC believes 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 does not believes that programs are being terminated early, it appears 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 under spend the budget. If the savings targets were appropriately high, NRDC asserts that AIC 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 NRDC requests the Commission 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. NRDC notes that AIC witness Goerss concedes that over the last six years the company spent roughly 90% of its budgets, which is consistent with Mr. Grevatt's testimony that Ameren could have increased its savings by 10% simply by spending its allotted budget.

In its Reply Brief, NRDC claims Ameren itself relies heavily on its past performance upon which to base its future program goals, as it should and as it must. NRDC says Ameren's own experience offering the same or similar programs in its service territory is as good a basis for future performance as one could find, followed by the experience of other utilities with the same or similar programs in other service territories. NRDC claims any basis for a future target will have some level of uncertainty, but as discussed below, Ameren has insulated itself from performance risk to a large degree. NRDC also asserts where NTG or TRM values have changes, the intervenor witnesses have noted those changes and the impact those changes would have on the resulting saving expectations.

NRDC asserts that in Ameren's last energy efficiency plan filing (Docket No. 10-0568), the Commission was similarly faced with a request by Ameren for modified goals in order to remain within the spending cap. NRDC says 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. NRDC seeks a similar order in this case, not as a punishment for Ameren for having exceeded its previous targets, but as a way to ensure that Ameren's customers benefit as much as possible from energy efficiency programs as envisioned by the Illinois legislature when it enacted the statutes under which these programs were created.

f. CUB Position

CUB notes that Ameren maintains it will be unable to meet the statutory electric and gas energy savings goal, and that the "proposed modified savings targets reflect a projection of what is realistically achievable within the spending limit." For the electric goals, this translates to a 0.50%, 0.51%, and 0.52% megawatt hour ("MWh") reduction in PYs 7-9, respectively, absent the DCEO portion of the goal, and proposed savings of 193,240 MWh, 200,081 MWh, and 206,759 MWh respectively over the same plan years. On the gas side, CUB notes that Ameren proposes to achieve therm reductions of 0.43%, 0.43%, and 0.44% respectively in gas PYs 4-6, absent the DCEO portion of the goal, which translates to 4,643,027 therms in PY4, 4,639,542 therms in PY5, and 4,636,069 therms in PY6, again, absent DCEO's portion of the goal.

CUB states that Ameren's proposed electric goals are only about a quarter of what the statute requires, and the proposed gas goals are about half of what the statute requires. CUB notes that Ameren is requesting the Commission approve a modified electric and gas spending screen for Plan Years 7-9, reflecting what the Company states is achievable within the spending limit. CUB recognizes that the Act allows Ameren to reduce the amount of electric energy efficiency and demand-response measures over a three year Plan period so that the average annual budget increase for these measures is limited to 2.015% for PYs 7-9. 220 ILCS 5/8-103(d). CUB avers that AIC calculated the spending limits for the electric energy efficiency programs for Plan Years 7, 8, and 9 at approximately $44.7 million, $45.4 million, and $45.6 million, respectively, exclusive of the DCEO portion of the budget.

CUB notes the Act also allows Ameren to request the Commission to approve lower goals than what the statute lays out, since by law, the measures Ameren can include in its Plan must be adjusted to limit the average budget increase to no more than 2% for natural gas energy efficiency over a three year period. 220 ILCS 5/8-104(d). CUB states that AIC calculated the spending limits for the gas energy efficiency programs for Plan Years 4, 5, and 6 at approximately $11.7 million, $11.7 million, and $11.8 million, respectively, exclusive of the DCEO portion of the budget.

While CUB acknowledges that the Act allows utilities to request that the Commission adjust their Plan goals based upon the impact of the spending screens, it is also true that Ameren has consistently exceeded its annual savings targets. CUB suggests that Ameren's past performance indicates that it can achieve more MWh and therms than what Ameren has proposed here. CUB notes that Ameren is currently implementing programs for Electric PY6, which means Ameren is in the sixth year of operating under the spending screen, and for the past three years Ameren has been operating with modified electric energy efficiency goals based upon the amount of measures limited by the spending screen. CUB witness Devens testified that, as illustrated in Table 1, since PY4, Ameren's electric portfolio budget has consistently ranged between $44.5 and $45.7 million. Ameren achieved savings of 353,664 MWh in PY4, and ex ante savings of 330, 836 MWh in PY5. In PY4, Ameren exceeded the electric goal by 129%; in PY5, Ameren exceeded the goal by 135%, and in PY6, Ameren plans on exceeding the goal by 126%. These numbers indicate that Ameren consistently achieves beyond the electric goals by around 30%.

Table 1: Ameren Electric Energy Efficiency Goals and Budget

	PY4	PY5	PY6	PY7	PY8	PY9
Goal (MWh)	273,534	245, 871	216,495	193,240	200,081	206,759
Achievement (MWh)	353,664	330,836	273,370	N/A	N/A	N/A
% Table 1:	129%	135%	126%	N/A	N/A	N/A

Ameren Electric Energy Efficiency Goals and Budget Achieved						
Budget (in millions)	$44.5	$44.7	$45.5	$44.7	$45.4	$45.7
Amount Spent	$36.9	$37.0	N/A	N/A	N/A	N/A
% Spent	83%	83%	N/A	N/A	N/A	N/A

CUB believes it is clear that Ameren can be achieving greater savings – likely around 150,000 MWh – than AIC has claimed they can save in this Plan filing; however, Ameren is projecting it can only achieve savings of around 200,000 MWh annually in PYs 7-9. CUB avers that this is a difference of around 150,000 MWh between what Ameren has achieved under a budget cap of around $45 million in the last couple years, and what Ameren states it can achieve in the upcoming three years.

As illustrated in Table 2 below, the gas budget was $13.9 million in Gas PY1, $14.1 in Gas PY2, and $14.4 in Gas PY3. CUB notes that the budget is about $2 million lower per year for Gas PYs 4-6 in this Plan filing: it is $11.7 million for PYs 4 and 5, and $11.8 in PY6. With a reduced budget, it is reasonable for Ameren to propose gas savings goals that are lower than they were in the first Plan filing. However, in PYs 1 and 2, CUB states that Ameren only spent 75% and 84% of the budget, or at $10.5 and $11.9 million respectively, about as much money as the Company has to spend annually in PYs 4-6. In PYs 1 and 2, Ameren exceeded the goals by 155% and 140%. In PY1, Ameren achieved net savings of 5,771,819 therms. In PY2, Ameren achieved ex ante savings of 6,109,638 therms. This is about 1.1-1.5 million therms more than Ameren is stating the Company can achieve in PYs 4-6. While CUB recognizes that gas prices are low, and it is a difficult time for utilities to achieve efficiency savings, CUB also notes that Ameren managed to accomplished significant savings in the same troubled market in PYs 1 and 2.

Table 2: Ameren Gas Energy Efficiency Goals and Budget

	PY1	PY2	PY3	PY4	PY5	PY6

Goal (therms, in millions)	3.7	4.4	4.9	4.6[1]	4.6	4.6
Achievement (therms)	5.8	6.1	5.8		N/A	N/A
% Achieved	155%	140%	118%	N/A	N/A	N/A
Budget (in millions)	$13.9	$14.1	$14.4	$11.7	$11.7	$11.8
Amount Spent	$10.5	$11.9[2]	N/A	N/A	N/A	N/A
% Spent	75%	84%	N/A	N/A	N/A	N/A

If Ameren is able to rely on banked savings from PYs 1-6 in PYs 7-9, CUB notes that those banked savings will certainly assist Ameren to meeting the savings targets, depending on the final amount the Company is able to bank. For example, Ameren was able to bank savings that were 10% of the excess MWh Ameren achieved from PYs 1 and 2, which amounted to 16,890 MWh. CUB notes that the savings were achieved with cost-effective programs which were approved by the Commission in Docket Nos. 07-0539 and 10-0568. CUB believes that as illustrated in Table 1, due to Ameren exceeding the annual goals every year, it is clear that Ameren will be able to bank savings from all previous years: PYs 1-5 (Ameren is currently implementing PY6 electric programs).

CUB notes that Ameren has managed to do this without even spending the entire modified portfolio budget. As Tables 1 and 2 illustrate, Ameren has only been spending 83% of the electric portfolio budget to achieve around 130% of the electric savings, and 75-84% of the gas portfolio budget to achieve between 140-155% of the gas savings. CUB suggests that this illustrates that the goals in the previous Plan filing were unnecessarily low: Ameren is not spending 17% of the electric budget, and 16-25% of the gas budget to achieve 30% more electric efficiency and 40-55% more gas efficiency beyond the targets.

CUB asserts that AIC is clearly capable of achieving greater savings, and while it might be understandable for Ameren to want to minimize risk by taking a conservative approach to forecasting potential savings achievement, the repeated failure to spend the entire portfolio budget and ability to so greatly achieve savings beyond the targets illustrates that there is room for improvement. CUB notes that the EEPS is designed to maximize energy efficiency in Illinois while minimizing the impact program costs have on consumers' bills; while the spending limit ensures that electric and gas customers will not see increases of more than around 2% as a result of these programs. CUB suggests that the goal of the EEPS is for the utilities to spend money on energy efficiency programs, not limit how much they spend by proposing low goals.

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[1] PY 4- 6 Goal and Budget from Ameren Ex. 1.1 (2nd REV.) at 6.

[2] Docket No. 10-0568, Energy Efficiency Portfolio Report: March-May 2013. July 3, 2013.

CUB recommends the Commission follow the steps it took in Docket No. 10-0568 and order Ameren to present a Revised Plan which includes increased proposed savings targets that are in line with what the Company's achievements have been in previous years. If the Company predicts that any individual program or measure will lead to fewer MWH or therm reductions in the upcoming three years than that program has been performing, CUB believes Ameren must provide extensive explanation and evidence for stakeholder, Staff, and Commission review and approval.

g. Commission Conclusions

The Commission notes that the parties have extensively discussed this issue, and does not find it necessary to repeat their discussion here. It appears to the Commission that the issue is in essence: within the statutory spending limit, which all parties appear to accept, how much of the statutory savings goal can AIC be expected to meet? The Commission notes that Docket No. 10-0568 foreshadowed this issue as follows:

> 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.

Order, Docket No. 10-0568, pp. 31-32

The Commission notes that Section 8-103 of the Act provides that electric utilities shall implement energy efficiency programs that achieve the following annual energy savings levels for the program years 2014 -- 2016:

(7) 1.8% of energy delivered in the year commencing June 1, 2014; and

(8) 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

Likewise, Section 8-104 of the Act establishes gas annual energy savings goals for gas program years 4-6 as follows:

(1) 0.2% by May 31, 2012;
(2) an additional 0.4% by May 31, 2013, increasing total savings to .6%;
(3) an additional 0.6% by May 31, 2014, increasing total savings to 1.2%;
(4) an additional 0.8% by May 31, 2015, increasing total savings to 2.0%; and
(5) an additional 1% by May 31, 2016, increasing total savings to 3.0%;

AIC has proposed in its gas and electric energy plans that due to the spending limits imposed by the statute, it will set modified savings goals, and that it appears from the evidence will fall 49% of the statutory electricity savings goals and 34% of the statutory natural gas savings goal. While it appears that there are various reasons for this shortfall, the Commission believes that a major cause is a projected increase in costs for the Residential Standard CFL Program and the Business Standard Program.

AIC notes that in response to the parties' suggestions it has submitted a remodeled portfolio, which incorporates various suggestions, including the AG's recommendation to reflect higher savings and lower costs for the CFL program. Staff appears satisfied with AIC's remodeled plan, suggesting that low gas and electricity prices have combined to reduce the budget available, while at the same time reducing incentives for customers to participate in EE programs. The AG, CUB, ELPC and NRDC all recommend various changes to the plan, which would result in increased modeled electric and gas savings while staying under the projected spending limit.

The Commission notes that notwithstanding the statutory savings requirements of the Act for both gas and electric, there is the previously discussed spending limit, and the utility plan may be approved, despite not meeting the savings requirements, if there is "substantial evidence that it is unlikely that the requirements could be achieved without exceeding the applicable spending limits."

While the parties have discussed several areas of the Plan where increased savings might be achieved, it appears to the Commission that this decision is somewhat hampered by the fact that previous savings goals have only been confirmed by the Commission for PY1 and PY2. AIC also notes that previous years savings used as a comparison are estimated based on different and sometimes changing savings values. The Commission also recognizes that the Act imposes the requirements to comply with the design and implementation of a gas and electric energy efficiency savings Plan on AIC. The Commission understands the challenges facing utilities when budgets continue to shrink and energy savings become more difficult to find, but maintains the same position it has in the past and expects AIC to work toward the goals expressed in the Act. As we stated in our review of Ameren's last Energy Efficiency Plan filing, we encourage "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." Final Order, ICC Docket No. 10-0568, at 31-32 (Dec. 21, 2010). Thus, we direct Ameren to present a Revised Plan which includes increased proposed savings targets that are in line with what the Company's achievements have been in previous years. The Commission has accorded Ameren flexibility in managing its plan, an issue addressed later in this Order, such that it can continue to propose innovative programs and alter its plan in the event those programs are unsuccessful with input from the SAG. Ameren should utilize this flexibility to uncover the largest percentage of energy efficiency savings possible to the benefit of ratepayers in Illinois.

B. Electric and Gas Spending Limits

1. Proposed Electric Spending Limit

a. AIC Position

Ameren notes that per Section 8-103(d)(5) of the Act, the spend limit is expected to be equal to 0.1543 cents per kWh ("¢/kWh") for the plan year beginning June 1, 2014 and each year thereafter multiplied by forecast delivered kWh sales. AIC states that the statutory ¢/kWh spending limit for PY5 and each year thereafter is the greater of either 2.015% of the amount paid per kWh during the year ending May 31, 2007 or the incremental amount per kWh paid in PY4, and that the value of 0.1543 ¢/kWh is equal to the incremental amount per kWh paid in PY4. AIC witness Noonan explained that the "methodology used to calculate the electric energy efficiency spending limits is consistent with that approved by the Commission in prior dockets. Specifically, the energy and revenue forecast was updated in the model to reflect the current projections, and estimates for the cost of power for third party loads were also updated." Ameren Ex. 4.0 at 4:65-68. AIC suggests that it does not anticipate updating its budget throughout the three years, and based on Mr. Noonan's calculations, the Plan 3 cumulative 3-year spending limit for the electric energy efficiency program (inclusive of the DCEO portion) has been calculated as approximately $181 million, which when apportioned over three years comes to approximately $59.6 million, $60.6 million, and $60.9 million for PY7, PY8, and PY9, respectively.

b. Staff Position

Staff states that notwithstanding the requirements of Sections 8-103(b) and (c) of the Act, Section 8-103(d) requires reductions to the amount of EE and demand response measures implemented over a 3-year planning period by an amount necessary to limit the estimated average annual increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures by certain specific percentages. Specifically, during Plan 3, the estimated average net increase is limited to no more than the greater of 2.015% of the amount paid per kWh by those customers during the year ending May 31, 2007 or the incremental amount per kWh paid for these measures in 2011. Thus, Staff states the electric spending limit for each electric program year of Plan 3 is the incremental amount per kWh paid for these measures in 2011 (0.1543¢/kWh) multiplied by the forecasted energy deliveries for each program year which are adjusted for load reductions due to energy efficiency measures.

Staff recommends that the Commission approve AIC's calculated dollar amount for the electric spending limits for Plan 3: $59,586,934 (EPY7), $60,551,052 (EPY8), and $60,879,122 (EPY9). Allocating 75% of the spending limit to AIC as required under Section 8-103(e), the Commission should approve AIC's budget over Plan 3 as the following: $44,690,200 (EPY7), $45,413,289 (EPY8), and $45,659,342 (EPY9).

c. Commission Conclusions

Based upon a review of the evidence, the Commission finds that AIC's portion of the electric budget for Plan 3 should be $44,690,200 (EPY7), $45,413,289 (EPY8), and $45,659,342 (EPY9). It appears this is not disputed.

2. Proposed Gas Spending Limit

a. AIC Position

As explained by Mr. Noonan, Section 8-104(d) of the Act identifies a limit on the amount of gas energy efficiency measures that can be implemented under that Section, and that this provision serves to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. Accordingly, AIC notes that Mr. Noonan calculated the spending limit by multiplying estimated Retail Revenue (amounts paid by retail customers) by this 2% cap. While the law provides for some flexibility in how this total is spent, AIC states that the spending limit given current forecasted revenue comes to approximately: $15.60 million (for PY7), $15.66 million (for PY8), and $ 15.69 million (for PY9). Ameren indicates that it does not anticipate updating its budget throughout the three years; therefore, the total spending limit for the gas energy efficiency programs and measures that could be included in Plan 3 (inclusive of the programs to be administrated by the DCEO) is $46.94 million.

b. Staff Position

Staff states that notwithstanding the requirements of subsection (c) of Section 8-104 of the Act, Section 8-104(d) provides that a natural gas utility shall limit the amount of EE implemented in any 3-year reporting period established by subsection (c) of Section 8-104 of the Act, by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. 220 ILCS 5/8-104(d). Specifically, Staff notes that Section 8-104(d) states that "[t]he energy savings requirements in subsection (c) of this Section may be reduced by the Commission for the subject plan, if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period." Staff suggests that AIC reports the gas spending limits to be the following: $15,606,828 for GPY4, $15,662,621 for GPY5, and $15,694,411 for GPY6.

c. Commission Conclusions

Based upon a review of the evidence, the Commission finds that AIC's portion of the gas budget for Plan 3 should be $15,606,828 for GPY4, $15,662,621 for GPY5, and $15,694,411 for GPY6 for a total of $46,963,860. It appears this is not disputed.

3. Response to Proposed Spending Limits

a. Proposed Spending Requirements

(i) AIC Position

AIC notes that while no party contested Ameren's calculated spending limits, CUB argues that the AIC should spend the entire portfolio budget over the next plan cycle, exclusive of marketing, administrative, and evaluation, measurement, and verification ("EM&V") costs. Additionally, NRDC notes that AIC had not spent each available dollar in its allocated portfolio budget during PY4 or PY5, despite preliminary data indicating the Company had met (and perhaps exceeded) its savings goals. AIC submits that Staff, however, disagreed with CUB and NRDC, explaining:

> Given the modified goals being requested, Ameren Illinois should be directed to spend all funding to the extent practicable on cost-effective energy efficiency measures. It is not necessary to spend all, because it seems unreasonable to expect Ameren Illinois to have the exact knowledge before the end of the program year concerning which EE projects will be completed in time.

(Staff Ex. 3.0 at 4:85-89).

Ameren does not agree with CUB or NRDC that it should spend all available budgeted funds. AIC believes that not only is it unreasonable (as Staff notes) to expect Ameren to hit the budget to the dollar at the end of the year, but it is also impractical. As explained by Ameren witness Obeiter, requiring Ameren Illinois to spend its entire portfolio budget does not necessarily guarantee the achievement of greater energy efficiency savings. AIC suggests that the evidence shows that it is committed to maximizing the amount of energy efficiency savings that can be achieved cost-effectively (and historically has spent approximately 90% of its budgeted amounts from PY1-5, according to Ameren witness Mr. Goerss). AIC believes that imposing a spending requirement may force the Company to spend resources in a way that does not represent a good use of ratepayer funds, as there are instances where the Company may be able to achieve and even exceed the savings goals without spending the entire budget. AIC notes that these unspent funds can then be carried over to subsequent program years to ultimately increase the cumulative savings achieved over the three-year plan cycle. AIC asserts that requiring over a three year cycle that all funds be spent can result in undesirable expenditures such as spending in haste at term end in order to comply with the Commission directive. Accordingly, AIC recommends that CUB's and NRDC's request to spend all budgeted amounts should be rejected.

(ii) Staff Position

Staff recommends the Commission approve AIC's calculated dollar amount for the electric spending limits for Plan 3: $59,586,934 (EPY7), $60,551,052 (EPY8), and $60,879,122 (EPY9). Staff also recommends the Commission approve AIC's calculated dollar amount for the gas spending limits for Plan 3: $15,606,828 for GPY4, $15,662,621 for GPY5, and $15,694,411 for GPY6.

CUB, NRDC, and Staff all express concern that AIC has failed to spend available funds despite approval of modified savings goals during Plan 2. Given modified savings goals are being requested for Plan 3, Staff recommends that the Commission direct AIC to spend all available funding to the extent practicable on cost-effective EE measures. Staff believes this approach is consistent with the way goals can be satisfied (e.g., banking) and it will benefit customers if AIC exceeds the modified savings goals by pursuing additional cost-effective measures. Staff notes that AIC indicates that it "will continue to spend available funds, to the extent practicable, in an effort to meet its savings goals and achieve optimal savings without exceeding the spending limits."

Staff states that in the Plan 2 Order, the Commission directed AIC to spend additional gas funds above those needed to meet the gas goals. The Plan 2 Order states:

> The Commission further directs Ameren to include in its compliance filing, a gas savings plan that encompasses the agreed gas spending limit of $56,621,420 and results in the gas savings espoused by Staff and the AG for Plan 2. The Commission recognizes that the requirements for gas savings during the Plan can be accomplished with excess savings in one year satisfying another year, however the Commission expects Ameren to be mindful of the savings requirements that will be expected in the next Plan.
>
> The Commission also directs Ameren to expend excess funds available in any year that are over and above what Ameren expects to spend on gas savings, to the extent possible, toward joint gas-electric savings opportunities that Ameren can identify. While the Commission recognizes that Ameren alone has authority over how it spends these excess funds so long as they are spent in accordance with the requirements of this Order, the Commission expects Ameren to work with the SAG to identify opportunities. Ameren shall not be required to spend more than 75% of the total natural gas budget. The Commission finds that the expenditure of these funds will not only benefit joint gas-electric customers, recognizing that Ameren is a gas and electric utility, but should enable Ameren to approach its required electric efficiency savings under the Act.

Order Docket No. 10-0568 at 45 (Dec. 21, 2010). Staff therefore recommends that the Commission direct AIC to spend all available funding to the extent practicable on cost-effective EE measures.

In its Reply Brief Staff says if the Commission imposes a spending requirement on AIC, the Commission should determine that this requirement should be implemented consistent with AIC's responsibility to prudently incur expenses for energy efficiency and demand-response measures and should make clear that Ameren shall only be entitled to recover costs prudently and reasonably incurred.

Staff believes the Commission should order AIC to: (1) prudently respond to changes (e.g., TRM, NTG, market) during the implementation of its programs; (2) spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals and increase net benefits for ratepayers; (3) avoid over-promoting cost-ineffective measures so as to help ensure participation of these cost-ineffective measures does not exceed participation expectations included in the Plan; (4) provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its programs during implementation; and (5) explain how AIC responds to TRM, NTG, and other changes in its quarterly ICC activity reports that AIC shall file via the Commission's e-Docket system in this docket. Consistent with AIC's Plan 1 proceeding, the Commission should also find that AIC may bank cost overruns.

(iii) Commission Conclusions

CUB and NRDC believe that AIC should spend all available budgeted funds over the next plan cycle. Staff believes AIC should be directed to spend all funding to the extent practicable on cost-effective energy efficiency measures. Both AIC and Staff oppose the proposals of CUB and NRDC. Among other things, AIC argues that imposing a spending requirement may force it to spend resources in a way that does not represent a good use of ratepayer funds, as there are instances where AIC may be able to achieve and even exceed the savings goals without spending the entire budget. AIC also asserts that these unspent funds can then be carried over to subsequent program years to ultimately increase the cumulative savings achieved over the three-year plan cycle.

The Commission believes that Staff's proposal strikes the proper balance between spending energy efficiency dollars on programs that the Company knows may never be successful and holding back on spending such that customers do not receive the full benefit of the budget for any particular year. AIC is directed to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals and increase net benefits for ratepayers.

4. Breakthrough Equipment and Devices

a. AIC Position

AIC notes that the Act also provides that "[n]o more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices." (220 ILCS 5/8-103(g)). Consistent with this provision, AIC states that Plan 3 reflects that no more than 3% of program revenue has been allocated for demonstration of "breakthrough equipment." For example, AIC indicates that Plan 3 reflects that a codes and standards pilot coordinated with the other Illinois utilities may be funded through this line item.

Staff notes that the phrase "breakthrough equipment and devices" is not defined in the Act, has not previously been defined by the Commission and could be open to interpretation. This ambiguity, Staff suggests, makes it difficult to factually assess whether or not the Plan is consistent with the 3% ceiling on such spending as required per Section 8-103(g). Therefore, Staff recommends the Commission define "breakthrough equipment and devices" in this proceeding to mean "measures or programs in their early stage of development that are subject to substantial uncertainty about their cost-effectiveness during the planning period." (Staff Ex. 1.0 at 24:598-25:623).

In an effort to minimize the number of contested issues in this docket, Ameren indicates that it does not object to Staff's request to define breakthrough equipment and devices in this manner. Indeed, AIC suggests that applying this definition would mean that the Residential LED Program, the Residential ENERGY STAR New Homes Program and the Residential School Kits could fall into this category during implementation.

In its Reply Brief Ameren notes that Staff has provided additional detail on how Staff intends to apply the definition, and AIC expresses concern that Staff or some other party may seek to limit program offerings (or recovery for such programs) because that party believes a program fits within a definition of "breakthrough equipment and devices" that could be subjectively applied. For that reason, Ameren can no longer agree to Staff's definition, but does join Staff's request in its Initial Brief to have the Commission order a workshop during which Ameren and Staff could work with other SAG participants on a clear definition of "breakthrough equipment and devices" that could be applied during Plan 3 to currently known and future new programs. AIC notes that NRDC also questions the definition proposed by Staff, and stated that such definition "would appear to open the door to inappropriate, after-the-fact challenges to cost-recovery for measures and/or programs that, in hindsight only, fail cost-effectiveness screening." NRDC Reply Brief at 8. Ameren suggests that it would be willing to identify those measures in its quarterly updates filed with the Commission in this docket.

AIC states that in an effort to minimize the number of contested issues in this docket, in its Initial Brief, Ameren did not object to Staff's request to define breakthrough equipment and devices for application during Plan 3 as "measures or programs in their early stage of development that are subject to substantial uncertainty about their cost-effectiveness during the planning period." Upon further review of Staff's Initial Brief, AIC is concerned that some party – Staff or otherwise – might seek to limit program offerings (or recovery for such programs) simply because Staff or some other party believes the program fits within a definition of "breakthrough equipment and devices" that could be subjectively applied. Ameren noted in its Initial Brief that Staff's definition could mean that the Residential LED Program, the Residential ENERGY STAR New Homes Program and the Residential School Kits could fall into this category during implementation, upon review of Staff's Initial Brief AIC claims it is now unknown how such a definition would be applied to currently planned or future, unknown programs that could be added at a later date.

Ameren joins Staff's request in its Initial Brief to have the Commission order a workshop during which Ameren Illinois and Staff could work with other SAG participants on a clear definition of "breakthrough equipment and devices" that could be applied during Plan 3. As part of that workshop process, Ameren says it and Staff could then work with the SAG, identify those measures in Plan 3 that meet the agreed-to definition, and AIC could then identify those measures (or any new future ones) in its quarterly updates filed with the Commission in this docket.

b. Staff Position

With respect to the electric portion of the Plan, Staff notes that the Act provides that no more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices. With respect to the gas portion of the Plan, Staff states that the Act further provides that no more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of breakthrough equipment and devices. Staff notes that AIC's Plan asserts that no more than 3% of program revenue has been allocated for demonstration of "breakthrough equipment." Staff assumes that AIC's references to "Emerging Technologies" are synonymous with "demonstration of breakthrough equipment and devices" as referenced in Sections 8-103(g) and 8-104(g) of the Act, and that AIC indicates that a codes and standards pilot coordinated with the other Illinois utilities may be funded through this line item.

Staff submits that the phrase "breakthrough equipment and devices" is not defined in the Act, has not previously been defined by the Commission, and could be open to interpretation. Staff believes this ambiguity makes it difficult to determine whether or not the Plan is consistent with the 3% ceiling on such spending as required per Sections 8-103(g) and 8-104(g) of the Act. Therefore, Staff requests that the Commission define "breakthrough equipment and devices" in this proceeding such that compliance with this statutory standard can be ensured over the course of Plan 3. In particular, the Commission should define "breakthrough equipment and devices" as "measures or programs in their early stage of development that are subject to substantial uncertainty about their cost-effectiveness during the planning period."

Staff submits that breakthrough technology should not be classified as part of a standard program for reconciliation purposes. Currently, without a clear definition, measures and programs that should fall under breakthrough technology may be classified as part of a standard program for reconciliation purposes as a means to circumvent statutory limitations. Incentives for breakthrough technology can be offered through a standard program; however Staff believes that these incentive costs and any other direct costs related to the breakthrough technology should be identified as a separate line item on the reconciliation report.

In Staff's view, to circumvent the statutory limitations means to spend greater than 3% of portfolio resources on breakthrough equipment and devices per Sections 8-103(g) and 8-104(g) of the Act. Staff submits this can occur through misclassifying costs for certain breakthrough equipment and device measures in the reconciliation report as part of the standard program. Staff has concerns about the practice of splitting costs between this cost category and another. If the cost can fall within the definition of breakthrough equipment and devices and some other cost category, then Staff submits the entire cost should be classified under the category of breakthrough equipment and devices.

To the extent a measure proposed in AIC's Plan falls under the definition of "breakthrough equipment and devices" and the participation of this breakthrough equipment and device measure is forecasted in AIC's Plan as exceeding the 3% statutory limitation, then AIC should modify participation estimates, savings, and costs in its revised Plan such that the 3% statutory limitation is not exceeded. Staff recommended that AIC identify with specificity in its rebuttal testimony and/or compliance filing the measures it believes fall under the definition of breakthrough equipment and devices. AIC failed to identify such measures in its rebuttal testimony, and thus has failed to show that the 3% statutory limitation on breakthrough equipment and devices has not been exceeded. Accordingly, the Commission should order AIC to work with the SAG to identify measures which meet the definition recommended by Staff, and further direct that AIC shall list the measures included in its Plan which meet that criteria in a compliance filing AIC files in this docket within 45 days of the date of the Order in this docket.

c. NRDC Position

NRDC notes Staff asks the Commission to adopt a definition of breakthrough equipment and devices as measures or programs in their early stage of development that are subject to substantial uncertainty about their cost-effectiveness during the planning period. NRDC asks the Commission to hold off on adopting any such definition. It is not obvious to NRDC why a definition is needed.

NRDC argues that if Staff believes that certain measures and/or programs in a utility's plan are not currently properly classified as R&D, it should have made that case in its direct testimony. If the Commission determines that a definition is needed, NRDC urges the Commission to hold workshops in advance of adopting a definition to allow for stakeholder input into the development of the definition.

d. Commission Conclusions

Staff initially recommended that the Commission adopt a definition of breakthrough equipment and devices in this proceeding. AIC initially agreed with Staff. NRDC suggests that the Commission should not adopt any such definition at this time. Subsequently, Staff recommended that the Commission order AIC to work with the SAG to identify measures which meet the definition recommended by Staff, and further direct that AIC shall list the measures included in its Plan which meet that criteria in a compliance filing AIC files in this docket within 45 days of the date of the Order in this docket. AIC states it does not object to Staff's request in its Initial Brief to have the Commission order a workshop during which Ameren Illinois and Staff could work with other SAG participants on a clear definition of "breakthrough equipment and devices" that could be applied during Plan 3.

Based upon a review of the parties' arguments, the extent to which parties agree is not entirely clear. As a result, the Commission is reluctant to either explicitly or implicitly adopt a definition in this proceeding. Instead, the Commission directs AIC and Staff to conduct a workshop with other SAG participants on a clear definition of breakthrough equipment and devices that could be applied during Plan 3. The Commission believes this result will best accommodate the concerns of AIC, Staff, and NRDC.

V. AMEREN ILLINOIS' ENERGY EFFICIENCY AND DEMAND RESPONSE PLAN

A. DESCRIPTION OF AMEREN ILLINOIS' PLAN

1. Background

AIC filed and received Commission approval in ICC Docket No. 07-0539 ("Plan 1 Docket") of its first electric EE Plan as required under the Act which covered the period of June 1, 2008 through May 31, 2011, also referred to as electric program years ("EPY") 1 through EPY3. AIC filed and received Commission approval in ICC Docket No. 10-0568 ("Plan 2 Docket") of its first integrated gas and electric EE pursuant to Sections 8-103 and 8-104 of the Act, which covered the period of June 1, 2011 through May 31, 2014, referred to as EPY4 through EPY6 and gas program year ("GPY") 1 through GPY3. The Commission notes that the current Plan filing represents AIC's third statutorily mandated EE Plan filing and covers EPY7 through EPY9 and GPY4 through GPY6, or generally PY7 through PY9 covering the period June 1, 2014 through May 31, 2017.

Ameren indicates that AEG has over thirty years of national and international experience on energy efficiency strategy and portfolio development including experience in Illinois from its previous development of the utility portfolio Plan filings for Peoples Gas and North Shore Gas and the past two submissions for Ameren Illinois' energy efficiency portion of the Illinois Power Agency plan.

2. Portfolio Summary and Objectives

A summary of the AIC proposed portfolio (exclusive of the DCEO portfolio) energy goals, demand reduction targets, and costs for the three year planning period are set forth above and can be found in Tables 6-13 of Ameren Exhibit 6.1. Ameren Illinois explains that, to develop Plan 3, it engaged AEG for the analysis and development of the portfolio programs and savings estimates.

Ameren indicates that its Illinois' proposed portfolio complies with the Act by achieving several objectives, including:

1. Leverag[ing] current programs and ongoing implementation activities while maintaining program momentum.

2. Achiev[ing] the proposed modified electric and gas savings targets, which equal an optimal level of savings within the statutory sending limit, while maintaining a diverse portfolio of programs serving all rate classes.

3. Incorporat[ing] cost-effective programs.

4. Incorporat[ing] programs using best practice approaches and field experience.

5. Coordinat[ing] with the Illinois stakeholder advisory group (SAG), DCEO and all Illinois utility energy efficiency programs.

6. Allow[ing] for flexibility to manage risk and uncertainty.

7. Develop[ing] scalable programs and portfolios.

3. Dual Fuel Integration

Ameren notes that the Act specifies that a gas utility affiliated with an electric utility shall integrate gas and electric efficiency measures into a single program that reduces program or participant cost and appropriately allocates costs to gas and electric ratepayers and that the DCEO shall integrate all gas and electric programs it delivers in any such utilities' service territories unless the DCEO can show that integration is not feasible or appropriate. (220 ILCS 5/8-104(f)(6)).

Being both a gas and electric utility and recognizing the benefits of an integrated dual fuel savings portfolio of services for its customers, Ameren indicates that it presents a Plan with a portfolio that integrates both electric and gas savings measures. AIC suggests that is experience shows that developing and implementing an integrated portfolio allows for broader program offerings while achieving certain efficiencies and cost savings for customers through combining marketing materials, joint administration, implementation, and market outreach activities. Ameren also notes that energy savings achieved for both fuels are 'combined' when determining the cost effectiveness of measures under the TRC test, which is used to assess cost effectiveness at the planning stage.

In Plan 3, AIC notes that all but two (appliance recycling and the residential lighting) programs being proposed by Ameren Illinois are designed to achieve both electric and gas savings. AIC indicates that these measures "include insulation for dual-fuel customers, thermostats, and ENERGY STAR New Homes, and program costs were allocated 70% to the electric budget and 30% to the natural gas budget to account for the disparate amounts of total budget available for each fuel and to increase the amount of dual-fuel measures. AIC states that if this allocation is shifted to a lower proportion to the electric budget, the amount of dual-fuel measures would decrease due to the limited natural gas budget.

4. Planning Process

Ameren indicates that its proposed portfolio for Plan 3 contains improvements from the planning methods previously employed for Plan 1 and Plan 2.

At the planning stage for every Plan, Ameren indicates that it makes certain assumptions and performs a series of calculations to determine what measures can (and should) be part of its proposed programs in an effort to meet the Act's goals and savings requirements. Ameren notes that its portion of the portfolio, as a whole, seeks to be cost-effective, as calculated under the statutory definition of the TRC test, and the Company seeks to gain economic efficiencies by spreading administrative and evaluation costs across all of the programs. AIC notes that the Commission has previously granted it wide flexibility to modify the portfolio, including the program offerings in it, throughout the implementation period.

Specifically, to develop Plan 3, Ameren engaged AEG for the analysis and development of the portfolio programs and savings estimates. AEG based its analysis on the following four integral assumptions: (1) maintaining portfolio flexibility to adjust all portfolio elements at its discretion and as needed to optimize achievement of portfolio success; (2) aligning the timing for the application of the IL "NTG framework and the TRM to the program years; (3) maintaining a portfolio positive TRC, while recognizing that measure level TRCs fluctuate and may not always be positive; and (4) aligning savings goals according to changes in values, meaning that, as NTG and TRM values are adjusted, Ameren should be allowed to apply a commensurate adjustment to its annual goals. Ameren notes that the portfolio savings estimates set forth in Plan 3 are subject to change should the NTG values or TRM values change. Ameren states that AEG's analysis also reflects: (1) use of the Ben-Cost model – an open-source cost-effectiveness tool for energy efficiency and demand response programs; (2) a robust process that included the economic screening of approximately 300 electric and 50 natural gas measures; (3) a review of utility program design best practices; and (4) incorporation of 2013 primary market research data for Ameren Illinois customers.

Ameren also notes that there were other factors not present in its Plan 2 planning process that impacted the Plan 3 planning process. Ameren suggests that these factors included that: (1) gas spending limits from Plan 2 to Plan 3 decreased more than 20% due to severely depressed natural gas prices and a large reduction in demand, resulting in a decrease of 2% of the total combined gas and electric budget; and (2) cost-effective energy efficiency programs that could have been included in Plan 3 filing in the absence of Section 16-111.5B of the Act have now been submitted in the IPA plan, resulting in the separation of Ameren Illinois' energy efficiency programs and portfolios that had been proposed in Plan 2.

5. Savings Goals and Costs

Ameren notes that the proposed savings goals were previously set out; however because the electric energy savings targets set forth in the statute increase over Plan 3, AIC avers that the available dollars according to the spending limit must be spread thinner and thinner as the years progress, declining from $0.14 per kWh saved to $0.07 per kWh saved throughout Plan 3. Similarly, for gas, if a utility spent the limit and achieved the statutory savings targets, the cost per therm would decrease from $3.36 per therm saved to $1.09 per therm saved throughout Plan 3. (See Ameren Ex. 6.1 at 65 (Table 25)). Ameren Illinois engaged the national energy consulting firm, EnerNOC, to perform an independent market assessment and potential study (the "DSM Potential Study"), which concluded that Ameren Illinois would likely be unable to attain its utility portion of the portfolio's electric and gas savings target as set forth in the statute per the spending limit. Ameren notes that the results of the study, and the methodology used, were shared in several meetings with SAG, and the DSM Potential Study is attached to Ameren Exhibit 6.1 as Appendix D.

Ameren therefore has proposed modified goals that achieve optimal savings while staying within the defined spending limits. Ameren states that the Plan 3 portfolio plans to spend up to the allowed amount each year for the Ameren Illinois allocated portion of the portfolio.

With respect to the goal to reduce peak demand, Ameren opines that the Plan 3 cumulative 3-year demand response goal was calculated at 3.42 MW. Ameren notes that this goal has gone down considerably from the last planning cycle due primarily to the developing electricity market and the availability of alternative suppliers, as well as the increased practice of municipal aggregation.

Ameren notes that the Commission has previously determined that the Act requires each utility demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs for low income customers, is cost-effective using the TRC test and represents a diverse cross-section of opportunities for customers of all rate classes to participate in the programs. (220 ILCS 5/8-103(f)(5); 220 ILCS 5/8-104(f)(5)). Ameren states that the Act refers to the Illinois Power Agency Act for the definition of the TRC test. The TRC test, as expressed as an equation, is found on page 28 of Ameren Exhibit 6.1. Ameren opines that the TRC test can be used to account for electric benefits only, gas benefits only, and dual fuel benefits. Ameren also submits that a measure may not be cost-effective (e.g., have a TRC of less than 1) when only electric or gas savings are considered but may become cost-effective when both sets of savings are considered. Ameren notes that the assumptions underlying its application of the TRC test can be found in pages 29-32 and Appendix B of Ameren's Exhibit 6.1.

In applying the TRC test, Ameren states the gross program savings were multiplied by what is known as the NTG ratio to net out non-program effects. The primary drivers of the difference between net and gross savings are: (1) free ridership (the portion of customers who would have implemented an efficiency measure even in the absence of a program incenting it); and (2) free drivership, or spillover (the portion of customers who adopt a measure that is promoted by a program after having been influenced by the program, but without taking the program incentive). For Plan 3 program planning purposes, Ameren based individual program NTG assumptions on the most recent Plan 2 EM&V results unless there was sufficient reason to warrant changing them, such as new legislation or changing market conditions. Ameren suggests that Table 23 on page 46 of Ameren Exhibit 6.1 shows the NTG assumptions for proposed Plan 3 programs.

6. Rider EDR and Rider GER

The Act requires Ameren Illinois to submit a proposed cost recovery mechanism along with its Plan 3. As Ameren explains in Plan 3, the Company is proposing to continue with the use of Rider Energy Efficiency and Demand-Response Cost Recovery ("Rider EDR") and Rider Gas Energy Efficiency Cost Recovery ("Rider GER"), with slight changes described further later in this Order. Thus, Ameren Illinois requests that the Commission again approve Rider EDR and Rider GER as the cost recovery mechanism for the energy efficiency and demand response programs.

7. Portfolio Programs

Ameren notes that its Illinois' portfolio is comprised of measures bundled into residential and business programs that provide a diversity of opportunities for customers of all rate classes:

> The initial broad list of energy efficiency measures considered for adoption by consumers in the Ameren Illinois service territory was compiled from several sources. The measures offered in Ameren Illinois' Plan 2 programs served as

> the starting point for measure inclusion. This original measure database was supplemented with additional measures that were provided in the DSM Potential Study. . . . A review of all these sources was performed to ultimately create a robust, comprehensive list of measures to form the composite Plan 3 Measure Database.

(Ameren Ex. 2.0 at 5:96-104).

> At the portfolio level, AEG designed the relative mix of programs to achieve portfolio goals while staying within the spending limit. AEG also took into account other important considerations and objectives, such as how programs may be ramping up or down based on inception or sun-setting of technologies, introduction of codes and standards, market changes, etc.

(Ameren Ex. 2.0 at 13:301-305).

Finally, Ameren notes that AEG continued to make changes during this docket to reflect certain parties' suggested changes to the Plan, which are reflected in Ameren Ex. 6.1.

a. Residential Programs

Ameren indicates that the residential programs consist of the following:

Residential Portfolio Programs	
Residential Lighting	Incentives are provided to manufacturing and retail partners to increase sales of standard spiral CFLs and LEDs whereby the end-user receives a discount on the price of ENERGY STAR qualified products.
Residential HVAC	HVAC retrofit, and replacement upgrades for air conditioners, heat pumps, and cooling systems, achieving electric energy savings.
Residential Appliance Recycling	An incentive is provided to a customer for removing an inefficient refrigerator whereby a turnkey appliance recycling company verifies customer eligibility, schedules pick-up appointments, picks up appliances, recycles and disposes units, and performs incentive processing.
Residential Home Performance with ENERGY STAR (HPwES)	Home Performance with ENERGY STAR (HPwES) includes a home energy audit, direct install measures, and follow up sealing and insulation measures, achieving both gas and electricity energy savings.
Residential ENERGY STAR New Homes	Targets builders with a package of training, technical and marketing assistance, and incentives for construction of ENERGY STAR homes, achieving both gas and electric energy

	savings.
Residential Multifamily In-Unit	Provides installation of measures in tenant spaces, achieving both gas and electric energy savings.
Residential Behavior Modification	Home Energy Reports provide customers with a profile of their energy use, energy efficiency tips, portfolio program information, and a comparison of their energy usage to their "neighbors," encouraging reduced energy use, achieving both gas and electric energy savings.
Residential Moderate Income (Subset of HPwES)	Provides increased incentives for energy efficiency improvements and retrofits in moderate income households, achieving both gas and electric energy savings.
Residential School Kits	Distributes energy efficiency kits to customers with children in grades 5-8, achieving both gas and energy efficiency savings.

b. Business Programs

Ameren indicates that the business programs consist of the following:

Business Portfolio Programs	
Business Standard Incentive	Incents customers to purchase energy efficient measures with predetermined savings values and fixed incentive levels, achieving both gas and electric energy savings.
Business Custom Incentive	Applies to energy efficient measures that do not fall into the Standard Incentive program. These projects normally are complex and unique, requiring separate incentive applications and calculations of estimated energy savings, achieving both gas and electric energy savings.
Business Retro-Commissioning	Provides options and incentives for businesses to improve operations and maintenance practices for buildings, systems, and processes, achieving both gas and electric energy savings.
Business Large C&I	Pilot electric program offering incentives to large commercial and industrial facilities.

c. The DCEO Portfolio

The Act requires electric utilities to implement 75% of the electric energy efficiency measures, with the remaining 25% to be implemented by the DCEO. (220

ILCS 5/8-103(e)). This has been interpreted to be the percentage of the portfolio's costs. The Act specifies that natural gas utilities shall utilize 75% of the portfolio's costs and the remaining 25% shall be used by DCEO to implement energy efficiency measures that achieve no less than 20% of the target savings. (220 ILCS 5/8-104(e)). In addition, sections 8-103(f)(4) and 8-104(f)(4) of the Act require Ameren and DCEO to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty levels. (See 220 ILCS 5/8-103(f), 5/8-104(f)).

Ameren Illinois and DCEO have participated in SAG discussions regarding this three-year planning period and presented their respective Plans to SAG. As in Plan 2, DCEO will administer energy efficiency programs targeted to households at or below 150% of the poverty level and state universities, as well as state and federal governments, in addition to those segments as prescribed in the Act (units of local government, municipal corporations, public school districts and community colleges). It is understood that DCEO's Plan is the subject of a separate proceeding, Docket No. 13-0499.

B. FILING REQUIREMENTS

The minimum requirements for Commission approval of AIC's Plan are set forth in Sections 8-103(f) and 8-104(f) of the Act. These minimum requirements do not prohibit the Commission from imposing additional requirements on the utility during implementation or as part of the plan approval process. Indeed, the Commission notes that it has done so in all previous EE plan filing dockets.

DCEO's plan for implementing EE programs in the AIC service territory is the subject of a concurrent proceeding, ICC Docket No. 13-0499. Sections 8-103(e) and 8-104(e) of the Act provide that 75% of the funding shall go to the utility, while DCEO shall be allocated 25%. 220 ILCS 5/8-103(e). Therefore, 25% of the spending limits the Commission approves in this docket will be allocated to DCEO and the funds will flow through AIC's Riders EDR and GER. DCEO's portion of the savings goals that DCEO is responsible for achieving in each utility's service territory during Plan 3 will be determined by the Commission in ICC Docket No. 13-0499.

1. Section 8-103(f)(1) of the Act

Section 8-103(f)(1) of the Act requires that "[i]n submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall [d]emonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e)." 220 ILCS 5/8-103(f)(1). Section 8-103(b) of the Act requires electric utilities to implement cost-effective EE measures in order to achieve specific incremental annual energy savings goals: "1.8% of energy delivered in the year commencing June 1, 2014[, and] 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter."

220 ILCS 5/8-103(b). In MWh, AIC reports that this translates into the following unmodified energy savings targets: 707,858 MWh for EPY7, 800,866 MWh for EPY8, and 805,205 MWh for EPY9.

Section 8-103(b) further provides that electric utilities may comply with "subsection (b) by meeting the annual incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period associated with measures implemented after May 31, 2014 was equal to the sum of each annual incremental savings requirement from May 31, 2014 through the end of the applicable year." 220 ILCS 5/8-103(b).

Section 8-103(e) specifies certain requirements for DCEO's portion of the portfolio. Among those requirements includes the provision that the utility and DCEO shall agree upon a reasonable portfolio of measures and determine the measurable corresponding percentage of savings goals associated with measures implemented by the utility or DCEO. 220 ILCS 5/8-103(e). In cases where DCEO and the utility file their respective plans with the Commission, Section 8-103(e) provides that "the Commission shall determine an appropriate division of measures and programs that meets the requirements of this Section." Id.

Ameren's Plan indicates that its proposed energy efficiency measures will not achieve the unmodified energy savings requirements that are identified in Section 8-103(b) of the Act. Accordingly, the Company has proposed modified energy savings goals.

Section 8-103(c) of the Act requires electric utilities to "implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year" for certain customers. 220 ILCS 5/8-103(c). According to AIC, the Company's demand response target for Plan 3 is 1.23 megawatts ("MW") for EPY7, 1.12 MW for EPY8, and 1.07 MW for EPY9.

The Company's Plan demonstrates that its proposed EE and demand-response measures will achieve the required 0.1% peak demand reduction over the prior year. No demand response program is proposed; rather, Ameren proposes to meet its demand response goal for reducing peak demand through its proposed EE measures. Staff supports AIC's proposal. The Act defines demand response as "measures that decrease peak electricity demand or shift demand from peak to off-peak periods." 20 ILCS 3855/1-10. Allowing the implementation of EE measures that decrease peak electricity demand to count toward the statutory peak demand reduction target provides incentives to the utilities to focus on such measures. Furthermore, this is in line with the stated purpose of the statute:

> It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to

> consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures.

220 ILCS 5/8-103(a).

2. Section 8-104(f)(1) of the Act

Pursuant to Section 8-104(f)(1) of the Act, the Company's Plan must demonstrate that its proposed EE measures will achieve the requirements that are identified in subsection (c) of Section 8-104 of the Act, as modified by subsection (d) of that Section. 220 ILCS 5/8-104(f)(1). Section 8-104(c) of the Act requires natural gas utilities to implement cost-effective EE measures to meet at least the following natural gas savings requirements: an additional 0.8% by May 31, 2015, increasing total savings to 2.0%; an additional 1% by May 31, 2016, increasing total savings to 3.0%; and an additional 1.2% by May 31, 2017, increasing total savings to 4.2%. 220 ILCS 5/8-104(c). This calculation is based upon the total amount of gas delivered to retail customers, other than the customers described in Section 8-104(m), during calendar year 2009 multiplied by the applicable percentage. Id. After removing customers described in Section 8-104(m), AIC reports the statutory therms savings goals translate into the following: GPY 4 target equal to 887,058 dekatherms (0.8% of 110,882,275); GPY5 target equal to 1,108,823 dekatherms (1.0% of 110,882,275); and GPY6 target equal to 1,330,587 dekatherms (1.2% of 110,882,275). Section 8-104(c) also provides that "[n]atural gas utilities may comply with this Section by meeting the annual incremental savings goal in the applicable year or by showing that total savings associated with measures implemented after May 31, 2011 were equal to the sum of each annual incremental savings requirement from May 31, 2011 through the end of the applicable year[.]" 220 ILCS 5/8-104(c).

Ameren's Plan indicates that its proposed energy efficiency measures will not achieve the unmodified therms energy savings requirements that are identified in Section 8-104(c) of the Act. Accordingly, the Company has proposed modified energy savings goals.

3. Sections 8-103(f)(2) and 8-104(f)(2) of the Act

The Company's Plan presents specific proposals to implement new building and appliance standards that have been placed into effect in accordance with Sections 8-103(f)(2) and 8-104(f)(2) of the Act.

4. Sections 8-103(f)(3) and 8-104(f)(3) of the Act

Ameren's Plan presents estimates of the total amount paid for electric service expressed on a per kWh basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of Section 8-103, as modified by subsections (d) and (e).

The Company's Plan also presents estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of Section 8-104, as modified by subsection (d) of that Section.

5. Sections 8-103(f)(4) and 8-104(f)(4) of the Act

The Company is required to coordinate with the DCEO to present a portfolio of EE measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level and that shall be targeted to households with incomes at or below 80% of area median income. 220 ILCS 5/8-103(f)(4); 220 ILCS 5/8-104(f)(4). AIC's states it has coordinated it Plan with DCEO in accordance with the Act. Staff reviewed AIC's Plan and DCEO's Plan and found this requirement to be satisfied.

6. Sections 8-103(f)(5) and 8-104(f)(5) of the Act

Ameren is required to demonstrate that its overall EE and demand-response portfolio, not including programs covered by item (4) of subsection (f), is cost-effective using the total resource cost ("TRC") test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs. 220 ILCS 5/8-103(f)(5); 220 ILCS 5/8-104(f)(5).

Staff indicates that AIC's Plan satisfies this minimum requirement for Plan approval with a portfolio TRC benefit-cost ratio of 2.3.

7. Section 8-104(f)(6) of the Act

The Company is required to demonstrate that it has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. 220 ILCS 5/8-104(f)(6). Staff indicates it has reviewed the testimony of AIC witnesses Kenneth Woolcutt and Andrew Cottrell, which address integration in part. Mr. Woolcutt states that "[a]ll but two (appliance recycling and the residential lighting) programs being proposed by Ameren Illinois are designed to achieve both electric and gas savings." Staff suggests that Ameren's Plan complies with this integrated portfolio requirement.

8. Sections 8-103(f)(6) and 8-104(f)(7) of the Act

AIC's Plan is required to include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs. 220 ILCS 5/8-103(f)(6); 220 ILCS 5/8-104(f)(7) Ameren filed exhibits containing the existing Riders EDR and GER tariff language and AIC's proposed modifications to those tariffs. Staff has recommended two changes to the tariffs.

9. Sections 8-103(f)(7) and 8-104(f)(8) of the Act

The Company's Plan is required to provide for the following: (1) an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the DCEO's portfolio of measures, as well as (2) a full review of the 3-year results of the broader net program impacts and, (3) to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations and (4) provide that the resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year. 220 ILCS 5/8-103(f)(7). Staff suggests that Ameren's Plan generally complies with this requirement with certain exceptions, including ensuring independence of the Evaluators and evaluations as required per the Act.

Regarding 8-104(f)(8) of the Act, the Company's Plan is required to provide for the following: (1) quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the DCEO's portfolio of measures; (2) an annual independent review; (3) a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and (4) to the extent practical, adjustment of the measures on a going forward basis as a result of the evaluations, and (5) provide that the resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period. 220 ILCS 5/8-104(f)(8).

Staff believes that Ameren's Plan generally complies with this requirement with certain exceptions, including ensuring independence of the Evaluators and evaluations as required per the Act.

Staff does takes issue with Ameren's assertion that it, rather than the independent evaluator, is the appropriate party to perform the independent cost-effectiveness analysis required per Sections 8-103(f)(7) and 8-104(f)(8) of the Act. Staff asserts that the plain language of the statute is clear that the cost-effectiveness shall be part of the independent evaluation. Staff believes the Commission should specify that the independent evaluator is the appropriate party to conduct the ex post cost-effectiveness analysis required by statute and instruct AIC to specify this in its evaluation contract. Staff also recommends the Commission should direct that AIC require its evaluator to work with the other Illinois evaluators to ensure consistent methods and cost definitions are used to perform such ex post cost-effectiveness analyses in Illinois.

AIC states that in the section of Staff's Initial Brief addressing Sections 8-103(f)(7) and 8-104(f)(8) of the Act, Staff "takes issue with the Company's assertion that the Company, rather than the independent evaluator, is the appropriate party to perform the independent cost-effective analysis required by the Act." Ameren says Staff then requests, for the first time in this docket, that the Commission should specify that “the independent evaluator is the appropriate party to conduct the ex post cost-effectiveness analysis required by statute and instruct AIC to specify this in its evaluation contract.” According to Ameren, Staff seeks to have the Commission “direct that AIC require its evaluator to work with the other Illinois evaluators to ensure consistent methods and cost definitions are used….” AIC believes Staff’s recommendation should be disregarded and, in any event, it misconstrues AIC's position and then proposes a misguided solution to a problem that does not really exist.

Ameren says the Act requires that an “independent evaluation of cost-effectiveness” be performed, which AIC understands to mean a cost-effectiveness analysis that is reviewed/approved by an independent evaluator to which Ameren Illinois agrees and has performed for all years possible to date. AIC argues that nowhere does the Act require that the same evaluator who performs the impact evaluations must also perform the cost-effectiveness evaluation.

According to Ameren, Staff includes a one line request that baldly seeks an order requiring any independent evaluator to work with other evaluators in the state to ensure “consistent methods and cost definitions.” AIC believes this request, if approved, could lead to a significant increase in costs and could compromise the independence of the evaluation. For example, AIC says if one utility’s evaluator, in its independent judgment, believes that one method or cost definition should be applied in a given service territory, a different evaluator should not have to comprise its independent belief, should there be a disagreement. Ameren says all parties, including Staff, recognize that different utilities deliver programs to different service territories that reflect different demographics, populations, and characteristics. AIC complains Staff has not explained what should happen if an evaluator’s statutory budget does not allow for consistency. AIC asserts Staff has failed to explain how such issues should be resolved and whether independence, or budgets, should give way to consistency and Ameren asserts it should not.

Section 8-103(f)(7) requires the utility shall:

> Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year.

As discussed above, AIC and Staff appear to disagree about the meaning of this provision. AIC argues that nowhere does the Act require that the same evaluator who performs the impact evaluations must also perform the cost-effectiveness evaluation. While not entirely clear, it appears to the Commission that the difference of opinion centers around whether AIC must use the same independent evaluator or whether AIC, rather than the independent evaluator, is the appropriate party to perform the independent cost-effective analysis.

In any event, the Commission finds that the statute requires that an independent evaluator rather than AIC must perform the cost-effectiveness evaluation. The Commission, however, concludes that under the statute it is not necessary for AIC to use same evaluator who performs the impact evaluations to also perform the cost-effectiveness evaluation.

AIC also objects to Staff's proposal for AIC's independent evaluator to work with other evaluators in the state to ensure consistent methods and cost definitions. The Commission finds the record of this proceeding does not support a finding that such a requirement is necessary at this time, in this proceeding.

10. Sections 8-103(i) and 8-104(i) of the Act

The statute requires that if, after three years, an electric utility fails to meet the efficiency standard specified in subsection (b) as modified by subsections (d) and (e), that the electric utility will make a contribution to the Low-Income Home Energy Assistance Program ("LIHEAP"). 220 ILCS 5/8-103(i). Section 8-103(i) also requires that the responsibility for implementing EE measures shall be transferred to the IPA if, after three years or in any other three year period, the utility fails to meet the efficiency standard specified in subsection (b) as modified by subsections (d) and (e) of Section 8-103.

Section 8-104(i) of the Act states:

> If, after 3 years, a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section as modified by subsection (d), then it shall make a contribution to the Low-Income Home Energy Assistance Program. The total liability for failure to meet the goal shall be assessed as follows:
>
> (1) a large gas utility shall pay $600,000;
> (2) a medium gas utility shall pay $400,000; and
> (3) a small gas utility shall pay $200,000.

For purposes of this Section, (i) a "large gas utility" is a gas utility that on December 31, 2008, served more than 1,500,000 gas customers in Illinois; (ii) a "medium gas utility" is a gas utility that on December 31, 2008, served fewer than 1,500,000, but more than 500,000 gas customers in Illinois; and (iii) a "small gas utility" is a gas utility that on December 31, 2008, served fewer than 500,000 and more than 100,000 gas customers in Illinois. The costs of this contribution may not be recovered from ratepayers.

If a gas utility fails to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, in any 2 consecutive 3-year planning periods, then the responsibility for implementing the utility's energy efficiency measures shall be transferred to an independent program administrator selected by the Commission. Reasonable and prudent costs incurred by the independent program administrator to meet the efficiency standard specified in subsection (c) of this Section, as modified by subsection (d) of this Section, may be recovered from the customers of the affected gas utilities, other than customers described in subsection (m) of this Section. The utility shall provide the independent program administrator with all information and assistance necessary to perform the program administrator's duties including but not limited to customer, account, and energy usage data, and shall allow the program administrator to include inserts in customer bills. The utility may recover reasonable costs associated with any such assistance.
220 ILCS 5/8-104(i).

Staff recommends the Commission direct AIC to petition the Commission for a review of whether AIC met its savings goals once the independent evaluation reports are available.

Ameren states that Staff incorrectly states that failure to meet Plan 3’s savings goal is subject to a financial penalty. In AIC's view, Section 5/8-103(i) clearly states a penalty only applies to the first three year Plan. AIC argues that the Commission need not resolve this issue in this docket, which does not address compliance with the savings goals but rather plan approval.

Staff recommends the Commission direct AIC to petition the Commission for a review of whether AIC met its savings goals once the independent evaluation reports are available. It appears that AIC does not object to Staff's recommendation. As a result, the Commission directs AIC to petition the Commission for a review of whether AIC met its savings within 60 days after the independent evaluation reports are available.

11. Section 8-103A of the Act

Section 8-103A of the Act requires that the Company shall include in its Plan an analysis of additional cost-effective energy efficiency measures that could be implemented, by customer class. 220 ILCS 5/8-103A.

C. Staff and Intervenor Proposed Changes to the Plan

1. Proposed Changes to Ameren Illinois' Proposed Programs

a. Removing Programs from the Plan into the IPA Procurement Plan

(i) Staff Position

Staff took no position with respect to removing programs from the Plan so that they can be bid into the IPA Procurement Plan.

(ii) AIC Position

Ameren indicates that recommendations to remove programs from the Plan and "transfer" them to the IPA portfolio for PY8 and PY9 should be rejected. Ameren believes such recommendations are inconsistent with Ameren's obligations under Section 8-103 of the Act, run contrary to the intent of the Act's energy efficiency provisions and jeopardize savings that Ameren Illinois has planned to achieve through Plan 3 without any corresponding guarantee the savings will be achieved elsewhere. AIC suggests that the Intervenors' proposals fail to take into account the practical realities of program availability, as a result of the two different procurement processes under Sections 8-103 and 16-111.5B of the Act.

AIC notes that those programs offered as part of the annual procurement plan of the IPA are offered pursuant to a different section of the Act, and are subject to different rules regarding a unique bidding/assessment/approval process, allowance of competing or duplicative programs, contracting parameters and ultimate inclusion for implementation. While it is true that Section 8-103 is referenced in Section 16-111.5B, Ameren submits that there are no provisions in either statute that authorize removing programs from Section 8-103 with the hope that those programs separately get bid into, reviewed and approved to be a part of the IPA Procurement Plan.

Ameren suggests that removing the Residential Lighting and Behavior Modification programs from Plan 3 would run contrary to the stated intent of Section 8-103. Subsection (f) requires that Ameren Illinois' Plan 3 "represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs." (220 ILCS 5/8-103(f)(5)). AIC opines that the spirit of that requirement would no longer be met if Ameren were ordered to remove these residential programs from Plan 3 and then put the money towards business programs, as the AG suggests.

Setting aside the legal issue, AIC believes there are significant practical problems with Intervenors' assumption that the utility can "displace" programs from 8-103 to the IPA portfolio or rely on a "presumption of approval" as suggested by some parties. AIC asserts Intervenors provide a proposal that would remove programs from Plan 3, leaving nothing more than a hope that vendors would then arbitrarily bid the removed programs into the IPA Procurement Plan for PY8 and PY9, respectively (and that those programs would be approved). AIC contends such proposals, if accepted, would create significant risks and hurdles to providing energy efficiency programs to customers that all parties agree should be provided. According to AIC, it is entirely possible that vendors would not want to agree to the different rules, including that the IPA Plan could allow competing programs and could require pay for performance contracting. AIC says the Commission, or the utility, cannot order a vendor to participate in the request for proposal ("RFP") process for the IPA Plan thus, Ameren cannot offer a Plan 3 program in the IPA portfolio if vendors refuse to bid it for inclusion in some future IPA plan at the same levels or at all. If this were to happen, Ameren claims its ratepayers would be deprived of programs that every party to this docket agrees should be offered and there would be nothing any party, including Ameren, could do to fix it until the next three-year plan.

Ameren asserts that when faced with a similar proposal from the AG in the current IPA Procurement Plan docket, the Chief Administrative Law Judge found:

> The Commission finds the AG's recommendation that the utilities include proposals for expansions of Section 8-103 programs that will be proposed by the utilities in their September 1 three-year filings when it submits proposed programs to the IPA unworkable. The Commission does not understand how the AG expects utilities to know, with any degree of certainty, which programs the Commission will adopt for expansion before the Commission has entered an order pursuant to Section 8-103. In fact, the Commission itself cannot know that. While the statutory framework related to energy efficiency programs has arguably created an unfortunate situation, it is simply unfair to put the utilities in a situation where they must guess in one proceeding what the Commission will subsequently decide in another proceeding. In the event the General Assembly views the current statutory framework as troubling as some of the parties to this proceeding, the Commission would expect the General Assembly to modify that framework. The Commission, however, cannot simply ignore the existing framework. The AG's proposal is rejected.

(Docket No. 13-0456, 11/13/13 ALJ's Proposed Order at 143)

Ameren claims it would be "unfair" to utilities to presume approval of energy efficiency programs, but it would also be unfair to the ratepayers and other stakeholders if programs that were available to be administered in the Section 8-103 Plan 3 were not and then never get implemented simply because Intervenors did not appreciate the differences between the statutory provisions.

Ameren asserts there are additional problems with moving the electric portion of the behavior modification program to the IPA portfolio. As reflected in Plan 3, AIC says the Behavior Modification program is a dual fuel program, designed to provide benefits to both gas and electric customers through one program. AIC says the gas and the electric portions of the programs do not stand alone. Even assuming a vendor would be willing to contract with Ameren under Section 8-104 (for the gas portion) and then bid the electric portion of the program into the IPA procurement, Ameren claims no party has explained how Ameren could administer or implement these portions of the same program under two different provisions of the Act. Ameren maintains programs implemented under Section 8-104 and Section 16-111.5B have differing rules applicable to them, including the rules relating to vendor contracting, the possibility of competing programs and evaluations. AIC also contends Staff and stakeholders have requested at a formal workshop process that the approved IPA budget per program remain unchanged and budgets between Section 8-103 and IPA portfolios are kept distinct and separate, therefore the ability to change the size of the program would be hindered by the inability to change the budget in the alternate portfolio. AIC suggests it is possible that navigating and reconciling these differences would create hurdles nearly impossible to overcome and would increase the costs related to administration, implementation and evaluation for no justifiable reason.

Ameren urges the Commission to reject the recommendations to remove programs from Plan 3 on the hope that they might someday become part of the IPA Procurement Plan.

(iii) IIEC Position

IIEC objects to the proposal of AG witness Mosenthal to transfer the Standard CFL energy efficiency and Behavior programs from Ameren's Section 8-103 portfolio to the IPA portfolio and the resulting re-allocation of energy efficiency program costs among Ameren's residential and business customers. IIEC says Mr. Mosenthal recommends that the re-allocated energy efficiency funds created by the transfer of these programs be split among Ameren's three main, proposed commercial and industrial ("C&I") energy efficiency programs. In the alternative, Mr. Mosenthal states that he would support a balanced approach where some energy efficiency funds are shifted to C&I programs while the remaining portion is used to ramp up other residential programs, subject to any gas budget constraints for combined programs.

IIEC recommends the Commission reject Mr. Mosenthal's proposal. When both the Section 8-103 and IPA spending are considered in total, IIEC claims the cost impact on Ameren customers appears to exceed the level deemed acceptable by the Illinois General Assembly. IIEC believes Mr. Mosenthal's proposal would result in energy efficiency spending in excess of the limits imposed by Section 8-103(d). By shifting the standard CFL program to the IPA portfolio, IIEC says Mr. Mosenthal appears to be trying to take advantage of a perceived loophole that could result in the circumvention of the rate moderation restrictions that are set forth in the Act, requiring Ameren to spend more on energy efficiency programs than otherwise permitted.

IIEC contends this increased spending would be inequitably allocated exclusively to C&I customers, yielding an unreasonably high allocation of energy efficiency spending, and associated charges, to these customers. IIEC argues the statutory spending restrictions were put in place to moderate the rate impact of a utility's energy efficiency spending on its customers. IIEC says mechanically, it appears that the "IPA portfolio loophole" utilized by Mr. Mosenthal would circumvent the apparent limit on energy efficiency spending and place the entire burden of excess spending on C&I customers.

IIEC states Mr. Mosenthal's proposal applies only in PY8 and PY9. Ameren applied the spending restrictions specified in the Act to develop a total proposed portfolio budget of $45.4 million in PY8 and $45.7 million in PY9 (excluding the DCEO portion of the portfolio spending). IIEC says by contrast, under Mr. Mosenthal's proposed portfolio, the total portfolio cost would rise to $52.4 million in PY8, which is an increase of $7.0 million relative to Ameren's proposal. For PY9, IIEC claims Mr. Mosenthal proposes total portfolio spending of $52.7 million, which is also an increase of $7.0 million over the Ameren proposal. According to IIEC, Mr. Mosenthal's proposal has the effect of burdening C&I customers with an additional $14 million in costs over the course of Ameren's three-year energy efficiency plan cycle. By contrast, IIEC says Mr. Mosenthal proposes no net cost increase to residential customers. Rather, IIEC asserts he would increase the cost burden to C&I customers in PY8 from $20.3 million to $27.3 million, which would burden C&I customers with 60% of Mr. Mosenthal's total proposed portfolio cost.

According to IIEC, the impact on Ameren's largest customers, in the DS-4 class, is most pronounced. IIEC says on cross examination, Ameren witness Goerss agreed that under Mr. Mosenthal's proposal the DS-4 class would pay over $3.5 million of Mr. Mosenthal's $7 million of additional cost (over 50%). IIEC says this translates to a per unit increase in cost of .023 cents per kilowatt hour. In terms of these DS-4 customers' other costs from Ameren, i.e., for delivery service, IIEC claims the Mosenthal increase alone represents about 6.9 percent of total delivery service costs.

Finally, IIEC asserts Mr. Mosenthal's proposal to shift these funds may be moot. IPA programs fall under a separate statute and are generally approved under a separate docket, and therefore are not at issue in this docket. It is IIEC's position that Mr. Mosenthal's proposal cannot be considered in this docket. IIEC requests the Commission reject Mr. Mosenthal's proposal to shift the funding for the standard CFL program and Behavior program to the IPA portfolio and to assign the entirety of the energy efficiency fund increases to C&I programs. IIEC argues this proposal should be rejected because it would inequitably require non-residential customers to shoulder the full burden of Mr. Mosenthal's proposed spending increase and is not properly at issue in this docket.

Should the Commission approve the transfer, as recommended by AG, IIEC recommends that the additional funding and spending required, approximately $7.0 million, be directed to residential programs, as recommended by CUB and Ameren. If the Commission approves the transfer, but directs the additional funding and spending toward C&I programs, then IIEC believes the Commission should be directed only to the new Pilot C&I program, described in IIEC and Ameren's initial briefs, and addressed below. IIEC claims this additional funding would enable more customers to participate in the program and potentially result in greater EE savings, as the unique needs of industrial customers are most effectively met by allowing those customers to customize their own programs.

(iv) NRDC Position

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. 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.

(v) AG Position

The AG states although Ameren has proposed to transfer the promotion of specialty CFLs to the IPA programs, it has retained standard CFLs, which have historically made up the vast majority of program costs and savings. The AG claims that in order to both cost-effectively increase savings goals and enhance program offerings in both the residential and commercial settings, Mr. Mosenthal recommended using Section 16-111.5B IPA efficiency procurement funds to promote standard CFLs in addition to the specialty CFLs it is already promoting. The AG says since the IPA is not subject to the 2% budget cap, this would free up significant capital to enhance and deepen the other programs in Ameren's portfolio without sacrificing the CFL program or efficiency service to the residential sector.

The AG contends transferring standard CFLs to the IPA may actually allow an expansion of the CFL program. The AG says the proposed participation in PY7-9 of 2.525 million bulbs per year represents a significant reduction from PY5 participation of 4.1 million bulbs. Even with the standard CFL cost adjustments, The AG claims the proposed budget would only be able to support 3.9 million bulbs per year, a decrease from current levels of service. The AG says recent studies have indicated that even in states that have aggressively promoted CFLs current socket saturation rates are around 30% or lower. The AG believes current market saturation in Illinois is not likely a constraint on available savings from the CFL program. Without the 2% budget cap, the AG claims transferring the program to the IPA portfolio would allow the CFL program to maintain or even enhance current levels of service, and allow Ameren to use the resulting budget savings to expand its other programs.

According to the AG, there are no administrative concerns related to moving standard CFLs to the IPA portfolio. The AG suggests transfer of standard CFLs to the IPA portfolio would increase efficiencies. Under Plan 3, the AG says even though the

IPA funds the specialty CFLs, they would still be delivered by Ameren and its contractor, as part of Ameren's overall residential lighting program. The AG asserts if standard CFLs were also funded through the IPA, the program could still be administered by Ameren, and all databases, processes, marketing materials (including Ameren branding), outreach to vendors, and other program aspects could remain identical. The AG contends that if anything, program administration would be easier, compared to trying to split different aspects of the program between different portfolios. The AG suggests it is possible that inefficiencies from running two separate programs in terms of outreach and coordination with vendors, data tracking, and evaluation are contributing to Ameren's assumed much higher costs per bulb in Plan 3.

In the AG's view, moving the AIC residential Behavior program to the IPA efficiency portfolio also makes administrative sense. The AG says the Behavior program is a standalone program with straightforward administrative procedures and can easily be ramped up without large increases in administrative funding. While this is a combined electric and gas program, the AG believes there is no reason the IPA procurement mechanism cannot fund the electric portion with the program still administered by Ameren and also providing gas benefits with co-funding from the gas ratepayers. The AG states IPA programs are still funded through the Ameren energy efficiency rider, so this is simply a regulatory change that would not impact program delivery or ratepayer opportunities to participate. If funded through the IPA's Section 16-111.5B procurement process, the AG asserts the program could potentially be expanded while at the same time freeing up another $600,000 per year to contribute to other Ameren programs, with that amount representing the electric portion of the Behavior program budget.

The AG claims that shifting the Behavior and CFL programs to the Section 16-111.5B IPA procurement programs creates no customer equity concerns in terms of ensuring a diverse portfolio that serves all customer classes. The AG asserts the IPA efficiency programs are still funded by the same ratepayers using the same mechanism, so this change does not significantly alter the overall split of investment by customer class. The AG believes transferring the funding to the IPA would actually enhance the programs available to residential customers, both by allowing an increase in funding for the CFL and Behavior programs and by allowing the resulting Section 8-103 budget savings to expand the other more enhanced programs in Ameren's portfolio.

The AG argues that these programs appropriately fit within the IPA procurement mechanism because they are established programs that have been proven successful and cost-effective. The AG says they can also be ramped up or down annually if necessary. The AG also asserts they have undergone evaluations in Illinois and many similar programs throughout the United States have been extensively evaluated. The AG claims they are also programs that would still be administered in the same fashion by Ameren and its contractors, so there is no reason similar independent evaluation procedures cannot be used in the future as have been used for the Section 8-103 programs. The AG contends the existing lack of clear EM&V procedures of IPA programs is less of a concern for these programs than for some of the new and untried programs bid into the IPA's proposed portfolio by independent vendors.

According to the AG, transferring these programs to the IPA portfolio would also impact its hesitancy to permit AIC wide latitude in ensuring program flexibility. The AG says the CFL program and especially the Behavior program have demonstrated a propensity in the past to achieve savings and are very easily ramped up. The AG says a well-designed efficiency portfolio requires effective programs covering a variety of different end uses and technologies. The AG claims this desire to engage a variety of end uses and technologies should be a main driver in the establishment of effective energy efficiency portfolios.

The AG asserts Mr. Mosenthal's main concern with allowing flexibility to transfer funds between programs is that if any program is falling short of its goal, Ameren would be able to simply transfer funds to the Behavior program, and make up the gap with behavioral savings which cost $0.03 per kWh and which are assumed to only last one year and are actually fairly costly on a lifecycle basis. With this ability, the AG claims it would be very unlikely Ameren could not easily achieve goals, no matter how poorly it performs on its other programs. On the other hand, the AG says if the IPA procurement mechanism is used for these two programs, this problem would be significantly reduced, and the case for funding flexibility would make much more sense.

The AG claims C&I customers would also benefit, since at least some of the savings from transferring the CFL and Behavior programs to the IPA could go to increased program budgets for these customer groups. In the AG's view, this proposal would significantly enhance the levels of cost-effective energy efficiency available to all customer classes. The AG says Ameren has indicated in SAG discussions that one reason for keeping the standard CFL program within Section 8-103 is to have some programs that all residential customers can participate in.

The AG supports and recommends Commission adoption of a balanced approach to re-assigning the program dollars associated with the Behavior and standard CFL residential programs wherein some funds where shifted to C&I programs and a portion is shifted to ramp up other residential programs, subject to any gas budget constraints for combined programs. The AG also proposes to discontinue some gas measures that are no longer cost-effective, which would also free up some gas budgets. The AG claims this would allow for an even expansion of some of the residential combined electric and gas programs by shifting some of the IPA electric funds to those programs, matched on the gas side by the now-available gas funds associated with the discontinued gas measures.

The AG says in addition to this shift in funds, Mr. Mosenthal recommended that some of the re-allocated funds from assigning the standard CFL and Behavior programs to the IPA portfolio be split among the current three C&I programs. The AG states C&I savings are significantly cheaper than the other residential program savings, and would consequently lead to the largest amount of additional savings captured. The AG suggests typically, there are far more cost-effective efficiency opportunities in the C&I sector as compared to the residential sector. The AG asserts the potential to ramp up these programs is far higher and will dramatically increase the overall net benefits of the combined Section 8-103/IPA portfolio. The AG says Ameren has indicated that currently, it is somewhat constrained in expanding the electric budget portion of some of the other joint electric/gas residential programs because of the relatively lower gas budgets in these combined programs. The AG contends transfer of these residential programs would free up more funds to increase those budgets.

The AG states while equity among customer sectors in efficiency program offerings is both required under the Act and important from a fairness standpoint, the residential ratepayers still will benefit significantly from the newly increased IPA residential programs. The AG says shifting some of these Section 8-103 funds to C&I programs will effectively maintain total residential contributions when considering both the Section 8-103 and IPA spending in total. The AG claims if all the additional funds were preserved for residential offerings, the result would be a heavily skewing of resources toward residential in total (i.e., for both IPA and Section 8-103 portfolios).

No matter how the savings are used, the AG asserts the result would be a significant net increase of cost-effective efficiency in the state of Illinois, and all residential customers would still be able to access rebated CFLs. Even with this shift of residential programs to the IPA procurement process, the AG contends it is important to note that there would still be more residential programs than C&I programs remaining in the Section 8-103 and 8-104 portfolios.

The AG acknowledges that the 2014 deadline for submission of these residential programs to the IPA efficiency procurement portfolio has passed, so the standard CFL and Behavior programs may have to remain within the Section 8-103 portfolio for PY7. The AG argues if the CFL and behavioral programs were transferred to the IPA portfolio and the budgets shifted to C&I, the total Section 8-103 goals slightly increase in PY8 and PY9 even without including the savings from the CFL and Behavior programs. The AG claims this occurs because C&I savings cost less to achieve than CFL savings. The AG says Ameren ratepayers would still achieve all of the savings planned and possibly more from the Behavior and CFL programs, even though they were shifted to IPA.

	Program Cost			**MWh**		
	PY7	PY8	PY9	PY7	PY8	PY9
RES-Appliance Recycling	$ 1,583,161	$ 1,461,234	$1,313,788	4,476	4,131	3,715
RES-Behavior Modification	$ 656,250	-	-	21,688	-	-
RES-ENERGY STAR New Homes	$655,381	$655,381	$655,381	791	791	791
RES-HPwES	$ 4,064,512	$4,064,512	$4,064,512	5,114	5,114	5,114
RES-HVAC	$3,186,470	$3,186,470		5,672	5,672	5,672

			$3,186,470			
RES-Standard CFLs	$6,351,096	-	-	19,677	0	0
RES-Moderate Income	$966,933	$966,933	$966,933	770	770	770
RES-Multifamily In-Unit	$1,061,851	$1,061,851	$1,061,851	6,232	6,232	6,232
RES-School Kits	$115,375	$115,375	$115,375	366	366	366
RESIDENTIAL PORTFOLIO TOTAL	**$18,641,029**	**$11,511,756**	**$11,364,310**	**64,786**	**23,076**	**22,660**
BUS-Standard	$10,504,921	$15,173,148	$15,624,734	60,073	88,016	95,886
BUS-Custom	$7,137,404	$9,573,571	$9,499,176	51,307	68,815	68,275
BUS-RCx	$1,882,077	$2,524,475	$2,504,857	17,075	22,902	22,722
BUSINESS PORTFOLIO TOTAL	**$19,524,402**	**$27,271,193**	**$27,628,768**	**128,455**	**179,732**	**186,883**
AIC - Portfolio Admin costs	$1,921,679	$1,952,771	$1,963,352	-	-	-
AIC - EM&V costs2	$1,340,706	$1,362,399	$1,369,780	-	-	-
AIC – Education	$960,839	$976,386	$981,676	-	-	-
AIC – Marketing	$960,839	$976,386	$981,676	-	-	-
Emerging Technologies3	$1,340,706	$1,362,399	$1,369,780	-	-	-
PORTFOLIO TOTAL	**$44,690,200**	**$45,413,290**	**$45,659,342**	**193,241**	**202,808**	**209,543**

The AG asserts shifting of these programs to the IPA portfolio increases savings goals without increasing costs.

Assuming Commission adoption of all four of Mr. Mosental's recommendations related to CFL cost and savings assumptions and shifting of standard CFL and Behavior programs to the IPA portfolio, the AG contends even more reductions in dollar costs and increases in savings can be achieved. The AG says table below shows programs delivered through the IPA and Section 8-103 mechanisms at the same funding levels as proposed by AIC, with costs and savings funded by the IPA highlighted in the table.

	Program Cost			**MWh**		
	PY7	PY8	PY9	PY7	PY8	PY9
RES-Appliance Recycling	$1,583,161	$1,461,234	$1,313,788	4,476	4,131	3,715
RES-Behavior Modification	$656,250	$656,250	$656,250	21,688	21,688	21,688
RES-ENERGY STAR New Homes	$655,381	$655,381	$655,381	791	791	791

RES-HPwES	$4,064,512	$4,064,512	$4,064,512	5,114	5,114	5,114
RES-HVAC	$3,186,470	$3,186,470	$3,186,470	5,672	5,672	5,672
RES-Standard CFLs	$6,351,096	$6,351,096	$6,351,096	38,195	42,256	43,483
RES-Moderate Income	$966,933	$966,933	$966,933	770	770	770
RES-Multifamily In-Unit	$1,061,851	$1,061,851	$1,061,851	6,232	6,232	6,232
RES-School Kits	$115,375	$115,375	$115,375	366	366	366
RESIDENTIAL PORTFOLIO TOTAL	**$18,641,029**	**$18,519,102**	**$18,371,656**	**83,304**	**87,020**	**87,831**
BUS-Standard	$10,504,921	15,173,148	15,624,734	60,073	88,016	95,886
BUS-Custom	$7,137,404	9,573,571	9,499,177	51,307	68,815	68,275
BUS-RCx	$1,882,077	2,524,475	2,504,857	17,075	22,902	22,722
BUSINESS PORTFOLIO TOTAL	**$19,524,402**	**$27,271,193**	**$27,628,768**	**128,455**	**179,732**	**186,883**
AIC - Portfolio Admin costs	$1,921,679	$1,952,771	$1,963,352			
AIC - EM&V costs2	$1,340,706	$1,362,399	$1,369,780			
AIC – Education	$960,839	$976,386	$981,676			
AIC – Marketing	$960,839	$976,386	$981,676			
Emerging Technologies3	$1,340,706	$1,362,399	$1,369,780			
PORTFOLIO TOTAL	**$44,690,200**	**$52,420,636**	**$52,666,688**	**211,759**	**266,752**	**274,714**

According to the AG, under these recommendations, the cumulative three-year savings achieved in Ameren's service territory (including programs funded by IPA and Section 8-103 of the Act) would significantly increase – from 600 GWh to 753 GWh, or approximately 25% greater – thus providing significant additional benefits for Illinois's ratepayers, and coming much closer to the goal of achieving all available cost-effective energy efficiency. The AG also asserts for residential ratepayers, the MWh savings achieved would increase by about 30% while the residential dollars spent in total (both Section 8-103 and IPA portions) would remain the same.

The AG says while acknowledging the fact that the utilities have already submitted their recommended cost-effective programs to the IPA for inclusion in the 2014 IPA energy efficiency procurement, the Commission must embrace its duty as the regulator to coordinate these two efficiency processes to the extent possible under law. The AG states in discussions at the SAG and in the Staff-sponsored IPA workshops, utilities have expressed the view that they could not bid expansions of their Section 8-

103 programs to the IPA because of the mismatch of planning and approval cycles, which have them submitting IPA procurement proposed programs in mid-July and proposed three year plans under Sections 8-103 and 8-104 around September 1 every three years. The AG says the feeling by the utilities is that they cannot bid any Section 8-103 program expansions into the IPA portfolio for 2014 because these programs would not even have been approved by the Commission yet.

The AG states the ratepayers and utilities are now entering into the 7th year of efficiency programs in Illinois. As the AG noted in Comments and briefs filed in Docket No. 13-0546, the AG believes it is reasonable for the utilities to operate with a “presumption of approval” when developing their three-year plans – particularly when the programs being proposed for the IPA’s consideration are ones that the Commission has previously approved as clearly cost-effective and the utility has experience in previously providing. The AG asserts under this approach, the utilities could bid expansions into the IPA portfolio in July, conditional upon Section 8-103 program approval by the Commission. The AG claims because of the extensive work involved in developing three-year plans, utilities already have a clear sense of the programs they are planning at this point. The AG says while ideally it recommends synchronizing the IPA and Section 8-103 planning cycles and extending the IPA’s energy efficiency planning process to three years (as ComEd has proposed in the IPA procurement docket), this simple change, at a minimum, would resolve this timing issue unless and until the General Assembly addresses this filing timing difference.

At a minimum, the AG believes the Commission should enter an order that requires 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.

The AG emphasizes it is not recommending that statutory provisions in Section 16-111.5B regarding bidding and IPA approval processes be avoided or ignored. The AG says it is not suggesting that residential customers pay money into Section 8-103 programs but not obtain their fair share of the programs offered commensurate with that revenue collection. The AG claims that position would be absurd in light of the AG’s statutory representation of residential customers in all proceedings before the Commission. The AG attempts to highlight a glaring inefficiency in AIC’s selection of programs as presented to both the IPA under Section 16-111.5B and the Commission under Section 8-103, and its failure to abide by the directive that IPA programs constitute expansions of Section 8-103 programs.

Notwithstanding its arguments against the AG recommendation, the AG says Ameren notes in its brief that if the Commission does remove programs from Plan 3 in anticipation of them being implemented through the IPA portfolio, the freed up Section 8-103 funds should be used for residential moderate income programs to replace those planned savings removed from that customer class (as recommended by CUB). The AG says it would support that modification to the AG proposal.

The AG notes AIC points to a proposed order in Docket No. 13-0546 as another hurdle to overcome in enacting the AG recommendation, which found that utilities cannot be expected to presume which programs will be approved in Section 8-103 proceedings when they submit efficiency procurement bids in the IPA docket. The AG finds this argument is not credible. The AG says Section 16-111.5B specifically references expansions of Section 8-103 programs. According to the AG, Ameren most certainly has control over which programs that have typically been provided under Section 8-103 can be bid into the IPA portfolio. The AG asserts AIC would have an existing (or anticipated) contract for the delivery of Behavior programs, just as it has stated to the Commission in this docket that it intends to contract to provide a Behavior program. For the IPA Procurement process, the AG claims AIC would simply bid in the electric portion of Behavior program budget.

In the instant case, the AG says there would be no need for Commission approval of Section 8-103 CFL and Behavioral programs if they are in fact bid and shifted to the IPA portfolio. According to the AG, the only factor that matters is whether the proposed IPA programs are cost-effective. The AG says we know from the evidence in this docket that both CFL and residential Behavior programs are very cost-effective. The AG contends that fact will not change if the programs are offered through the IPA portfolio.

(vi) CUB Position

CUB notes the IPA must include in its annual procurement plan "incremental" energy efficiency pursuant to Section 16-111.5B of the PUA, that is, energy efficiency that is incremental to that approved in the EEPS plan proceedings. CUB says that portion of the statute directs Ameren to annually submit an assessment of cost-effective energy efficiency programs or measures that could be included in the procurement plan to the IPA by July 15th. CUB says the assessments should include "Identification of new or expanded cost-effective energy efficiency programs or measures that are incremental to those included in energy efficiency and demand-response plans approved by the Commission pursuant to Section 8-103 of this Act and that would be offered to all retail customers whose electric service has not been declared competitive under Section 16-113 of this Act and who are eligible to purchase power and energy from the utility under fixed-price bundled service tariffs, regardless of whether such customers actually do purchase such power and energy from the utility."

According to CUB, the IPA must include cost-effective energy efficiency programs and measures and the associated annual energy savings goal in the Plan. The Commission then must also approve the energy efficiency programs and measures included in the Plan "if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act."

CUB states, last year, the 2013 IPA Procurement Plan was the first time the incremental energy efficiency programs were included. In the Final Order approving that plan, CUB says the Commission ordered Staff and the IPA to facilitate a workshop process to address issues around how those programs were to be structured as compared to the existing EEPS programs. CUB says it participated in the subsequent workshops, which did reach consensus on several issues. According to CUB, consensus was reached that the IPA program are separate from the existing EEPS program portfolios. CUB claims the utilities will exercise minimal administrative control over non-utility administered programs, and that savings from IPA programs will not count towards the Section 8-103 goals discussed in this filing.

CUB notes two parties recommended that Ameren move programs, so to speak, from the EEPS portfolio to the IPA procurement process. NRDC recommends that the Commission order Ameren to move the electric portion of its behavior modification program, Home Energy Reports, for PY8 and PY9 to the IPA portfolio. The AG recommends that Ameren move both the Home Energy Reports program and the Standard CFLs program to the IPA. CUB agrees that the Home Energy Reports program should be moved to the IPA and that the Standard CFL program should also be moved.

CUB believes the IPA procurement process sheds light on what Ameren should reasonably be expected to be able to achieve under both the IPA procurement and the Section 8-103 portfolio programs. In last year’s IPA Plan, CUB says Ameren programs were forecasted to provide savings of 70, 834 MWh, reduce the energy required for the IPA procured portfolio by 25,409 MWh, and lower peak demand by 4 MW. In this year’s Plan, CUB indicates Ameren is proposing programs with estimated savings of 65,680 MWh, peak demand reductions of 2 MW, and savings attributable to eligible retail customers of 17,950 MWh. This is a reduction in savings of 5,154 MWh and 2 MW of peak demand from last year.

CUB states that in recent years Ameren has exceeded the Section 8-103 Commission approved goals expending the budget. CUB believes Ameren is capable of achieving greater MWh savings under both the IPA and Section 8-103 programs, and moving the Home Energy Reports and Standard CFL programs to the IPA is an important first step in increasing the savings Ameren achieves.

If the Commission approves funding these programs entirely by the IPA procurement process, CUB recommends that to the extent funds are freed up for investment in EEPS programs, those funds should be spent on residential sector programs. NRDC recommends newly available funds be spent on the Business Standard program. The AG also recommends that these funds be spent on C&I programs. In CUB's view, these recommendations should be rejected.

CUB says Section 8-103(f) of the PUA requires that the EEPS programs must “represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.” According to CUB, those customers funding the EEPS programs must be able to take advantage of the EEPS programs. CUB claims other utilities in Illinois specifically allocate funds collected from a customer class to programs delivered to that specific customer class, an equitable practice that CUB believes Ameren should support. Given the great volatility in the load served by the IPA, CUB asserts it is possible that in any given year the IPA or Commission may find that the IPA does not need to procure any or as much energy efficiency as in previous years. CUB contends in recent years, around two-thirds or three-quarters of customers have switched from purchasing supply from ComEd or Ameren as procured by the IPA to purchasing supply from an alternative retail electric supplier ("ARES"). CUB states customers who have switched to purchasing supply from an ARES no longer require the IPA to procure power for them. Under that scenario, CUB says residential customers who are funding both the EEPS programs and the IPA programs would have limited access to programs if Ameren is not at the same time offering them robust program offerings through the Section 8-103 as well. In CUB's view, simply because residential customers are now funding programs through both the IPA and the Section 8-103 does not mean that those customers are not entitled to a full, diverse, and comprehensive portfolio of program under the Section 8-103 portfolio.

(vii) Commission Conclusions

The AG contends transferring standard CFLs to the IPA may actually allow an expansion of the CFL program. The AG acknowledges that the 2014 deadline for submission of these residential programs to the IPA efficiency procurement portfolio has passed, so the standard CFL and Behavior programs may have to remain within the Section 8-103 portfolio for PY7. At a minimum, the AG believes the Commission should enter an order that requires 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.

CUB believes Ameren is capable of achieving greater MWh savings under both the IPA and Section 8-103 programs, and moving the Home Energy Reports and Standard CFL programs to the IPA is an important first step in increasing the savings Ameren achieves. If the Commission approves funding these programs entirely by the IPA procurement process, CUB recommends that to the extent funds are freed up for investment in EEPS programs, those funds should be spent on residential sector programs. CUB opposes NRDC's recommendation that these funds be spent on C&I programs.

It appears NRDC supports the position of the AG in its entirety. IIEC opposes the proposal of the AG. Among other things, IIEC argues that the AG's proposal would result in energy efficiency spending in excess of the limits imposed by Section 8-103(d). By shifting the standard CFL program to the IPA portfolio, IIEC says the AG appears to be trying to take advantage of a perceived loophole that could result in the circumvention of the rate moderation restrictions that are set forth in the Act, requiring Ameren to spend more on energy efficiency programs than otherwise permitted.

Should the Commission approve the transfer, as recommended by the AG, IIEC recommends that the additional funding and spending required, approximately $7.0

million, be directed to residential programs, as recommended by CUB and Ameren. If the Commission approves the transfer, but directs the additional funding and spending toward C&I programs, then IIEC believes the funding should be directed only to the new Pilot C&I program, described in IIEC and Ameren's initial briefs.

Both IIEC and AIC suggest the AG proposal should not be adopted because of differences in the provisions of Section 8-103 and 16.111.5(B) of the Act. Both also suggest that a similar proposal would be rejected in Docket No. 13-0546. Among other things, AIC also asserts there are significant practical problems with Intervenors' assumption that the utility can displace programs from Section 8-103 to the IPA portfolio or rely on a presumption of approval.

The Commission has reviewed the parties' positions and notes that it remains committed to the implementation of energy efficiency measures to the greatest extent possible at a reasonable cost. As the parties are well aware, there are arguably inconsistencies between the provisions of Sections 8-103 and 16-111.5B of the Act, which are intended to encourage cost-effective energy efficiency programs. Unfortunately, the Commission is not in a position to fully resolve all of the inconsistencies in those provisions.

As an initial matter, the Commission notes it is too late to consider transferring any programs to 2014 IPA Plan. With regard to subsequent transfers, the Commission believes AIC can and should effectuate the transfer of cost-effective energy efficiency programs and measures to the IPA to further expand those successful programs while staying within designated spending caps. The IPA must include cost-effective energy efficiency programs and measures and the associated annual energy savings goal in their Plan. 220 ILCS 5/16-111.5B(g). The Commission then must also approve the energy efficiency programs and measures included in the Plan "if the Commission determines they fully capture the potential for all achievable cost-effective savings, to the extent practicable, and otherwise satisfy the requirements of Section 8-103 of this Act." *Id*. While AIC argues that they cannot rely on a presumption that the IPA and Commission would approve such programs, it is unclear why the IPA and Commission would not approve programs that are already widely successful in achieving significant savings, such as the Home Energy Reports and Standard CFL programs. It is also unclear why third party vendors who are being paid to run successful programs would decline to participate in an expansion of those programs simply because the funding is provided by a different party and the requirements are slightly different..

Thus, AIC is directed to include the Standard CFL and Home Energy Reports programs in their package of programs presented to the IPA in years 8 and 9 of this three year plan in order to maximize all available funding for energy efficiency programs in Illinois. To the extent funds are freed up for investment in Section 8-103 programs, those funds should be spent on residential sector programs to maintain the "diverse cross-section of opportunities for customers of all rate classes to participate in the programs." 220 ILCS 5/8-103(f).

Finally, the Commission rejects IIEC's argument that such transfers might result in AIC spending more on energy efficiency plans than would otherwise be permitted under Section 8-103 of the Act. There is no discernable indication that the General Assembly intended to consider the funding provided for Section 8-103 programs and Section 16-111.5(B) programs in total when taking into account the spending caps imposed by Section 8-103(d).

b. Cost-Ineffective Measures

(i) AIC Position

AIC states the Total Resource Cost test is one method of evaluating cost-effectiveness of a measure, program, or portfolio at the planning stage. Ameren says in the Plan 2 Order, "[t]he Commission conclude[d] it is appropriate to apply the TRC test at the portfolio level, but Ameren Illinois [] should be allowed to apply it at the measure or program level if they so choose." Ameren indicates Staff and AG urged that Ameren remove two measures from its Plan that do not pass TRC (i.e., have a TRC ratio of greater than one), even though the measures are part of programs that pass the TRC test. In an effort to minimize contested issues in this docket, Ameren agreed to remove these measures, the results of which are reflected in Ameren Ex. 6.1.

AIC notes the AG identified a cost-ineffective measure that could be added to the portfolio: Residential Lighting LEDs. Ameren agreed to add this cost-ineffective measure the results of which are also reflected in Ameren Ex. 6.1.

According to Ameren, Staff makes additional recommendations with respect to limiting participation in cost-ineffective measures and reporting on cost-effectiveness screening results in Ameren's quarterly Commission activity reports.

Ameren believes there are two primary reasons why the Commission could reject the recommendation that Ameren should remove the cost-ineffective residential furnace and boiler measures from Plan 3. AIC claims there are times when it is acceptable – even beneficial – to include cost-ineffective measures in a program. According to Ameren, including measures that are not cost-effective is sometimes necessary for a program to offer a full array of measure options, to continue market momentum and avoid program shutdown and start-up, or to account for volatile avoided cost forecasts. Ameren asserts Ameren Exhibit 5.0 provides a list of examples of when it may be beneficial to include a cost-ineffective measure in a program.

Ameren believes its objective should be to maintain a portfolio TRC that is greater than one ("positive"), rather than do so at the measure, or even program, level. It is possible for a program that passes TRC (i.e., it has a TRC ratio greater than 1.0) to contain measures that are not cost-effective on the measure-level. AIC notes Staff does not oppose the inclusion of cost-ineffective measures generally, but requests that the Commission limit participation in such measures to levels no more than what Ameren proposes in its Plan 3.

Despite the foregoing, in an effort to eliminate a contested issue from this docket, Ameren indicates it is willing to eliminate the cost-ineffective regular residential furnace and boiler measures from Plan 3. However, Ameren is concerned that removal of this key heating measure from the portfolio may have a significant negative impact to customers with household incomes within the 200% to 400% of poverty range. Therefore, Ameren says its agreement to eliminate cost-ineffective residential furnaces and boilers is dependent on agreement to redistribute these funds to the Moderate Income Program. Ameren has modeled an alternative scenario where regular residential furnaces and boilers are removed from the portfolio and redistributed those funds to the Moderate Income Program.

AIC says it also added residential LEDs to the portfolio in response to AG witness Mr. Mosenthal's testimony. Ameren indicates it added LED bulbs using the funds made available by modifications to CFL costs and savings.

(ii) Staff Position

Staff concurs in principle with the AG's proposal concerning reasons to allow AIC to pursue certain proposed non-cost-effective measures in its Plan. Staff notes Mr. Mosenthal recommends the Commission order AIC to remove cost-ineffective boilers and furnaces from its Plan. Based on the additional evidence presented in Mr. Mosenthal's testimony, Staff believes that it is unreasonable to include the cost-ineffective boiler and furnace measures in the Plan. Staff notes AIC agreed to remove these measures in rebuttal testimony.

Staff believes Mr. Mosenthal makes convincing arguments with respect to: (1) furnace and boiler installations being stand-alone installations, so there are no synergies with other measures that require their inclusion in the Plan; (2) the fact that it is not sound policy to keep vendor relationships alive when there is no expectation that the efficiency measures will ever become cost-effective in the future, particularly since soon-to-be-effective federal standards provide additional justification for the measures not being expected to be cost-effective in the future and render it unlikely they could become cost-effective; and (3) the fact that including the measures reduces electric savings by limiting AIC's ability to pursue cost-effective measures in the comprehensive dual fuel EE programs with the long-life measure offerings.

Both the AG and Staff note that funds could be shifted to the cost-effective dual fuel comprehensive programs to allow more electric savings. Staff states shifting budgets that are currently allocated to promoting cost-ineffective furnace and boiler measures to supplement gas budgets in the combined electric and gas programs has the beneficial effect of allowing greater efficiency to be captured. Staff indicates AIC's remodeled Plan filed as Ameren Ex. 6.1 excludes these measures.

(iii) AG Position

The AG says Ameren has proposed that only the overall portfolio should be required to meet the standard of passing the TRC test for cost-effectiveness. Specifically, it is requesting permission to pursue efficiency measures that it estimates will not pass the TRC test. The AG asserts the Commission has made clear in numerous dockets that cost-effectiveness shall be evaluated at the overall portfolio level, rather than by individual programs. While the AG strongly concurs with this principle, it believes some limitations on that position must be retained.

The AG claims Mr. Mosenthal identified several reasons why overlooking the fact that an individual program might fall short of the TRC 1.0 threshold is appropriate. The AG says these reasons include, but are not limited to:

- pursuing market transformation for measures that are expected to benefit from early promotion, which will drive down prices and set the stage for more long term cost-effective savings;
- preserving continuity in programs and relationships with vendors for measures that have been promoted and now may be marginally non-cost-effective, but likely to become cost-effective again in the near future, or where these vendor relationships are important to capture other cost-effective opportunities;
- to support comprehensive treatment of customer facilities at the time of an efficiency retrofit when a particular measure is part of an overall bundle of measures that is cost-effective and logical to install together. A few examples include lighting fixtures in a few rooms with low hours of use when doing a comprehensive lighting retrofit; rebating all sizes and types of an efficiency measure even when a minority of these sizes or types may fail screening; installing better ventilation systems when sealing a home even if there was no ventilation before and actual usage will increase because it is important for health and safety reasons; etc.

In the AG's view, all of these reasons justify a continuation of the important policy of evaluating cost-effectiveness at the portfolio level.

According to the AG, some exceptions exist in the application of portfolio-level cost-effectiveness evaluations if evidence exists that inclusion of the measure in a portfolio is both non-cost-effective and unlikely to serve some higher goal of establishing longer term, robust efficiency goals. In this docket, the AG notes Ameren’s request to continue providing rebates for high efficiency furnaces and boilers despite their no longer passing the TRC test. The AG says Mr. Mosenthal opposed this inclusion in the overall portfolio for the various reasons listed at pages 48-49 of his direct testimony.

In his Rebuttal filing, the AG indicates Ameren witness Goerss stated that the Company is willing to eliminate the cost-ineffective residential furnace and boiler measures from Plan 3. The AG says Mr. Goerss stated that AIC is concerned that removal of this key heating measure from the portfolio may have a significant negative impact to customers with house-hold incomes within the 200% to 400% of poverty range. The AG says AIC's agreement to eliminate cost-ineffective residential furnaces and boilers is dependent on agreement to redistribute these funds to the “Moderate Income Program.” The AG supports AIC’s recommendation and concern for this sometimes overlooked residential group, and urge the Commission to accept that proposal, thereby removing AIC’s high efficiency furnace and boilers program from it overall gas portfolio.

The AG notes Ameren indicates that its ability to pursue greater comprehensive savings in combined gas-electric programs is limited by the relatively low gas budgets, even though there are more cost-effective electric savings to be captured in these programs (e.g., the home performance and multifamily programs). The AG asserts shifting budgets currently allocated to promoting these non-cost-effective measures to supplement gas budgets in combined programs has the effect of also allowing greater electric efficiency to be captured. For these reasons, too, the AG believes the proposal to eliminate the high-efficiency furnaces and boilers from the gas portfolio should be endorsed by the Commission.

The AG finds it ironic Ameren initially declined to promote residential LED lighting because they claim it does not pass the TRC test. The AG says Mr. Mosenthal notes that in the case of LEDs, the technology is relatively new, and prices are currently rapidly declining while performance is rapidly improving. According to the AG, he noted that these products also offer significant non-energy benefits that may not be fully captured in Ameren’s analysis. Mr. Mosenthal noted that Ameren could make a much more logical argument to promote them as a way to spur market transformation, introduce the market to the new product, and set the stage for further price declines and large cost-effective savings in the future.

In response to these observations, the AG says AIC witness Cottrell proposes to re-assign program dollars saved from the recalculation of CFL costs and savings to the creation of an LED lighting program. The AG supports his plan modification. However, the AG believes the program dollar figures assigned to this new measure should be based on the additional costs and savings computed in Mr. Mosenthal’s recalculation of the CFL standard lighting program.

The AG acknowledges that certain cost-ineffective measures should be included for reasons such as early promotion of market transforming measures, preserving vendor relations of currently cost-ineffective measures, and supporting comprehensive treatment of customer facilities when performing retrofits. According to the AG, the Commission should be aware of, and direct Ameren to implement, certain limitations on cost-ineffective measures, namely the removal of high-efficiency furnaces and boilers and the inclusion of LED lighting. The AG says it appreciate the fact that Ameren has agreed to these limitations and urge the Commission to adopt the AG’s proposal on these measures.

(iv) Commission Conclusions

As the Commission understands it, AIC agreed to remove two measures from the Plan that do not pass TRC at the urging of Staff and the AG. In addition, AIC agreed to add residential lighting LEDs to the portfolio at the urging of the AG, even though that measure is currently cost-ineffective.

Staff recommends: (1) the Commission order Ameren to limit the participation of cost-ineffective measures to no more than the levels proposed in its Plan; (2) the Commission order Ameren to provide cost-effectiveness screening results in its quarterly Commission activity reports for new measures Ameren adds to its Plan during implementation; and (3) the Commission order Ameren to remove cost-ineffective boilers and furnaces from its Plan. Like Staff, the AG proposes discontinuing the provision of rebates for high-efficiency furnaces and boilers.

While AIC believes all three recommendations should be rejected, in an effort to eliminate a contested issue, Ameren Illinois has removed the cost-ineffective regular residential furnace and boiler measures from Plan 3. AIC argues that cost-effectiveness is evaluated on a portfolio basis rather than on a measure basis. Ameren also believes including measures that are not cost-effective is sometimes necessary for a program to offer a full array of measure options, to continue market momentum and avoid program shutdown and start-up, or to account for volatile avoided cost forecasts.

It appears the parties have agreed that for purposes of the AIC Plan 3, cost-ineffective boilers and furnaces should be removed, which the Commission finds acceptable. The Commission also notes that AIC is correct that cost-effectiveness is evaluated on a portfolio basis rather than on a measure basis. The Commission does not believe it is necessary to direct Ameren to limit the participation of cost-ineffective measures to no more than the levels proposed in its Plan. The Commission believes such a proposal would limit AIC's flexibility to prudently implement some energy efficiency measures. With regard to Staff's recommendation that Ameren provide cost-effectiveness screening results in its quarterly Commission activity reports for new measures Ameren adds to its Plan during implementation, it does not appear that Ameren has provided a reasonable explanation why such a proposal should not be adopted. The Commission believes such a proposal will allow Staff and other parties to monitor AIC's energy efficiency activities in a timely and efficient manner. As a result, the Commission finds this recommendation reasonable, and it is hereby adopted.

c. Multifamily Program

Staff notes NRDC witness Mr. Grevatt recommends "that the Commission order Ameren to conduct a pilot to assess the opportunities to increase savings in the multifamily market by providing incentives through the Business programs for common area measures and common mechanical system improvements" in order "[t]o more fully capitalize on the in-person sales that Ameren is already doing[.]" Staff supports the conceptual outcome that Mr. Grevatt hopes to achieve, but a Commission directive to

AIC to conduct a pilot as described by Mr. Grevatt is, in Staff's view, unnecessary. Staff says AIC already provides incentives for common area measures in multifamily housing units, thus a pilot program to this effect is unnecessary. For example, Staff indicates the program year ("PY") 5 Evaluation Plan for AIC's EE portfolio states:

> The Multifamily Program encompasses three program components: Common Area Lighting, In Unit, and Major Measures … The Major Measures Component was added to the program in PY4, and experienced much higher participation than was expected, resulting in the program exceeding its electric goal by 26% and its therm goal by 271%.

Staff claims in the 2014 Procurement Plan docket, AIC has a dedicated Multifamily Program for multifamily common area electric measures. The Multifamily Program's objective in that docket is to "[d]eliver cost-effective conservation services to the multifamily housing market, with a focus on common area improvements." Staff says the IPA is recommending Commission approval of $4,292,956 allocated to this program for PY7, the program year beginning June 1, 2014.

It appears to Staff that AIC, NRDC, and Staff have all reached agreement on this issue and a Commission directive to the effect initially requested by Mr. Grevatt is unnecessary.

NRDC recommends the that the Commission order Ameren to conduct a pilot to assess the opportunities to increase savings in the multifamily market by providing incentives through the Business programs for common area measures and common mechanical system improvements to more fully capitalize on the in-person sales that Ameren is already doing. Staff supports the conceptual outcome that NRDC hopes to achieve, but believes a Commission directive to AIC to conduct a pilot is, in Staff's view, unnecessary. Staff says AIC already provides incentives for common area measures in multifamily housing units, thus a pilot program to this effect is unnecessary. Ameren indicates it already has a dedicated Residential Multifamily program for multifamily common area gas and electric measures in its sixth year so a pilot program is not necessary.

In the Commission's view, since Ameren already has a dedicated, combined gas and electric Residential Multifamily program, NRDC's suggestion for a pilot is not necessary for Ameren. The Commission declines to adopt NRDC's recommendation.

d. Using Residential Behavior Modification to Cross Promote Portfolio Incentives

(i) ELPC Position

ELPC believes the Commission should require Ameren to do a better job of promoting long-term savings measures in its Behavior Modification program. ELPC asserts that Plan 3 relies heavily on the savings from Ameren's proposed Residential

Behavior Modification Program ("Behavior Program"), projecting that 33% of its residential electric efficiency savings will come from the Behavior Program. ELPC claims AIC relies even more on the Behavior Program for natural gas savings, where it expects the program to account for 50% of its residential natural gas savings. While ELPC is not opposed to the Behavior Program, it is concerned that Plan 3 does not do enough to tie the savings from the Behavior Program to more long-lived savings from prescriptive rebate and other energy efficiency programs that encourage installation of long lasting efficient measures and hardware.

ELPC says the program works by motivating participants to compete with their neighbors to reduce energy use. ELPC states while savings from behavior-based energy efficiency programs produce some customer benefits, one of the concerns with residential behavioral programs is that the savings will not persist over the long-term.

According to ELPC, without a greater connection between hardware installations and the Behavior program, the program may be generating mostly short-term savings. ELPC asserts evaluations of the Sacramento Municipal Utility District ("SMUD") pilot suggested that electricity savings were higher when the Home Energy Reports were provided monthly than when they were provided quarterly, a 2.3% reduction compared to a 1.6% reduction. ELPC contends Ameren has not provided any evidence to contradict its argument that the Behavior Program savings are unlikely to continue at a high level beyond the time customers receive the reports.

ELPC asserts part of the value of the Behavior program is that it tunes customers in to the benefits of efficiency, and primes them for taking advantage of other, more long-term efficiency measures. ELPC suggests AIC could use the Behavior Program to promote increased participation in a discount or rebate program such as the residential lighting program. According to ELPC, if the Company can get a Behavior Program customer to purchase an LED, the savings would accrue for twenty-years or more, well beyond the likely savings from participation in the Behavior Program.

ELPC says to Ameren's credit, in his rebuttal testimony, AIC witness Woolcutt agreed with Mr. Crandall's suggestion that Ameren link the Behavior Program to measures and hardware improvements and to develop targeted messaging to market the residential programs. Based on witness Crandall's testimony and witness Woolcutt's rebuttal, ELPC believes the Commission should order Ameren to work very closely with its implementation contractor to explore any and all reasonable options to link the participants of the behavioral modification program with rebates and incentives that encourage customers to install long-lived energy efficiency measures that lead to savings beyond the life of the Behavior Program. ELPC suugests reasonable options could include, for example, limited time offers or special incentives for efficiency products linked to reductions in energy use by Behavior Program participants, or special campaigns developed in coordination with implementation contractors. ELPC believes these kinds of links should be prioritized by Ameren to help realize long-term savings.

(ii) AIC Position

Ameren urges the Commission reject ELPC's recommendation that Ameren use its Residential Behavior Modification Program to cross promote other portfolio incentives as vague and unnecessary. Ameren asserts that it has and will continue to experiment with the promotion of other programs through the Residential Behavior Modification Program (also known as the Home Energy Report) and will monitor whether a synergistic lift is produced from the cross-promotion, repeating promotions that result in an overall positive list. Ameren gave the examples that the Appliance Recycling program was promoted on the Home Energy Report during January and February 2013 and that it is currently planning to promote the Home Performance with ENERGY STAR® program during the winter of 2013-2014 in order to link portfolio offerings to the Behavioral Modification program.

(iii) Commission Conclusions

It is not entirely clear to the Commission exactly what ELPC wishes for the Commission to do with regard to Ameren's Residential Behavior Modification Program. The ELPC proposal lacks sufficient specificity for the Commission to implement it in any meaningful way. In the Commission's view, ordering Ameren to work very closely with its implementation contractor to explore any and all reasonable options to link the participants of the behavioral modification program with rebates and incentives as ELPC suggests would accomplish little if anything. As a result, the Commission declines to adopt the ELPC proposal at this time.

2. Proposed New Programs

a. Pilot C&I Program

(i) Staff Position

Staff notes IIEC witness Mr. Stephens recommended that AIC should provide a proposal for a large C&I pilot program. Staff does not oppose this idea in concept; however, Staff says IIEC has not provided sufficient information for Staff to fully support its proposal. In Staff's view, there are many positive elements in ComEd's Large C&I Pilot proposal that could form the basis of something that Staff could support for AIC's service territory. For example, Staff says any large C&I pilot program in the AIC service territory should require projects to be cost-effective and an independent evaluation be performed on the program. Staff indicates AIC modeled an alternative scenario that includes a Large C&I Pilot. Staff says AIC provided almost no detail concerning the Large C&I Pilot other than the fact that its estimating a budget of $5.13 million and savings of 54,596 MWh over Plan 3. According to Staff, AIC has not provided sufficient information for Staff to support its proposal.

(ii) IIEC Position

According to IIEC, large energy-intensive industries have strong economic incentives to conserve energy and reduce demand at every opportunity possible, given energy costs' direct and significant impact to the bottom line. In addition to the strong economic incentive, IIEC claims these customers have specific knowledge of their facilities and processes and sufficient expertise, either in-house or through third parties, to target the most beneficial energy efficiency and demand response measures. Although these customers pay large sums of money into the utility programs through the Rider EDR collection mechanism, IIEC asserts there are provisions within the guidelines which sometimes make it difficult for customers to receive the full benefit of their payments, and to maximize their investment in energy efficiency and demand response. IIEC states industrial customer dollars targeted for energy efficiency and demand response, which are tied up in the utility programs, are unavailable for customer-initiated investments in energy efficiency and demand response.

IIEC proposed in direct testimony that Ameren should, in consultation with large customers, develop a pilot program that will better enable large industrial customers, such as IIEC members, to maximize their economic energy efficiency opportunities, and provide this information in its rebuttal testimony. IIEC says AG witness Mosenthal generally agreed with this approach, stating his belief that "Ameren should work with these large customers and be willing to commit reasonable DSM resources to future projects absent formally approved programs and plans. I encourage the ICC to direct Ameren to do this, and if it sees fit establish any constraints on the levels of future funding commitments that it deems appropriate."

IIEC notes in his rebuttal testimony, Ameren witness Goerss indicated Ameren's proposal to add a C&I Pilot Program similar to that identified by IIEC in its testimony as being included in Commonwealth Edison Company's Plan 3. Mr. Goerss states that "Ameren Illinois has reallocated a portion of its budget to this pilot program and will continue to work with IIEC and Ameren Illinois' commercial and industrial customers to provide additional program offerings within the confines of the Act."

IIEC agrees with and recommends that the Commission approve Ameren's proposal and direct Ameren to work with such customers in order to have a viable program available for Commission approval.

IIEC states that while it is not completely satisfied with the amount of detail Ameren provided in its C&I Pilot program, it supports the concept of Ameren and IIEC and other large customers working together to develop the details of the project on a going forward basis. IIEC suggests these details presumably will be the subject of discussion between Ameren and IIEC and other large customers. IIEC has no objection in concept to requiring projects to be cost effective and for an independent evaluation being performed.

IIEC is concerned with NRDC's recommendation for SAG's involvement in the pilot program's development. IIEC believes involving such a group could delay the process significantly. IIEC suggests such delay could potentially imperil the implementation of large projects given the constraint of a three year planning timetable. IIEC also suggests a better approach may be for Ameren to simply report its progress and any significant issues to the SAG from time to time

(iii) NRDC Position

In response to 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." NRDC claims 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. NRDC notes 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. NRDC believes 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. In NRDC's view, 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.

(iv) AG Position

The AG notes IIEC witness Stephens testified that AIC's energy efficiency and demand response programs fail to engage large industrial and commercial customers, and that some improvements are needed in this next three year plan to address the efficiency needs of these customers.

The AG concurs that large customers often have to work with multi-year budgeting and construction cycles and have unique internal barriers to obtaining efficiency project funding approval. In addition, the AG says large construction projects can last several years. In some jurisdictions, the AG claims there is evidence whereby utilities feel they cannot commit resources to a large multi-year project because they do not have Commission approval for spending on programs that spans the full period of potential construction. The AG says it appears that this has been a problem in Illinois.

According to the AG, a recent modification to Section 8-103 of the Act allows Ameren to consider its electric goals as cumulative three year goals, as opposed to single year goals. The AG claims approval of a three-year plan by the Commission should therefore provide Ameren with sufficient certainty to obligate funds over the full three-year period and work more effectively with these customers.

In the AG's view, even with three-year plans, however, it is true that there is an endpoint that can be perceived to be problematic depending on whether the project has been completed at the end of the three-year cycle. Because budget caps are articulated in the Act, and all parties agree that these limits are the constraining factor in achieving the Act's goals, the AG says Ameren therefore knows with a great deal of certainty what its future efficiency program budgets will be. The AG believes the Commission should direct Ameren to work with these large customers and be willing to commit reasonable DSM resources to future projects absent formally approved programs and plans.

The AG indicates that it appreciates Ameren's willingness to include the large commercial and industrial customers in its plan. The AG believes the Commission should direct Ameren to work with these large customers and be willing to commit reasonable resources to future projects absent formally approved programs and plans. The AG recommends the Commission include in its Order a requirement that AIC report to the SAG its progress, if any, in developing a large C&I program that attempts to meet the needs of this customer group.

(v) AIC Position

Ameren says it has reallocated a portion of its budget to this pilot program and will continue to work with IIEC and Ameren's commercial and industrial customers to provide additional electric program offerings within the confines of the Act. AIC says while Staff raises a concern regarding the lack of detail on this program, such details cannot yet be provided because they do not exist. AIC asserts the large C&I market must be engaged in order to appropriately design, develop and implement a workable large C&I program.

AIC recommends Staff's additional requirement for each project to be cost-effective and to have an independent evaluation be conducted on the program should also be rejected. According to AIC, how or why the Total Resource Cost test could or should be applied on a project level, as opposed to the measure, program or portfolio level, is left unexplained. Ameren claims, as recognized by Staff and the other SAG members, due to budget constraints on the independent evaluator, not all of Ameren's programs are evaluated every year. Ameren believes to carve out one program and all of its individual projects to require evaluation each year on a per project basis would impose an unnecessary restraint on the EM&V budget and should be rejected. Ameren also asserts a project's failure or success in passing the TRC test should not be a dispositive test for approval and inclusion and certainly should not be retroactively used against either the customer or AIC.

(vi) Commission Conclusions

IIEC proposed that Ameren should, in consultation with large customers, develop a pilot program that will better enable large industrial customers, such as IIEC members, to maximize their economic energy efficiency opportunities. The AG supports the IIEC proposal and recommends the Commission include in its Order a requirement that AIC report to the SAG its progress, if any, in developing a large C&I program that attempts to meet the needs of this customer group. NRDC supports the development of a pilot program to better serve large industrial customers, but believes the 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. Staff does not oppose this idea in concept but claims AIC has not provided sufficient information for Staff to support its proposal.

AIC says it has reallocated a portion of its budget to this pilot program and will continue to work with IIEC and Ameren's C&I customers to provide additional electric program offerings within the confines of the Act. In response to Staff's concern regarding the lack of detail on this program, AIC says such details cannot yet be provided because they do not exist.

First, despite Staff's concerns about the lack of information, the Commission notes all other parties support the proposal and Staff does not oppose the idea in concept. The Commission believes the record supports IIEC's proposal and finds that it should be approved. As noted above, both the AG and NRDC support IIEC's proposal but appear to have slightly different views of the role for the SAG. Of the two recommendations, the Commission finds the AG's to be more reasonable. As a result, the Commission directs AIC to report to the SAG its progress, if any, in developing a large C&I program that attempts to meet the needs of this customer group.

b. Data Center Program

(i) Staff Position

Staff notes ELPC witness Crandall states that “[t]he Commission should direct Ameren to implement such a dedicated [data center] program or modify its existing programs and to do so in collaboration with the SAG, within six months of the issuance of the Order in this proceeding.” AIC opposes such request as it claims it does not have a large number of data centers in its service territory. Staff says rather than unconditionally “implement” a Data Center Program as requested by ELPC, Staff suggested that the Commission should direct AIC to investigate the need for, cost-effectiveness of, and feasibility of such a program. In Staff's view, such investigation should assess what the existing baseline and standard practices are for data centers operating in the AIC service territory and whether it would be cost-effective to implement a dedicated Data Center Program. Staff also claims data center projects are customized projects and they already qualify under AIC’s Custom Program, so a dedicated Data Center Program may not be necessary. To the extent the Commission orders AIC to implement a Data Center Program, Staff believes the Commission should order AIC to first investigate the existing baseline and standard practices of data centers in AIC's service territory so as to reduce contention during the evaluation of such a customized program focusing on an growing market segment.

(ii) AG Position

The AG claims a data center is a building that contains primarily electronic equipment used for data processing, data storage and communications. The AG notes ELPC witness Mr. Crandall testified that data centers can offer substantial and cost-effective efficiency opportunities that should be pursued by Ameren. However, AG witness Mosenthal disagreed that Ameren needs a dedicated "data center program" in which to encourage, promote and capture this potential savings.

The AG states Ameren offers a Custom program for business customers. According to the AG, this program allows for any cost-effective efficiency measures to be adopted and provided financial incentives. The AG asserts it also provides customized outreach and technical assistance to any C&I customer to assist in identifying appropriate opportunities. The AG does not believe Ameren needs to offer a program specific to data centers to effectively capture this efficiency potential. The AG contends because so many data centers are a portion of larger facilities that likely have many other efficiency opportunities, he stated a more flexible approach through the Custom program is desirable to ensure that all cost-effective opportunities in the customer's facility are identified and promoted.

Ultimately, the AG says while these opportunities can be effectively captured through the Custom program, Mr. Mosenthal encouraged the Commission to direct Ameren to target this important market in the Custom program and ensure it develops specific strategies to identify, market to, and assist data centers with efficiency upgrades. The AG believes that recommendation should be adopted in the Commission's final order in this docket.

(iii) AIC Position

Ameren believes a dedicated data center program is unnecessary because Ameren's ActOnEnergy® program currently offers incentives for numerous standard measures that have applications for large, medium, and small data centers. Ameren claims it provides a list of customers that have taken advantage of incentives for data center energy efficiency through the ActOnEnergy® program. AIC says data centers can, and have, made use of the retro-commissioning and custom incentives offered through the program. In addition, Ameren asserts data centers can also apply for feasibility study funding through the program. In Ameren's view, there are already many opportunities for dedicated and non-dedicated data centers to apply for funding through Ameren's current portfolio.

(iv) Commission Conclusions

ELPC recommends that the Commission direct Ameren to implement such a dedicated data center program or modify its existing programs and to do so in collaboration with the SAG, within six months of the issuance of the Order in this proceeding. Ameren opposes ELPC's recommendation because it believes there are already many opportunities for dedicated and non-dedicated data centers to apply for funding through Ameren's current portfolio. The AG does not believe Ameren needs to offer a program specific to data centers to effectively capture this efficiency potential. The AG also encouraged the Commission to direct Ameren to target this important market in the Custom program and ensure it develops specific strategies to identify, market to, and assist data centers with efficiency upgrades. Staff suggested that the Commission should direct AIC to investigate the need for, cost-effectiveness of, and feasibility of such a program.

Having reviewed the record and arguments of the parties, the Commission finds that ELPC's proposal for a dedicated data center program is not warranted at this time. As the AG notes, Ameren currently offers a Custom program for business customers, which allows for any cost-effective efficiency measures to be adopted and provided financial incentives. The Commission also finds the AG's suggestion that Ameren target this market in the Custom program and ensure it develops specific strategies to identify, market to, and assist data centers with efficiency upgrades to be reasonable and Ameren is directed to do so.

c. Smart Devices Program

(i) ELPC Position

ELPC believes the Commission should require Ameren to work with the SAG to use its Emerging Technologies budget to develop and implement a comprehensive plan, involving manufacturers and retailers, to enable Smart Devices to interact with Ameren’s smart meters, and to make it easy for customers to identify and purchase these devices. ELPC asserts Ameren’s Plan fails to adequately consider new efficiency opportunities that the installation of Smart Grid creates.

According to ELPC, smart devices enable Ameren customers with smart meters to take advantage of the smart meter technology to save energy. While these devices are widely available today, ELPC claims it does not appear that any of them have been enabled to communicate with an Ameren smart meter. ELPC believes the Commission should order Ameren to fix this interoperability problem and make it easy for customers to purchase and use smart devices with Ameren smart meters.

ELPC recommends Ameren maintain a list of verified and compatible devices on their website. Ameren could also work with manufacturers and retailers to modify packaging or signage to indicate device compatibility with their meters. ELPC says while Ameren witness Goerss might think that working on smart device enablement is premature, Ameren's own Advanced Metering Infrastructure "AMI" implementation group disagrees.

ELPC believes the Commission should order Ameren to allocate its $5.13 million Emerging Technologies budget to develop and implement a comprehensive plan, involving manufacturers and retailers, to enable smart devices to interact with Ameren's smart meters and to make it easy for customers to identify and purchase these devices. ELPC also believes the Commission should also order Ameren to study and report back to the Commission within six months on potential programs that would provide these smart devices directly to customers in conjunction with the AMI rollout.

(ii) CUB Position

CUB notes ELPC recommends that Ameren include in its EEPS programs targeting the use of "smart" devices. ELPC defines smart devices as hardware on the customer side of the meter that enable customers to reduce their energy use overall and at times of peak demand. CUB says smart devices are sometimes required for customers to participate in certain energy efficiency and dynamic pricing programs. According to CUB, examples of smart devices include thermostats, plugs, power strips, switches, smart chargers for electric vehicles, gateways, and in-home displays that can communicate with smart meters.

CUB believes that smart devices are critical for customers to fully realize the benefits of AMI, which is currently being deployed in Illinois. CUB agrees with ELPC's recommendation that Ameren establish interoperability standards for smart devices to communicate with smart meters and be willing to verify and register devices that a customer may purchase and install on their own. CUB notes ELPC also addresses a proposed discount program for these devices where AMI is being deployed, and recommends Ameren direct its Emerging Technologies Budget to fund this program.

In response, Ameren states it has earmarked a portion of the Emerging Technologies budget for a codes and standards pilot program. CUB supports this program, and recommends as a compromise that Ameren spend the remainder of the Emerging Technologies funding on a smart device program as recommended by ELPC. In CUB's view, AIC should discuss its plans for this program with the energy efficiency SAG and with the Smart Grid Advisory Council ("SGAC"), both of which have an interest in ensuring that the benefits of AMI investment are maximized.

(iii) AIC Position

In AIC's view, the Commission should reject ELPC and CUB's recommendations regarding smart devices at this time because they are premature, undeveloped and unnecessary. Ameren states part of its Emerging Technologies budget has already been earmarked for a codes and standards pilot program. Additionally, Ameren says it evaluated a smart power strips program that proved to be cost-ineffective.

According to Ameren, neither of the Intervenors has specified what kind of smart devices program should be implemented, and rather than committing the entire Emerging Technologies budget to a smart devices program that may not be cost-effective or may not otherwise be appropriate to implement, Ameren believes it should be able to retain the flexibility to use ratepayer funds to research and implement appropriate programs in this space. Ameren claims this is particularly true in light of Staff's proposed definition of emerging technologies, as there are existing measures in Plan 3 that could fit that definition. Ameren contends if the entire budget is spent on something else, like a smart devices program, it would mean eliminating other measures from Plan 3 that have been analyzed for inclusion. Ameren says it would commit to working with ELPC and CUB to learn about potential opportunities to explore.

(iv) Commission Conclusions

ELPC recommends the Commission order Ameren to allocate its $5.13 million Emerging Technologies budget to develop and implement a comprehensive plan, involving manufacturers and retailers, to enable smart devices to interact with Ameren's smart meters and to make it easy for customers to identify and purchase these devices. ELPC also recommends the Commission order Ameren to study and report back to the Commission within six months on potential programs that would provide these smart devices directly to customers in conjunction with the AMI rollout. CUB agrees with ELPC's recommendation that Ameren establish interoperability standards for smart devices to communicate with smart meters and be willing to verify and register devices that a customer may purchase and install on their own. CUB recommends AIC discuss its plans for this program with the energy efficiency SAG and with the SGAC.

AIC recommends the Commission reject ELPC and CUB's recommendations regarding smart devices at this time because it believes they are premature, undeveloped and unnecessary. Ameren states that part of its Emerging Technologies budget has already been earmarked for a codes and standards pilot program.

The Commission is dedicated to providing consumers with all available tools to take control of their energy use, maximize savings and encourage conservation. This approach includes leveraging the investments of smart grid that are well underway. In PY9 alone, AIC will be deploying roughly 400,000 smart meters in its territory. At the same time, private market innovation with home devices is moving at a rapid pace. Customers are adopting new technologies that provide interoperability between devices so they can have greater control over their energy needs.

Many of these devices may be unable to communicate with AIC's smart meters. It appears that this lack of interoperability is not due to technological constraints; rather, the roadblock appears to be a lack of standards and coordination among AIC and manufacturers. Furthermore, customers would have no way of knowing what devices can and cannot communicate with their smart meter.

AIC's smart meters could provide effective tools for greater energy reduction and management if they are paired correctly with smart home devices. The Commission believes that ELPC's smart devices program could provide a mechanism to unlock additional savings previously unattainable if interoperability standards are developed and consumers can make choices knowing which devices are compatible with their meters and which are not.

The Commission is reluctant to order AIC to spend the entire emerging technologies budget on this initiative, thereby replacing the codes and standards initiative of which AIC is a partner with others.

Therefore, the Commission adopts CUB's proposal to spend the remaining emerging technologies budget on the proposed smart devices program. At a minimum, AIC must develop a comprehensive plan for smart devices including potential programs that deploy home devices in conjunction with smart meters. In addition, AIC must discuss its plan with the SAG and report back to the Commission within 6 months.

d. Conservation Voltage Reduction Program/Voltage Optimization Program

(i) NRDC Position

NRDC agrees with AG witness Mosenthal's testimony in opposing the use of Section 8-103 funds for voltage optimization. According to NRDC, 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. NRDC says voltage optimization 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.

(ii) AG Position

The AG indicates ELPC witness Volkman and CUB witness Devens both propose that Ameren develop and deliver as part of its efficiency portfolio a voltage optimization program. The AG asserts while voltage optimization ("VO") technology can be a cost-effective approach to better managing the electrical grid, and can achieve some reductions in energy demand, it is inappropriate to pursue this measure with the very limited demand-side management funding resources in Illinois.

The AG states Section 8-103(c) of the Act established DSM programs to work with customers to assist them in investing in improving the efficiency of their facilities. According to the AG, separately, the utilities have various obligations to build and maintain efficient and effective distribution systems, for which they can recover their costs under various mechanisms, and often also earn a rate of return on their investment. The AG contends efficiency and demand response programs enabled by Section 8-103 of the Act are designed to engage customers in these measures. The AG claims adoption of voltage optimization, however, is a supply-side solution to efficiency that is completely under the control of the utilities, is invisible to customers, and does not require any customer action to be successful, unlike efficiency and demand response programs created under Section 8-103 of the Act. The AG asserts just as investments in advanced metering infrastructure have not been funded through the limited efficiency funds, neither should VO. In the AG's view, to do so would both compete with many other cost-effective efficiency opportunities and programs that Ameren can offer its customers, and would diverge from the traditional utility responsibility of managing its distribution system to minimize ratepayer costs subject to appropriate standards of reliability and safety.

The AG believes the Commission should direct Ameren to invest all appropriate funds to ensure that all cost-effective VO technology is installed and used on its system as soon as possible. The AG says Ameren should recover these costs consistent with how it recovers other distribution system capital and maintenance costs, and not use the limited DSM funds established under Section 8-103 of the Act for this purpose.

(iii) CUB Position

In the last three year Plan docket, CUB says the Commission ordered Ameren to implement a Voltage Optimization Pilot to determine what the benefits would be of a wider adoption of the program, and to consider both the energy efficiency and demand response capabilities of the program. CUB states this pilot ultimately became a test of a Conservation Voltage Reduction ("CVR") program, and Ameren shared the results of a CVR with the SAG on April 30, 2013.

CUB says CVR can be defined as a technology that can provide emergency load relief, substation voltage reduction, peak load management, and customer end use efficiency. Ameren has also defined CVR as "the general term for the changes to distribution equipment and operations that can reduce line losses, peak loads and reactive power needs, and save (or defer) consumption by some types of consumer equipment" and "the intentional and routine reduction of system voltage, typically on distribution circuits, to reduce line losses and energy use by some types of end-use equipment while maintaining customer service voltage within applicable national standards (e.g., ±5 percent of nominal)." According to CUB, among the benefits of CVR according to Ameren are:

- According to studies, operating a utility distribution system in the lower half of the acceptable voltage range (120-114 volts) saves energy, reduces demand, and reduces reactive power requirements without negatively impacting the customer.
- The distribution lines that deliver energy to homes and businesses typically lose 3 percent to 7 percent of the electricity they carry. I
- Reducing electric service voltage also reduces energy consumption of some consumer equipment. In fact, much of the savings potential may be on the customer side.
- A study found that when voltage reduction is coupled with major system improvements, 10 percent to 40 percent of the savings accrue on the utility distribution system; the remaining savings are the result of reduced consumption by equipment in homes and businesses operating at lower voltage.
- CVR can provide a 1-3% reduction in energy use and a 1-4% peak load reduction at a low cost.

CUB claims it presented evidence on the merits of a CVR program, including a case study from the Electric Power Research Institute ("EPRI") on CVR in Ameren's service territory in CUB Ex. 1.4. According to CUB, the EPRI study reports that CVR works by "reducing the voltage along the feeder a few percentage points, but keeping the delivery voltage in the acceptable range of 114-126 volts, demand and energy are reduced while still providing adequate voltage for customer usage." CUB says EPRI compared different CVR capabilities at different periods of time, and expressed results in terms of the Conservation Voltage Reduction Factor ("CVRf"). CUB states the CVRf is "the percent reduction in load obtained per percent of voltage reduction," such that if load is reduced 2% from a voltage reduction of 3%, the CVRf is 2%/3%, or 67.

In CUB's view, the results from the Ameren pilot are commensurate with the national average of a CVRf of 0.8. CUB states in urban areas in the summer, the estimated CVRf for Ameren was 0.78 while in the fall in urban areas, it was 1.24. CUB states in the summer in rural/urban areas the CVRf was 0.97 and the CVRf was lowest in rural/urban areas in the fall at 0.44. These results suggest to CUB that CVR has promise, particularly if at certain times of year in certain areas of Ameren's service territory, the load reductions from CVR are greater than the voltage reductions. CUB believes CVR appears to be a positive option for customers. CUB says customers do not have to take action to realize load reductions, and CUB is not aware of CVR causing any system problems so far. According to CUB, if a CVR program is found to be cost-beneficial, it appears that it could reduce peak load consumption as well as overall consumption for Ameren customers. CUB believes the Commission should order Ameren to prepare a cost/benefit analysis of a CVR program at scale, and share that with the SAG and SGAC. CUB also suggests Ameren should report to the Commission on whether a CVR program could cost-effectively meet the demand response goal beginning in PY7. If the report finds that a CVR program would be cost-effective, CUB believes Ameren should include it in the revised Plan that Ameren discusses with the SAG and files with the Commission.

(iv) AIC Position

AIC believes the Commission should reject the recommendation by CUB and ELPC that Ameren should include a VO or CVR program in its Plan 3 because (1) there is not enough data with respect to broader system operability; (2) it has not been found to be cost-effective as a demand response program; and (3) it is not appropriate to spend Section 8-103 funds on such a program. Ameren Illinois performed a cost-effectiveness analysis on a variety of Demand Response measures in order to determine if they would be cost-effective in the Ameren Illinois service territory. Ameren claims it found, using measure parameters from other service territories, that no demand response measures were both cost-effective and applicable to the Ameren Illinois service territory. Ameren says it found that a CVR program, which optimizes the electric delivery system by adjusting voltage, is not cost effective as shown in the Ameren Illinois Plan 3 Demand Response Measure Analysis.

Ameren argues VO should not be pursued via an energy efficiency and demand response plan, particularly because Ameren is already exploring these types of options through its Advance Metering Infrastructure Plan. AIC indicates AG witness Mosenthal stated, "the intent of Section 8-103 of the Act is to work directly with customers and trade allies to improve end use efficiency. The adoption of voltage optimization is a supply-side solution to efficiency … [j]ust as investments in advanced metering infrastructure have not been funded through the limited efficiency funds, neither should VO." AIC contends the installation, operation and maintenance of any appropriate VO related system(s) need to remain with the utility and outside of the energy efficiency portfolio and thus such a recommendation does not pertain to this docket.

(v) Commission Conclusions

In Docket No. 10-0568, the Commission ordered Ameren to implement a Voltage Optimization Pilot to determine what the benefits would be of a wider adoption of the program, and to consider both the energy efficiency and demand response capabilities of the program. In this proceeding, CUB and ELPC recommend that the Commission require Ameren to include a VO or CVR program in its Plan 3.

The AG asserts just as investments in advanced metering infrastructure have not been funded through the limited efficiency funds, neither should VO. The AG believes the Commission should direct Ameren to invest all appropriate funds to ensure that all cost-effective VO technology is installed and used on its system as soon as possible but Ameren should recover these costs consistent with how it recovers other distribution system capital and maintenance costs.

With respect to a VO or CVR program, AIC believes (1) there is not enough data with respect to broader system operability; (2) it has not been found to be cost-effective as a demand response program; and (3) it is not appropriate to spend Section 8-103 funds on such a program.

The record suggests that currently, a CVR program is not cost effective. In addition, Ameren is currently exploring VO types of options through its Advance Metering Infrastructure Plan. This leads the Commission to conclude that the record does not support a finding that Section 8-103 funds should be utilized for a VO or CVR program at this time. The Commission believes that to the extent VO or CVR programs are to be pursued, it should be through Ameren's Advance Metering Infrastructure Plan.

3. Additional Financing to Customers for Energy Efficiency Measures

a. Workshops

Staff notes Mr. Crandall recommends that the "Commission instruct the Staff to conduct a workshop and the SAG to review, consider the strengths and weaknesses of the various options and prepare recommendations to the Commission regarding the use of additional financing options and alternatives including the use of amortization and capitalization of utility related costs. The recommendations should be presented to the Commission within six months of the issuance of an Order and the possibility of program changes for PY8, depending on Commission authorization and direction." Staff says the basis of Mr. Crandall's recommendation appears to be that "Ameren's proposed level of savings will fall short of statutory targets and additional efforts should be pursued to increase savings."

Both AIC and Staff urge the Commission to reject Mr. Crandall's proposal. Staff asserts Mr. Crandall ignores the fact that additional efforts to increase savings are already underway. Staff states in particular, Section 16-111.5B of the Act provides a mechanism for the Commission to approve, as part of the annual procurement plan proceedings, expansion of cost-effective Section 8-103 EE programs and new cost-effective EE programs that are incremental to the Section 8-103 EE efforts. Staff says Section 16-111.5B EE programs are not subject to budget constraints as the Section 8-103 EE programs are. Currently, Staff states there is an ongoing procurement plan proceeding before the Commission to consider approving Section 16-111.5B EE programs, including five for AIC's territory at a cost of $23,219,956 in PY7. Additionally, Staff says Sections 8-103 and 8-104 of the Act allow for modifying the statutory targets if the goals cannot be achieved within the spending limits. In Staff's view, one key reason that the proposed level of savings will fall short of the statutory targets is due to the statutory budget restrictions. Given that additional efforts are already underway to increase savings based on the additional funding allowed by Section 16-111.5B of the Act and that the statutes clearly allow for modified savings goals, Staff believes the Commission should decline to direct such workshops take place at this time.

Staff states past Commission findings support AIC's and Staff's position. In particular, Staff indicates ComEd's EE Plan 2 Order states:

> The Commission further finds that there is no basis for requiring a utility subject to Section 8-103 to procure additional funding outside of the cost

> recovery mechanism authorized by Section 8-103. In the Commission's view, Section 8-103 does not contemplate such outside funding. Rather, the statutory framework contemplates funding of the measures through the Commission-approved tariff mechanism and a reduction in measures and goals to the extent the budgets constrain the utility's ability to achieve the goals.

Staff believes the Commission should not direct financing workshops take place.

According to Ameren, ELPC's financing recommendation consists of little more than a list of possible financing alternatives – ELPC offers no support for its recommendation that the Commission order a workshop. Ameren also asserts that financing is not a required energy efficiency activity under either Section 8-103 or Section 8-104. Ameren also believes it would be inappropriate to conduct a workshop that discusses on bill financing before the evaluation of the pilot is completed.

b. On-bill Financing

ELPC witness Crandall suggests that Ameren should be pursuing on-bill-financing ("OBF") services in its plan. AG witness Mosenthal agreed with this point. The AG says in Rebuttal Testimony, he noted that Ameren used ratepayer funds to set up an administrative mechanism to support OBF, as directed by Section 16-111.7 of the Act. The AG claims while AIC met the OBF Act's minimum requirement to fund this mechanism with at least $5 million in loan funds, it has now discontinued offering OBF. The AG believes this is inappropriate and should be reversed by the Commission.

According to the AG, OBF can allow Ameren to reduce cash rebates by supplementing them with financing that still provides customers immediate positive cash flow. So long as the loan payments are smaller than the estimated bill savings, then the AG asserts customers will directly benefit by adopting the efficiency measures and have little financial disincentive to do so.

Because Ameren is asking the Commission to approve goals that are significantly adjusted downward from the intended statutory goals articulated in Sections 8-103 and 8-104 of the Act as a result of budget limits, the AG believes Ameren should have an obligation to attempt to maximize the savings that it can reasonably capture within these budget limits, subject to other policy objectives. The AG contends OBF provides a significant tool for Ameren to expand the goals it pursues within the budget limits. Given that the ratepayers have invested in the development of this important resource mechanism, the AG believes they should continue to accrue the benefits available from it.

In that regard, the AG asserts the Commission should direct Ameren to submit a revised plan with substantially higher goals, consistent with Mr. Mosenthal's direct testimony as well as that of NRDC witness Grevatt, CUB witness Devens, and ELPC witness Crandall. The AG claims at a minimum, Ameren should be directed to: shift the

Behavior and CFL programs to the IPA procurement mechanism; adjust estimates of program costs and savings as appropriate and consistent with CUB witness Devens showing that Ameren's current proposal inappropriately estimates costs much higher than it has historically spent per unit of savings; and to include OBF as a mechanism to reduce program costs.

The AG maintains the Commission should direct Ameren to pursue OBF in its program as a mechanism to reduce costs. In the AG's view, this appears to be in line with financing proposals by ELPC and CUB. The AG says Ameren has, in the past, used ratepayer funds to set up administrative support for OBF, as directed by Section 16-111.7 of the Act. The AG states that now that the program has proven highly successful and AIC burned through the minimum funding requirement of $5 million, Ameren discontinued offering OBF. In the AG's view, the arguments presented in Ameren's Initial Brief, however, put the cart before the horse and the Commission should urge Ameren to evaluate including an OBF program or a similar cost-reducing mechanism in its plan.

The AG says the purpose of the discussion of OBF in Mr. Mosenthal's testimony and in the AG's Initial Brief is to present a mechanism that could somehow account for Ameren's request to have the Commission approve goals that are significantly adjusted downward from the intended statutory goals articulated in Sections 8-103 and 8-8 104 of the Act as a result of budget limits.

c. Commission Conclusions

The AG contends OBF provides a significant tool for Ameren to expand the goals it pursues within the budget limits. The AG suggests that Ameren should be pursuing OBF services in its plan. The AG says it has presented a mechanism that could somehow account for Ameren's request to have the Commission approve goals that are significantly adjusted downward from the intended statutory goals articulated in Sections 8-103 and 8-104 of the Act as a result of budget limits.

ELPC recommends that the Commission direct Staff to conduct and the SAG to review a workshop to evaluate the benefits of OBF and other financing mechanisms. Both AIC and Staff urge the Commission to reject ELPC's proposal. Staff asserts ELPC ignores the fact that additional efforts to increase savings are already underway. Staff also claims the proposal is inconsistent with the Commissions previous finding that that there is no basis for requiring a utility subject to Section 8-103 to procure additional funding outside of the cost recovery mechanism authorized by Section 8-103.

Ameren argues it has already exhausted Commission-approved funding for its OBF program and that OBF is provided for in statutes that are separate from the energy efficiency and demand response statutes, and thus it would be inappropriate to address OBF in this proceeding. AIC also believes Intervenors' recommendations are vague and do not provide sufficient information as to how Ameren's Plan should be modified and any discussion of Ameren's OBF program should occur after the evaluation report has been filed and the legislation has approved continuing the program per the Act.

The Commission agrees with the AG that Ameren should evaluate including an OBF program or similar cost-reducing mechanism in its plan. The OBF program has proven highly successful as evidenced by AIC's already having exhausted the minimum funding requirement of $5 million such that Ameren has discontinued offering OBF. It is clear to the Commission that this program is in high demand and could be an excellent program to achieve further energy efficiency savings. If the OBF program is not included in Ameren's Plan 3, the Company should evaluate including an OBF program or similar cost-reducing mechanism in its Section 16-111.5B plan.

Last, to the extent ELPC is suggesting workshops related to OBF, it is not clear what benefit such workshops would provide at this time. The proposal to pursue workshops related to OBF should be rejected at this time.

4. Proposed Changes to Rider GER and EDR

a. Staff Position

Staff says AIC's Plan is required to include a proposed cost-recovery tariff mechanism to fund the proposed EE and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs pursuant to Sections 8-103(f)(6) and 8-104(f)(7) of the Act. Staff notes AIC filed exhibits containing the existing Riders EDR and GER tariff language and AIC's proposed modifications to those tariffs.

Staff recommends the removal of the requirement that evaluation reports be completed before the filing of testimony, because ex post evaluation reports are not needed for filing testimony in reconciliation proceedings. In rebuttal testimony, AIC agreed with Staff's recommendation. Staff says AIC's proposed language changes do not accurately reflect Staff's proposed modifications. Staff claims AIC's proposed language changes completely eliminates from the tariff the deadline for AIC to file testimony. Staff recommends the Commission reject the elimination of deadlines for filing testimony as this may delay discovery and the filing of testimony and completion of the reconciliation proceedings. Staff believes the Commission should also remove the requirement that evaluation reports be completed before the filing of testimony. According to Staff, the Commission should require Ameren to file a revised tariff no later than 35 days after the date the Commission enters its Order in this docket which adopts the following revisions to AIC's proposed language for Riders EDR and GER:

> ~~During the annual reconciliation proceeding, t~~The Company shall file testimony by October 31, ~~or 35 days after it receives the final copies of the independent evaluations. The testimony will~~ that addresses the Company's reconciliation statement and the prudence and

> reasonableness of costs incurred and recovered under this Rider during the Program Year that is the subject of the reconciliation statement.

Staff says AIC proposed the addition of language to Rider GER concerning the definition of Projected Costs in its rebuttal testimony. Staff agreed to Ameren's proposed language change with certain additional language to remain consistent with Rider EDR. Ameren indicated it did not oppose Staff's recommended modification. According to Staff, the Commission should adopt the language changes identified below and have AIC file a revised tariff in accordance with this Order no later than 35 days after the date the Commission enters its Order in this docket. In particular, Staff says the following language should be added to the definition of Projected Costs in Rider GER:

> Such Projected Costs to be recovered during the Program Year may include adjustments for (a) costs incurred related to the planning and development of plans approved by the ICC for energy efficiency programs amortized over a period of three years or other such costs related to annual reporting requirements and (b) ICC approved adjustments to Incremental Costs, if any.

b. AIC Position

Ameren states that while it and Staff do not disagree on the principle behind the change, AIC and Staff have proposed different language.

The following excerpt below shows the Company's suggested change to tariff language:

> During the annual reconciliation proceeding, the Company shall file ~~testimony by the later of October 31, or 35 days after it receives the final copies of the independent evaluations, unless otherwise approved by an Administrative Law Judge~~. ~~The~~ testimony **that** ~~will~~ address**es** the Company's reconciliation statement and the prudence and reasonableness of costs incurred and recovered under this Rider during the Program Year that is the subject of the reconciliation statement.

AIC believes it should not have to file its testimony in this docket, which addresses Plan approval, so that the Commission can then open a reconciliation docket of a given year. Rather, AIC asserts it should file testimony regarding reconciliations under Riders EDR and GER in the reconciliation docket itself.

c. Commission Conclusions

As the Commission understands it, Staff recommends adding language to Rider GER about the amortization period required for long term planning costs which is supported by AIC. The Commission finds this proposed change to Rider GER reasonable and it is hereby approved.

It appears to the Commission that AIC and Staff disagree about another change to Rider EDR, as well as Rider GER, with respect to whether AIC should be required to provide testimony in this proceeding, as Staff suggests, or in the reconciliation docket itself, as AIC advocates.

This proceeding will be closed with the entry of this Final Order. As a result, the Commission finds that AIC's proposal is more efficient and reasonable with regard to both Riders EDR and GER.

AIC states that through discussions with Staff during another docket, it was recently discovered that Rider GER is silent on the amortization period required for long term planning costs. Ameren says it has been relying on the language in Rider EDR that requires long term planning costs to be amortized and recovered over the planning cycle for which they were incurred. Ameren says language related to the amortization of the long term planning costs in Rider EDR should be added to Rider GER to explicitly require the same amortization method. AIC states this suggested change was recently proposed in Docket No. 11-0687 and Ameren understands that Staff does not oppose the concept, subject to AIC and Staff agreeing on acceptable language. The Commission finds AIC's proposal reasonable and it is hereby adopted.

5. Demand Response

a. Introduction

CUB notes that Ameren proposes to achieve the demand response goal through the implementation of energy efficiency measures. CUB indicates in the last three year Plan docket, the Commission found that it was “not convinced that this interpretation of the Act is correct.” CUB says the Commission weighed several parties’ ideas for meeting the targets, including a Voltage Optimization Program, a Power Smart Pricing program and the purchase of demand response by the IPA. The Commission instructed Ameren to research cost-effective demand response measures for inclusion in this Plan filing and for discussion with the SAG.

According to CUB, Ameren is obligated to meet a demand response goal based on delivering electricity to all eligible retail customers, and, as discussed below, if for example a Conservation Voltage Reduction program is a cost-effective way to deliver results like this pilot indicates are possible, CUB supports the implementation of CVR if it was cost-effective system wide. If the CVR program is not found to be a cost-effective means of meeting the statutory demand response goals, then CUB believes Ameren should implement a different program which would cost-effectively meet those goals.

b. Definition of "Eligible Retail Customers"

(i) Staff Position

Staff notes Ms. Devens recommends that "Ameren's demand response goal should be based on this pool of customers – i.e., all customers who are eligible to be retail customers of the utility." Staff believes the Commission should reject Ms. Devens' interpretation. Staff says the Section 16-111.5(a) definition of "eligible retail customers" states that it consists of "those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs[.]" Staff believes Ms. Devens' definition is inconsistent with the definition of eligible retail customers established in statute and both AIC's and ComEd's method to calculating the demand response goals.

(ii) CUB Position

CUB says Section 8-103(c) of the PUA requires that Ameren implement "cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers, as defined in Section 16-111.5 of this Act, and for customers that elect hourly service from the utility pursuant to Section 16-107 of this Act, provided those customers have not been declared competitive." CUB indicates Ameren has calculated its goal for Electric PYs 7-9 based on the number of customers who in fact purchase bundled electricity supply from Ameren Ex. 4.0 at 9-10. As a result, Ameren proposes to achieve megawatt reductions of 1.23 MW in PY7, 1.12 MW in PY8, and 1.07 MW in PY9.

Section 8-103(c) of the Act points to the definition of eligible retail customers in Section 16-111.5 of the Act, which in turn defines eligible retail customers as

> those retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive under Section 16-113 and those other customer groups specified in this Section, including self-generating customers, customers electing hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service.

According to CUB, this definition serves to distinguish customer groups that are eligible to be retail customers of the utility – i.e., purchase power and energy from the utility – from customers whose service has been declared competitive. CUB claims the phrase "eligible retail customers" can be understood to mean customers who are eligible to be retail customers of the utility. CUB asserts Ameren's demand response goal should be based on this pool of customers – i.e., all customers who are eligible to be retail customers of the utility.

CUB contends Ameren has never indicated in either of its past three-year plan filings that it was modifying its statutory goal based on the interpretation it puts forth now. Given that this statutory language has been the same for the past six years, CUB insists there is no reason why Ameren is now offering this interpretation. Under Ameren's interpretation, CUB says the demand response goal would be based on the number of customers who currently elect to purchase power and energy from Ameren. CUB states this is a volatile and unpredictable number since with municipal aggregation of electricity supply, customers may switch back and forth between purchasing electricity supply from an ARES and purchasing that supply from their utility. CUB says mass residential customer switching is a recent phenomenon, and though many customers have in recent years received supply from an ARES, it is impossible to know how many customers may return to the utility in the near future. Under Ameren's proposal, CUB says if more customers return to the utility for power supply in the next few years, they would not be reflected in AIC's demand response goals. According to CUB, the energy efficiency and demand response goals require the utilities to meet annual, increasing savings targets. CUB claims this requirement calls for consistency and growth in the delivery of programs and achievement of targets.

CUB believes the Commission should order Ameren to calculate this goal based on the number of customers who are eligible to be retail customers of AIC, and not solely the number of customers who are currently Ameren retail customers, and include this revised goal in the Revised Plan the Company should file with the Commission. CUB says any customer that switches back to Ameren in PYs 7-9 would not be factored into the prospective demand response target.

(iii) Commission Conclusions

CUB recommends that the Commission adopt a definition of "eligible retail customer" that would include customers who are eligible to be retail customers of the utility. This proposal is opposed by Ameren and Staff.

While the Commission is somewhat sympathetic to what CUB is attempting to accomplish, the Commission is bound to follow the Act. CUB's definition is inconsistent with the plain language of the Act and the Commission interpretation of the Act in previous proceedings. The Commission concludes that CUB's proposal must be rejected.

c. Power Smart Pricing Program

(i) Staff Position

CUB recommends that Ameren investigate the cost-effectiveness of a CVR Program and implement the CVR program if it is estimated to be cost-effective. (If the CVR program is determined to be cost-ineffective, CUB recommends that Ameren should meet its demand reduction goals by expanding its Power Smart Pricing ("PSP") Program, which CUB believes was found to be cost-beneficial to customers.

Staff does not have an opinion on the merits of the CVR program. Staff has concerns with CUB's alternative that if CVR is not determined to be cost-effective that Ameren should expand the PSP Program. Staff says the PSP program is currently in effect, it is administered through Rider PSP where participating customers pay $2.25 per month and non-participating customers pay $0.08 per month. It is unclear to Staff how CUB intends for Ameren to expand the PSP program through Rider EDR. PSP is now an opt-in program available to all its residential electric customers. In Staff's view, it seems counterproductive to expand the PSP program with the limited EE funds available when Rider PSP exists and allows for cost recovery if the program is expanded.

Dr. Brightwell also indicated that the PSP program could not automatically be implemented based on the evaluation conducted to determine it was cost-effective. Section 8-103 requires cost-effectiveness based on the Total Resource Cost test. Staff says the PSP evaluation used other criteria. According to Staff, the PSP program would need to undergo TRC analysis before it could be expanded under Ameren's EE portfolio.

Dr. Brightwell also testified that if the Commission directed Ameren to expand the PSP program under the EE portfolio it would be sacrificing energy savings in order to increase peak demand savings. Staff says this occurs because the PSP program is shown to reduce peak demand by about 0.52 kW per household, while energy savings are not statistically significant. Since the EE budget is fixed, Staff states expanding the PSP program would necessarily require expenditures on other areas of the program to be reduced and/or eliminated.

In Staff's view it is unnecessary to expand PSP within AIC's EE portfolio, as PSP is available to all customers under a separate rider. Staff believes it is also impractical. Staff recommends the Commission reject CUB's alternative proposal to expand PSP in the event that CVR is determined to be cost-ineffective.

(ii) CUB Position

CUB recommends that Ameren implement a cost-effective program to its demand response goal, and if the CVR program is not found to be a cost-effective means of meeting the demand response goals, CUB had recommended that Ameren should consider implementing the PSP. CUB says the Commission expressed interest in learning the results of the PSP program in the Order for the last plan filing. CUB proposed that one means of meeting the demand response goals would be to expand the PSP program.

Staff witness David Brightwell expressed concerns with this proposal. Dr. Brightwell pointed out that the PSP program is already being funded through Rider PSP, and that as such, to fund PSP through the EEPS would reduce funding for other energy efficiency programs. Dr. Brightwell also points out that the cost-effectiveness of the

PSP program was evaluated using different criteria than the TRC test used to measure the cost-effectiveness of energy efficiency programs under Section 8-103 of the Act. While CUB's proposal was merely to expand funding for the PSP program and ensure that marketing efforts were fully capturing interest in the program, CUB accepts Dr. Brightwell's concerns and is willing to withdraw the proposal for funding PSP through Rider EDR.

(iii) Commission Conclusions

CUB recommends that Ameren implement a cost-effective program to its demand response goal, and if the CVR program is not found to be a cost-effective means of meeting the demand response goals, CUB had recommended that Ameren should consider implementing the PSP.

In Staff's view it is unnecessary to expand PSP within AIC's EE portfolio, as PSP is available to all customers under a separate rider. Staff also believes it is impractical. Staff recommends the Commission reject CUB's alternative proposal to expand PSP in the event that CVR is determined to be cost-ineffective.

The Commission finds that Staff has identified valid concerns regarding the expansion of PSP with the context of Ameren's energy efficiency portfolio and Plan 3. The Commission concludes that CUB's recommendation should not be adopted at this time and AIC will not be required to include PSP with its Plan 3.

VI. POLICY ISSUES

Pursuant to Sections 8-103 and 8-104 of the Act, AIC is required to meet incremental energy savings targets. Failure to meet the incremental energy savings goals may result in AIC making contributions to LIHEAP and potential loss of the EE portfolio administration responsibility. Thus, AIC claims it has an incentive to meet goals within the constraints the Commission adopts in this proceeding in order to avoid such consequences. AIC believes this incentive is important to keep in mind throughout the discussion of policy issues below.

A. Net to Gross Ratio Values

The Net to Gross "NTG" ratio is used to adjust the total estimated "gross" savings from all measures tracked through the program to estimate the true "net" effect that the program has produced. AIC says this can be different for a number of reasons, with the two primary components being accounting for "free ridership" and "spillover." According to AIC, free ridership refers to the portion of customers participating in the program that would have installed some or all of the efficiency measures even without the programs existence. Therefore, while these savings are counted in the utility's gross savings tracking system, AIC says they do not provide true additional net savings to society since the customer would have captured some or all of the savings anyway. AIC says spillover refers to influences of the program that result in some customers or trade allies actually pursuing additional efficiency, but not formally participating in the program. In this case, AIC says the utility gross tracking system does not count these savings, but to the extent customers and trade allies were influenced by the program and it caused them to do additional efficiency measures on their own, this savings is in fact a net effect of the program.

1. Spillover and Free Ridership Factors for NTG Values

a. Staff Position

AIC proposes that NTG calculations include free ridership and spillover rates when both are quantified, and neither if only one or none are quantified. Staff says Ameren’s proposal is intended to account for both participant and non-participant spillover. If either is excluded, then Staff claims NTG ratio values exclude both free ridership and spillover. Staff believes the Commission should reject such approach.

Dr. Brightwell explained that a likely consequence of approving Ameren’s NTG proposal is that instead of measuring net savings, it is likely that several programs will be measuring gross savings. According to Staff, it is more costly to measure spillover than it is to measure free ridership. Due to limited evaluation funds, Staff asserts it is unlikely that all programs can quantify spillover, particularly non-participant spillover. Due to the difficulties associated with quantifying non-participant spillover, both free ridership and spillover rates would be excluded. Staff states the mathematical representation of net savings is (Gross Savings x NTG), where the value of NTG is equal to one minus the rate of free riders plus the rate of spillover. When the rate of free riders and spillover are excluded, Staff says the NTG value is equal to one and Net Savings are equal to Gross Savings.

In addition to the policy implications, Staff contends Ameren’s proposal is contrary to the statutory requirements of Section 8-103(b) and 8-104(c) which respectively require annual incremental savings goals to be met.

According to Staff, among the reasons that it is not sound policy is that the proposal is likely to overestimate savings attributable to the program and lead to incentives that are adverse to the interests of ratepayers. Staff also believes that there is a disproportionate emphasis on the lack of measurement of spillover.

Staff says spillover is essentially knowledge about EE that was gained as a result of program actions. Staff notes Sections 8-103 and 8-104 of the Act set forth savings goals that relate to “incremental” first-year savings. According to Staff, this means that the spillover that requires measurement as far as meeting annual savings goals is indirect savings that resulted in the installation of measures in the same Program Year as the knowledge was gained. Staff asserts if a customer replaced an air conditioning unit in May of a calendar year, liked the outcome after seeing savings in the summer months, and added insulation to the house in September of the same calendar year (without using a utility rebate), then this is spillover that does not affect first year savings, as September and May are not in the same Program Year. Staff says this is also an example of participant spillover. Staff asserts evaluators have attempted to quantify this type of spillover and in most cases find the impact to be small and often too small to be measurable.

For non-participant spillover to affect first year savings, Staff claims the person who received the air conditioner rebate would have had to tell others, and those who received this information would have had to either have bought an air conditioner without the rebate or installed other EE devices without a rebate all within the same Program Year in which the program participant installed the air conditioner. For experiences to translate to spillover that affects incremental first-year savings, Staff says a person has to be positively influenced to install some EE measure or measures and go through channels other than the utility in the process of installing the measures. Staff is skeptical that such events produce a large degree of nonparticipant spillover.

Staff contends that while spillover is likely small, many programs have evaluations that have estimated free ridership of 30% or greater. By not counting free ridership unless spillover is also measured, Staff says the Commission is being asked to approve a policy that would be assuming that first-year spillover is effectively 30% or more for these programs. Based on this, Staff says a gross savings approach is likely to lead to a much larger error in measuring savings than maintaining the current evaluation approach, which generally includes a free ridership factor and also includes a spillover factor where it was able to be quantified.

Staff says there other means by which spillover may occur. By marketing the ActOnEnergy program, Staff suggests it is possible that Ameren is creating greater general awareness of EE which cause EE investments to occur outside of program channels. Staff asserts marketing does not provide a sufficient spillover impact to offset the reduction in gross savings that are attributable to free ridership. Staff points out that marketing that is effective at getting ratepayers to use utility programs is not spillover. Staff says spillover only occurs when marketing is effective at enticing ratepayers to install EE measures without a utility rebate or program. According to Staff, the idea of customers performing EE investments as a result of learning about EE investments from the program’s marketing efforts prompts the question of why a customer who is aware of and eligible for a rebate would not use the program to receive a rebate. In Staff's view, this tends to further suggest that it is unlikely that first-year spillover is causing substantial measurement error in net savings.

Dr. Obeiter contends that customers do in fact purchase equipment as a result of the rebate but then not apply for the rebate. Staff says he uses himself as an example. According to Staff, Dr. Obeiter’s example begs the question of why an expert in energy efficiency would require an incentive to install a particular measure. Staff suggests it is more likely that Dr. Obeiter is not an example of spillover but rather an example of an unrealized free rider (i.e., he would have known about the cost effectiveness of the measure, and put it in without a rebate, so if he had taken the rebate, he would have been a free rider, not an example of spillover).

Staff says another potential means through which spillover may occur is through non-participating trade allies promoting EE equipment. Staff asserts this is a gray area that can cause an over-calculation of first-year savings and lead to unnecessarily prolonging the continuation of programs. Staff says a trade ally is a contractor or vendor who registers with the EE program, receives information about the rebate process, some training on promoting EE equipment, and potentially some training on differences in the installation of EE equipment versus standard energy-using equipment.

Staff states the theory is that these non-participating trade allies use the information provided by the program to promote the sale of EE equipment but do not actively participate in the program. Staff says the concept is that EE investments would be made because of the program without the programs receiving credit.

Staff believes since any savings from nonparticipating trade allies is by definition savings that results from the EE program having “past” involvement with the non-participating trade allies, it seems that savings attributable to these contractors can either be categorized as inter-temporal spillover, spillover that occurs in the present from past actions, or perhaps as market transformation. In the event that it is inter-temporal spillover, Staff claims there is negligible incremental first-year savings attributable to the program. If non-participating trade ally activity is better classified as market transformation, then Staff asserts once these contractors receive the information, they are actively using the knowledge gained to promote EE equipment indefinitely. Staff does not believe that market transformation or inter-temporal spillover meet the legal requirements of incremental annual energy savings specified in Sections 8-103(b) and 8-104(c) of the Act.

Additionally, Staff claims there are biases that work in the favor of the utilities in determining Net Savings. Staff says the measure of energy savings compares the difference in energy use between an energy efficient device and another device that serves as a baseline. According to Staff, the baseline device is simply assumed to be in many cases the minimally efficient device permitted by an appliance standard. Staff claims if one was accurately measuring energy savings the baseline device would be the device a customer would have installed if the more efficient device was not installed. If a ratepayer would have installed the minimally efficient device without the existence of the EE program, Staff says the baseline is correct. If the ratepayer would have installed a device that was more efficient than the assumed baseline but less efficient than the device for which an incentive is received, Staff says the baseline is incorrect and gross savings are overestimated.

According to Staff, two examples where this phenomenon is likely happening are furnaces and lighting. Staff says the current baseline for furnaces is an 80% Annual Fuel Utilization Efficiency (“AFUE”) furnace. Staff says a 90% AFUE furnace standard was expected to become effective in 2013. Staff says the 90% AFUE furnace standard was suspended indefinitely to receive further comment and to do more analysis. Staff understands that part of the motivation to increase the standard to 90% was a belief that the 80% standard was lower than the efficiency level most customers were choosing for replacements of old furnaces or for furnaces in new facilities. To the extent customers are choosing furnaces between 80% and 90%, Staff claims the baseline for furnaces overestimates the actual incremental savings.

Staff indicates Residential lighting standards began changing in January 2012 when requirements from the Energy Independence and Security Act of 2007 started becoming effective. In January 2012, EISA required lumen outputs that were previously achieved with 100 Watt incandescent bulbs to be achieved with 72 Watts or fewer. Staff says this changed the assumed baseline from 100 Watts to 72 Watts. Staff states the incremental savings from lighting is now the difference between an efficient bulb of equivalent lumens and a 72 Watt bulb. Staff believes this very well may be an incorrect baseline as lighting manufacturers are not producing 72 Watt incandescent bulbs with prices close to the 100 Watt incandescent bulbs. Instead, Staff says 72 Watt bulbs tend to be halogen lights that cost as much or more than CFLs. Staff suggests it could be argued that CFLs should be the baseline. According to Staff, if a CFL is in fact the correct baseline, every CFL sold generates no incremental savings. According to Staff, under the currently assumed baseline, positive gross savings are assumed. Staff says if a customer installs a light more efficient than a CFL rather than a CFL, it is assumed that a 72 Watt bulb is the baseline. For all customers who would have purchased the CFL rather than the baseline light, Staff asserts gross savings are overstated.

Staff says AIC's proposal to only include free rider estimates when spillover is also estimated fails to consider that net savings is the product of multiplying gross savings by the NTG ratio. Staff assets if gross savings are overestimated and a NTG ratio that excludes spillover is underestimated, it cannot be concluded that net savings are underestimated. Staff says Ameren's proposal presumes that the inherent bias works against AIC and is of such magnitude that a better alternative is to ignore any estimate of free ridership when it is too costly or difficult to estimate spillover.

From a policy perspective, Staff asserts achieving gross savings is not in the best interest of ratepayers because ratepayers pay for the EE programs. According to Staff, ratepayers only gain benefits from net savings, not from gross savings. Staff says gross savings are much easier to achieve than net savings. Staff says by definition, programs with high rates of free ridership have a high level of savings that can be achieved even without any utility intervention. With a gross savings goal, Staff asserts a utility has an incentive to devote resources to these types of programs. To the extent savings are the result of free riders, Staff claims utility revenues and profits are not eroded by energy efficiency. Staff also claims it takes less effort to encourage customers to take the rebate if most of those customers were going to do the project anyway. Staff suggests this is essentially the path of least resistance.

Staff finds it unfortunate free ridership provides little or no benefit to ratepayers as a group. Staff says funding programs or measures for which the market has been transformed by any cause including past utility actions into a marketplace now making EE investment the norm results in reduced funding for programs and measures that provide incremental energy savings that are required to reduce direct and indirect costs to ratepayers, and satisfy the underlying purpose of the statutory targets. According to Staff, the EE programs are intended to encourage ratepayers to adopt EE measures which they would not adopt without the existence of the program. Staff asserts using a gross savings approach, which may occur if AIC's recommendation to exclude free-ridership when spillover cannot be quantified is adopted, undermines the intent and purpose of the EE statutes.

The Commission has previously commented on "spillover" in AIC's Plan 1 Order. The Plan 1 Order states:

> However, we decline to order Ameren to exclude "spillover" from any Net to Gross ratio calculation. While the NRDC avers, essentially, that this would save money, no evidence regarding this issue was presented at trial. It is therefore waived. Moreover, because there is no evidence on this issue, there is no showing that excluding "spillover" would not skew the ratios, how much money would be saved, or other facts that would establish that such a proposition would be a prudent course of action. Finally, Mr. Jensen testified, essentially, that calculation of "spillover" is the accepted practice in the evaluation community. There is no evidence suggesting that this is incorrect.

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Staff claims AIC has been unable to adequately support the basis of its recommendation. Staff argues that while AIC makes the recommendation that non-participant spillover and participant spillover must be included in every single deemed NTG ratio value, AIC is unable to explain how both components of spillover could occur for each program when requested. In Staff's view, it is likely the case that it may not make sense for certain programs to have a specific kind of spillover, and if that is the case, under AIC's recommendation the evaluators would be required to develop a value for this where there is no theoretical basis for such value.

Staff contends that since AIC has been unable to support how spillover could occur for each of the programs, the Commission should not require both components of spillover be included in the NTG value for each program. Staff asserts AIC has not provided support for their position. Staff asked AIC for support for its recommendation. Staff says AIC responded that the question was in the purview of the evaluator, who essentially works under AIC's direction/control. Staff infers that if the evaluator's response would be supportive of AIC's position, AIC would have provided it. According to Staff, the fact that AIC gave a non-answer leads Staff to believe that the answer from the evaluator would not be supportive of AIC's position.

Staff believes the Commission should reject AIC's proposal. Staff believes the Commission should instead instruct the independent evaluators to make reasonable efforts to calculate both free ridership rates and spillover rates while being mindful of:

(1) the costs of such evaluations, (2) the likely magnitudes of spillover and free ridership rates within a program, and (3) the significance of the program to the overall portfolio savings. If the Commission adopts AIC's proposal, Staff would urge the Commission to require consistent NTG methodologies for measuring free ridership and spillover.

b. AG Position

Ameren initially proposed that "the calculation of the NTG ratio should only include free ridership and spillover (for both participant and non-participant) only if both are included. If one is excluded, then they both should be excluded." AG witness Mosenthal took issue with that proposal, noting that he encouraged the Commission to confirm that spillover is a legitimate aspect of estimating NTG ratios. He proposed, consistent with my recommendations about a new NTG framework, that the SAG, in consultation with EM&V consultants, can agree to deem a spillover assumption regardless of whether there is any formal EM&V study on it, and that such values could be based on research outside of Illinois and professional judgment, and could be selected as zero or any other number.

The AG says on Rebuttal, AIC witness Goers testified that noted that the only witness to raise concerns about the recognition of spillover (Staff witness Brightwell) ultimately agrees to include both spillover and free ridership when calculating the NTG values. The AG says Mr. Goerss further stated that he agreed with Mr. Mosenthal's recommendation that the Commission recognize spillover as a legitimate factor and with his comment that spillover can be an assumed value deemed by the SAG and the EM&V contractor, regardless of whether there is any formal study on it. Based on this testimony, the AG says it would appear that all parties agree that both components can and should be used in the derivation of NTG ratios.

The AG believes the Commission should endorse the inclusion of both spillover and free ridership evaluations in the evaluation of efficiency programs in its final Order in this docket.

c. AIC Position

Ameren requests Commission approval that spillover and free ridership factors be included when calculating NTG values. According to Ameren witness Cottrell, "free riders" are program participants who would have implemented the incented energy efficiency measure(s) even without the program. Free riders are identified through a series of questions that explore the influence of the program in making the energy efficiency installations as well as the likely actions had the incentives not been available.

At the same time, however, AIC notes there will be customers who undertake the action the program is attempting to motivate, but who do not take advantage of the incentive offered by the program, which are known as "free drivers," and the savings that their actions produce are termed "spillover." AIC suggests that just as the effects of free riders must be accounted for, so should the effects of free drivers. The NTG ratio is adjusted downward to account for free riders and upward to account for spillover. As noted by Ameren in its Plan 3 document, there has been an inordinate and inappropriate frequency of values provided for free riders in the EM&V process as compared to values provided for spillover.

As explained by Ameren witness Dr. Obeiter, NTG ratios should include adjustment factors for both free ridership and spillover (including participant and non-participant spillover). Dr. Obeiter states that not including estimates of both adjustment factors leads to program administrators dealing with imperfect information when considering the design and/or delivery of programs.

Ameren notes that AG witness Mosenthal agrees that both free ridership and spillover should apply to NTG ratio estimation, and he recommends the Commission confirm that spillover is a legitimate aspect of estimating NTG. Mr. Mosenthal also proposes that the SAG, in consultation with the independent EM&V consultants, can agree to deem a spillover assumption regardless of whether there is any formal EM&V study on it. AIC opines that Mr. Mosenthal noted that in the latest SAG process of attempting to reach consensus on NTG ratios for EPY5 & 6 and GPY2 &3, all parties reached consensus to explicitly add an estimate of spillover to the evaluated free ridership results for some programs for some selected utilities whose evaluations had not included spillover. Mr. Mosenthal sees no reason why the SAG cannot still operate in this way, and deem values while carefully allocating limited EM&V resources.

Ameren suggests that no party contested its request to include both values, though Staff, after making certain observations regarding the cost and value of calculating spillover, ultimately recommends that the Commission direct the independent evaluators to make reasonable efforts to calculate both free ridership rates and spillover rates while being mindful of: (1) the costs of such evaluations, (2) the likely magnitudes of spillover and free ridership rates within a program, and (3) the significance of the program to overall savings. Ameren agrees with Staff insofar as it recommends including both free ridership and spillover rates, but disagrees with much of Staff's observations regarding spillover and its recommendation to direct the independent evaluators to make "reasonable efforts" to include spillover (and if they cannot, to simply calculate free ridership). As explained by Dr. Obeiter, including one component without the other unnecessarily creates a biased outlook on program activities for both administrators and stakeholders. AIC believes including both free ridership and spillover in the NTG formula is a more balanced approach to measuring net savings. Indeed, it seems to Ameren that all parties agree that both components can and should be used. Accordingly, the Commission should approve Ameren's request to use both spillover (participant and non-participant) and free ridership when calculating NTG ratios and in the absence of one factor, neither factor should be included.

d. Commission Conclusions

AIC proposes that NTG calculations include free ridership and spillover rates when both are quantified, and neither if only one or none are quantified. Staff believes the Commission should instead instruct the independent evaluators to make reasonable efforts to calculate both free ridership rates and spillover rates while being mindful of: (1) the costs of such evaluations, (2) the likely magnitudes of spillover and free ridership rates within a program, and (3) the significance of the program to the overall portfolio savings. If the Commission adopts AIC's proposal, Staff would urge the Commission to require consistent NTG methodologies for measuring free ridership and spillover. The AG believes the Commission should endorse the inclusion of both spillover and free ridership evaluations in the evaluation of efficiency programs in its final Order in this docket.

The Commission finds that excluding spillover from the NTG calculations is likely to unfairly reduce a program administrator's calculated savings, but because it can be costly to determine spillover, the Commission cannot at this time require that it always be included. The Commission finds merit in Staff's recommendation that consistent NTG methodologies for measuring spillover be required; however, no such structure exists to be applied in this case. Thus, the Commission, in keeping with the AG's recommendation, directs evaluators to consider spillover whenever possible while being mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements.

2. Modified NTG Framework Proposals

a. Staff Position

Staff notes in the 2010 EE Dockets, the Commission approved a NTG framework for the utilities. Staff indicates that among the reasons parties proposed the NTG Framework was that there is a lag between the time evaluations are completed and the end of a program year. Staff says the result of the lag is that a utility will not know whether a program was effective at meeting savings goals until six months or more into the next Program Year. Staff claims the NTG framework proposed in the 2010 dockets was intended to provide greater certainty to a utility by apply a prospective NTG ratio in most circumstances. Under the Plans approved in the 2007 EE Plan filings, Staff says NTG ratios were applied retrospectively. In the 2010 Plans, Staff asserts the circumstances that were intended to warrant a retrospective NTG ratio application were if a program was new and no previous evaluation had been conducted or if the program had undergone significant change as a result of market changes or program delivery methods.

According to Staff, the framework was difficult to manage because it was unclear what constitutes a significant change. Staff notes in the current Plan filing, Ameren proposed to apply planning assumption NTG values to any new programs and to apply prospective NTG values to all other programs. Staff offered an alternative that is provided as Staff Ex. 3.1. Staff's proposed NTG framework includes dates by which various tasks need to be completed in order to allow the utilities to reach the March 1 planning deadline that Mr. Goerss requested in his direct testimony. Staff indicates the AG and ELPC also offered NTG Frameworks similar to that proposed by Staff. AIC provided a counter proposal in its rebuttal testimony wherein it prefers Staff's Modified Illinois NTG Framework presented in Staff Ex. 3.0 with five proposed changes over the AG/ELPC NTG Framework.

Staff maintains the original NTG framework was difficult to manage because it was unclear what constitutes a significant market change. To address significant market change, Staff says its NTG Framework proposal has two components. Staff indicates it removes the ambiguous phrase "significant" market change. Instead of a "significant" market change triggering a retrospective evaluation, Staff says there will be a partially retrospective application at times when the parties cannot reach consensus on a prospective NTG value. Staff says the second part is changing the retrospective application that occurs under the previously approved NTG Framework to a potentially partial retrospective application.

Since evaluation reports are not completed until about November of the following program year, Staff indicates there is a two-year lag between the time the NTG values go into effect for prospective application. Staff says the PY1 evaluations were not complete until midway through PY2 and would not apply for prospective application until PY3. As a result, Staff says prospective application estimates savings based on conditions that are about two years old at the time the NTG ratio values are being applied. When the market is stable, Staff believes this may be a reasonable approach. When the market is changing, Staff claims a NTG ratio value that is two years out of date by the time it is applied is problematic because it requires utility ratepayers to bear all of the risks in times of uncertain market conditions.

Staff indicates one area of disagreement about whether there is significant market change is in the residential lighting market. Staff notes there are disputes about whether the EISA provisions eliminating the manufacture of certain incandescent light bulbs along with a general acceptance of CFLs by consumers created a significant market change. Staff says the evaluated NTG ratio for PY5 is 0.44 while using a prospective NTG ratio from PY2 results in a NTG ratio of 0.83 being applied. By using the 0.83 NTG ratio value from PY2, Staff claims AIC is essentially claiming 47% greater "paper savings" from residential lighting than actually occurred during PY5 according to evaluations. Staff asserts this is beneficial to AIC but its ratepayers may be better off if some of this money was spent elsewhere.

Staff says under its proposal, in times when a consensus cannot be reached, that the NTG ratio ("NTGR") applied in PYt+1 would be the average of evaluated NTGRs conducted in PYt-1 and PYt. Staff says for example, if parties cannot reach a consensus on a NTG ratio value for the upcoming PY7 that begins on June 1, 2014, then the average of the evaluations for the PY5 and PY6 evaluations would be applied.

Staff asserts its proposal provides more certainty than the current approach of a fully retrospective NTG application for programs undergoing significant market change because the evaluation result from PYt-1 should be known at the time that planning for PYt+1 takes place. Staff says in some cases, the estimated NTG ratio for PYt may be available by March 1 of the current program year as well. However, Staff claims it still provides some uncertainty and risk because the result of PYt is not known by the time that the utility has to make plans for PYt+1.

Since there is a degree of uncertainty, Staff claims the utility has an incentive to agree to a consensus deemed value reflective of the value likely to exist in the program year or to move funds away from a risky proposition and towards less risky propositions. Staff believes this provides benefits to ratepayers because the utility now has an incentive to manage risky programs rather than to divert the risk to ratepayers.

According to Staff, the independent Evaluators have expertise about all aspects of NTG values and familiarity with AIC's programs, thus having initial recommendations come from the independent EMV Evaluators is efficient and appropriate as outlined in Staff's and the AG/ELPC NTG Frameworks. In order to help ensure the independence of the Evaluators is not being compromised by pressure from the utility who desires to have high NTG values and who holds the contract with the Evaluators, Staff says it is necessary to take the decision concerning the final deemed NTG values away from the Evaluators. Staff also believes there is value in the Evaluators estimating NTG values because these estimated values can help inform future deemed NTG values. It also provides parties with information concerning the impact of the EE program and can further help inform program design modifications. Staff recommends the Commission should adopt the Modified Illinois Net-To-Gross Framework.

Staff states that in order to provide the proper incentives to encourage a utility to make appropriate program changes to ensure against high free-ridership in the following program year (PYt+1), the basis of deeming a specific net-to-gross ratio value shall be that it represents the best estimate of what the evaluated NTGR value would reasonably be expected to be in the following program year (PYt+1) taking into consideration the best information available about the measure, program design, incentive levels, market, energy codes, and any other factors that could influence the level of free-ridership and spillover in the following program year (PYt+1).

Staff states that the following eleven steps set forth the Modified Illinois Net-To-Gross Framework.

(1) Each Evaluator shall submit to the Utility, ICC Staff, Illinois Energy Efficiency Stakeholder Advisory Group ("SAG") Facilitator, and/or the SAG a memorandum documenting the NTGR values, showing both free-ridership and spillover components, that it proposes to deem for the following program year (PYt+1) (hereinafter, "Evaluator's Memo on Proposed NTGRs for PYt+1"). The basis of the Evaluator's proposed NTGR values shall be its best estimate of what the evaluated NTGR would reasonably be expected to be in the following program

year (PYt+1) based on the best information available about factors that could influence the level of free-ridership and spillover in the following program year (PYt+1).

Each Evaluator's Memo on Proposed NTGRs for PYt+1 shall include the following information:

i. the scope of what each proposed NTGR value would be applicable to (e.g., specific measure technology, Illinois Technical Resource Manual ("IL-TRM") measure name and code, measure type, program element, program, fuel type savings);

ii. the previously evaluated NTGR values (including draft evaluation results when final evaluation results are not available), showing both free-ridership and spillover components, along with NTGR methodology type, sample size, references, and other relevant information;

iii. the Evaluator's proposed NTGR values showing both free-ridership and spillover components; or if retroactive application is preferred for the free-ridership and/or spillover components, then the proposed evaluation approach for estimating the NTGR component for PYt+1;

iv. the rationale for why the proposed NTGR value is the best estimate of what the evaluated NTGR would reasonably be expected to be in the following program year (PYt+1) after taking into consideration the best information available to the Evaluator from primary or secondary evaluation research about the measure, program design, incentive levels, market, energy codes, and any other factors that could influence the level of free-ridership and spillover in the following program year (PYt+1);

v. if evaluations from other jurisdictions are relied upon, relevance to the Illinois energy efficiency program in question shall be demonstrated and the NTGR methodology type, sample size, references, and other relevant information shall be provided;

vi. a table identifying the NTGR values proposed for deeming for PYt+1.

(2) Utilities host a teleconference meeting for SAG participants to discuss Evaluator's Memo on Proposed NTGRs for PYt+1 (allows for questions from all parties, clarifications, discussion of rationale, raise concerns, etc.).

(3) All non-evaluator parties (jointly or individually) can submit Party's Memo on Proposed NTGRs for PYt+1 – Response to Evaluator.

(4) Utilities host a teleconference meeting for SAG participants to discuss NTGR values and Party's Memo(s) on Proposed NTGRs for PYt+1 – Response to

Evaluator and attempt to reach consensus. Evaluators distribute detailed meeting notes no later than three days after the meeting.

(5) Evaluator's Revised Memo on Proposed NTGRs for PYt+1 incorporating consensus items and their proposed resolution for any non-consensus items.

(6) All non-evaluator parties (jointly or individually) may submit Party's NTGR Objection Memo clarifying any remaining non-consensus positions, if any. A Party's NTGR Objection Memo shall be submitted to the Utility, SAG Facilitator, ICC Staff, and/or the SAG that documents any objections to the proposed NTGR values contained in the Evaluator's Revised Memo on Proposed NTGRs for PYt+1. Failure of a party to submit a Party's NTGR Objection Memo by the deadline specified shall be construed as concurrence with deeming the NTGR values proposed in the Evaluator's Revised Memo on Proposed NTGRs for PYt+1. If no Party's NTGR Objection Memo is submitted on a particular proposed NTGR value by the deadline specified, then the Evaluator's proposed NTGR value contained in the Evaluator's Revised Memo on Proposed NTGRs for PYt+1 is considered to be "consensus" and shall be effectively deemed for the next program year (PYt+1).

(7) Utilities host a teleconference meeting(s) for SAG participants to discuss the Evaluator's Revised Memo on Proposed NTGRs for PYt+1 and any Party's NTGR Objection Memo(s), and attempt to reach consensus. Evaluators distribute detailed meeting notes no later than three days after the meeting(s).

(8) In cases where consensus is not reached on an individual NTGR value by February 20 (i.e., a Party's NTGR Objection Memo is received regarding an individual NTGR value and is not resolved by February 20), the non-consensus individual NTGR value for the applicable program year (PYt+1) shall be deemed at the average of the evaluated NTGR values from PYt and PYt-1. In the event there is non-consensus on an individual NTGR value and there are no Illinois evaluations available, an explanation of the non-consensus issue may be filed with the Commission with a request for resolution prior to June 1.

(9) Evaluator's Memo on Deemed NTGRs for PYt+1 should reflect the final consensus NTGR values and non-consensus deemed NTGR formulas with NTGR values where available that are applicable to PYt+1.

(10) Utilities shall file in the initial TRM approval docket 12-0528 a list of the consensus NTGR values and non-consensus deemed NTGR formulas with NTGR values where available that are applicable to PYt+1 and supporting work papers (i.e., Evaluator's Memo on Proposed NTGRs for PYt+1, Party's Memo(s) on Proposed NTGRs for PYt+1 – Response to Evaluator, Evaluator's Revised Memo on Proposed NTGRs for PYt+1, Evaluator's Memo on Deemed NTGRs for PYt+1). Supporting work papers help ensure compliance with the NTG Framework process. In the event that consensus is not reached on a new

program NTGR value, then the respective Utility may file a petition requesting the Commission establish a deemed NTGR value. The filing will articulate the Evaluator's and the Utility's positions and rationale for deeming specific NTGR values. Failure of a Utility to file consensus and non-consensus deemed NTGR values with supporting work papers by March 5 (PYt) results in retroactive application of NTGR values for that upcoming program year (PYt+1).

(11) While deemed NTGR values are not subject to retroactive adjustments based on new evaluation findings, the evaluation reports will show both deemed savings (based on deemed NTGRs for purposes of crediting Utility savings) as well the actual estimated NTGR value and net savings for that program year. While the deemed values will be the official claimed savings, and filed by each Utility in its respective compliance with energy savings goal docket, the information will provide straightforward and transparent data on the Evaluators' best estimates of net savings, as well as a comparison of how close the deemed NTGR values are to the final evaluation results.

Staff notes AIC recommends five modifications to Staff's Modified Illinois NTG Framework.

(1) AIC first proposes that the Commission should limit participation of those SAG members who have a conflict of interest, because the work of the SAG, including setting NTG values, should be done free from such conflicts of interests.

Staff claims AIC provides no explanation of how the Commission would be able to limit participation in the SAG considering the Commission established the SAG as a group open to all interested parties. Staff presumes the Commission would need to specifically identify and rule on which SAG members have a conflict of interest, which would necessitate a separate proceeding and potentially multiple proceedings as the participants in the SAG have changed over time. Staff believes such a process would have a chilling effect on SAG participation and the breadth of views provided by SAG to the Commission. Staff asserts AIC's recommendation in this regard is unspecified and unworkable and should be rejected by the Commission.

(2) AIC proposes changing how non-consensus NTGR values are addressed. In particular, AIC proposes changing "evaluated NTGR" to the phrase "average of the SAG participants' proposed NTGR values for PYt+1." (Ameren Ex. 6.0, 9.)

In cases where consensus is not reached on an individual NTGR value by February 20 (i.e., a Party's NTGR Objection Memo is received regarding an individual NTGR value and is not resolved by February 20), the non-consensus individual NTGR value for the applicable program year (PYt+1) shall be deemed at the average of the SAG participants' proposed NTGR values for PYt+1.

Staff believes AIC's proposal is problematic for two reasons. First, Staff claims it allows parties to affect the average by enabling them to propose arbitrarily large or small NTGR values. Second, Staff says the definition for what constitutes a SAG participant by arbitrarily allowing a party to deem themselves as separate participants could unduly influence the level of such average. For example, Staff says a trade association of 500 members, could have each member designate itself as a separate vote, and substantially influence the average NTGR that would be deemed. Further, Staff asserts AIC's proposal provides an incentive for utilities to propose high NTGR values, which undermines the stated purpose of the framework. Staff says the deemed NTGR values should reflect the best estimates of what the actual NTGRs would be. If the Commission adopts AIC's modification, which it should not, then Staff claims the Commission should limit the range that proposed NTGR values can take. Staff believes the Commission should order the proposed NTGRs cannot take values less than zero and greater than one.

(3) AIC proposes establishing that non-consensus NTGR values for "unanticipated" new programs will be established by taking an average of all SAG participant recommended NTGR values.

For new unanticipated programs implemented during the program year after June 1, the utility's evaluator will provide a recommended NTGR value for that program to be deemed for that first year of implementation. The evaluator will provide the recommended value in writing with appropriate justification. The utility will provide the evaluator's NTGR value to the SAG membership and request a recommended NTGR value for the new program from SAG participants. The average of all SAG participant recommended NTGR values will be the deemed value for that new program for that year (PYt). The utility will file that deemed value in the applicable Plan approval docket within 60 days accompanied by verification of the SAG and evaluator's values. Otherwise, the utility is subject to a retroactive application of the program's NTGR value as determined per this framework.

In response, Staff submits that AIC's proposal provides an incentive to bias participants' proposed NTGR values and because of the unspecified determination of exactly what constitutes a "SAG participant," the average can be biased by representing each member of a group as a separate voting entity. It is not clear to Staff whether all environmental organizations would constitute one SAG participant, or whether each individual participating in the SAG would be considered a "SAG participant" for voting purposes. Staff asserts it is fundamentally flawed because it provides voting and weights on those votes as discussed in response to the second item. Staff suggests AIC's proposed addition of a process for deeming NTGR values for "unanticipated" new programs may be due to the programs approved by the Commission under Section 16-111.5B of the Act, since the Commission would approve such programs in December of a program year, after the date Staff's Modified Illinois NTG Framework timeline starts. Staff believes AIC can request the Commission to deem specific NTGR values for these unanticipated Section 16-111.5B EE programs in the procurement plan proceeding, which is consistent with the approach AIC took this year in Docket No. 13-0546, and thus no modifications to Staff's NTG Framework are warranted in this regard. For "unanticipated" new programs not covered by Section 16-111.5B, Staff says these could be implemented as an experimental program.

Additionally, Staff asserts AIC would have flexibility to size the unanticipated new program to limit its exposure to NTG risk. According to Staff, AIC does not face unmanageable NTG risk for unanticipated new programs considering the small size of the program relative to the entire portfolio. Staff claims AIC was able to effectively manage the risk without any deeming of NTGRs during Plan 1 and still able to achieve its savings goals. Staff says AIC is asking for the relief of minimal risk associated with a likely small unanticipated new program. Staff believes Ameren is finding problems where none exist.

(4) AIC proposes to change the filing location of NTG values to be in this docket as opposed to Docket No. 12-0528.

Staff's initial NTG proposal endorsed the location as recommended by AIC; however, based on input from stakeholders, Staff modified the location to be a docket with all program administrators.

(5) The Commission should allow the SAG to modify any NTG Framework, without Commission approval, through the consensus process.

Staff asserts this recommendation ignores the Commission's stated concerns regarding granting stakeholders decision-making authority, as it gives rise to the possibility of conflicts of interest, among other issues. Staff believes this recommendation should be rejected.

Staff indicates AG witness Mosenthal and ELPC witness Crandall recommend adoption of the Proposed Modified Illinois NTG Framework ("AG/ELPC NTG Framework") that they each have attached to their direct testimony. Mr. Mosenthal states that "it is important that any NTG procedures be consistent and applied equally to all program administrators." Staff agrees with Mr. Mosenthal and notes that this position is consistent with the Commission's adoption of the original NTG Framework procedure across all the utilities' dockets in the last three-year Plan filings. Staff also notes that Staff's Modified Illinois NTG Framework (Staff Ex. 3.1) has been filed in the other program administrators' plan filing dockets such that the Commission could adopt a consistent Modified Illinois NTG Framework across all program administrators.

Staff states while the AG/ELPC NTG Framework and Staff's Modified Illinois NTG Framework are substantially similar, they are not identical, and two of the differing components proposed by Staff have been supported by the AG: (1) timeline for NTG updates and (2) resolution for non-consensus NTG updates. Staff says the AG acknowledges that Staff's proposal "will result in, all else equal, likely better estimates of actual future NTG ratios" and "it provides a reasonable but significant incentive for all parties to reach consensus on a best estimate of future NTG ratios[.]"

Staff believes the Commission should adopt Staff's Modified Illinois NTG Framework proposal. While Staff supports a number of elements contained in the AG/ELPC NTG Framework as it is substantially similar to Staff's proposal, there is one element in particular that Staff simply cannot support: the creation of "voting parties." Staff says the creation of "voting parties" is the third substantive difference between the frameworks that Mr. Mosenthal describes in his testimony. Staff notes that there are more than three differences between the AG/ELPC NTG Framework and Staff's Modified Illinois NTG Framework, though not all are addressed. Staff states the AG/ELPC NTG Framework "requires" the utilities to petition the Commission to rule on deeming a NTGR value that is non-consensus in the event there are no Illinois evaluations available for the program, whereas Staff's Modified Illinois NTG Framework provides utilities with the "option" to petition the Commission in this situation.

Finally, within the AG/ELPC NTG Framework, Staff says there are some internal inconsistencies and other elements that would be unworkable in practice (e.g., deadlines for filing in the IL-TRM annual update docket, missing definition of evaluated NTGR values) should the Commission decide to approve the AG/ELPC NTG Framework without modification.

Although Staff supports a number of elements contained in the AG/ELPC NTG Framework as these are substantially similar to Staff's Modified Illinois NTG Framework, the element that Staff cannot support is the creation of "voting parties" as set forth in Item 2 of the AG/ELPC NTG Framework. Staff indicates Item 2 of the AG/ELPC NTG Framework states, in relevant part:

> In cases where consensus among voting parties is reached in the SAG on an individual NTGR value by March 1 (PYt), that consensus NTGR value shall be deemed for the applicable program year (PYt+1), provided that the Program Administrators file the consensus NTGR values with the Commission in the TRM annual update docket no later than March 1 (PYt).

Footnote 3 in Item 2 of the AG/ELPC NTG Framework states, in pertinent part:

> "Voting parties" are the program administrators, Staff, and other parties that have traditionally intervened in EEPS dockets and consistently participated in the SAG. These are AG, NRDC, ELPC and CUB. However, voting members cannot also be subcontractors in Section 8-103/104 efficiency programs.

Staff says Program administrators are defined in the IL-TRM and IL-TRM Policy Document as consisting of the utilities (Ameren Illinois, ComEd, Nicor Gas, and Integrys (North Shore Gas and Peoples Gas)) and DCEO. Staff says the voting parties under the AG/ELPC NTG Framework include: program administrators (i.e., Ameren Illinois, ComEd, DCEO, Nicor Gas, Integrys), AG, CUB, ELPC, ICC Staff, and NRDC. According to Staff, this could be interpreted as either 6 or 10 voting parties, depending on whether each program administrator is allowed to vote on proposed NTG values for other program administrators. Staff points out that the AG/ELPC NTG Framework requires consensus to be reached among all voting parties. “Consensus means that no party indicates they oppose a specific NTGR value enough to contest it before the Commission.” Staff says if one of the voting parties opposes a specific NTGR value enough to contest it, then consensus would not be reached. While the current proposal requires consensus, the establishment of voting parties in this proceeding could lead to the establishment of voting parties in other contexts where the majority’s position is adopted. Staff indicates the Commission has repeatedly declined to give SAG decision-making authority, and Staff is concerned that the development of voting parties in this proceeding would be the first step toward such a structure.

Mr. Mosenthal’s explanation for the creation of voting parties is as follows:

> My intent is not one of limiting any particular party or to be exclusive. SAG meetings have traditionally been open to anyone to attend. I believe this is a good practice that allows for honest sharing of ideas and ensures greater transparency of SAG’s deliberations. However, Staff’s approach in practice could allow literally anyone to attend a SAG meeting and refuse to agree to a NTG consensus position regardless of whether that party has any particular knowledge or expertise on the issue, or whether they have ever intervened or otherwise been involved in energy policy in Illinois.
>
> In addition, many attendees at the SAG are subcontractors to another party. For example, consultants helping the program administrators design and plan programs, evaluators, and implementation contractors who sometimes are paid based on performance could conceivably vote under Staff’s approach, and have a clear conflict of interest in regard to the ultimate NTG ratio selected. I believe it would be inappropriate to allow these parties a formal vote because they generally are attending the SAG as contractors to some other party that already has a vote. In addition, I believe it would be inappropriate for the evaluation consultants to have a vote. As the NTG framework describes, they are tasked with working together as independent parties to propose NTG values based on their professional expertise. To preserve this independence, I believe they should not then be in a position of actually advocating for any particular outcome. In addition, any party that has subcontracted with a utility to provide programs should not be permitted to vote on evaluation parameters. Finally, I believe the SAG facilitator should retain her independence to effectively facilitate and manage the SAG, rather than taking a formal position on substantive issues.

Staff asserts Mr. Mosenthal provides no evidence to support his concern. In Staff's view, there has been no showing that the utilities’ subcontractors would oppose an updated NTGR value that was otherwise a consensus value. Staff claims subcontractors would not oppose an updated NTGR value that was otherwise a consensus updated NTGR value among SAG participants because objecting to a consensus NTGR value means that these subcontractors object to a NTGR value supported by their employer. Staff says this is not in the subcontractors' best interests. Staff claims its experience to date during the development of the IL-TRM and the TRM Update Process demonstrates that subcontractors, including Evaluators and implementation contractors, do not attempt to delay that consensus-reaching process, even though they may not have necessarily agreed with the consensus that was reached. In Staff's view, there is no basis for introducing a drastic shift in the Commission-designed SAG changing its fundamental structure as a consensus building advisory group.

Staff is concerned about introducing a drastic shift in the SAG structure as proposed by the AG/ELPC NTG Framework. Staff says when the Commission ordered the SAG's creation in Docket No. 07-0540, the Commission explicitly provided that the group include representation from a "variety of interests." Staff notes the SAG is a voluntary group consisting of over thirty organizations, with new organizations requesting to participate in the SAG throughout the Plan. Staff asserts the AG/ELPC NTG Framework proposal to create a voting structure that is limited to a small portion of SAG participants is contrary to the inclusiveness that the SAG has provided to date. Staff believes this openness to all interested parties could likely be a reason why the participation in the SAG continues to grow. Staff claims adoption of the AG/ELPC "voting structure" for NTG updates may serve to offend many SAG participants and discourage future participation by organizations. Staff believes the Commission should reject the proposal to significantly shift the structure of the SAG process to make certain SAG participants more equal than others.

Mr. Mosenthal indicates that "if any other party or parties that fits that criteria were to join and become more active and desire to participate in voting on NTG consensus issues, I would support that right, so long as they do not have a clear conflict such as being a contractor for a utility program." Staff says the criteria used by Mr. Mosenthal to select voting parties includes: "entities have been regular, active members of the SAG and that, to date, do not have any obvious conflicts[.]" Staff asserts Mr. Mosenthal does not set forth a process where the Commission would approve the addition of new voting parties. Staff presumes a Commission determination that the party does not have any obvious conflicts would be necessary. Based on the criteria proposed by Mr. Mosenthal, it seems to Staff that the utilities have obvious conflicts given that they are subject to penalties and potentially loss of the EE programs if they fail to meet the energy savings goals approved by the Commission, and lowering of a NTGR value makes it more difficult to reach such goals. Staff complains that Mr. Mosenthal includes the utilities as voting parties in the AG/ELPC NTG Framework.

It is also not clear to Staff how exactly the voting process would work if certain voting parties are unavailable to participate during NTG discussions. Staff says if one of the special SAG voting parties spent no time reviewing any of the information contained in the NTG memorandums submitted by the Evaluators or if they failed to attend the

SAG meetings where the proposed NTG ratios were discussed, it is not clear under the AG/ELPC NTG Framework whether their voting party status would be suspended for the program year, or whether they would be required to vote even though they failed to participate throughout the entire NTG update process. Staff states AG witness Mosenthal expresses concerns about allowing any SAG participant the right to refuse to agree to a NTG consensus position regardless of whether that party has any particular knowledge or expertise on the issue, yet Mr. Mosenthal's creation of voting parties makes no assurances that such voting parties have any particular knowledge or expertise on the NTG issues for which they would be voting on.

Staff asserts without designating specific voting parties, it will be possible to determine whether consensus has been reached regarding updated NTGR values. Indeed, this approach is consistent with the existing Commission-approved process for annually updating the IL-TRM. Staff indicates the Commission-adopted IL-TRM Policy Document states: "Through the annual TRM Update Process, SAG participants shall make good faith efforts to reach consensus on all TRM Updates. Once consensus develops at the SAG level, the TRM Administrator will include the changes in the Updated TRM that is submitted to the Commission for approval." According to Staff, the SAG is currently able to develop and reach consensus on IL-TRM Updates without modifying the SAG structure and without identifying specific voting parties as evidenced by the Commission's approval of the consensus IL-TRM Version 2.0: "The Commission agrees with Staff that the IL-TRM Version 2.0 filed in this docket as an attachment to the Staff Report in this docket was arrived at using the Commission-mandated process, it is a consensus document, and it is consistent with the Commission's Orders and the TRM Policy Document adopted by the Commission." Order Docket No. 13-0437, Order at 4. Staff states Staff's Modified Illinois NTG Framework includes a process where any interested party must dissent in writing by a specific date to indicate there are non-consensus updated NTGR values. Staff asserts the independent Evaluators are tasked with providing meeting notes after the NTG update meetings which can clearly document consensus and non-consensus NTGR values, which is somewhat comparable to the role the TRM Administrator takes in the TRM Update Process.

According to Staff, some of the other problems with the AG/ELPC NTG Framework include: (1) the TRM annual update docket specified for the annual filing of deemed NTGR values is not open on March 1; (2) the date to reach consensus by is the same date that the annual filing of deemed NTGR values must occur; (3) the deadline for the non-residential program NTGR recommendations from the Evaluators does not allow for incorporating the previous year's evaluation results; (4) the formula used to resolve non-consensus NTGR values is internally inconsistent within the AG/ELPC NTG Framework; and (5) the equation used for resolving non-consensus NTGR values has undefined terms. Staff states while these are not the only concerns associated with the AG/ELPC NTG Framework, these five problems are real problems which would significantly frustrate any attempts at implementing the AG/ELPC NTG Framework. Staff claims its Modified Illinois NTG Framework (Staff Ex. 3.1) is, to the best of Staff's knowledge, free of these problems and provides a framework that would be workable in practice.

The AG/ELPC NTG Framework proposal requires the utilities to file the deemed NTGR values in the TRM annual update docket by March 1, and if such filing does not occur by that date, then the utilities are subject to retroactive application. Staff claims the problem with this approach is that there is no guarantee, nor is it even envisioned in the Commission-adopted IL-TRM Policy Document, that the TRM annual update docket will even be open by March 1, potentially resulting in annual retroactive application of NTGR values for the utilities under the AG/ELPC NTG Framework. Staff notes the adopted IL-TRM Policy Document states:

> In order to provide the Program Administrators adequate time for making these pre-program year changes, the consensus Updated TRM shall be transmitted to the ICC Staff and SAG by March 1st. The ICC Staff will then submit a Staff Report (with the consensus Updated TRM attached) to the Commission with a request for expedited review and approval. In the event that non-consensus TRM Updates exists, the TRM Administrator shall submit to the ICC Staff and SAG a Comparison Exhibit of Non-Consensus TRM Updates on or about March 1st. After receipt of the Comparison Exhibit of Non-Consensus TRM Updates, the ICC Staff would submit a Staff Report to the Commission to initiate a proceeding separate from the consensus TRM Update proceeding to resolve the non-consensus TRM Update issues.

According to Staff, there is no TRM update docket required to be open on March 1, the Updated TRM (consensus portion) is simply transmitted to SAG on that date, and the non-consensus portion of the Updated TRM is transmitted on or about March 1. Id. After receipt of the Updated TRM and submission of the Staff Report, Staff says the Commission would initiate the TRM Update proceeding at one of the Commission meetings following receipt of such Staff Report (after March 1). Staff believes it is clear the AG/ELPC NTG Framework in this regard is unworkable in practice given the annual TRM Update proceeding is not even envisioned to have been initiated by the Commission by the March 1 deadline specified in their framework. Staff claims its Modified Illinois NTG Framework resolves this issue by requiring the utilities to file the deemed NTG values in ICC Docket No. 12-0528, which is the docket in which the Commission approved the IL-TRM Version 1.0. Staff says the utilities all file TRM-related evaluation research findings in that docket as well. Staff states the filing of all deemed updated NTG values in that docket will enable parties to easily find the deemed NTG values and keep track of the NTG values as they are updated over time for all the Illinois utilities.

Staff says the AG/ELPC NTG Framework provides that parties are allotted until March 1 to reach consensus and it also provides that the deemed NTGR values must be filed by March 1 or the utilities will be subject to retroactive application of NTGR values. In the event that consensus is actually reached on March 1, Staff notes the parties would need time to revise relevant documents to incorporate the consensus reached before they actually file them in a docket. In Staff's view, the AG/ELPC NTG

Framework proposal is unworkable in this regard because it provides no time to revise documents to reflect the consensus reached. Staff claims its Modified Illinois NTG Framework resolves this issue by specifying that parties are allotted until February 20 to reach consensus, and it provides time after that date to prepare the filing of deemed NTGR values. Staff says the utilities are provided until March 5 to file the deemed NTGR values or the utilities will be subject to retroactive application of NTGR values.

Staff indicates the AG/ELPC NTG Framework requires the Evaluator's memorandum for all NTGRs to be submitted by November 1. Staff says the Illinois Evaluators note that they can commit to providing draft NTGR results by December 1 for non-residential programs, not November 1. Staff claims that under the AG/ELPC NTG Framework it is likely that the initial Evaluator's memorandum will not reflect the most recent findings with respect to estimating NTGRs for the utilities' non-residential programs. Given this problem with the AG/ELPC NTG Framework, Staff says the AG indicates support for Staff's proposal in this regard.

Staff indicts the AG/ELPC NTG Framework provides for two different approaches in the case an individual NTGR value is determined to be non-consensus. Staff asserts this inconsistency can be seen by comparing Item 3 of the "Narrative Explanation of the Modified NTG Framework" to Item 8 of the "Proposed Timeline." Staff says Item 3 of the "Narrative Explanation of the Modified NTG Framework" states:

> In cases where consensus is not reached on an individual NTGR value by March 1 (PYt), the NTGR value for the applicable program year (PYt+1) shall be the average of the last two available evaluated NTGR values from prior years (or only one year if that was the first evaluated year of the program available), provided that the Program Administrators file the non-consensus NTGR values with the Commission for information purposes in the TRM annual update docket no later than March 1 (PYt). In the event there is non-consensus on an individual deemed NTGR value and there are no Illinois evaluations available, the Program Administrators shall file the non-consensus positions and rationales, and request the Commission rule within 90 days on the deemed NTGR to be used for PYt+1.

Staff interprets the emphasized text to mean that the deemed NTGR value is the average of evaluated NTGR values that are currently available (e.g., NTGRPYt+1= (NTGRPYt-1+NTGRPYt-2)/2) at the time the NTG deliberations are occurring in the program year (PYt). Based on Mr. Mosenthal's testimony, it appears to Staff that this specification was the intent of the AG/ELPC NTG Framework. Staff says this approach is consistent with Mr. Mosenthal's explanation of differences between Staff's and the AG/ELPC's proposal. Staff believes it is clear the proposed approach in Item 3 results in using NTGR values that are two years old and the utilities are aware what the average of the two old NTGR values are such that it effectively creates a lower bound and reduces the utilities' incentive to negotiate in good faith on its best estimate for a deemed NTGR value with the SAG. Staff believes it is important Mr. Mosenthal supports Staff's approach, which is consistent with Item 8 of the "Proposed Timeline" of the AG/ELPC NTG Framework.

Item 8 of the "Proposed Timeline" states:

> In cases where consensus is not reached on an individual NTGR value by March 1 (i.e., a NTGR Objection Memo is received regarding an individual NTGR value and is not resolved by March 1), <u>the NTGR value for the applicable program year (PYt+1) shall be deemed at the average of the evaluated NTGR values from PYt and PYt-1</u>. In the event there is non-consensus on an individual NTGR value and there are no Illinois evaluations available, an explanation of the non-consensus issue may be filed with the Commission with a request for resolution prior to June 1.

Staff states the emphasized text, which is consistent with Staff's Modified Illinois NTG Framework, means that the deemed NTGR value for PYt+1 is the average of the evaluated NTGR values from the current program year (PYt) and the previous program year (PYt-1) (e.g., NTGRPYt+1=(NTGRPYt+NTGRPYt-1)/2). Staff says the proposed approach in Item 8 provides for the utilities to know one of the NTGR values and in certain cases it may know both (e.g., AIC's PY5 Residential Lighting Program NTGR was available before March in PY5). Staff claims that generally speaking, the utilities would know one of the NTGR values and have partial retrospective application of the NTGR evaluated for PYt under Item 8. Staff claims given the utilities are subject to three-year cumulative goals, not knowing the NTGR evaluated for PYt until several months later should still provide the utilities enough time to adjust their portfolios in a manner that helps ensure they can reach the three-year cumulative goals. Staff says the utilities do not face insurmountable risk under the partial retrospective application approach that would be applied only in instances where consensus cannot be reached.

Staff asserts the AG/ELPC NTG Framework is missing a definition for "Evaluated NTGR values." Staff believes this is problematic as it could be interpreted in a variety of ways. Staff says "Evaluated NTGR values" potentially could mean the NTGRs estimated from surveys of the utility's participating customers and trade allies, regardless of whether the Evaluator recommended the NTGR be a mix of secondary and primary data, or even if the Evaluator recommended to totally ignore a portion of the primary data.

Staff's claims its NTG Framework proposal contains a definition for this phrase to eliminate this issue.

> In cases where consensus is not reached on an individual NTGR value by February 20 (i.e., a Party's NTGR Objection Memo is received regarding an individual NTGR value and is not resolved by February 20), the non-consensus individual NTGR value for the applicable program year (PYt+1) shall be deemed at the average of the evaluated NTGR values from PYt and PYt-1. [

According to Staff, the term “evaluated NTGR values” as used in this context is defined in footnote five on page three of Staff Ex. 3.1: “Evaluated NTGR values are NTGR values estimated by the evaluators using only data collected from the Utility’s customers and contractors in the Utility’s service territory.” Staff says the Evaluators are allowed to estimate a NTGR value for PYt and PYt-1 by any means they determine appropriate within the constraints of the definition set forth in footnote five on page three of Staff Ex. 3.1. According to Staff, the use of the term “from” in the phrase “evaluated NTGR values from PYt” means the NTGR values were estimated by the Evaluators using survey data derived from program participants that participated during PYt. Id. at 31-32. Staff says the use of the term “from” in the phrase “evaluated NTGR values from PYt-1” conveys the fact that the survey data that the Evaluators use to estimate the NTGR value must arise out of customers who participated in the program during PYt-1.

Given the timeframe in Staff’s and the AG/ELPC’s NTG Frameworks has passed for the first program year of Plan 3, Staff believes the Commission should direct AIC to work with the SAG to reach consensus on NTGR values to deem for EPY7/GPY4 and include such NTGR values for EPY7/GPY4 in the remodeling of AIC’s portfolio for its Revised Plan that should be filed as a compliance filing in this docket. Staff says the EPY7/GPY4 NTG discussion should initiate with a memorandum from AIC’s existing Evaluator containing its initial recommendations for deeming NTGR values for EPY7/GPY4; this approach is consistent with the first step in both Staff’s Modified Illinois NTG Framework and the AG/ELPC NTG Framework proposals.

b. AG Position

The AG notes Ameren proposes a process by which it would take the NTG values (as determined by the independent evaluators) and the TRM update values (as determined by the Technical Advisory Committee (“TAC”), a technical subcommittee of the SAG) that are known by March 1st and apply those prospectively for the following Plan Year.

Ameren argues that it needs certainty around NTG estimations to properly plan and manage its portfolio. The AG notes AIC argues that values for a given year should be established by March 1 for the following program year beginning June 1: “The TRM Update Process should result in known values by March 1 of a given year, or three months before a given Plan Year (which begins on June 1). If NTG values are set by that time as well, that would go far in mitigating the risks associated with changing values and in achieving the benefits to ratepayers that comes with regulatory certainty.”

While the AG concurs that a degree of certainty is necessary to ensure the development of robust efficiency programs, that goal is also exactly what the current NTG framework, adopted in Ameren’s last three-year plan order, Docket No. 10-0568, as well as a proposed new NTG framework attempts to establish. The AG says Ameren has expressed frustration in delays that have occurred regarding SAG following through with its commitments and resolving these issues by March 1 in past years. In the AG's view, these are not reasons to completely undo the significant progress SAG has made in reforming this process.

In his direct testimony, AG witness Mosenthal proposed that the latest draft proposed NTG framework upon which the SAG has been working to develop and reach consensus be adopted by the Commission. The AG says that document reflected the consensus of all non-utility parties to the SAG, and resolved utility program administrators' major concerns regarding how NTG is treated. The AG claims it also achieves certainty by allowing for deemed NTG values to be established in a timely fashion each year. The AG indicates ELPC witness Crandall likewise endorsed a nearly identical modified NTG framework as an appropriate evaluation tool to be adopted in this proceeding.

In her Direct Testimony, Staff witness Hinman offered a similar proposal with some variations. In an effort to limit issues in the docket, AG witness Mosenthal endorsed in his rebuttal testimony, with some caveats, the adoption of the Staff-recommended revised NTG framework. As noted by Mr. Mosenthal, Ms. Hinman suggests that the Commission adopt a new NTG framework based on one developed by the non-utility parties, including Staff and the AG. The AG/ ELPC proposed framework was collaboratively developed among Staff, AG, ELPC and NRDC. However, because the SAG has not had a chance to formally consider or adopt it, it was not completely final and a few differences exist between the version sponsored by the AG and ELPC, and the one proposed by Staff. The AG believes these differences are fairly minor, and the AG would support approval of the Staff version as an alternate to AG Exhibit 1.1 with one exception related to voting parties.

In all, the AG says there are three primary differences between the Staff and AG-endorsed modified NTG frameworks. One is slight variations in the proposed schedule. Staff has proposed two schedule tracks, one for the residential sector and a separate but parallel schedule for the commercial and industrial sectors. The AG says this is because the evaluators have informed Staff that typically residential evaluations are completed about one month prior to the C&I evaluations. The AG indicates Staff's schedule allows slightly more time for the residential sector by acknowledging the timing of evaluations. AG witness Mosenthal supports this minor change. In the AG's view, what is of critical importance about the schedule is that the process be completed in time for program administrators to file the NTG values with the Commission by March 1 of each year.

The second difference between the two framework versions involves what would occur when consensus is not reached on a particular measure's NTG value. The AG-sponsored NTG framework (AG Exhibit 1.1) proposed that if consensus on an existing program NTG is not reached, then the past two prior and already available evaluation NTG estimates would be averaged, and used prospectively for the following program year. The AG indicates Staff has proposed a slightly different approach that provides the utilities with slightly less certainty.

According to the AG, Staff's proposal is that the last two years' evaluation NTG estimates be averaged. The distinction is that, at the time of filing with the ICC, the evaluations for the immediately prior program year are generally not yet available. The AG says Staff is proposing averaging one, known NTG estimate (PYt-1) with one, as-yet-unknown-NTG estimate (PYt). The AG claims this provides less certainty to the utilities than the AG proposal, but allows use of more current evaluations that in general should better reflect the likely current and future performance of the program. The AG supports that approach.

The AG believes Staff's proposal, which provides the utilities with much certainty, but not 100% certainty, should be adopted by the Commission, with one caveat, rather than AIC's shareholder-risk averse alternative. While the AG supports providing the utilities with more certainty than they have had in previous years, the AG believes Staff's approach is preferable for two reasons:

- First, it will result in, all else equal, likely better estimates of actual future NTG ratios because the most recent evaluations will be incorporated and thus should best reflect the current status of the program and market.
- Second, it provides a reasonable but significant incentive for all parties to reach consensus on a best estimate of future NTG ratios, and failing to reach consensus would result in less certainty and potentially more risk to all parties.

The AG says that while AIC complains that the process of attempting to reach consensus on NTG values in the SAG has been time-consuming and, at times, unsuccessful, there are important reasons to retain this collaborative process and adopt the Staff-proposed modified framework. The AG argues that under its proposed framework, the last two already available evaluation NTG estimates are averaged. These would reflect program years that are one and two years old at the point of adoption. Because these NTG estimates are already known, the AG says any inability to reach consensus on a NTG estimate means that all parties will necessarily know with certainty what the ultimate default NTG estimate will be if there is no consensus. As a result, the AG claims this creates a greater likelihood that a party might have a diminished desire to reach consensus whenever they prefer the known value from prior evaluations. The AG states as compared with Staff's alternative, a party can unilaterally "game" the process, and refuse to agree to any reasonable NTG value they prefer less to the known NTG default value that would be adopted without consensus. I

According to the AG, while all parties are attempting to provide the utilities with somewhat more certainty in terms of assumed savings values for various program measures, where reasonable, the Staff approach is a reasonable compromise that still significantly limits the risk to program administrators. The AG claims this is because one of the two values that would be averaged is already known. Therefore, even if a future evaluation estimates a surprising NTG value, the impact on the program administrators is diluted because it is averaged with the one already known and certain. In the AG's view, that fact points to Staff's proposal as a reasonable compromise that significantly diminishes program administrators' risk and likely results in a somewhat more current and better estimate of the actual NTG ratio that would result in the next program year. The AG believes it also serves to avoid perverse incentives that discourage parties to work together in good faith to achieve consensus.

The AG does suggest that one particular aspect of the Staff NTG modified framework should not be adopted by the Commission: its lack of a definition of "voting parties." AG Exhibit 1.1 and ELPC Exhibit 1.4 both define "voting parties" in the SAG. The AG says footnote 3 of that exhibit defines the voting parties as "the program administrators, Staff and other parties that have traditionally intervened in the EEPS dockets and consistently participated in the SAG, which the AG indicates includes itself, NRDC, ELPC and CUB. However, voting members cannot also be subcontractors in Section 8-103/104 efficiency programs. Mr. Mosenthal explains that by identifying these regular stakeholder participants, he, in no way, intended to limit participation to new stakeholders. In contrast, the AG asserts Staff's version of the NTG framework is silent on defining any "voting" parties. The AG says Staff witness Hinman objected to any attempt to limit or identify voting parties in the NTG evaluation process.

The AG believes Staff's approach is too broad. The AG asserts SAG meetings have traditionally been open to anyone to attend – a practice that allows for honest sharing of ideas and ensures greater transparency of SAG's deliberations. In the AG's view, Staff's insistence that no limitations of any kind be placed on the voting process could allow literally anyone to attend a SAG meeting and refuse to agree to a NTG consensus position regardless of whether that party has any particular knowledge or expertise on the issue, or whether they have ever intervened or otherwise been involved in energy policy in Illinois.

Mr. Mosenthal testified that in his conversations with Staff, it is his understanding that Staff's intent is that any entity that is participating in any SAG meeting can object to consensus.

The AG suggests this understanding was confirmed on cross-examination of Staff witness Hinman, where she confirmed that by not including a definition of voting parties in her framework, subcontractors of the utility, evaluators and even the SAG facilitator would have a vote in the consensus building process. According to the AG, Ms. Hinman acknowledged, too, that by not defining voting parties, each utility would be permitted multiple votes on consensus issues. The AG says she further confirmed that subcontractors of utilities may have vested financial interests in ensuring the highest NTG value be agreed upon, depending on the type of contract that exists between the subcontractor and the utility. The AG argues that without a clear definition of voting parties that (1) limits participants to regular SAG attendees and (2) limits each party to a single vote, consumer and environmental stakeholders will be automatically outnumbered in any attempt reach consensus on these important evaluation parameters. The AG says to date, SAG parties have been limited to one vote on issues involving TRM and NTG updates. The AG believes at process should continue going forward.

According to the AG, many attendees at the SAG are subcontractors to another party. For example, the AG says consultants helping the program administrators design and plan programs, evaluators, and implementation contractors who sometimes are paid based on performance could conceivably vote under Staff's approach and have a clear conflict of interest in regard to the ultimate NTG ratio. In the AG's view, it would be inappropriate to allow these parties a formal vote because they generally are attending the SAG as contractors to some other party that already has a vote. In addition, it is inappropriate for the evaluation consultants to have a vote. The AG says as the current NTG framework describes, evaluators are tasked with working together as independent parties to propose NTG values based on their professional expertise. Indeed, independence is a critical factor in ensuring high quality evaluations. The AG believes these individuals should not then be in a position of actually advocating for any particular outcome to preserve this independence. In addition, the AG says any party that has subcontracted with a utility to provide programs should not be permitted to vote on evaluation parameters. The AG also believes the SAG facilitator should retain her independence to effectively facilitate and manage the SAG, rather than taking a formal position on substantive issues.

The AG states the listing of voting parties in AG Ex. 1.1 was simply based on the AG's experience as to which entities have been regular, active members of the SAG and that, to date, do not have any obvious conflicts. The AG believes Commission's Order in this proceeding should make clear that if any other party or parties that fits that criteria were to join and become more active and desire to participate in voting on NTG consensus issues, they are welcome to do so, as long as they do not have a clear conflict such as being a contractor for a utility program and do not enable an entity – whether it be a utility or a ratepayer advocate – to have more than a single vote.

In sum, the AG recommends the Commission adopt Staff's proposed modified NTG framework, with the inclusion of a definition of voting parties that (1) limits participants to regular SAG attendees; (2) limits each party to a single vote; and (3) ensures that voting members (outside of the individual utility) have no financial interest in the outcome. The AG believes it is important that any NTG procedures be consistent and applied equally to all program administrators.

According to the AG, in arguing against adoption of the compromise Staff NTG framework, AIC disingenuously asserts that Staff's and Intervenors' NTG Frameworks would impermissibly grant decision-making authority to the SAG over critical aspects of the Plan, which runs counter to the Commission's previous findings in Ameren's Plan 2 approval docket, in conflict with a recent Commission order. The AG claims this argument mischaracterizes the Staff proposal and ignores recent Commission orders in Docket 12-0528 and 13-0077, which approved the development of annual Technical Resource Manuals, which are established and updated by members of the SAG with the assistance of independent evaluators on an annual basis. The AG says this process incorporates a similar give-and-take among stakeholders, along with the approval of a consensus-building process incorporating SAG member votes. The AG says the updated TRM is then submitted to the Commission for approval.

In the AG's view, there is a difference between a collaborative process designed to investigate net savings, which is used to adjust the total estimated “gross” savings from all measures tracked through the program to estimate the true “net” effect that the program has produced and the TRM, which establishes numeric measure inputs for calculating savings. The AG suggests Commission should resist AIC’s attempt to gloss over these significant differences.

c. NRDC Position

In its Reply Brief, NRDC argues the Proposed NTG Frameworks would not impermissibly grant decision-making authority to the SAG. NRDC also claims Staff’s modified NTG framework is not overly complicated or burdensome. In NRDC's view, the Proposed NTG Frameworks do not eliminate impermissibly the independent evaluators’ recommended NTG values.

NRDC believes the Commission should reject Ameren’s proposal to deem non-consensus NTG values at the average of the SAG participants’ proposed NTGR values for PYt+1. NRDC claims Ameren’s proposal would move away from reliance on evaluated NTG values and toward a SAG determination of those values. While ELPC believes the SAG plays an important role in refining the evaluated NTG values, where the SAG cannot reach consensus, it makes the most sense to rely on previously evaluated NTG values rather than simply on an average of SAG participant recommendations. NRDC says Ameren’s proposal effectively makes the SAG the final decision-maker, which is contrary to Ameren’s own position and the Commission’s order in Plan 2. NRDC claims Ameren’s proposal also opens the door for SAG participants to game the system by artificially inflating or deflating their proposed NTG values to skew the average.

NRDC also believes the Commission should not allow the SAG to modify the NTG Framework without Commission approval. NRDC asserts under Ameren’s proposal, the Commission would grant the SAG unlimited authority to change the NTG framework, which would truly give the SAG the “decision-making authority” that the Commission previously rejected in Docket No. 10-0568. NRDC insists the Commission should not abdicate its authority over the framework to the SAG, but rather should continue to rely on SAG to serve an advisory role over the future of the NTG framework.

d. AIC Position

Ameren indicates that it proposes a simple and streamlined process by which NTG values and TRM values would be determined from reliable and independent sources by March 1st of each year. Ameren believes that its proposal does not require lengthy deliberations or expensive litigation of non-consensus items and does not delegate referee status to the Commission on technical values that existing, contracted independent evaluators already provide pursuant to the Act without Commission involvement. Specifically, Ameren proposes to take the NTG values (as determined by the independent evaluators) and the TRM update values (as determined by the Technical Advisory Committee ("TAC") which is a subcommittee of the SAG) that are known by March 1st and apply those prospectively for the following Plan Year. This simple process ensures that all NTG values would be determined by a Commission-verified independent source (the EM&V contractor) and all TRM values would be determined by the same entity tasked with doing so now (the TAC). Ameren submits that this process would also minimize the litigation of non-consensus items before the Commission because there is no built-in mechanism that requires the Commission to get involved with setting NTG or TRM values; and notes that no party has meaningfully criticized Ameren's approach as either inadequate or improper.

Instead, the AG, ELPC and Staff propose alternative frameworks presented in AG Exhibit 1.1, ELPC Exhibit 1.4 (which appears to be identical to AG Exhibit 1.1) and Staff Exhibit 3.1. Ameren asserts that each of the proposals reflects components that would give SAG decision making authority and would include retroactive application of values, both of which would be inconsistent with prior Commission findings. Additionally, while the parties indicate that the frameworks base themselves on an agreement "in principle" between Staff and certain Intervenors, certain key differences are apparent based on review of the exhibits and the rebuttal testimony of Mr. Mosenthal and Ms. Hinman.

Ameren contends that Staff and Intervenors' NTG Frameworks would impermissibly grant decision making authority to the SAG over critical aspects of the Plan, which runs counter to the Commission's previous findings in Ameren Illinois' Plan 2 approval docket. Ameren also notes that both Staff's and Intervenors' proposed NTG have retroactive aspects to them, which appears to run counter to the recent comments made by the Commission when it met to approve the Order on Rehearing in Docket No. 13-0077. There the Commission emphasized the importance of applying resolved measure level values prospectively to the following plan year as opposed to the retroactive approach requested by Staff. Ameren also opines that Staff's attempt to merge all three proposals, results in a framework that contains at least eleven steps that are complicated, burdensome, would take longer to complete, and would most certainly increase the costs associated with determining NTG values without any corresponding benefits.

e. Commission Conclusions

Ameren proposes to modify the existing NTG Framework to take the NTG values, as determined by the independent evaluators, and the TRM update values, as determined by the TAC, which is a subcommittee of the SAG, that are known by March 1st and apply those prospectively for the following Plan Year. Ameren asserts its proposed process would minimize the litigation of non-consensus items before the Commission because there is no built-in mechanism that requires the Commission to get involved with setting NTG or TRM values.

The AG and ELPC both propose an alternative framework, which appear to be the same; while Staff proposes a somewhat different alternative framework, although Staff, the AG and ELPC suggest that the frameworks are based on an agreement in principle between Staff and Intervenors. As the Commission understands it, Ameren claims the key differences between Ameren's framework and the two alternative frameworks is that the alternative frameworks would give the SAG decision making authority, would include retroactive application of values, and are overly complicated.

With regard to the concern about improperly giving the SAG decision making authority, it is not clear to the Commission how this is materially different that Ameren's proposal which it appears would effectively give decision making authority to the TAC. The Commission is also concerned that AIC's proposal would preclude other interested parties, including Staff, from having input into the NTG which has been allowed in previous plans. The Commission believes that there is some merit to AIC's concern regarding the complexity of Staff, as well as the AG/ELPC Modified Frameworks. In any event, the Commission concludes that Ameren's proposed NTG Framework must be rejected.

It appears to the Commission that the most fundamental difference between Staff's Framework and the AG/ELPC Framework relates to the definition of "voting parties." In the AG's view, Staff’s insistence that no limitations of any kind be placed on the voting process could allow literally anyone to attend a SAG meeting and refuse to agree to a NTG consensus position regardless of whether that party has any particular knowledge or expertise on the issue, or whether they have ever intervened or otherwise been involved in energy policy in Illinois.

Staff states the Commission has repeatedly declined to give SAG decision-making authority, and Staff is concerned that the development of voting parties in this proceeding would be the first step toward such a structure. Staff asserts there has been no showing to support the AG's concern that the utilities’ subcontractors would oppose an updated NTGR value that was otherwise a consensus value. Staff claims the proposal to create a voting structure that is limited to a small portion of SAG participants is contrary to the inclusiveness that the SAG has provided to date. Staff believes this openness to all interested parties could likely be a reason why the participation in the SAG continues to grow.

The Commission appreciates the input of AIC, Staff, the AG, and ELPC on this difficult issue. Clearly, there are completing interests here that cannot be reconciled. In addition, all three Modified NTG Frameworks would alter the NTG Framework approved in Ameren Plan 2. At this point in time, the Commission is reluctant to impose the significant structural change on the SAG that would be required by either the Staff or the AG and ELPC modified Framework. The Commission is somewhat frustrated that the parties expect the Commission to resolve in the relatively short time-frame of this proceeding, the complex disputes that the parties could not resolve over an extended time frame of negotiations. As a result, for purposes of Ameren's Plan 3 the Commission declines to modify the NTG Framework and concludes that the NTG

Framework adopted from Plan 2 should be utilized with minor modification. The Commission would encourage the parties to continue discussions regarding a modified framework, taking into account the comments made in this case, that would address the critical challenges resulting from the continued use of the current NTG Framework, while avoiding making the process excessively complicated or burdensome.

In order to provide additional certainty, which all parties advocate, prior to March 1 of each year, the independent evaluator will present its proposed NTG values for each program to the SAG. The purpose of this meeting will be for the independent evaluator to present its rationale for each value and provide the SAG, in their advisory role, with an opportunity to question, challenge and suggest modifications to the independent evaluator's values. The independent evaluator will then review this feedback and make the final determination of values to be used for the upcoming year. In all other respects, the NTG Framework adopted in Plan 2 should be utilized.

B. Energy Efficiency Policy Manual

1. Staff Position

Staff notes that Mr. Mosenthal requests that the Commission direct AIC to work with the SAG on an Illinois Energy Efficiency Policy Manual which would be designed to streamline and encourage consistency on various program-related policies for review and approval by the Commission. Staff and the Company agree that the Commission should reject the development of such an undefined Policy Manual at this time. As an initial matter, Staff believes it is not evident what problem the creation of such a Policy Manual is intended to fix. Indeed, the scope of the Policy Manual is not clearly defined, other than noting a broad-slated purpose that it would somehow "streamline" and "encourage consistency" on various program-related policies. Staff suggests that the undefined nature of such proposal and the potentially broad interpretation that could be construed from the terms, "various program-related policies," could be a significant source of contention in even the early development stages.

Staff notes that the Act recognizes that coordination and consistency may be valuable across electric and gas programs to the extent it reduces program or participant costs or improves program performance, while Section 8-104 of the Act requires the Commission to solicit public comment on a plan to foster statewide coordination and consistency between statutorily mandated natural gas and electric energy efficiency programs to reduce program or participant costs or to improve program performance, and to report the Commission's findings to the General Assembly. Staff states that the Commission has already complied with this directive earlier this year, and the Commission's report to the General Assembly appears to offer the Commission's view that existing efforts, including the SAG process, are sufficient.

Notwithstanding the electric and gas coordination and consistency provision, Staff states that the statutes also recognize that each utility's plan will likely not be consistent with other utilities' plans, and it would be more appropriate to tailor each utility's plan to the characteristics of its specific service territory. Section 8-103 of the Act states, "[e]ach utility's plan shall set forth the utility's proposals to meet the utility's portion of the energy efficiency standards … and the demand-response standards … taking into account the unique circumstances of the utility's service territory." 220 ILCS 5/8-103(f) (emphasis added); see also, 220 ILCS 5/8-104(f). Staff asserts that the record and findings in each utility's Plan filing docket provide sufficient guidance on how each utility should implement the EE programs in its unique service territory, and the creation of new policies midstream outside of the Plan filing dockets may serve to complicate and frustrate the utilities' existing EE program offerings to consumers.

Indeed, Staff opines that the Commission's Plan 1 Order states:

> This Commission agrees that coordination between Ameren and ComEd, as well as with DCEO, when such coordination reduces costs or administrative burdens, or, when such coordination would improve program performance, is desirable. We encourage the utilities and DCEO to coordinate as much as possible. However, we decline to require the utilities to do so. There are obvious differences in the territories of the two utilities regarding many items, including, but not limited to, labor costs, housing structure, population density, and, even topography. The utilities must be able to retain the flexibility to react appropriately to those differences.

ICC Order Docket No. 07-0539 at 35-36 (Feb. 6, 2008) ("Plan 1 Order").

Staff notes that the SAG has created a TRM Policy Document, which is a policy manual concerning policy issues limited to the TRM; and the SAG, Staff, and Commission have expended a great deal of effort and time on the creation and adoption of this TRM Policy Document. Staff avers that creating a Policy Manual that would require "consistency on various program-related policies" for all Illinois utilities would impose an undue and unnecessary burden on all parties and would divert resources from more important matters such as ensuring the programs are running effectively and updating the IL-TRM.

Staff asserts that the development of a Policy Manual is expected to be a significant endeavor requiring significant resources to create; and as noted by the AG, there have been instances over the last Plan in which the SAG has not followed through with its existing responsibilities as directed by the Commission. Staff suggests it would be more appropriate for the SAG to focus on accomplishing its existing responsibilities, rather than devote significant SAG resources to create a Policy Manual. Staff avers that the SAG has enough duties dealing with the annual TRM and NTG updates and reviewing the utilities' quarterly reports and program changes such that it should concentrate on those given the responsibility the Commission has previously directed the SAG to undertake. Accordingly, Staff recommends that the Commission not adopt Mr. Mosenthal's proposal to create a Policy Manual at this time, and notes that AIC agrees with Staff's recommendation.

While Staff agrees there are benefits to having consistency among the utilities and DCEO in NTG policies and TRC definition policies, Staff does not agree there are benefits to having the SAG develop an undefined Policy Manual addressing issues such as prudence which the Commission has effectively evaluated for years.

While Staff opposes the SAG undertaking the development of an undefined Policy Manual, Staff supports the development of consistent NTG methodologies, and believes it would be valuable to have the Evaluators collaborate to reach consensus on the best approaches to assessing NTG in particular markets. Staff submits it would also help alleviate contention for spillover estimation approaches. Staff notes that during Plan 1, the Evaluators collaborated to develop a consistent approach to estimating NTG for the non-residential EE programs; however, alternative approaches are currently being discussed and implemented by the Evaluators for the non-residential EE programs. While consistency has occurred for many of the non-residential EE programs during Plan 1, the fact that alternative approaches are currently being implemented during Plan 2 causes Staff to believe a Commission directive is warranted to have the Evaluators collaborate to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs. Further, historically there has not been consistency with respect to estimation of residential program NTG ratios and this inconsistency has been subject to significant controversy, and creates concerns regarding the independence of certain Evaluators. Thus, to help mitigate the risk of compromising the independence of the Evaluators, Staff recommends the Commission require consistent residential and non-residential NTG approaches take place for comparable EE programs offered by the utilities.

Staff also believes the Commission should be aware that the Staff and ELPC Proposed Modified NTG Frameworks allow for deeming a NTG value other than that which was evaluated, which is useful for cases where the evaluated number is inconsistent with other values. Given the inherent differences in the service territories of the utilities across the state as well as differences in the energy efficiency program guidelines, rebate amounts, and implementation approaches, in the event significantly different NTG results are found across comparable programs operated by different program administrators, Staff opines that the use of different NTG methods across program administrators provides limited useful information to parties concerning the source of such differences. Indeed, the memorandum containing the previously adopted NTG Framework expressed such concerns:

> The PY1 evaluated NTG ratios for Residential lighting are significantly different for Ameren and ComEd. While there are real differences in the demographics of their service territories that may have contributed to this difference, it is important to note that the utilities used different evaluation contractors and significantly different evaluation methodologies. As a result, there is little certainty about the attribution of these differences. We propose that wherever possible, joint and consistent statewide evaluations

> be performed. This will eliminate these uncertainties, allow for more direct comparison between [program administrators' ("PAs")] performance, as well as provide economies of scale and greater consistency and certainty to PAs about likely future evaluation results. We propose that standardized approaches to measuring free ridership and spillover be adopted in Illinois that ensure consistent measurement both across territories and over time. [fn]

(AG Ex. 1.1, 3-4, ICC Docket No. 10-0568.) Staff states that the omitted footnote in the quoted text above states that "[a]n example of this exists in Massachusetts where all PAs have for roughly a decade used a standardized methodology and set of survey questions that were collaboratively developed to measure free ridership and spillover every year. This approach has proven to provide relatively stable results over time, and better elucidates differences between PAs that may result from different program approaches." Id. at 4.

Staff notes that based on the concerns expressed regarding differences in the lighting program NTGR values between ComEd and AIC, the Commission directed the following: "The Commission also accepts Ameren's recommendation that Ameren, as well as ComEd, and the independent evaluators strive to understand differences in evaluation results and to reconcile differences not driven by differences in weather, market and customers." Plan 2 Order at 70. Despite this direction, Staff indicates it has found it extremely difficult to get the Evaluators to use consistent methodologies. Thus, the Commission should direct AIC to require its Evaluators to collaborate with the other utilities' Evaluators to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs. Staff asserts that the best approaches will not be inflexible but would be able to be tailored to appropriately assess the specifics of each of the utilities' EE programs, consistent with approaches adopted in other states. Further, the Commission should direct Staff to file the agreed upon approaches with the Commission as an appendix to the updated IL-TRM. Staff recommends that it be clear that this recommendation is not to create entirely new NTG approaches, but rather assess existing methods used in Illinois and adopt the best and most defensible method, or potentially combine certain components from the existing approaches to better represent the most defensible method. The Evaluators in Illinois have currently been working on this for business EE programs, so Staff believes finalizing a consistent approach for the business programs should be able to be completed before the filing of the updated IL-TRM.

In its Reply Brief, Staff states that based on based on the clarification on page 45 of the AG's Initial Brief, Staff supports the AG's proposal as described in its Initial Brief. The reasons Staff opposed the creation of a Policy Manual concerning "various program-related policies" are not applicable to the creation of a Policy Manual concerning "various evaluation-related policies." Staff interpreted "various program-related policies" as impacting the utilities' implementation of its EE programs and thus could impact customers. Staff says evaluation-related policies for each program will simply impact the evaluators and will not significantly impact the utilities' administration and operation of the programs in the utilities' service territories. Staff believes the establishment of evaluation-related policies will not impact, complicate, or frustrate the utilities' existing EE program offerings to consumers.

2. AG Position

The AG supports continued operation of the SAG for the duties listed in AG Ex. 1.0 at 52. The AG notes that the SAG process to date has fostered dialog, collaboration, education on key issues relating to efficiency, and opportunities to comment upon and inquire about new and modified programs. The AG applauds Ameren's participation in the SAG, which has included open and transparent information sharing in response to stakeholder inquiries, active participation, and willingness to thoughtfully and productively engage with all stakeholders in a public forum.

That being said, the AG requests that the Commission direct Ameren to continue participating in the SAG for the duties listed above and in this testimony, consistent with prior orders that established the SAG, and more recent orders that outline a clear role for SAG in the evaluation of utility programs through the TRM process. In addition, the AG requests that the Commission direct Ameren to work with the SAG on the following tasks:

> - Improving the evaluation, measurement and verification (EM&V) process so that reports are produced in a timely fashion to inform TRM and NTG updates;
>
> - Providing SAG input to draft EM&V plans so that SAG participants can recommend information and data that is gathered and produced through the EM&V process;
>
> - Providing written quarterly reports to the SAG no later than forty-five (45) days after the close of the quarter that contain program and portfolio-level accomplishments (kWh, kW, therms) relative to goals, program and portfolio-level expenditures relative to budget forecasts, any fund shifts greater than 20% of program budgets, expenditures on administrative costs, EM&V costs and marketing and outreach costs; and
>
> - An Illinois Energy Efficiency Policy Manual, designed to streamline and encourage consistency on various program-related policies for review and approval by the Commission.

AG Ex. 1.0 at 52.

The AG notes that Staff objects to the notion of the creation of a policy manual; while AIC witness Goerss expressed similar hesitancy to endorse the project, however he did indicate that AIC commits to discussing with other SAG members whether there would be a need for such a policy manual in the future. Ms. Hinman argued that the proposal was vague, could be the source of contention and would impose additional time commitments on the SAG. The People find this sentiment surprising, given discussions that occurred and agendas proposed in recent SAG meetings that referenced the establishment of such a manual through upcoming SAG meetings.

It appears to the AG however, that cross-examination of Ms. Hinman revealed that she believes there is great benefit and usefulness in creating consistent approaches in evaluation processes, identification of common cost definitions and application of cost-effectiveness evaluation principles among the various utility and DCEO efficiency programs. The AG notes that Ms. Hinman also acknowledged that currently, for example, different approaches by evaluators have created inconsistent evaluation results among utility and DCEO programs. .

The AG states that the goal of the establishment of a Policy Manual would be to ensure that evaluators and program administrators play for the various utility service territories and customer bases play by the same rules in terms of monitoring savings achieved and evaluating programs. The AG notes that currently, the utility and DCEO Program Administrators and their individually selected evaluators at times play by different rules, as acknowledged by Ms. Hinman. For these reasons, the AG urges the Commission to include within its Order in this docket specific direction for the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

The AG says noted that, although it disagrees with creation of a policy manual at this time, Ameren leaves the door open to future implementation of a policy manual through a stated commitment to discussing the future need for such a policy manual with other SAG members.

3. AIC Position

Ameren agrees with Staff that the Commission should reject AG's proposal regarding the development of an energy efficiency Policy Manual. It is unclear to Ameren what issues the policy manual would be meant to address and Ameren Illinois is concerned with the level of resources that would have to be spent on the development of a statewide manual. However, Ameren commits to discussing with other SAG members whether there would be a need for such a policy manual in the future.

AIC states Staff injects into this section of the brief a request to have EM&V evaluators work with other evaluators to reach consensus on the best approaches to assessing NTG in residential and non-residential markets. Ameren contends this belated recommendation should be disregarded. Ameren argues if not, as the Commission can take due notice, Ameren's service territory is different than ComEd's or Nicor's or Peoples/North Shore gas companies. AIC says the fact that EM&V evaluators independently determine that those different markets require different approaches to calculating spillover and free ridership should not be a surprise. AIC contends nor should the fact that Ameren Illinois' EM&V budget, which is based on a percentage of throughput, is less than ComEd's, which has a concentrated level of customers and higher throughput. AIC claims even Staff recognizes these differences in its Initial Brief, even though Staff uses these differences as a basis for its frustration in not being able to "get the evaluators to use consistent methodologies."

AIC suggests perhaps Staff should not be trying to influence independent evaluators to "get" them to do anything. AIC says the EM&V evaluator should remain independent from all parties' opinions, not just the utility's. Ameren asserts forced consistency in NTG methodology could result in more harm than good. AIC also says EM&V budgets differ from utility to utility, which can also restrict the types of methodologies that can be used.

4. Commission Conclusions

The AG proposes the development of an Energy Efficiency Policy Manual. The AG states that the goal of the establishment of a Policy Manual would be to ensure that evaluators and program administrators play by the same rules in terms of monitoring savings achieved and evaluating programs. The AG states that currently, the utility and DCEO Program Administrators and their individually selected evaluators at times play by different rules. For these reasons, the AG recommends the Commission include within its Order specific direction for the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated. In its Reply Brief, Staff supports the AG's proposal.

Ameren believes the Commission should reject the AG's proposal regarding the development of an Energy Efficiency Policy Manual. It is unclear to Ameren what issues the policy manual would be meant to address and Ameren is concerned with the level of resources that would have to be spent on the development of a statewide manual. Ameren commits to discussing with other SAG members whether there would be a need for such a policy manual in the future.

It appears to the Commission that Staff and Ameren's initial objections to the development of an Energy Efficiency Policy Manual were due to the lack of specificity in the AG's proposal. This appears to have been a valid concern. The Commission believes that the AG's clarified proposal is specific, addresses an inconsistency between utilities in Illinois that may warrant attention, and is reasonable. As a result, to the extent possible, the Commission directs the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

C. Aligning the Timing of the Application of the Net to Gross Framework and Illinois Technical Reference Manual

Staff notes that AG witness Mosenthal requests that the Commission direct AIC to work with the SAG on improving the evaluation, measurement and verification (EM&V) process so that [the Evaluators reports are produced in a timely fashion to inform TRM and NTG updates. Staff agrees with this concept and in fact Staff has been working to encourage the Evaluators to deliver EM&V reports concerning TRM and NTG updates in a more timely fashion. Accordingly, rather than the Commission directing AIC to work with the SAG concerning this evaluation timing issue as requested by Mr. Mosenthal, Staff recommends the Commission resolve the matter in this docket and adopt the workable timelines suggested by the Evaluators for TRM and NTG updates such that AIC can have those incorporated in its evaluation contracts after approval of the Plan.

Staff suggests that one of the apparent drivers of the date the NTG results are produced is the date the Evaluators finally receive the final EE program tracking system information from the utilities after the program year has ended. Since the finalization of the tracking system for the non-residential programs apparently takes longer than for residential programs, producing the NTG results for the non-residential programs also takes longer, namely December 1 for non-residential programs and November 1 for residential programs, which Staff believes supports why a two-track approach for the NTG updates is appropriate. Because final tracking system information is not needed for updating the TRM, Staff notes the Evaluators suggest that the annual TRM Update Process can begin much earlier (i.e., July 1, with much of the work due from the Evaluators on August 1 and October 1) than the process for updating NTG ratios (November 1 for residential NTG ratios and December 1 for non-residential NTG ratios).

Importantly, all of the utilities' Evaluators have worked together and recently produced a single set of suggested timelines that could work well in updating the deemed values for both the TRM and NTG ratios on an annual basis for Illinois. Thus, for the sake of resolving the issue raised by the AG in this docket which would free up limited SAG resources for addressing unresolved matters that actually require SAG's attention, the Commission should adopt the Evaluators' suggested EM&V schedules for TRM and NTG updates as set forth in Staff Ex. 1.2.

Staff believes it is inappropriate for AIC to request the Commission override its recent Order in Docket No. 13-0077, which states that "[i]n the unlikely event that a Consensus TRM is approved by the Commission after June 1, the values therein shall be applied retrospectively to June 1 of the relevant program year given the consensus nature of the document." Staff believes the Commission should reject AIC's proposals.

According to Ameren, the technical values comprise the TRM, which is supposed to be updated by March 1 of each year. Ameren proposes to align the current framework used to set "NTG ratio values so that NTG ratios are updated on the same schedule as TRM values on or by March 1st.

The AG requests that the Commission direct AIC to work with the SAG on improving the evaluation, measurement and verification process so that the Evaluators reports are produced in a timely fashion to inform TRM and NTG updates.

To free up limited SAG resources for addressing unresolved matters that actually require SAG's attention, Staff recommends the Commission adopt the Evaluators' suggested EM&V schedules for TRM and NTG updates as shown below:

<u>TRM Updates</u>

- July 1st: the TRM Technical Committee informs the evaluators and others which measures are high or medium priority measures, for which work papers need to be prepared.
- August 1st: updates to existing measure work papers to clarify terms or approaches will be completed.
- October 1st: completely new work papers for new measures will be completed.

<u>NTG Updates</u>

- November 1st: draft residential NTG estimates will be completed for the program year that ended May 31st.
- December 1st: draft commercial/industrial NTG estimates will be completed for the program year that ended May 31st.

Of the three proposals in the record, the Commission finds Staff's proposal least objectionable and it is hereby adopted for purposes of Ameren's Plan 3.

D. Portfolio Flexibility

1. Staff Position

Staff believes it is critical that AIC is granted the flexibility to prudently respond to changing circumstances over the course of the Plan, and suggests that AIC include a discussion of how it uses its flexibility in its quarterly ICC activity reports submitted to the Commission. Staff supports AIC's flexibility request in this regard only if the Commission explicitly requires the following: (1) AIC is directed to prudently respond to changes (e.g., TRM, NTG, market) in the implementation of its programs; (2) AIC is directed to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals; (3) AIC is directed to avoid over-promoting cost-ineffective measures so as to help ensure participation of these cost-ineffective measures does not exceed expectations; (4) AIC is directed to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation; and (5) AIC is directed to explain how it responds to TRM, NTG, and other changes in its quarterly ICC activity reports it will file with the Commission in this docket. Staff notes that the Commission denied to impose limits on AIC's request for flexibility in previous Plan dockets based on the information available at that time.

Staff notes that the Plan 2 Order states:

> Ameren requests that the Commission grant it the flexibility to adjust all portfolio elements as need to achieve portfolio success. Staff supports Ameren's proposal, which it says proved successful in the first plan. While both the AG and NRDC-ELPC generally support the concept that Ameren should be granted flexibility, they recommend restrictions on Ameren's flexibility. As discussed elsewhere in this order, the SAG has proved quite effective thus far and Ameren insists it is committed to continued participation in the SAG. Additionally, it does not appear that any party is suggesting that Ameren has abused the flexibility that the Commission has thus far granted it. Were Ameren to abuse the flexibility granted it, the Commission would, of course, take steps necessary to address such a situation. Given the that Ameren is ultimately responsible for achieving portfolio success, and the other circumstances present, it is not clear that the limitations on Ameren's flexibility proposed by the AG or NRDC-ELPC are necessary, at this point in time. The Commission once again grants Ameren the flexibility to administer its programs in the same manner and subject to the same requirements that it has been granted to administer its previous plans. (See, Final Order, Docket No. 07-0539, Order at 26, (Feb. 6, 2008)) The Commission believes the level of flexibility granted in Plan 1 is sufficient to address Intervenors' concerns and therefore approve the same level of, and application of, flexibility as granted in Docket No. 07-0539.

ICC Order Docket No. 10-0568 at 86 (Dec. 21, 2010).

Staff states that AIC cites to past Orders supporting flexibility, suggesting that AIC has not abused this flexibility. Staff, however, believes that AIC has not used this flexibility prudently, particularly in the addition of cost-ineffective measures to Plans after the plans were approved. Accordingly, Staff recommends the Commission direct AIC to follow certain directives, as outlined above and further discussed below, during the implementation of its Plan.

In order to ensure ratepayers receive the net benefits they deserve, Staff suggests the Commission order AIC to limit the participation of cost-ineffective measures to no more than the levels proposed in its Plan and to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation. Currently, AIC's request for flexibility includes the ability to add new measures to the Plan during implementation, without providing the Commission with the cost-effectiveness screening results for such measures in its quarterly ICC activity reports. Staff believes AIC should be required to provide the cost-effectiveness screening results in the quarterly ICC activity reports to ensure the Company is transparent regarding the addition of new EE measures to its Plan. Staff asserts this additional transparency will help ensure the Company does not add cost-ineffective measures to the Plan after Commission approval to the detriment of ratepayers.

AIC's stated purpose of its request for flexibility is to enable the Company to achieve its savings goal and maximize cost effectiveness; however Staff submits that this stated purpose of maximization of cost effectiveness seems inconsistent with AIC's position against Staff's proposal. As AIC witness Goerss states:

> Ameren Illinois already files quarterly reports with the ICC that include key activities, key concerns, and activity reports for each of the programs being implemented. To the extent Staff seeks Ameren Illinois to continue to provide this level of detail during Plan 3, Ameren Illinois agrees to do so. It is unclear what else Staff would like included in the reports, as Ameren Illinois uses its Commission-approved flexibility when either modifying its portfolio or maintaining it.

(Ameren Ex. 6.0, 20.)

Staff submits that AIC's existing quarterly ICC activity reports have not sufficiently explained changes to the portfolio, nor have they documented AIC's decisions to exercise this flexibility. The Commission should order AIC to limit the implementation of the other cost-ineffective measures included in the Plan filing to the participation estimates included in the Plan.

Staff believes its proposal is consistent with limitations on flexibility in past Commission Order in Docket No. 10-0564 wherein the Commission required the utility (Integrys) to obtain Commission approval before shifting funds greater than specified percentages. While the Commission did not impose the exact same restrictions on AIC's flexibility in terms of obtaining Commission approval in previous Plan filings, Staff claims this Plan 3 filing is different from the previous two Plan filings because AIC is not planning to meet either the gas or electric unmodified energy savings targets.

Staff asserts while AIC states that past Commission Orders direct evaluating the TRC test at the portfolio level, it is important to note that the Commission has also seen the merit in evaluating the TRC test at other levels, and in fact the Commission never prohibited evaluating the TRC test at the measure or program level and explicitly found that the utilities and DCEO are not precluded from applying the TRC test at the measure or program level.

Staff believes the Commission should reject the argument that evaluating cost-effectiveness at the measure level is too restrictive because the current modeling of the TRC test excludes important benefits in the analysis and if such benefits were included then certain measures currently forecasted as cost-ineffective would likely be cost-effective if remodeled with additional benefits. According to Staff, this argument is not applicable in this case because AIC explicitly added significant benefit adders to its avoided costs in the modeling of cost-effectiveness in this Plan, which makes it far easier for measures to pass the TRC test and screen as cost-effective.

If the measures are unable to pass cost-effectiveness screening even with such significant benefit adders as AIC included, then Staff believes the measures should not be offered, or should be offered subject to certain limitations. Staff asserts AIC has not met its burden of proof for why the cost-ineffective measures included in the Plan should be allowed to exceed the forecasted participation.

Staff recommended that AIC be granted flexibility to increase net benefits for ratepayers. AIC opposes Staff's proposal. Despite Staff's clarifications to AIC concerning its recommendation, Staff claims AIC ignores these responses and completely mischaracterizes Staff's recommendation. Staff indicates its recommendation in this regard does not restrict modifications to those measures that have the highest TRC ratio. Staff asserts its recommendation provides AIC with the overarching policy goal to increase net benefits for ratepayers that AIC should keep in mind when it makes changes to its portfolio.

In its Reply Brief, Staff attempts to clarify its position. Staff says it recommended AIC provide the TRC screening results for any new measures AIC decides to add to its Plan during implementation. Staff believes this proposal is necessary in order to ensure the Commission is informed of the TRC results for measures that are not forecasted to be implemented during Plan 3. Staff says the Commission requires that a utility indicate the forecasted TRC of all measures and programs that are to be implemented under its proposed plan. Staff believes, logically it follows that in exercising the flexibility the Commission grants to it, a utility should also apprise the Commission of the TRC values of measures that it implements in the future which are not indicated in this plan filing. If AIC is allowed to implement new measures without providing the Commission this information, Staff says the Commission's authority in approving the plan may be undermined. Staff is surprised that AIC's request for flexibility is accompanied by an unwillingness to provide the Commission with transparency and insight into its decision-making process. Staff claims its recommendation that TRC values should be included for new measures is not any more burdensome upon the Company than the Commission's requirement that the TRC values be provided for review of the Plan filing. In light of the vast flexibility that the Company is requesting the Commission grant it, Staff believes its recommendation is reasonable, and should be adopted.

2. NRDC Position

NRDC notes that AIC 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. NRDC states that AIC 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's direct testimony suggests that this flexibility should extend to changing program targets as well.

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, NRDC avers that 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. NRDC believes that to grant such broad flexibility would be to render this process largely moot.

NRDC witness Grevatt and AG 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. Mr. Mosenthal suggests 20 percent, while Mr. Grevatt suggests 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." NRDC notes that both witnesses suggested that larger changes should be contingent on a stakeholder process and/or Commission approval.

NRDC notes that AIC witness Obeiter disagrees, suggesting that such a limitation would be unduly burdensome. However, NRDC suggests that 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.

According to NRDC, Ameren states that NRDC is concerned that these flexibility measures might allow Ameren to "game the system." NRDC finds this attribution perplexing because NRDC has never raised a concern that Ameren might "game the system." Instead, NRDC says it has raised concerns that if the Commission adopted the positions espoused by Ameren, the system itself would be designed to produce lackluster outcomes. NRDC urges the Commission to allow for flexibility within reasonable limits, but to ensure that the rules it sets will align Ameren's behavior with the goal of maximizing the cost-effective energy efficiency achieved by the programs.

3. AG Position

The AG notes that Ameren has proposed it be granted unlimited flexibility to modify its Plan 3 as it chooses, so long as it is consistent with any clear statutory or regulatory rules (e.g., that budgets do not exceed the budget cap). Specifically, Ameren witness Goerss states that AIC seeks the flexibility to adjust all portfolio elements (program budgets, goals, incentives, etc., in addition to stopping and starting programs) as needed to achieve portfolio success. As noted by AG witness Mosenthal, it appears that Ameren is asking for unilateral permission to make these changes as it sees fit without any stakeholder or Commission approval. While the AG generally supports the concept of providing flexibility to Program Administrators in the delivery of energy efficiency measures, the AG believes AIC's request exceeds what could be called a reasonable amount of latitude, however this request is fat too broad and possible allows Ameren to game the system.

Mr. Mosenthal noted that in the past, the legislature had established goals and budgets, and if Ameren found better and more effective ways to meet the goals while still achieving broad policy objectives, this flexibility was appropriate. However, now that the budget constraints are drastically limiting the goals selected, allowing unfettered flexibility simply all but guarantees Ameren can easily meet virtually any goal that might be set simply by shifting from more expensive to less expensive programs.

The AG states that Ameren is requesting this flexibility at the same time it is proposing goals that are drastically modified downward from those originally intended in the legislation, due to the Section 8-103 budget cap limits. In addition, the AG suggests that Ameren is proposing a relatively balanced portfolio of programs that does not simply strive to hit the highest goals possible, but rather to spend additional funds for longer lived and more expensive resources, to meet other policy objectives – an approach that is widely supported among the witnesses in this docket and in the SAG. However, Ameren is asking the Commission to approve significantly downward modified goals based on this specific plan and allocations of resources among different programs with widely varying costs per unit of savings.

The AG asserts that the effect of this approach makes clear that the cost per unit of savings varies dramatically from one program to the next. The AG notes that the behavioral program accounts for only 5.5% of the budget yet captures 32.2% of the MWh savings, and 50.1% of the gas MMBTU savings. Clearly, if Ameren had proposed more of the cheapest programs and less of the more expensive programs it would have proposed much higher overall goals within the budget cap.

The AG suggests that this points to one glaring problem with Ameren's unfettered flexibility proposal: if hypothetically, the Commission approves Ameren's proposed goals based on this planned program mix, and then Ameren chose to shift significant funds from relatively expensive programs to relatively inexpensive programs, it would make Ameren's job of meeting goals far easier. Effectively, it would be pursuing a different, cheaper plan than the one approved by the ICC. With unlimited ability to shift funds, Ameren is virtually guaranteed it can easily meet any approved goal simply by shifting more effort to the cheapest programs. Because the budget cap constraints prevent Ameren from pursuing all cost-effective efficiency resources in each market, they have significantly more flexibility to ramp up the least expensive programs.

As an alternative to Ameren's extreme proposal, AG witness Mosenthal suggested the ICC establish some limits on flexibility. While these limits would not prevent Ameren from exceeding them should they so choose, it would trigger goal adjustments similar to what Ameren is proposing for NTG adjustments. Specifically, he proposes that any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustments. In other words, the AG states that Ameren could under spend 10% in one program and overspend 15% in another program with no adjustments; however, if it were to shift resources beyond the 20% benchmark, then goals would be modified accordingly. Mr. Mosenthal notes that this can work in Ameren's favor if it is having success with an expensive program and want to shift funds into it from a cheaper program.

The AG suggests it is important to note that Mr. Mosenthal's proposed 20% budget shift per program limit is consistent with direction given to the SAG in Ameren's first Plan order that the stakeholder process should review any program budget shifts where the change is more than 20%. Finally, Mr. Mosenthal recommended that the Commission order Ameren to first bring any proposed modifications to the SAG for discussion and ideally to build consensus around the change, which the AG believes should happen whether or not the 20% limit is exceeded, but is particularly important for big changes. The AG notes the SAG has proven to be an effective sounding board to allow various stakeholders to provide input and ultimately help build support for the programs and provide the program administrators with an added level of security in knowing if any stakeholders have major concerns prior to any after-the-fact litigation. .

While AIC witness Goerss opines that any requirement to consult or seek approval from the SAG or the Commission would unfairly restrict Ameren from timely responding to market changes; the AG avers that this argument misconstrues Mr. Mosenthal's recommendation, and impinges on the goals of seeking maximum achievement of energy savings goals through a collaborative process.

The AG submits that Mr. Mosenthal made clear that he was not suggesting that the SAG should have the authority to overrule a program administrator decision. Rather, the SAG involvement is designed to ensure that all stakeholders are aware of proposed changes and that Ameren has the opportunity to consider differing points of view prior to any final decision. In the event that a modification does require a modified goal, it can also reduce contentious litigation by ensuring all parties reach consensus on the exact amount to modify goals.

For all of these reasons, the AG proposal to limit flexibility such that any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustments should be adopted by the Commission. Further, the Commission should enter an Order that makes clear that utilities should continue to bring all proposed program shift proposals to the SAG for input and comment.

The AG says Ameren primarily argues that any requirement to consult or seek approval from the SAG or the Commission would unfairly restrict Ameren from timely responding to market changes. The AG believes this argument misconstrues Mr. Mosenthal's recommendation, however, and impinges on the goals of seeking maximum achievement of energy savings goals through a collaborative process. The AG agrees that a certain level of flexibility is necessary to respond to market and program changes. According to the AG, the amount of flexibility that Ameren requests is no longer an asset to the marketplace, it becomes a liability because it is overly broad and it fosters an ability to "game the system."

The AG indicates Ameren also suggests that seeking some level of SAG or Commission approval would prevent it from making timely changes in order to respond to market conditions. The AG says it made it clear that such approval would only be necessary in situations where any program budget shifts would result in a change of more than 20%.

4. CUB Position

CUB notes that the AG and NRDC both recommend that Ameren have some flexibility to change its programs and measures but both express concerns that what Ameren has requested is too great. NRDC states that the flexibility Ameren is requesting could allow the Company to reduce its Plan savings targets without Commission approval. While CUB acknowledges that Ameren has done a good job of running a multi-faceted portfolio of programs that reach diverse customer classes in previous years, CUB also believes the Commission should safeguard against policies that would allow Ameren to heavily invest in the cheapest programs at the expense of more expensive programs with longer and more significant savings. For example, under Ameren's proposal, the Company could shift funding from the moderate income multifamily program, which has a TRC of 1.14, to the Standard CFL program, which has a TRC of 1.98, because the CFL program is cheaper. However CUB submits that this would mean that moderate income multifamily customers, an important customer sector to reach, would have fewer offerings available to them, and overall, the portfolio would include fewer offerings with deeper and longer savings.

CUB recommends the Commission adopt the AG's following proposal:

> "Any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustment. In other words, Ameren could under spend 10% in one program and overspend 15% in another program with no adjustments. However, if it were to shift resources beyond the 20% benchmark, then goals would be modified accordingly."

The Commission should also adopt the AG’s proposal for Ameren to discuss proposed program and budget changes with the SAG. CUB believes these recommendations strike a balance between providing Ameren with the necessary flexibility to manage the portfolio while still ensuring that the Company administers the programs approved in this Plan in the manner approved in this Plan filing and comes as close as possible to meeting the statutory annual incremental goals.

5. AIC Position

Ameren seeks the flexibility to adjust all portfolio elements (program budgets, goals, incentives, etc., in addition to stopping or starting programs) as needed to achieve portfolio success, as it has been granted in previous Plan orders. Ameren notes that Staff and Intervenors recommend that the Commission impose limits on Ameren Illinois’ flexibility, but, importantly all parties agree flexibility is crucial for portfolio success.

Ameren states that it does not seek unfettered flexibility, rather it only seeks the flexibility to adjust portfolio elements (program budgets, goals, incentives, etc., in addition to stopping or starting programs) as needed to achieve portfolio success. Such flexibility 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 believes it should have the authority to make these or other similar modifications to its programs without the requirement to create litigation and obtain pre-approval from the Commission and without seeking possibly difficult to obtain consensus and ambiguous approval from other parties (even SAG membership is undefined and can be conflicted at times). Granting Ameren this flexibility to modify programs will allow for rapid deployment of improvements in program design and program implementation in each program year. Further, allowing the Company to have such flexibility will allow the Commission and the resources of other parties to focus on more important issues.

6. Commission Conclusions

The AG and CUB recommend the Commission adopt specific limits on Ameren's flexibility to change its programs and measures. Specifically, they recommend that any shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustment. CUB also supports the AG’s proposal for Ameren to discuss proposed program and budget changes with the SAG.

Ameren opposes the AG and CUB's recommendation. AIC claims the flexibility it seeks is not unlimited because it is still under an obligation to act reasonably and prudently to be able to recover the costs of its energy efficiency and demand response programs. AIC also says if any party disagrees with a change that it makes, that party can petition or seek redress from the Commission.

Staff supports AIC's flexibility request in this regard only if the Commission explicitly requires the following: (1) AIC is directed to prudently respond to changes (e.g., TRM, NTG, market) in the implementation of its programs; (2) AIC is directed to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals; (3) AIC is directed to avoid over-promoting cost-ineffective measures so as to help ensure participation of these cost-ineffective measures does not exceed expectations; (4) AIC is directed to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation; and (5) AIC is directed to explain how it responds to TRM, NTG, and other changes in its quarterly ICC activity reports it will file with the Commission in this docket.

Staff notes the Commission declined to impose limits on AIC's request for flexibility in previous Plan dockets based on the information available at that time. Staff believes that AIC has not used this flexibility prudently, particularly in the addition of cost-ineffective measures to Plans after the plans were approved.

The parties agree that Ameren should have flexibility to change its programs and measures. The Commission must decide what, if any, restrictions should be placed on Ameren's flexibility. In the past, the Commission has rejected the suggestions that specific restrictions should be placed in AIC's flexibility. It appears to the Commission that Staff has raised some valid concerns with Ameren's past practices in its exercise of this flexibility. While the Commission does not endorse each issue raised by Staff, the Commission shares some of Staff's concerns regarding Ameren's past practice may impinge on ratepayers receiving the net benefits they deserve.

It appears to the Commission that Ameren has identified some potential shortcomings in the limitations proposed by the AG and Staff. Despite these potential shortcomings, the Commission finds that it is necessary to impose some limitations on Ameren's flexibility to protect ratepayers. The Commission believes that Staff's event based limitations are more appropriate than the AG's proposed budget based limitation. As a result, the Commission is compelled to adopt the limitations proposed by Staff.

E. Application of Total Resource Cost Test

1. Staff Position

AIC's request concerning maintaining a positive portfolio level TRC is described by AIC witness Robert D. Obeiter:

> [W]ith respect to my testimony on allowing flexibility to make programmatic changes, I believe that program administrators should be accountable at the portfolio level to ensure cost effectiveness. Therefore, it should be

> Ameren Illinois' object to maintain a positive portfolio TRC, rather than do so at the measure or even program level.

Ameren Ex. 5.0, 34:727-733

AIC notes that its Plan states:

> As a result of these factors, in addition to the status of program development and implementation, a measure or program level TRC is subject to significant changes in cost-effectiveness. AIC formally requests that the Commission recognize this fluctuation, and that planning estimates may prove inaccurate, and reaffirm its determination from the Plan 1 and 2 Orders whereby it is the utility's objective and accountability to maintain a portfolio level positive TRC regardless of measure or program level TRC.

(Ameren Ex. 6.1, 51-52)

Although the term "accountability" is used in AIC's Plan, Staff suggests that AIC is not requesting to be held accountable for ensuring the portfolio is cost-effective. Staff states that it is clear that a minimum requirement of Plan approval is that the portfolio has to pass the TRC test in order to be approved by the Commission, and it is this requirement that the Commission has confirmed in past Orders. Staff believes that adding cost-ineffective measures and programs increases the risk that the portfolio will be cost-ineffective and will not provide net benefits to ratepayers, thereby increasing the risk that the policy objectives set forth in the EE statutes to reduce direct and indirect costs to consumers will not be achieved. Indeed, a key portfolio objective was to incorporate cost-effective programs and a key modeling assumption was to screen all measures for the TRC test.

In order to ensure the portfolio is cost effective and produces the net benefits to ratepayers envisioned by the EE statutes, Staff suggests AIC should stay apprised of and respond prudently to information concerning measure and program level cost-effectiveness during the course of implementing its portfolio to help ensure net benefits are maximized for Illinois ratepayers within the constraints of the other requirements set forth in statute. Staff recommends that the Commission order AIC to do so.

Staff notes that AIC's Plan includes some measures that do not pass the TRC test, but all programs pass the TRC test, and the planned portfolio also passes the TRC test. Staff states that including cost-ineffective measures within EE programs increases the risk that the entire portfolio may become cost-ineffective. While Staff concurs in principle with the AG's proposal concerning reasons to allow AIC to pursue certain proposed non-cost-effective measures in its Plan; nevertheless, the addition of a cost-ineffective measure serves to reduce net benefits to ratepayers and this makes it more difficult for the policy objectives set forth in the EE statutes to be realized (i.e., direct and indirect costs to consumers shall be reduced through investment in cost-effective EE measures). Staff notes that Section 8-103(a) of the Act states:

> It is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load. Requiring investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure. It serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures.

220 ILCS 5/8-103(a).

Similarly, Section 8-104(a) of the Act states:

> It is the policy of the State that natural gas utilities and the Department of Commerce and Economic Opportunity are required to use cost-effective energy efficiency to reduce direct and indirect costs to consumers. It serves the public interest to allow natural gas utilities to recover costs for reasonably and prudently incurred expenses for cost-effective energy efficiency measures.

220 ILCS 5/8-104(a).

Staff suggests that two of the approximately fifty cost-ineffective measures AIC proposed in its initial Plan filed as Ameren Ex. 1.1 were forecasted to reduce ratepayer welfare by over $1 million each based on AIC's forecasted participation estimates: Furnace 97% AFUE [-$1,123,441=(-$609x1,845)] and Interior LED Lamps and Fixtures [-$1,590,364]. Staff notes that AIC has no plans to limit participation for cost-ineffective measures, which is important because AIC's proposed Residential HVAC Program (which contains the cost-ineffective Furnace 97% AFUE measure among other measures) was barely forecasted to be cost-effective with a TRC benefit-cost ratio of 1.01 in AIC's original filed Plan. Thus, Staff opines that the HVAC program could easily become cost-ineffective if AIC's participation estimate for the Furnace 97% AFUE measure is underestimated. Fortunately, in response to the AG's concerns, AIC has removed this measure from its Plan filed as Ameren Ex. 6.1 and the HVAC Program is now modeled with a TRC ratio of 1.18. Nevertheless, in order to ensure ratepayers receive the net benefits they deserve, Staff recommends the Commission order AIC to limit the participation of cost-ineffective measures to no more than the levels proposed in its Plan and to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation.

2. NRDC Position

NRDC is concerned that Staff will persist in its practice of asking the Commission to disallow recovery of program costs in any instance in which Ameren fails to discontinue a given measure or program that has been cost-ineffective during a part of a program year or plan cycle. While all parties agree that cost-effectiveness is critical and that the portfolio must be cost effective under the law, NRDC says there are often good reasons to continue a measure or program that has not been cost effective. For example, NRDC says Ameren may choose to continue a measure that is cost-ineffective during the first quarter of the year if it expects the program to be cost-effective over the full year or plan cycle, or if it expects the program to produce important market transformation results, or if it helps to establish a network of trade allies that will allow for greater levels of cost-effective savings over the long-term. If there are good reasons for continuing to promote a cost-ineffective measure or program, and if the portfolio remains cost-effective, NRDC believes the company should not be at risk for disallowance.

3. AIC Position

Ameren notes that the TRC test is a statutorily proscribed formula that relies heavily on subjective values that can change depending on who calculates them, when, and how. Accordingly, the TRC test is used for planning purposes using estimated and assumed values to determine whether measures, programs and the portfolio as a whole are cost-effective and should not be used as an exclusive dispositive test for measure implementation. Ameren states that each program in Plan 3 has been screened for program design purposes as passing the TRC cost-effectiveness test with a value greater than 1.0. Ameren opines that certain programs have a higher TRC than others, with Business Custom having the highest TRC in the Business portfolio and Residential Lighting having the highest TRC in the Residential portfolio; while the Ameren portfolio as a whole has an estimated total resource cost test benefit-cost ratio of 2.30.

4. Commission Conclusions

Although the term “accountability” is used in AIC’s Plan, Staff suggests that AIC is not requesting to be held accountable for ensuring the portfolio is cost-effective. Staff recommends that the Commission order AIC to stay apprised of and respond prudently to information concerning measure and program level cost-effectiveness during the course of implementing its portfolio to help ensure net benefits are maximized for Illinois ratepayers within the constraints of the other requirements set forth in statute.

NRDC expressed concern that Staff will persist in its practice of asking the Commission to disallow recovery of program costs in any instance in which Ameren fails to discontinue a given measure or program that has been cost-ineffective during a part of a program year or plan cycle.

It is not clear that there is a contested issue for the Commission to decide with regard to the TRC test. The Commission will hold Ameren accountable with regard to the prudence and reasonableness of its decisions. Also, the Commission fully expects AIC to stay apprised of and respond prudently to information concerning measure and program level cost-effectiveness during the course of implementing its portfolio to help ensure net benefits are maximized for Illinois ratepayers within the constraints of the other requirements set forth in statute. It is not clear what benefit, if any, would accrue from the Commission to explicitly directing Ameren to do so. As a result, the Commission declines to take any action with regard to this issue.

F. Aligning Savings Goals According to Changes in Values

1. Staff Position

Staff notes that AIC initially requested adjustment to savings goals based on "program changes" and "with any change in program design," however, due to the inherent problems associated with this component of its request, AIC has since withdrawn this component of its proposal. Staff states that AIC continues to request annual adjustments to savings goals based on Commission-approved IL-TRM and NTG changes, however Staff supports AIC's request in this regard only if the Commission explicitly requires the following: (1) AIC is directed to prudently respond to changes (e.g., TRM, NTG, market) in the implementation of its programs; (2) AIC is directed to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals; (3) AIC is directed to avoid over-promoting cost-ineffective measures so as to help ensure participation of these cost-ineffective measures does not exceed expectations; (4) AIC is directed to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation; and (5) AIC is directed to explain how it responds to TRM, NTG, and other changes in its quarterly ICC activity reports it will file with the Commission in this docket. If the Commission adopts this approach to adjustable savings goals, Staff suggests it should direct AIC to file a public version of the spreadsheet that demonstrates the savings forecasted in the approved Plan match the calculated savings in the spreadsheet listing all the measures with the associated IL-TRM measure codes.

It appears to Staff that AIC has attempted to comply with this requirement in its filing of Ameren Exhibit 7.1 (and electronically serving the spreadsheet version), however, the spreadsheet AIC filed is missing the TRM measure codes that form the basis for each of the measure assumptions. Staff avers that the TRM measure codes are necessary to include in such filing in order to transparently convey the version of the TRM measure that was used in AIC's calculations as some measures contain numerous inputs and it would be difficult for a party to determine which version of the TRM was used. In order to accurately track the changes to the savings goals and the reasons for the adjustments, Staff argues AIC needs to include the TRM measure codes next to each measure in its filing. In the alternative, should the Commission decline to adopt this approach to adjustable savings goals, the Commission should still adopt the five directives outlined above.

Staff notes that certain parties oppose annually adjusting AIC's savings goals based on NTG and TRM changes, and it appears the main concerns of the parties relate to (1) AIC will not make prudent program adjustments; (2) AIC will not spend leftover funds on additional cost-effective energy efficiency once it reaches the modified energy savings goals; and (3) AIC's proposal would be excessively burdensome to administer.

As noted, the basis of many parties' concerns is that AIC will not make prudent program adjustments based on the revised TRM and NTG ratios if the savings goals are also allowed to adjust. Staff shares this concern, and indicated in testimony that Staff would only support annual adjustments to savings goals based on TRM and NTG changes if the Commission explicitly required that AIC be held accountable to prudently respond to such changes in the implementation of its programs. Further, Staff suggests that directing AIC to explain how its responds to changes in its quarterly ICC activity reports it files with the Commission will increase transparency to help ensure AIC is prudently responding to such changes.

Staff notes that another concern parties have with respect to annually adjusting AIC's savings goals is that it will make it extremely easy for AIC to achieve the modified goals and that once AIC achieves those modified goals, AIC will shut down programs mid-year and not spend all the budgeted funds on cost-effective EE measures and deprive Illinois customers of the benefits they deserve. If the Commission approves goals in this proceeding for which AIC must strive hard to achieve, then any change in goals resulting from changes in NTG and TRM values will still result in modified goals that AIC must strive hard to achieve. Additionally, Staff states that AIC is at risk with respect to ensure program participation is sufficient to achieve modified goals. Staff submits that adoption of Staff's recommendation concerning the Commission directing AIC to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified goals should completely eliminate the parties' concerns in this regard.

Several parties claim that AIC's proposal to annually adjust savings goals would be excessively burdensome to administer. Staff agrees that the component of AIC's proposal to annually adjust savings goals based on subjective changes to program design would be excessively burdensome to administer and it is much more subject to gaming. This component of AIC's proposal seems somewhat comparable to the AG's proposed flexibility limitations. As noted above, AIC has withdrawn this component of its proposal. Staff believes that annually adjusting the savings goals based strictly on changes to the IL-TRM and NTGRs is administratively easy to implement as it involves simply changing an assumed NTG or TRM value in a spreadsheet to calculate the revised goals. If the Commission adopts this adjustable savings goal approach, Staff recommends that the Commission direct AIC to file a public version of the spreadsheet that demonstrates the savings forecasted in the approved Plan match the calculated

savings in the spreadsheet listing all the measures. The Commission-approved changes to the IL-TRM and NTGRs would be the values that change in the spreadsheet annually. The Commission should direct AIC to file the revised spreadsheet containing the changes to NTG, IL-TRM values, and savings goals in this docket no later than May 1 of each program year in advance of those values taking
effect on June 1. To the extent the NTG ratio is unavailable by that date; the Commission should direct the Company to file a revised spreadsheet once the changed NTG ratio is known.

In ComEd's Plan 2 Docket No. 10-0570, the Commission agreed with a stipulation entered into by all parties that modified the savings goals such that they would adjust annually based on changes in the NTG ratio for its residential lighting program and for other reasons. Staff notes that the Commission found that the provisions of the stipulation were consistent with Section 8-103 of the Act, reasonable, and in the public interest, and specifically that it was appropriate and reasonable "to provide that the goals be adjusted should certain revenues either not materialize or be greater than expected[.]" ICC Order Docket No. 10-0570 at 35-36 (Dec. 21, 2010). Given the Commission has previously found that annual modification of savings goals is consistent with Section 8-103 of the Act, Staff suggests the Commission should approve adjustable savings goals in this docket subject to the conditions described herein. Staff asserts that it is critical that the Commission adopts this approach such that AIC's incentive to annually oppose changes to the IL-TRM and NTG ratios that reduce savings will be eliminated and the deemed values will reflect the best estimates of savings and provide the proper incentives for spending ratepayer funds in Illinois. Staff believes that adoption of this approach will also reduce litigation in the annual IL-TRM Update proceeding and facilitate reaching consensus on the annually Updated IL-TRM.

2. NRDC Position

NRDC notes that 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, however NRDC opposes this proposal. NRDC suggests that 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. NRDC opines that under Ameren's proposal, the company would have no incentive to design programs that minimize free ridership, which in turn maximizes ratepayer benefits.

Although Staff suggests that NRDC's concern should be minimized if the Commission required that AIC be held accountable to prudently respond to such changes in the implementation of its programs; NRDC asserts that 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, NRDC avers that it will be sending a strong signal to the company that it need not make otherwise prudent adjustments to maintain progress toward savings targets. NRDC suggests 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.

While AIC states that there is no 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, NRDC is instead concerned that the 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.

3. AG Position

In its quest to gain even more certainty in achieving its Commission-approved savings goals, Ameren has proposed that savings goals be adjusted based on any changes in NTG values, realization rates and TRM values in future years. These proposed policies should be rejected for several reasons.

As explained by AG witness Mosenthal, NTG values can be highly influenced by program administrator actions, such as program mid-course corrections, and this would remove any incentive for utilities to strive for higher NTG values and to make appropriate program changes when NTG values are becoming increasing low. For example, the utility would be indifferent if their assumed CFL NTG value of 0.44 dropped to 0.05 because its goals would simply be adjusted to accommodate this unfortunate outcome.

Instead, the AG believes a utility should have a clear incentive to forecast likely NTG results and make program changes as necessary to ensure it is not expending resources inappropriately on things that are largely transformed in the market already. In this scenario, for example, Mr. Mosenthal noted that the utility should raise eligibility requirements, perhaps shift the CFL promotion to LEDs or only specialty bulbs, consider targeted approaches to reach non-free riders, or perhaps discontinue the program altogether. The AG notes that Ameren is asking for this sort of flexibility, and with the diverse portfolio of programs and measures it is proposing, it has ample opportunity to make annual modifications to their Plan to accommodate newly determined (but applied only prospectively) NTG values and still meet the Commission-approved goals. Further, while Ameren should anticipate likely shifts in NTG values over time and act on these forecasts, adoption of the proposed NTG framework also ensures that utilities will have 90 days prior to each program year start to make changes once the values are certain.

The AG states that Ameren also proposes that goals be adjusted based on changes to realization rates, which should also be rejected. The AG suggests that realization rates reflect the ratio of gross savings that a utility has tracked and estimated to the actual estimated gross savings from impact evaluations, and this variance in gross savings can come from a number of things, including utility errors in its database, failure to accurately apply the agreed upon TRM values, or other factors that are generally in control of the utilities and/or their contractors. As a result, realization rates going forward should be presumed for planning purposes to be 1.0. In other words, from a planning perspective one should assume the savings being tracked in the database are correct based on the established TRM rules and actual program activity.

To the extent an evaluator makes an adjustment to gross savings because they find a variance in the savings, the AG avers that this is simply part of the evaluators job of determining if the savings were counted properly. Because variances between tracked savings and final evaluation numbers can reflect adjustments for factors under the utility's control (e.g., errors, inappropriate application of the TRM, etc.), the AG argues that the utility should be held accountable for these realization rate adjustments.

The AG notes that Ameren also proposes that goals be adjusted based on any annual changes to the TRM, which proposal appears to be yet another inappropriate policy. As explained by Mr. Mosenthal, the TRM is a living document, and it is imperative that it go through annual updates to modify any values for which there is now better information, or to add new measures. The AG notes the TRM and TRM policy dockets were established, and procedures agreed to, to ensure a timely update process whereby program administrators will know any TRM changes by March 1 of each year, 90 days prior to the beginning of the next program year and use of the next TRM version. The AG believes this allows utilities the opportunity to modify plans, shift promotions of measures, incentive levels, etc. as they see fit to manage these known and certain changes.

The AG submits that it is important that the utilities be held to an overall goal and are incented to make appropriate annual adjustments to ensure prudent programs. Because the portfolio is highly diverse and includes numerous programs and hundreds of measures, the AG suggests there is plenty of opportunity for utilities to make these appropriate adjustments and accommodate TRM changes annually. Alternatively, if the utility simply gets to adjust all goals whenever the TRM changes, the AG believes the utility has no incentive to make appropriate midcourse corrections. For example, if the TRM determined that a measure was saving very little and no longer cost-effective, the utility could still simply pursue that measure and get full credit for goals based on the number of measures rebated, even when this is no longer in the ratepayers interest.

Beyond the policy reasons opposition to adjustments to goals based on annual TRM changes, the AG avers that there exist practical problems with the proposal; as such a policy would be extremely administratively burdensome and impractical. The AG notes the TRM literally contains hundreds of measures and thousands of individual assumptions and the process of maintaining and revising it already consumes significant resources. If every change in a TRM had to be translated into explicit goal adjustments the AG suggests this would result in constantly moving targets, require extensive administrative effort, and significantly reduce transparency of goals. In addition, it would be very difficult for SAG parties to follow and understand how goal adjustments were made and whether they were appropriate, thereby adding additional labor to the mission of the SAG.

In addition, even if one were willing to absorb these extensive administrative burdens, it is still unclear to the AG exactly how this would be done. For example, the AG states that annual updates of the TRM can include adding new measures being promoted that were not in the latest version. While this is clearly a TRM change, it is unclear how this would translate into goal adjustments when no original TRM value existed. The AG submits it is important that program administrators constantly consider and adopt new efficiency measures as they are appropriate, and a rule that any TRM modifications would drive goal adjustments would create a strong disincentive to improving the TRM over time and for utilities to pursue new opportunities that can benefit ratepayers.

The AG submits that the bottom line with all of these proposed goal adjustment policies is that Ameren would like for the Commission to eliminate virtually all risk of energy savings performance removed, and establish a system that virtually guarantees it won't fail to achieve the statutory savings goals (as modified by the statutory cost cap), even if it chooses to pursue inappropriate measures and resources. The AG notes that Staff also believes this is not good public policy and is contrary to the General Assembly's intent in establishing the requirement that efficiency programs be cost-effective, and that utilities be held accountable when savings goals are not achieved.

The AG notes there are established performance targets and penalties to utilities for failure to meet these energy savings performance targets, and clearly the legislature intended for the utilities to absorb some performance risk or they would not have included these penalty provisions. The AG notes that the utilities are using the ratepayers' money to implement programs for ratepayers, and argue the utilities must have some accountability to ensure that they perform this statutory duty on behalf of ratepayers – not shareholders -- in a prudent way, and in a way that maximizes energy savings while providing net benefits to the ratepayers.

Accordingly, the AG recommends that Ameren's proposals to align savings goals according to changes in NTG values, realization rates and TRM values be rejected.

4. CUB Position

CUB states that Ameren also requests the flexibility to "align" savings goals according to changes in TRM and NTG values, meaning Ameren is asking to reduce goals if TRM and/or NTG values decline. CUB notes that the NRDC opposes this request on the grounds that approval would "send too strong a message that Ameren does not need to stay alert to changing market conditions in managing its portfolio," that "removing this level of risk rewards complacency rather than innovation, which will not lead to the greatest return on investment for Ameren's ratepayers," and that this would "create a disincentive for Ameren to actively manage its portfolio to maximize ratepayer benefits as market conditions change." The AG agrees, calling the request "unreasonable," would not lead to Ameren having an incentive to forecast likely NTG results and make sure it is spending resources appropriately to respond to changes in the market. Additionally, the AG points out that implementing Ameren's request would be "extremely administratively burdensome and impractical" because the TRM contains hundreds of measures and thousand of individual assumptions, and if TRM changes "had to be translated into explicit goal adjustments," it would "result in constantly moving targets, require extensive administrative effort, and significantly reduce transparency of goals," and "be very difficult for SAG parties to follow and understand how goal adjustments were made and whether they were appropriate."

CUB agrees with both the NRDC and the AG, as allowing the Company to change goals any time there is a change in the NTG or TRM values for a measure or program is antithetical to the purpose of the statutory EEPS goals, which call for utilities to put forth efforts to annually increase the amount of energy efficiency achieved by managing programs. CUB notes that Ameren is spending ratepayer money to offer these programs, and as so, has a responsibility toward ratepayers, not shareholders. CUB avers that risk management is an inherent facet of offering goal-centered energy efficiency programs, therefore CUB supports a reasonable degree of flexibility, and therefore supports Ameren's request for flexibility to adjust programs and budgets within reason. CUB does not believe that Ameren should be allowed to operate under a scheme where the Company does not face any risk for not meeting Commission approved goals.

Staff states they are willing to accept this proposal with modifications, but notes that this flexibility "allows the Company to take a 'set-it-and-forget-it' approach to managing its portfolio. Staff also believes that if the Commission does not adopt this proposal, Ameren will have an incentive to oppose updates to the IL-TRM and NTG values that reduce savings attributable to measures, however CUB disagrees. CUB suggests that Staff's concern is not adequate justification for granting the Company an unfettered ability to lower savings goals. Ameren, and any entity offering goal-centered energy efficiency programs, must always respond prudently to changes in the market, whether that change results from federal efficiency standards, an informative EMV report, or a change in TRM values. CUB submits that the flexibility to adjust programs and budgets discussed above adequately buffers Ameren from an untoward degree of risk.

5. AIC Position

According to AIC, Intervenors' concerns are unsupported and without merit. In AIC's view, it should not be forgotten that the TRM and NTG values upon which the savings goals would be premised would be values that were either provided by independent evaluators and the SAG/TAC, agreed-to by the parties or were derived from a Commission approved process. Ameren asserts these would not be values chosen at the discretion of the utility. Ameren claims Intervenors' concerns premise themselves on speculative, ominous statements if what a utility could do to "game" the system rather than on any facts. No party has challenged Ameren's commitment to energy efficiency or its integrity in administering and implementing its prior plan portfolios and furthermore points out how Ameren has exceeded historical savings goals. Ameren asserts it has not stopped programs mid-year due to goal attainment; Ameren says it is already required to spend customer funds responding to changes in a reasonable and prudent fashion; Ameren also says it has spent approximately 90% of its energy efficiency programs' budgeted funds over the last six years. According to Ameren, such facts should dispel completely any additional concern regarding Ameren's request to annually modify goals. Ameren states many adjustments to NTG and TRM are the result of unforeseen market changes such as the degree to which EISA will cause the adoption of CFLs or changes in codes which then decrease planned savings or eliminate measures altogether (such as furnaces and boilers being eliminated now). AIC believes it is appropriate that the utility adjusts its goals according to these unforeseen market changes.

Ameren notes Staff argues that Ameren should be allowed to align savings goals according to changes in values but only if it accedes to a variety of vague, subjective requirements with which it would be difficult to comply. Ameren claims it already strives to act prudently, so it is unclear whether Staff's request would result in a new requirement or just reaffirming a prior one. Ameren argues the direction to avoid "over-promoting cost ineffective measures to ensure participation in these cost-ineffective measures does not exceed expectations" is so confusing that complying with it would be nearly impossible. AIC complains Staff does not explain what it means to over promote, whether such a restriction changes if the measure was planned to be cost-ineffective, but later is calculated to be cost-effective (as TRCs change) and what/whose expectations cannot be exceeded. According to AIC, all of these questions highlight the fatal flaws in Staff's litany of requirements, each of which should not be adopted.

6. Commission Conclusions

Ameren requests the Commission grant it authority to annually adjust its goals to align them with changes to TRM values and NTG ratio values. Ameren suggests this enables the savings goals to remain commensurate with them as approved and thus enables the appropriate use of approved costs. Ameren notes that while it would gain gains certainty on values and goals, while still being responsible for achieving participation. Ameren suggests that the Intervenors' concerns are unfounded and based on unwarranted assumption, and also does not agree with Staff's proposed conditions on granting this request.

The AG suggests however, that NTG values can be highly influenced by program administrator actions, such as program mid-course corrections, and this would remove any incentive for utilities to strive for higher NTG values and to make appropriate program changes when NTG values are becoming increasing low. For example, the AG suggests that a utility would be indifferent if their assumed CFL NTG value of 0.44 dropped to 0.05, because its goals would simply be adjusted to accommodate this unfortunate outcome.

The AG notes that Ameren also proposes that goals be adjusted based on changes to realization rates, and recommend that this proposal also be rejected. The AG states that realization rates reflect the ratio of gross savings that a utility has tracked and estimated to the actual estimated gross savings from impact evaluations. This variance in gross savings can come from a number of things, including utility errors in its database, failure to accurately apply the agreed upon TRM values, or other factors that are generally in control of the utilities and/or their contractors. As a result, realization rates going forward should be presumed for planning purposes to be 1.0. Ameren also proposes that goals be adjusted based on any annual changes to the TRM. This proposal is yet another inappropriate policy.

NRDC also recommends against this request, believing it could send the wrong signal to a company. For example, if a NTG value for a lighting program decreases, the desirable response on the part of a program administrator would be to shift money into higher yielding programs, or to make other adjustments to stay on course toward the goal. Under Ameren's proposal, the administrator would simply lower the goals, to the detriment of its customers. CUB similarly opposes this provision.

Staff supports AIC's request on this issue only if the Commission explicitly requires the following: (1) AIC is directed to prudently respond to changes (e.g., TRM, NTG, market) in the implementation of its programs; (2) AIC is directed to spend all funding to the extent practicable on cost-effective energy efficiency measures in order to exceed the modified savings goals; (3) AIC is directed to avoid over-promoting cost-ineffective measures so as to help ensure participation of these cost-ineffective measures does not exceed expectations; (4) AIC is directed to provide cost-effectiveness screening results in its quarterly ICC activity reports for new measures the Company adds to its Plan during implementation; and (5) AIC is directed to explain how it responds to TRM, NTG, and other changes in its quarterly ICC activity reports it will file with the Commission in this docket. If the Commission adopts this approach to adjustable savings goals, Staff suggests it should direct AIC to file a public version of the spreadsheet that demonstrates the savings forecasted in the approved Plan match the calculated savings in the spreadsheet listing all the measures with the associated IL-TRM measure codes.

The Commission notes that the TRM and NTG values upon which adjustments to savings goals would be made are not set by Ameren, but rather are values that were either provided by independent evaluators and the SAG/TAC, agreed-to by the parties or derived from a Commission approved process. The Commission also notes that no evidence has been presented that Ameren is not committed to energy efficiency or integrity in administering its plan portfolios, although some parties suggest that Ameren might try harder. The AG even notes that the Ameren Program Administrators have repeatedly demonstrated a willingness to reach out to stakeholders and seek expert input throughout the SAG process – a tendency that is much appreciated and valued; although the AG also cautions against removing all risk for the utility. The Commission also notes the issues that have been raised about the possible threats to the energy efficiency programs should this request be granted.

The Commission believes that based on the evidence presented, it is appropriate to adopt the change proposed by Ameren on this issue, with the additional conditions identified by Staff. The Commission will also require that Ameren file a public version of the spreadsheet that demonstrates the savings forecasted in the approved Plan match the calculated savings in the spreadsheet listing all the measures with the associated IL-TRM measure codes.

G. Banking of Savings

The term “banked savings” means the amount of savings from a given Plan Year Ameren can “bank” and then apply to a future Plan Year. In Docket Nos. 07-0539 (Plan 1) and 10-0568 (Plan 2) the Commission granted Ameren the ability to “bank” savings, though it appears Ameren Illinois did not account for any banked savings when modeling its Plan 3. The practice of banking between plan years was codified in the past year when the General Assembly amended the Act to allow ComEd and Ameren Illinois to either meet annual savings goals or to meet a cumulative three year savings goal. The statutory change means that ComEd and Ameren can bank savings within the years included in a Plan filing, beginning with this Plan filing.

1. AIC Position

AIC states that the AG, CUB, and NRDC all appear to support banking between PY7-9, but oppose applying any achieved or planned banked savings from PY1-6 to PY7-9. In an effort to eliminate a contested issue from this docket, Ameren indicates it will not oppose the concept of eliminating the banking of savings from Plan 2 to Plan 3 as it has already modeled its Plan 3 without accounting for any banked savings achieved or planned from prior Plans. However, to the extent the Commission makes a policy decision to allow banking of savings between Plans, Ameren would request that the Commission allow it for all utilities, including Ameren Illinois. With respect to intra-plan banking, that is allowing banking to occur for the plan years within Plan 3 (PY7-9), Ameren agrees with CUB, NRDC and the AG that the Commission should allow this practice to continue.

2. NRDC Position

While Ameren has conceded that it has not applied any achieved or planned banked savings to its current PY7-9 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.

NRDC agrees with the AG 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.

3. AG Position

The AG notes that in the first electric 3-year plans, the Commission allowed the "banking" of excess savings beyond that required to meet goals to be applied to future year savings claims. Although not specifically authorized in Section 8-103 or 8-104 of the Act, the Commission did so in response to utility claims that without banking, achievement of annual statutory energy savings goals would be difficult if not improbable. See ICC Docket No. 07-0540, Order of February 6, 2008 at 40-41. However, in doing so, the Commission expressed concerns that if banking were to grow too large it would be inconsistent with legislative intent, and therefore limited allowable banking:

> Limiting the amount of allowable "banked energy savings" to a percentage of the banked year's energy savings is reasonable. It is also reasonable to limit the amount that can be "banked" to one which would only allow utilities to "bank" a *de minimis* carry over, as anything further would violate the statute. Therefore, ComEd's and DCEO's request for Commission approval of "banked" energy savings is granted, but, they may "bank" no more than 10 percent of the energy savings required by statute in the year, in which, it is "banked."

ICC Docket No. 07-0540, Order of February 6, 2008 at 40-41.

The AG notes that in Docket No. 10-0520, the Commission added a secondary criterion to banking that prohibited any banking if the combined savings of ComEd and DCEO did not also exceed the combined savings goal, even if ComEd individually exceeded its portion of the goal.

The AG states that AIC's most recent banking balance that would exist following completion of savings verification for PY5 has yet to be determined; however, in response to NRDC data request 2.01, Ameren provided some information on past achievements and goals, and the latest ICC-approved banking estimates. The AG notes that as of the end of PY2, Ameren had banked 16,890 MWh (Final Order, Docket No. 10-0519), and in addition, Ameren has requested approval for total cumulative banked savings as of the end of PY3 of 35,066 MWh in Docket 11-0592. While there is no Commission order in this docket to date, the AG suggests that no party argued this should be reduced, and in fact, Staff has proposed increasing it to allow Ameren to also bank 10% of the DCEO portion of the goal. Given that the ICC has already tentatively approved this approach of including the DCEO portion for purposes of banking in its proposed order for ComEd Docket 11-0593, a position the AG opposed, it is possible to assume this bump up may be adopted for Ameren as well. The AG opines that this would increase Ameren's PY3 banking by 4,544 MWh, resulting in a cumulative balance at the end of PY3 of 39,610 MWh. Further, Ameren indicates an estimate of PY4 achievements of savings of 352,204 MWh based on final EM&V reports, and also provides an unverified estimate of 326,393 MWh at the end of PY5. Based on these figures, Mr. Mosenthal estimated an approximate total banked savings at the end of PY5 of 101,939 MWh. While Ameren declined to make a forecast of likely banked savings at the end of PY6, the AG notes that even without accruing any additional banked savings in PY6, it appears Ameren is likely to have in the range of approximately 100,000 MWh of banked savings that, under current rules, it could apply to savings toward Plan 3 goals.

What is important to note when examining the banked savings figures is that this forecasted banked amount at the beginning of Plan 3 is approximately 50% of the annual goals in Plan 3. In other words, if these goals are inclusive of any applications of banked savings, Ameren could effectively completely shut down its programs for six months and still achieve goals simply by drawing on this banked accumulated savings.
In addition, Ameren's compact fluorescent light ("CFL") program promotes the sale of screw-in CFLs as a replacement for incandescent bulbs. The AG states that past evaluations have indicated from customer surveys that within the first year on average only about 69.5% of these CFLs get installed, with the remainder stored as future replacements when lights burn out. As a result, Illinois utilities have claimed only a portion of the ultimate CFL savings in the year that the bulbs were sold. Based on the TRM, it is assumed that ultimately 98% of CFLs eventually get installed, with the remainder claimed in the following two years. In effect, this has resulted in an additional "banking" of savings, over and above the 10% banking limit the ICC imposed in Order 07-0540. While Mr. Mosenthal noted that AIC did not reveal the likely CFL carry-forward savings that Ameren will have to apply to PY7-9, it likely could be substantial and of a similar magnitude to the banked savings.

Ameren has made clear that it would not be requesting in this docket any carryover of accumulated banked savings from prior plans, which decision the AG supports. The AG believes there are several reasons why banking of savings should be prohibited across three-year plan periods. First, due to a recent amendment to Section 8-103(b) of the Act, electric utilities may comply with this subsection (b) by meeting the annual incremental savings goal in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period associated with measures implemented after May 31, 2014 was equal to the sum of each annual incremental savings requirement from May 31, 2014 through the end of the applicable year. The AG notes this ability to achieve annual savings goals across a three-year period likewise exists for natural gas utilities under Section 8-103(b). 220 ILCS 5/8-104(b).

Mr. Mosenthal also notes that there has been significant dispute around how to count banked savings, and also conflicting recent Orders and Proposed Orders. Similarly, the counting of CFL carry-forward savings has also been contentious, and there is still ambiguity of how to calculate it. Perhaps most importantly, the Commission indicated when it first established its banking policy that it should be limited to a *de minimis* amount. The AG submits that the constant accumulation of banked savings to the point where they exceed 50% of a year's goals can no longer be considered *de* *minimis*. The AG suggests that it is possible that when including CFL carry-forward the total accrued “banked” savings is closer to 100% of a single year's goal.

The AG opines that the importance of banking savings is significantly diminished due to the cost cap inherent in Sections 8-103(b) and 8-104(b). Because the Section 8-103 goals continue to increase while budgets remain capped, Plan 3 and any future plans (barring a legislative modification) will require modified goals. Under these modified goals, any available banked savings must be added to them to arrive at a reasonable achievable target within the budget limits. Therefore, Mr. Mosenthal notes, banking becomes a zero-sum game. In other words, the AG states that there is no real difference whether you grant Ameren X MWh of banked savings for the next year and then increase its goal by X MWh, or simply discontinue counting banked savings. If goals are no longer set by legislation but simply set as the most the available budgets can support, then simply adding in extra banked savings provides no real incentive, because the utilities would simply have to meet a higher goal if it achieves more banked savings.

The AG recommends the Commission enter an Order that makes clear that AIC and indeed, no utility or DCEO, will be permitted to bank savings between three-year plan filings; and any permitted *de minimis* banking should only occur within a three-year plan period. The AG submits that this will allow electric utilities to overachieve in one year and still apply those additional savings to a year they might fall short, so long as it is within the plan period. This modification would provide greater flexibility for the electric utilities, smooth any unusual economic situations, reduce arbitrary concerns about exactly when a project is completed, and still ensure that the total three-year Plan goals are pursued.

4. CUB Position

CUB notes that the Act makes no mention of banked savings, however in the past year, the General Assembly amended the Act to allow ComEd and Ameren to either meet annual incremental savings goals in the applicable year or by showing that the total cumulative annual savings within a 3-year planning period is equal to the annual incremental savings requirement. 220 ILCS at 5/8-103(b). CUB notes this language renders the issue moot since savings from any year within a three year period can be used to meet the final goal stated for that three year period.

CUB recognizes that the Commission has allowed ComEd and Ameren to bank savings in all previous Plan filing dockets, including Docket Nos. 07-0539, 07-0540, 10-0568, and 10-0570, although the language in those Final Orders varies. CUB notes that banking has also been discussed in ComEd and Ameren’s annual energy efficiency compliance dockets. While finalized estimates are not available, the AG estimates that Ameren may have a total banked savings amount of 101,939 MWH at the end of PY5, or about half of one year of Ameren’s proposed annual savings goals in this Plan filing. CUB states that Ameren has not mentioned the existence of the banked savings, or the impact the banked savings might have on goal achievement.

Depending on the Commission's banking policy, it appears to CUB that Ameren could effectively shut down its programs for six months and still achieve goals simply by drawing on this banked accumulated savings. If CFL carry-forward savings are included, the number of banked and carried forward savings could be closer to 100% of a single year's goal. As a result, the AG recommends that the Commission either increase Ameren's goals by the amount of forecasted banked savings, or discontinue Ameren's ability to apply banked savings from PYs 1-6 in PYs 7-9. NRDC concurs, and suggests that either approach achieves the same policy objective, which is to assure that Ameren continues to make every effort to get as close to the statutory savings goals and funding allows.

CUB submits that allowing Ameren to apply banked savings from PYs 1-6 in PYs 7-9 would not move Ameren any closer to meeting the statutory goals, and in fact, it would only move Ameren farther away from achieving the statutory goals. Banking was approved in the 2007 and 2010 Plan filings to ensure that Ameren and ComEd would continue to run programs even after goals had been achieved. CUB notes that Ameren may now bank savings between PYs 7-9, and so that policy now addresses the potential issue of Ameren discontinuing programs after goals have been met. CUB believes it would be detrimental to stop any program in a year where the goal have been met, and start that program at the start of the following year, and that the utilities would not elect to do so. CUB opines that Ameren has a history of exceeding the Commission approved goals while not spending the entire budget under the rate cap, and still falling short of the statutory goals. CUB avers that it is apparent that Ameren could be achieving much greater savings than they have been in previous years. Ameren is now in its sixth year of offering statutory energy efficiency programs; there is no reason to continue to allow AIC to pad savings with banking when the Company is clearly capable of achieving greater savings without banking. CUB recommends the Commission not allow the application of banked savings from PYs 1-6 to PYs 7-9 and require Ameren to report on CFL carry-over savings, and adjust goals upward based on the number of CFL carry-over savings reported in EMV.

5. Commission Conclusions

The Commission recognizes no party opposes the concept of eliminating banking savings from Plan 2 to Plan 3, and that Ameren has already modeled its Plan 3 without accounting for any banked savings achieved or planned from prior Plans. The Commission therefore orders that the Company may not bank savings between Plans but that Ameren Illinois may continue the practice banking for the years within Plan 3 (PY7-9). The Commission notes, however, that this conclusion is subject to the Commission's subsequent treatment of other utilities' Plans and to the extent the Commission grants other utilities the right to bank in between Plans, the Commission shall afford Ameren Illinois that same right.

H. CFL Carry-forward Savings

Ameren's CFL program promotes the sale of CFLs as a replacement for less efficient incandescent bulbs. Past evaluations have indicated from customer surveys that only a portion of the CFLs that are purchased in one year are installed in the same year. The remainder is mostly installed in the following two years. Thus, the TRM instructs utilities to account for only a portion of the savings from CFLs in the first year, and the remainder of savings in the following two years ("carry-forward" or "carryover" savings). The issue in this proceeding is whether Ameren's Plan 3 savings goals should be adjusted upward by the amount of CFL carryover savings from PY5-6 (even though this amount is not yet known).

1. AIC Position

AIC notes that Intervenors and Staff argue that Ameren Illinois' Plan 3 savings goals should be adjusted upward to account for CFL carry-over savings from PY5-6. As an alternative, AG suggests that the Commission simply eliminate the complicated practice of accounting for CFL carry-over savings as it is a zero sum game if the goals are adjusted upward in a commiserate manner.

As noted by other parties, Ameren has not presently accounted for CFL carry-over savings from PY5-6 in either its planned savings or proposed modified goal. Ameren notes that it did not include carry-over savings because the value is presently unknown and has not been reviewed or approved by the Commission; the value still needs to be provided by EM&V for these future years and, as evidenced by the nature of estimates provided by Intervenors, cannot be an exact figure. Ameren suggests that calculating CFL carry-over 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. Thus, in an effort to eliminate a contested issue in this proceeding, Ameren Illinois would accept adjusting its Plan 3 savings goals upward by the amount of CFL carry-over savings from PY5-6 for future years that the Commission approves in the PY5 and PY6 savings goals compliance dockets.

Ameren agrees with Ms. Hinman that the IL-TRM controls the calculation of CFL carry-over and that the correct NTG ratio is the one for the year in which the bulbs were purchased. However, Ameren notes that the final results of the NTG values for PY5-6 will not be known or verified until after the Commission issues its Final Order in the respective dockets reviewing and approving Ameren Illinois' achieved savings for those plan years.

Accordingly, Ameren has no objection if the Commission requires Ameren Illinois to adjust its Plan 3 savings goals upward by the amount of CFL carry-over savings from PY5-6 for future years that the Commission approves in the PY5 and PY6 savings goals compliance dockets.

2. Staff Position

Staff notes that AG witness Mosenthal indicates there has been some uncertainty with respect to how to calculate CFL carry-over (i.e., CFL carry-forward) savings. Staff agrees there previously was some degree of uncertainty concerning CFL carry-over calculations, but to a large degree it has been addressed and clarified in the most recent update to the IL-TRM. Nevertheless, Mr. Mosenthal requests getting rid of CFL carry-over. Staff suggests if Mr. Mosenthal wants to remove CFL carry-over from the IL-TRM, then the AG should submit a recommendation for a TRM Update through the TRM Update Process outlined in the TRM Policy Document. Staff believes it is inappropriate to raise this issue in a single utility's three-year plan filing docket, when the IL-TRM impacts all the Illinois program administrators. Thus, the Commission should decline to rule on Mr. Mosenthal's request to get rid of CFL carryover in this docket.

Staff notes that several parties recommend that AIC should include an estimated amount of savings expected from CFL carry-over from CFLs purchased in PY5 and PY6 in the savings estimates presented in its Plan. Staff states that AIC is required to follow the IL-TRM when submitting its Plan and thus estimating the amount of savings from CFL carry-over bulbs should be included. AIC witness Goerss indicates that CFL carry-over calculations are based on the NTGR estimated for the year the bulbs are installed. Staff submits that Mr. Goerss' interpretation of CFL carry-over calculations in this regard is incorrect; it is the NTGR estimated during the year of purchase that should be used. However, the IL-TRM Version 2.0 does provide that the gross savings calculations for the CFL carry-over bulbs should be based on the evaluated savings for the year the bulb is installed (i.e., the baseline determined for the installation year).

Staff says AIC claims the final NTG values for PY5-PY6 will not be known until after the Commission issues its Final Order in the compliance with energy savings goals dockets. Staff believes it would be appropriate for the Commission to direct AIC to use the PY5 evaluated NTGR estimated through the in-store customer intercepts of 0.44.

3. AG Position

The AG notes that Ameren's initial proposed Plan 3 goals did not include CFL carry-forward savings from bulbs purchased during Plan 2. The AG suggests that although the savings are unknown, they could potentially be substantial. The AG states that the counting of CFL carry-forward savings has generally been contentious and there remains some level of ambiguity as to how it should be calculated, however it notes that Ameren has agreed to adjust its Plan 3 savings goals upward by the amount of CFL carryover savings from PY5-6 for future years. The AG states that this amount will, ultimately, be what the Commission approves in the PY5 and PY6 savings goals compliance dockets.

Therefore, the People request the Commission to direct Ameren to adjust upward its Plan 3 goals to account for the still unknown level of CFL carryover savings from bulbs purchased in PY5-6.

4. Commission Conclusions

It appears to the Commission that no party opposes a requirement that Ameren adjust its Plan 3 savings goals upward by the amount of CFL carryover savings from PY5-PY6 for future years. Recognizing that it has yet to determine the amount of carryover savings, the Commission therefore directs Ameren to adjust its Plan 3 savings goals upward by the amount of CFL carryover savings identified for PY5-6 for the appropriate years in Plan 3 that the Commission approves in Ameren Illinois' PY5 and PY6 savings goals compliance dockets. As the final NTG values for PY5-PY6 will not be known until after the Commission issues its Order in the compliance dockets, Staff suggests it would be appropriate to direct AIC to use the PY5 evaluated NTGR estimated through the in-store customer intercepts of 0.44. The Commission notes, however, that Staff did not raise the idea of using the PY5 evaluated NTGR of 0.44 until its Reply Brief, thus no party has had the opportunity to respond. The Commission does see merit to Staff's proposal and suggests that this be another issue that the parties pursue prior to the next energy efficiency plan filing.

I. Contracting with Independent Evaluators

Section 8-103(f)(7) requires that Ameren's Plan:

> Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year. (220 ILCS 5/8-103(f)(7)

The gas provision is similar. (See 220 ILCS 5/8-104(f)(8)). Staff states that Ameren Illinois' Plan meets the electric and gas requirements for providing for independent evaluation, and recommends the Commission adopt the same provisions concerning evaluator independence and evaluation cycles that the Commission adopted in Plan 2. Ameren Illinois agrees with Staff, subject to several modifications and clarifications, as explained below.

1. Staff Position

Staff supports the adoption of the same provisions the Commission adopted in the Plan 2 Order concerning evaluator independence. Staff notes that the Plan 2 Order contains certain provisions concerning evaluator independence on pages 68-69, as quoted below. The Plan 2 Order states:

> Generally, the parties and the Commission seem to agree the EM&V contractor independence is important in complying with Sections 8-103(f)(7) and 8-104(f)(8) of the Act. To ensure EM&V contractor independence, the Commission hereby adopts Ameren's and Staff's recommendations to include contract language consistent with that adopted in the Order on Rehearing in Docket No. 07-0539 (March 26, 2008). In addition, the Commission directs Ameren to hire its EM&V contractor consistent with the direction provided in the Order on Rehearing in Docket No. 07-0539 and file the appropriate compliance documents in Docket No. 10-0568. The Commission directs Ameren to continue the activities listed in its Plan to help preserve the independence of the evaluator. The Commission agrees with Staff that Ameren should ensure the data used in the independent evaluations can be made available to the Commission upon request. Further, Ameren is directed to instruct its evaluation contractor to submit draft EM&V reports to Ameren, the SAG, and Staff concurrently, and directs Ameren to include such a provision in its contract.
>
> Ameren currently proposes a modified three-year evaluation cycle that explicitly allows the independent evaluator to conduct less than one impact evaluation and less than one process evaluation every year, with a general goal of conducting one impact evaluation and one process evaluation for each program during each Plan cycle. Staff does not oppose Ameren's proposal subject to several conditions. The AG wants the Commission to adopt the SAS NTG framework that was the basis for the Settlement Stipulation in the ComEd case, Docket No. 10-0570. NRDC-ELPC urge Ameren to engage stakeholders through the SAG to develop an evaluation schedule for each program within the limitations of the evaluation budget.
>
> With regard to the AG's proposal, the Commission believes it would be problematic to impose on Ameren a settlement stipulation from a different proceeding to which Ameren has not agreed. While not specifically what the AG proposes, the Commission finds that Ameren's final proposal regarding the evaluation cycle is consistent with the AG's objectives. Similarly, the Commission believes that Ameren's final proposal adequately addresses the concerns expressed by NRDC-ELPC. The three conditions proposed by Staff, to which Ameren does not object, appear reasonable and they are hereby approved.

Plan 2 Order at 68-69.

Given there are numerous references to the adoption of conditions recommended by certain parties or adopted in prior Orders within this passage, for the sake of clarity, Staff details the specifics of each provision the Commission should confirm in this Order to ensure independence of AIC's evaluators. Each provision quotes the applicable orders, either Plan 1 Order (Docket No. 07-0539), Plan 2 Order (Docket No. 10-0568), or both.

Provision 1: The Plan 2 Order states: "To ensure EM&V contractor independence, the Commission hereby adopts Ameren's and Staff's recommendations to include contract language consistent with that adopted in the Order on Rehearing in Docket No. 07-0539 (March 26, 2008)." ICC Order Docket No. 10-0568 at 68-69 (Dec. 21, 2010) (emphasis added). Staff notes the referenced contract language in the Plan 1 Order on Rehearing states: "(5) any contract between [Ameren Illinois Company] and an independent evaluator shall provide that this Commission has the right to: approve or reject the contract; direct Ameren to terminate the evaluator, if the Commission determines that the evaluator is unable or unwilling to provide an independent evaluation; and approve any action by the utility that would result in termination of the evaluator during the term of the contract." ICC Order on Rehearing Docket No. 07-0539 at 4 (March 26, 2008).

Provision 2: The Plan 2 Order states: "In addition, the Commission directs Ameren to hire its EM&V contractor consistent with the direction provided in the Order on Rehearing in Docket No. 07-0539 and file the appropriate compliance documents in Docket No. 10-0568." ICC Order Docket No. 10-0568 at 69 (Dec. 21, 2010). Staff states that the referenced appropriate compliance documents provided in the Plan 1 Order on Rehearing states: "(3) [Ameren] shall file any Request for Proposals for its independent evaluator required by 220- ILCS 5/12-103(f)(7) within 10 days of its issuance, as a compliance filing in this docket; (4) [Ameren] shall submit any contract with an independent evaluator as a compliance filing in this docket within ten days of its execution". ICC Order on Rehearing Docket No. 07-0539 at 4 (March 26, 2008).

The referenced "direction" provided in the Plan 1 Order on Rehearing states:

> We note that the evaluator would not be "independent," as required by statute, if Ameren had total control over that evaluator. However, that does not mean that this Commission should be involved in the designing of an RFP, conducting interviews, and doing the many other tasks involved in hiring this evaluator. Rather, it means that this Commission has a supervisory capacity regarding the hiring and firing of this evaluator, meaning that Ameren must gain Commission consent to make the hiring and firing decisions regarding this evaluator. We further note that the approach taken by the AG/CUB for gaining Commission consent is a reasonable one. Ameren would make compliance filings in this docket regarding its contractual relationship with the evaluator, as is set forth above. Pursuant to this approach, if Commission Staff had any concerns after review of these compliance filings, it could issue a Report to the Commission expressing its concerns, and, in the appropriate situation, this Commission could open a docket for the purpose of determining whether

> Ameren violated Section 12-103 of the Public Utilities Act. (220 ILCS 5/12-103). Finally, the process proffered by the AG/CUB is a simple one, and it is one, to which, no party has objected. We therefore conclude that Ameren must follow this procedure.

ICC Order on Rehearing Docket No. 07-0539 at 3-4 (March 26, 2008).

Staff states that "This procedure" is described on page 2 of the Plan 1 Order on Rehearing, which states:

> The Illinois Attorney General (the "AG") and the Citizens Utility Board ("CUB") filed a joint response to the Petition for Rehearing, in which, they set forth, with specificity, a procedure, by which, this Commission would have ultimate control over the hiring and firing of the independent evaluator, but, Ameren, and its independent Advisory Committee would be responsible to do the work necessary to hire that evaluator, thereby eliminating the conflict between Section 12-103 of the Public Utilities Act and the Illinois Procurement Code. Both Ameren and Commission Staff filed Replies, in which, they voiced approval of the procedure recommended by the AG and CUB. It is as follows: Ameren, would develop, with input from its stakeholder advisory Committee, a Request for Proposals (an "RFP") to solicit bids for an independent evaluator; Ameren would then file the RFPs as a compliance filing in this docket; Ameren would select, with stakeholder input, an independent evaluator; Ameren would then submit, as a compliance filing in this docket, its contract with the independent evaluator, which would be selected from the firms that responded to the RFP; and This contract must expressly provide that the Commission has the right to: a) approve or reject the contract; b) direct Ameren to terminate the evaluator, if the Commission determines that the evaluator is unable or unwilling to provide an independent evaluation; and c) approve any action by the utility that would result in termination of the evaluator during the term of the contract.

ICC Order on Rehearing Docket No. 07-0539 at 2 (March 26, 2008); see also, ICC Order Docket No. 10-0568 at 47 (Dec. 21, 2010).

Provision 3: The Plan 2 Order states: "The Commission directs Ameren to continue the activities listed in its Plan to help preserve the independence of the evaluator." ICC Order Docket No. 10-0568 at 69 (Dec. 21, 2010). Staff states that the activities listed in AIC's Plan were reproduced on page 46 of the Plan 2 Order:

> "In addition, during Plan 1, Ameren claims it took the following twelve steps to protect and demonstrate the EM&V evaluator's independence, and plans to continue similar policies during Plan 2: 1. Staff and a stakeholder group facilitator, as well as various consultants for the stakeholders participated in EM&V bid reviews; 2. Staff and a stakeholder

> group facilitator participated in EM&V consultant interviews and selection; 3. Staff and consultants for various stakeholders reviewed the EM&V consultant's contract and scope of work; 4. Order language specifying the Commission's role was integrated in the EM&V contract; 5. Stakeholder suggestions were incorporated into the EM&V contractor's scope of work; 6. EM&V reports were distributed simultaneously to Staff, stakeholders, and Ameren; 7. Numerous meetings and opportunities were provided for Staff and the stakeholders to review EM&V work plans and provide input into all work plans; 8. Numerous meetings and opportunities were provided for Staff and stakeholders to comment on EM&V results; 9. EM&V consultants presented or participated in numerous stakeholder advisory meetings where Staff was present; 10. Staff was encouraged to have direct communication with the EM&V consultant, and consultants emailed Staff directly several times to provide updates; 11. Staff participated in weekly and bi-weekly conference calls with EM&V consultants and Ameren staff for activity updates. 12. EM&V methods, activities, and results were accepted by Ameren… Ameren argues that these practices are comprehensive and seek to involve parties outside of Ameren in all stages of the EM&V process. By putting the EM&V evaluator in constant contact with the stakeholders and Commission Staff, particularly given the mechanisms for direct Commission oversight, Ameren says it is confident that the current model fully protects EM&V independence."

ICC Order Docket No. 10-0568 at 45-46 (Dec. 21, 2010).

Provision 4: The Plan 2 Order states: "The Commission agrees with Staff that Ameren should ensure the data used in the independent evaluations can be made available to the Commission upon request." ICC Order Docket No. 10-0568 at 69 (Dec. 21, 2010) (emphasis added).

Provision 5: The Plan 2 Order states: "Further, Ameren is directed to instruct its evaluation contractor to submit draft EM&V reports to Ameren, the SAG, and Staff concurrently, and directs Ameren to include such a provision in its contract." ICC Order Docket No. 10-0568 at 69 (Dec. 21, 2010) (emphasis added).

Provision 6: The Plan 2 Order states: "In order for the Commission to submit the required energy efficiency related reports to the General Assembly, the Commission agrees with Staff and directs Ameren to file the evaluations and reports required by Section 8-103(f)(7) and 8-104(f)(8) of the Act as they become available via the Commission's e-Docket system in Docket No. 10 0568." ICC Order Docket No. 10-0568 at 68-69 (Dec. 21, 2010) (emphasis added).

Staff notes that it provided these detailed provisions to AIC in response to a data request and in turn AIC indicated it opposed certain of these conditions.

Staff notes AIC requests the option to renew its contract with its current evaluator instead of rebidding the contract. If the Commission adopts Staff's recommendation to require the Evaluators to use consistent NTG methods that will ultimately be adopted by the Commission as an attachment to the updated IL-TRM, then Staff has no objection to AIC's request to renew the contract.

Staff maintains the Commission should reject AIC's request to eliminate Staff and instead confirm the finding from the Plan 2 Order whereby the final evaluation plans shall be developed at the discretion of the independent evaluator with agreement from Staff.

Staff says AIC makes a new request in its Initial Brief concerning the Evaluator, it requests the Commission let the Evaluator decide whether or not it will share the data used in the evaluations with the Commission. Staff finds AIC's recommendation to be a particularly questionable one. Staff says confidential information will be kept confidential as required by law. Staff does not believe a customer's identifying information is necessary to produce to comply with this requirement. In Staff's view, AIC's concerns are overstated.

2. AIC Position

In response to Staff's recommendation that the Commission adopt the same provisions concerning evaluator independence as it did for Plans 1 and 2, Ameren agrees, subject to the following clarifications and modifications. First, Ameren Illinois should have the option to renew its contract with its current independent EM&V contractor and should not have to rebid the contract. After the Plan 2 Order issued, Staff insisted that the Company rebid based on its interpretation of language from the Order. Ameren notes that while it did not agree with that interpretation, it agreed to rebid the contract, an undertaking that took significant time and resources. In light of this, Ameren has included in its current contract the right to renew the EM&V contractor, a provision which Staff reviewed and approved. Accordingly, Ameren Illinois assumes the right to renew under the terms of the current contract.

Second, in Plan 2, the Commission ordered "Ameren should have all program impact evaluations completed at least three months before its next energy efficiency plan." (12/21/10 Final Order, ICC Docket No. 10-0568, at 48). However, Ameren suggests that having program impact evaluations completed at least three months before the filing of the next plan causes immense problems because the final plan year is not yet concluded, and second plan year EM&V results may not yet be final by the time the next plan is to be filed; thus forcing all of the 3-year EM&V results to be concluded within the first year, which the 3% EM&V budget limit cannot absorb. Ameren requests that this requirement should not be included for Plan 3.

Third, Staff recommends that "final evaluation plans shall be developed at the discretion of the independent evaluator with agreement from Staff." (ICC Docket No. 10-0568, Final Order at 48). Ameren recommends that the final clause "with agreement from Staff" be eliminated so that EM&V has sole discretion to develop its work plans, subject to Commission oversight and the right to hire and terminate the EM&V contractor with notice. Ameren states that this is especially important noting the reliance on EM&V for the NTG values per the NTG framework (as is contemplated in Ameren Illinois', SAG's, and Staff's proposed framework). Ameren Illinois notes that EM&V workplans and reports are circulated to Staff and SAG pursuant to the Final Order in Docket 10-0568 and contract provisions are circulated as well for input and review.

Fourth, in Plan 2, the Commission "agree[d] with Staff that Ameren should ensure the data used in the independent evaluations can be made available to the Commission upon request." (ICC Final Order Docket No. 10-0568 at 69 (Dec. 21, 2010)). Ameren recommends that this sharing provision, too, be at the discretion of the independent EM&V evaluator, as Staff's unfettered access could deter customers from participating in the survey required by EM&V to do its job. For example, such access may require that EM&V disclose to survey and interview participants that their responses are shared with the Commission which could hamper participation and thus skews EM&V results. Also, once Staff has unfettered access to the underlying data, AIC notes that Staff will have access to a customer's identifying information, something not all customers might want to grant. Accordingly, Ameren recommends the Commission approve this provision, but make it conditional, at the discretion of the EM&V evaluator based on the implications of preventing or inhibiting customer participation.

Finally, to address any concern regarding independence, Ameren recommends that the Commission require any EM&V contractor to file in this docket an annual report (a reasonable time after evaluations for each Plan Year have been completed) to apprise the Commission of its ability to conduct itself independently. Such a requirement will encourage all parties to adhere to independence (for example, including any requesting party on written communications with the EM&V) and such information could be helpful to the Commission when assessing EM&V independence in the future.

AIC states that in Staff's Initial Brief, Staff indicates a belief that Ameren seeks to exclude Staff from the evaluation plan, but that is not the case. Ameren suggested that the independent evaluator have final say on its evaluation work plans and that Staff and the SAG provide the same level of input as in the past and as provided for per Staff's numerous provisions. Ameren says it sought to confirm its ability to renew its evaluator (rather than rebid); eliminate the requirement to have all program impact evaluations completed at least three months before the filing of Plan 4; and that the level of data sharing between the independent evaluator and Staff be at the discretion of the evaluator. Ameren asserts no party, including Staff, commented on Ameren's modifications and clarifications.

3. Commission Conclusion

The Commission notes that for the most part, Staff and AIC support renewing the previous provisions regarding evaluator independence, with certain differences discussed further below. It does appear to the Commission, however, that the briefs on this issue were not as clear as they could have been.

AIC indicates that it wishes to have the option to renew its contract with the EM&V contractor, and not have to rebid the contract if it so chooses. Staff notes that if the Commission adopts Staff's recommendation to require the Evaluators to use consistent NTG methods that will ultimately be adopted by the Commission as an attachment to the updated IL-TRM, then Staff has no objection to AIC's request to renew the contract. The Commission finds this request to be reasonable and will therefore approve of AIC's request as conditioned by Staff.

Ameren also requests that the EM&V contractor has sole discretion to develop its work plans, subject to Commission oversight and the right to hire and terminate the EM&V contractor with notice. Staff suggests that Ameren's recommendation is misleading, and notes that AIC holds the contract with the Evaluator. Ameren suggest that this concern is unwarranted given that Ameren has agreed in its Reply Brief that Staff and the SAG should be permitted provide the same level of input to the independent evaluator as in the past. The Commission finds Ameren's request on this issue to be troubling, as it is unclear from the evidence how this would change the current practice. The Commission will therefore decline to adopt this request.

Staff recommends that the provision that “final evaluation plans shall be developed at the discretion of the independent evaluator with agreement from Staff" remain in the Order. Ameren recommends that the final clause “with agreement from Staff” be eliminated so that EM&V has sole discretion to develop its work plans, subject to Commission oversight and the right to hire and terminate the EM&V contractor with notice. The Commission believes that based on the evidence presented, there is no reason to change this provision; however, the Commission is willing to revisit this issue in future proceedings should the parties desire.

Ameren also requests that the Commission require that the EM&V contractor file in this docket an annual report (a reasonable time after evaluations for each Plan Year have been completed) to apprise the Commission of its ability to conduct itself independently and suggests that imposing such a requirement will encourage EM&V contractors and all other parties to adhere to independence. Staff indicates it has no objection to the filing of such report but states that it is not confident such a report will convey much useful information to the Commission if the Evaluator's independence is called into question in the future as AIC anticipates it could. The Commission should make clear that such a report should also discuss direction AIC has provided to the Evaluator, and not solely stakeholders and Staff, especially considering AIC, who holds the contract with the Evaluator, provides the most direction to the Evaluator in actuality. Staff believes the third party auditor/evaluator of AIC's Evaluator should file its report in this docket, too. The Commission finds it appropriate to approve this request by AIC. The Commission also agrees with Staff's proviso, and therefore directs AIC and the Evaluator to prepare any report with those conditions in mind.

Ameren also indicates that the prior Commission directive that the Evaluator should have all program impact evaluations completed at least three months before its next energy efficiency plan, is problematic, as the final plan year is not yet concluded, and second plan year EM&V results may not yet be final by the time the next plan is to be filed; thereby forcing all of the 3-year EM&V results to be concluded within the first year, which the 3% EM&V budget limit cannot absorb. Ameren indicates that Staff has agreed that this deadline is no longer necessary, and neither Staff nor any other party objected. Further, all parties have agreed that the evaluation framework provides for one impact and one process evaluation of all programs for the 3-year term, as previously indicated and the evaluation timing as proposed by Staff accommodates the timing for evaluation activities.

The Commission agrees with Staff on the issue raised by Ameren regarding "unfettered" access to confidential information in the reports. The Commission notes that it appears this issue was not raised until Ameren's Initial Brief; therefore, the Commission will decline to adopt it. The Commission expects Staff, as well as any other party with access to reports by the evaluator, to treat any sensitive information as it deserves.

J. Evaluation Cycle

Section 8-103(f)(7) requires that Ameren Illinois' Plan:

> Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year. (220 ILCS 5/8-103(f)(7) (emphasis added)).

The gas provision is similar. (See 220 ILCS 5/8-104(f)(8)). Staff states that Ameren Illinois' Plan meets the electric and gas requirements for providing for independent evaluation, and recommends the Commission adopt the same provisions concerning evaluator independence and evaluation cycles that the Commission adopted in Plan 2. Ameren Illinois agrees with Staff, subject to one clarification regarding NTG values, as explained below.

1. Staff Position

Staff supports the adoption of the same provision the Commission adopted in the Plan 2 Order concerning the evaluation cycle. Staff states that the provision from the Plan 2 Order concerning evaluation cycles for which the Commission should reaffirm in this Order is set forth below:

> Evaluation Cycle Provision: The Plan 2 Order states: "Ameren currently proposes a modified three-year evaluation cycle that explicitly allows the independent evaluator to conduct less than one impact evaluation and less than one process evaluation every year, with a general goal of conducting one impact evaluation and one process evaluation for each program during each Plan cycle. Staff does not oppose Ameren's proposal subject to several conditions…. The three conditions proposed by Staff, to which Ameren does not object, appear reasonable and they are hereby approved."

ICC Order Docket No. 10-0568 at 69 (Dec. 21, 2010)

Ameren's proposal is discussed further on page 48 of the Plan 2 Order:

> "In response to Intervenors' concerns, Ameren has proposed a modified three-year evaluation cycle that explicitly allows the independent evaluator to conduct less than one impact evaluation and less than one process evaluation every year, with a general goal of conducting one impact evaluation and one process evaluation for each program during each Plan cycle. Further, Ameren says the independent evaluator shall be responsible for developing a 3-year evaluation plan at the beginning of the Plan cycle, for updating this 3-year evaluation plan as necessary to take into account changing market conditions, and for developing evaluation plans for each program. In so doing, Ameren indicates that the independent evaluator should seek advice from Staff, stakeholders and from Ameren, but final plans shall be developed solely at the discretion of the independent evaluator who Ameren claims will also be responsible for managing evaluations to ensure they meet the Commission's approved policies and to ensure that they stay within the Act's spending limitation of 3% of total portfolio costs."

ICC Order Docket No. 10-0568 at 48 (Dec. 21, 2010).

The three conditions proposed by Staff that the Commission adopted are also described on page 48 of the Plan 2 Order:

> "Staff does not oppose Ameren's proposal subject to the following three conditions: 1. Ameren should have all program impact evaluations completed at least three months before filing its next energy efficiency

> plan… 2. Process evaluations should be conducted as early as possible for programs that do not appear to be achieving the gross megawatt-hour savings as forecasted; and 3. Since the independent evaluator is supposed to report its findings to the Commission so that the Commission can make a determination as to whether Ameren has met its energy efficiency standards, the final evaluation plans shall be developed at the discretion of the independent evaluator with agreement from Staff."

Id.

Staff notes that AIC opposes certain of these conditions. Staff takes issue with AIC's recommendation that Staff be excluded from the evaluation plan development. Indeed, Staff was responsible for helping to ensure AIC's evaluator complied with the Plan 2 Order with respect to ensuring differences in evaluation results are not based solely on methodology. Despite Commission direction in the Plan 2 Order, Staff indicates it has found it extremely difficult to get the Evaluators to use consistent methodologies. Staff believes that a Commission directive to AIC to require its Evaluators to collaborate with the other utilities' Evaluators to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs should help alleviate Staff's concerns in this regard.

2. AIC Position

Ameren indicates that it agrees with Staff and recommends that the Commission reaffirm the EM&V framework as approved for Plan 2, with the changes that would be applicable for this Plan, so that the independent evaluator completes one impact evaluation and one process evaluation for each program within each 3-year plan cycle. This approach is also detailed in the Plan document, Ameren Exhibit 6.1, Section 4.0, Items 4 and 5. Ameren notes that the evaluation activities, conducted on a 3-year cycle, will be in addition to annual EM&V and M&V activities necessary to verify program participation and program savings. As Ameren is subject to a limit of 3% of its total budget for evaluation activities, Ameren's recommended approach of using known NTG and TRM values as of March 1 for the following program year will maximize resources available for process evaluations and allow for more robust approaches to impact assessments (including increasing participant and non-participant sample sizes, and conducting combination approaches to evaluation (e.g., metering and billing analysis)).

Unless the NTG Framework for Illinois is improved and the TRM timing adhered to as ordered, however, by confirming a prospective application of values, Ameren suggests that EM&V resources will continue to be severely hampered. Without sufficient direction provided by the current Illinois NTG Framework, AIC believes an inordinate amount of EM&V resources has been spent as a result of uncertainty. By allocating a greater share of its EM&V budget to process evaluations, Ameren's program management will be provided with the information to ensure that it is using optimal program management and delivery approaches to engage customers and maximize savings. Thus, Ameren Illinois strongly supports the prospective application of NTG and TRM values, as it helps mitigate risk and uncertainty, drives down costs, and ultimately maximizes the savings potential of efficiency programs, and is in the best interest of the ratepayers.

Ameren recommends the Commission again approve the EM&V framework that provides for one impact and one process evaluation per program during the three year cycle, and provides for annual reporting by the EM&V contractor on independence, in conjunction with modification of the current Illinois NTG Framework as discussed above.

3. Commission Conclusions

It appears to the Commission that the parties are in agreement on this issue, except as to one condition Staff wishes to impose. Staff believes that the Commission should direct AIC to require its Evaluators to collaborate with the other utilities' Evaluators to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs should help alleviate Staff's concerns in this regard. It appears that Ameren's suggested approach is to use known NTG and TRM values as of March 1 for the following program year, suggesting that this will maximize available resources. Staff indicates it has found it extremely difficult to get the Evaluators to use consistent methodologies. Staff believes that a Commission directive to AIC to require its Evaluators to collaborate with the other utilities' Evaluators to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs should help alleviate Staff's concerns in this regard.

The Commission agrees with Staff and AIC on the issue of the evaluation cycle, and will again approve the conducting of one impact evaluation and one evaluation for each program within each 3-year plan cycle. The Commission also directs Ameren to include Staff in the evaluation plan development, as well as to direct AIC to require its Evaluators to collaborate with the other utilities' Evaluators to reach consensus on the best approaches to assessing NTG in particular markets for both residential and non-residential EE programs. The Commission believes that the conditions requested by Staff are reasonable and will aid in future evaluation of the energy efficiency programs.

K. Recommendation for Potential Study

Section 8-103A of the Public Utilities Act requires, "[b]eginning in 2013, an electric utility subject to the requirements of Section 8-103 of this Act shall include in its energy efficiency and demand-response plan submitted pursuant to subsection (f) of Section 8-103 an analysis of additional cost-effective energy efficiency measures that could be implemented. . ." (220 ILCS 5/8-103A). This analysis is known as the "Potential Study," which Ameren included in its Plan as Appendix D to Ameren Exhibit 6.1. Staff agrees that Ameren's Plan meets the requirements of 8-103A, but suggests one change to future potential studies.

1. Staff Position

Staff witness Brightwell proposes that future feasibility studies include an analysis of economically efficient potential. Staff notes that he prescribed a methodology for obtaining economically efficient potential and described how it differs from economic potential that is traditionally included in feasibility studies.

Staff states that the main difference is that economic potential measures how much energy savings is possible when the most energy efficient measure that is cost effective relative to the baseline piece of equipment is installed in all possible cases. Dr. Brightwell testifies that economically efficient potential measures how much energy savings is possible when the last measure that is cost-effective relative to the next most energy efficient piece of equipment is installed in all possible cases, and the economically efficient potential maximizes the net benefits from a measure. In contrast, he states that the economic potential may include savings that, in fact, lower net benefits.

Dr. Brightwell states that economic potential answers the question, “What is the potential energy savings from replacing current equipment with the most energy efficient piece of equipment that provides net benefits to customers?”; while economically efficient potential answers the question, “What is the potential energy savings if current equipment is replaced with the energy efficient equipment that maximizes net benefits to ratepayers?”

Staff states that among the benefits of economically efficient potential is that it better addresses what is possible when budgets are limited. Staff suggests this occurs because economically efficient potential considers that savings increases are disproportionate to cost increases when moving from one level of energy efficient device to another.

Staff notes that AIC agreed to provide the suggestion for economically efficient potential to the contractor who will perform the next study and leave it to that contractor to determine if it is appropriate to use it. Staff recommends the Commission order inclusion of economically efficient potential in the next Potential Study.

2. AIC Position

Ameren does not endorse nor dispute Dr. Brightwell’s comments on this topic but instead agrees to submit Dr. Brightwell’s suggested methodology as to how to evaluate “economically efficient potential” to the contractor who will perform the next potential study, should Staff request the Company to do so, so that the contractor may decide to use it, if appropriate.

According to Ameren, given that it is currently unknown whether Staff’s recommended methodology will be appropriate when the next potential study is performed or the costs associated with implementing it, Ameren reaffirms that it would agree to submit Dr. Brightwell's suggested methodology as to how to evaluate "economically efficient potential" to the contractor who will perform the next potential study, should Staff request AIC to do so, so that the contractor may decide to use it, if appropriate.

3. Commission Conclusions

The Commission finds that this issue is agreed to by Ameren and Staff, and therefore directs Ameren to request to include in its next potential study an analysis of economically efficient potential and further directs Ameren to submit the methodology suggested by Dr. Brightwell as to how to evaluate "economically efficient potential" to the contractor performing the next potential study. The Commission does not, however, order that the contractor who drafts Ameren's next potential study be required to employ Staff's suggested methodology to analyze economically efficient potential, as it appears to the Commission that the contractor should have discretion to choose the methodology it views most appropriate.

VII. MISCELLANEOUS

A. Inclusion of TRM Codes

The IL-TRM is used by the utilities, DCEO and the respective evaluators who assess, after the fact, the achieved savings of the programs. In developing its Plan, Ameren used the IL-TRM for all measure savings, incremental costs, and lifetimes, where applicable.

Staff agrees that Ameren used the IL-TRM in its Plan filing; however, Staff notes that it had to submit a data request to receive the TRM measure codes associated with the measures included in Ameren Illinois' Plan filing. In the future, [Staff] would recommend the Company include the TRM measure codes in its actual Plan filed with the Commission for ease of review. It appears to the Commission that the Intervenor's to this proceeding have offered no opinion regarding Staff's recommendation to include TRM measure codes in the Company's future Plan filings prior to briefing. Ameren indicates that it agrees to Staff's request that Ameren Illinois include with its next 3-year filing the IL-TRM codes used during the planning stages.

The Commission agrees with Ameren and Staff on this issue, and therefore directs that Ameren include TRM measure codes in the Company's future plan filings, as suggested by Staff. It appears to the Commission that no party opposes this measure, which Staff asserts will ease its review in future years.

B. Street Lighting

1. ELPC Position

ELPC witness Mr. Crandall explained LED street lighting in his direct testimony and recommended that Ameren modify its DS-5 tariff to provide for LED street lighting. As explained by Mr. Crandall, Ameren Illinois' current DS-5 tariff "provides mercury vapor, sodium vapor and metal halide lighting technology options," but does not provide LED lighting. Mr. Crandall believes energy savings are available by use of LEDs in street lighting applications, and provides an example from Vermont. Furthermore, he states another Midwest utility (Interstate Power and Light Company ("IPL")) has recently revised its tariff to expand LED street lighting. According to Mr. Crandall, IPL's expansion of LED street lighting "will lower electricity costs for communities around the state while providing . . . superior lighting performance." Based on these reasons, ELPC recommends "Ameren [] submit a request to modify its DS-5 tariff to include LED street lighting technologies, or propose a new tariff to offer LED street lighting."

ELPC recognizes that Ameren will need some time to determine the exact lamp sizes and rates for LED street lights and to confer with the SAG. ELPC says the fact that the process will take some time does not excuse Ameren's unwillingness to start moving forward with a program that would achieve additional energy efficiency savings at little additional cost. ELPC recommends the Commission should order Ameren to modify its DS-5 tariff within one year to include LED street lighting.

2. AIC Position

Ameren believes the Commission should reject ELPC's recommendation regarding Ameren Illinois' DS-5 tariff because it is vague and premature. AIC asserts modifying tariffs as ELPC suggests would require significant consideration of many factors not identified in testimony. For example, with respect to the LED lighting, it is presently unknown what type of LED lighting could even be offered or whether an LED lighting program would be cost effective. According to Ameren, a host of factors that would affect the tariff rate are unknown, including the cost of service, revenue requirements, billing determinants, and kWh sales. AIC claims ELPC has provided no analysis on any of these aspects of the proposal.

Ameren notes that ELPC offered as an example of an LED street lighting tariff its ELPC Exhibit 1.2, a tariff offered by Interstate Power and Light Company. Ameren asserts the tariff makes evident the paucity of information provided the Commission as it's being asked to require Ameren Illinois to simply add a LED option to DS-5. According to Ameren, the exhibit makes clear the rate for LED service is a composite of several charges, including lamp size and kWh usage, and that the rate is also subject to the sum of other charges identified as "A, B, C, D, E and F." Ameren argues that not explained by ELPC is the tariff's reference to an Energy Efficiency Cost Recovery Clause. Ameren says why this is important for the rate is not explained and more importantly ELPC has not explained whether a similar clause should apply to DS-5.

3. Commission Conclusions

The Commission agrees with Ameren that there is insufficient evidence in the record to direct Ameren to implement a tariff in the next year to include LED street lighting. That being said, the Commission does believe that this issue presents intriguing possibilities, and is an issue that should be explored further by Ameren and the SAG.

VII. FINDING AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that: (following in italics is from 10-0568)

(1) The Ameren Illinois Company d/b/a Ameren Illinois is an Illinois corporation engaged in the transmission, sale and distribution of electricity and gas to the public in Illinois and is a public utility within the meaning of Section 3-105 of the Public Utilities Act, an electric utility as defined in Section 16-102 of the Public Utilities Act, and a gas utility as defined in Section 19-105 of the Public Utilities Act;

(2) the Illinois Department of Commerce and Economic Opportunity is a state agency that is statutorily obligated, pursuant to 220 ILCS 5/8-103(e), to implement 25% of a utility's electric energy efficiency and demand response plan, therefore, pursuant to statute, this portion of the plan is subject to Commission approval before implementation;

(3) the Illinois Department of Commerce and Economic Opportunity is a state agency that is statutorily obligated, pursuant to 220 ILCS 5/8-104(e) to utilize 25% of a utility's natural gas funding and achieve no less than 20% of the natural gas savings requirements; therefore, pursuant to statute, this portion of the plan is subject to Commission approval before implementation;

(4) the Commission has subject-matter jurisdiction and jurisdiction over Ameren Illinois and the Illinois Department of Commerce and Economic Opportunity;

(5) the findings of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby incorporated into these findings;

(6) the testimony and exhibits admitted into the record provides substantial evidence that the Energy Efficiency and Demand Response Plan filed by Ameren Illinois will meet the filing requirements of Section 8-103(f) and 8-

104(f) of the Public Utilities Act, if Ameren submits a revised electric Plan 3 and natural gas plan 2 in a compliance filing within 30 days of the date of this Order that incorporates and is consistent with the conditions and requirements stated herein;

(7) Ameren Illinois shall make a filing within 30 days of the date of this Order providing a revised Energy Efficiency and Demand Response Plan pursuant to Section 8-103 and 8-104 of the Public Utilities Act, which revised plan contains terms and provisions consistent with and reflective of the findings and determinations made in this Order;

(8) Ameren Illinois shall provide with the revised Energy Efficiency and Demand Response Plan mechanisms for recovering its Incremental Costs incurred in association with the energy efficiency and demand response measures, consistent with and reflective of the findings and determinations made in this Order.

IT IS THEREFORE ORDERED by the Commission that the Petition filed by Ameren Illinois requesting approval of its Energy Efficiency and Demand Response Plan and the proposed modifications to Riders EDR and GER is hereby conditionally approved, subject to Ameren filing a compliance filing that incorporates the findings and conclusions herein and is consistent with the conclusions contained herein.

IT IS FURTHER ORDERED that Ameren Illinois is hereby authorized to and directed to make a filing within 30 days of the date of this Order, such filing shall be a revised Energy Efficiency and Demand Response Plan pursuant to Section 8-103 and 8-104 of the Public Utilities Act which revised plan contains terms and provisions consistent with and reflective of the findings and determinations made in this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections and other matters in this proceeding that remain unresolved are hereby disposed of in a manner consistent with the conclusions herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 28th day of January 2014.

(SIGNED) DOUGLAS P. SCOTT

Chairman