

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS  
Evidentiary Hearing  
October 6, 2011  
Jefferson City, Missouri  
Volume 2

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In The Matter of Union Electric Company's )  
(d/b/a Ameren Missouri) Gas Service Tariffs ) File No.  
Removing Certain Provisions For Rebates From ) GT-2011-0410  
Its Missouri Energy Efficient Natural Gas )  
Equipment And Building Shell Measure Rebate )  
Program )

KENNARD JONES, Presiding  
SENIOR REGULATORY LAW JUDGE  
KEVIN D. GUNN, Chairman,  
JEFF DAVIS  
TERRY M. JARRETT  
ROBERT S. KENNEY,  
COMMISSIONERS

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## 1 PROCEEDINGS

2 JUDGE JONES: Okay. Let's go on the record.

3 This is Case Number GT-2011-0410 in the matter of Union  
4 Electric Company (doing business as Ameren Missouri) Gas  
5 Service Tariffs Removing Certain Provisions For Rebates From  
6 Its Missouri Energy Efficiency Natural Gas Equipment and  
7 Building Shell Measures Rebate Program.

8 My name is Kennard Jones. I'm the regulatory  
9 judge presiding over this matter. To my right, we have  
10 Commissioner Davis and to my left, we have Commissioner  
11 Jarrett. The first thing -- well, let's take entries of  
12 appearances beginning with Ameren.

13 MS. TATRO: Wendy Tatro, 1901 Chouteau Avenue,  
14 St. Louis, Missouri 63103.

15 JUDGE JONES: And from the Department of  
16 Natural Resources.

17 MS. MANGELSDORF: Sara Mangelsdorf from the  
18 Missouri Department of Natural Resources.

19 JUDGE JONES: And the Office of Public  
20 Counsel.

21 MR. POSTON: Thank you. Mark Poston appearing  
22 for Office of the Public Counsel and the public.

23 JUDGE JONES: And the Staff for the  
24 Commission.

25 MS. SHEMWELL: Thank you, Judge, and good

1 morning. Lera Shemwell and Megan McClowery, representing the  
2 Staff of the Missouri Public Service Commission, Post Office  
3 Box 360, Jefferson City, Missouri. Thank you.

4 JUDGE JONES: Okay. Let's first deal with the  
5 motion to strike portions of pre-filed testimony. There are  
6 two portions from Dr. Henry Warren's testimony that Ameren is  
7 moving to strike. That first portion on page 6, lines 2  
8 through 19 where Mr. Warren raises concerns regarding the  
9 total resource cost.

10 Staff has argued that Mr. Warren was  
11 responding to rebuttal testimony of Department of Natural  
12 Resources and the Office of Public Counsel. However, in that  
13 portion of his testimony, those parties aren't even  
14 mentioned. In fact, he specifically refers to Ameren's  
15 arguments, and it doesn't appear that the testimony is  
16 being -- is responsive to rebuttal testimony, but rather, is  
17 responsive to direct testimony.

18 So that portion will be stricken as being a  
19 violation of Commission's rules concerning surrebuttal  
20 testimony.

21 And with regard to Mr. Warren's testimony  
22 concerning Case GT-2011-0130, I suppose, as an attempt to  
23 lend some background to the agreement reached in Case  
24 GR-2010-0360, and that's the same testimony, similar  
25 testimony as presented by Mr. Ryan Kind. And Ameren's moved

1       that that testimony be stricken as irrelevant.

2                   Commissioner Davis, did you have a question  
3       you wanted to ask about that testimony?

4                   COMMISSIONER DAVIS: I think what I -- I mean,  
5       Judge, I think what I'd like to do is just take it under  
6       advisement at this time and --

7                   JUDGE JONES: Okay.

8                   COMMISSIONER DAVIS: -- let's hear -- kind of  
9       just hear what the parties -- and then I may ask some  
10      questions later.

11                  JUDGE JONES: All right. That's what we'll  
12      do. With that, let's -- let's go ahead and take opening  
13      statements, beginning with AmerenUE.

14                  And you-all are okay with this order of  
15      examination and witness presentation? Because I was confused  
16      by the fact that OPC or Staff filed the motion. OPC filed  
17      the initial motion, right?

18                  MR. POSTON: Motion?

19                  JUDGE JONES: To reject the tariff, reject or  
20      suspend the tariff.

21                  MR. POSTON: I think we all filed motions.

22                  MS. TATRO: I believe Staff was the first  
23      motion.

24                  JUDGE JONES: It would seem to me that Staff  
25      should present its case first, but if you-all want to do it

1 in this order, that's fine. Ameren, you can go ahead and go.

2 MS. SHEMWELL: Ameren's a proponent with the  
3 tariff.

4 MS. TATRO: We're fine with going first, Your  
5 Honor.

6 JUDGE JONES: Okay. You can go ahead.

7 MS. TATRO: Thank you.

8 Good morning. Ameren Missouri's natural gas  
9 efforts have undergone great change over the past several  
10 years, but most dramatically in the stipulation and agreement  
11 which resolved the company's last natural gas rate case.  
12 There's a portion of that stipulation which deals with Energy  
13 Efficiency programs, and it represents an important milestone  
14 in the growth of the Company's energy efficiency programs on  
15 the natural gas side.

16 The expenditure level was substantially  
17 increased. Previously, the Company had spent \$363,000 a  
18 year. That level doubled to 700,000 with a target of  
19 spending 800,000 within -- 850,000 within three years. This  
20 represents .05 percent of the Company's gross revenues, a  
21 level this Commission has indicated is a target that it  
22 supports for natural gas energy efficiency funding.

23 The company agreed to hire an outside expert  
24 to conduct an evaluation of its energy efficiency programs,  
25 something that is a hallmark of a mature energy efficiency

1 effort and something which hadn't been done previously.

2 The stakeholder group was changed from a  
3 consensus group where everyone had to agree to the terms of  
4 the tariff to an advisory group where Ameren Missouri is  
5 solely responsible for the decisions made after seeking and  
6 considering constructive input received from the members of  
7 the Energy Efficiency Advisory Group, also referred to as the  
8 EEAG.

9 Cost effectiveness went from a consideration  
10 standard cited by Mr. Buchanan from the 2007 rate case to a  
11 requirement, which is as it should be. In short, Ameren  
12 Missouri's natural gas energy efficiency efforts have grown  
13 and matured. The company has worked to live up to its  
14 obligations to ensure it offers customers energy efficiency  
15 programs which are cost-effective, which includes being  
16 cost-effective for its customers.

17 And Your Honors, that's the crux of this case.  
18 What does "cost effective" mean? It's not defined in the  
19 stipulation. The stipulation merely uses the phrase "cost  
20 effective." Does it mean, as others in this case would  
21 argue, it only means the test that's set forth in the  
22 definition section of the Commission's promotional practices  
23 rules. That would be a simple answer.

24 But as Mr. Shoff explains in his surrebuttal,  
25 that definition does not consider customer costs associated

1 with energy efficiency programs, something the Company  
2 believes this Commission would believe is important.

3 It also ignores a later requirement within the  
4 same promotional practices rules that require promotional  
5 practices to be just and reasonable, reasonable as a business  
6 practice, economically feasible and compensatory, and  
7 reasonably calculated to benefit both the utility and its  
8 customers. That's found in 4 CSR 240-14.030(1).

9 A better cost benefit test to use for energy  
10 efficiency measures in Ameren Missouri's opinion is the Total  
11 Resource Cost, also referred to as the TRC. This cost  
12 considers the cost and benefits to both the utility and to  
13 its customers, just as the promotional practices rule  
14 demands, and just as is our obligation as we look out for our  
15 customers' best interests.

16 Now, earlier this year, Ameren Missouri  
17 obtained additional information which updated values used in  
18 calculating the TRC for its natural gas energy efficiency  
19 measures. Other parties in this case argue that the Company  
20 should have ignored this development. Mr. Lovett testifies  
21 that Ameren Missouri felt to do so would be to ignore its  
22 obligation to our customers, an obligation that exists with  
23 or without the stipulation requirement of offering only  
24 cost-effective programs.

25 So Mr. Shoff calculated TRC results for its



1 currently existing natural gas energy efficiency measures  
2 based on this new information and found some of them are not  
3 even close to being cost-effective, which means --  
4 cost-effective would mean having a result of 1.0 or above.  
5 Mr. Shoff's direct testimony on page 4 sets out these  
6 results. For example, the Company's wall insulation from R11  
7 to R13 has a TRC of .06; tankless water heater results, .29;  
8 boiler tuneup, .11. I won't read through all of them.  
9 They're in the testimony. But the vast majority of them  
10 aren't even close to a 1.0.

11           The range of the TRC results for residential  
12 measures that the Company is proposing to remove is .06 to  
13 .86, and the range for the general service measures the  
14 Company is proposing to remove is .03 to .82. And that range  
15 doesn't tell the entire story. All but three of these  
16 measures have a TRC result of below .65. Remember, it takes  
17 a TRC result of 1.0 to be considered cost-effective.

18           The company is doing what it believes is the  
19 right thing for all of its customers. This case didn't have  
20 to come before you today. The company, in the face of the  
21 objection of every other party, could have just withdrawn the  
22 tariff and continued spending money on measures  
23 notwithstanding the fact that we didn't believe they were  
24 cost-effective.

25           But Commissioners, that wouldn't be the right

1     thing to do. And because the ultimate objective is not just  
2     to spend up to the budget limit, regardless of the  
3     cost-effectiveness of the measure, we're before you today.  
4     Our goal should be to run cost-effective energy efficiency  
5     programs that benefit the utility as well as our customers.  
6     That's an important issue that's in front of you today.

7                 Now, should a different standard for measuring  
8     cost effectiveness of natural gas energy efficiency measures  
9     and programs be different for natural gas than it is for  
10    electric? No one denies that the TRC is the primary test for  
11    electric energy efficiency. It's required by statute. And  
12    as Mr. Shoff testifies in his testimony, both in his direct  
13    and his rebuttal, the TRC test is a primary cost benefit test  
14    used across the nation for both gas and electric utilities.

15                Ameren believes the standard should be the  
16    same for natural gas energy efficiency programs. Why would  
17    this Commission adopt a standard that doesn't consider  
18    customer cost as a measuring stick for determining what is  
19    cost-effective?

20                That said, if this Commission decides to adopt  
21    a definition of cost benefit that doesn't include customer  
22    cost, then the Company will administer its programs  
23    accordingly. This case will provide crucial guidance for the  
24    Company moving forward.

25                Now, there are other issues in the case, all

1 of which can be resolved by looking no further than the terms  
2 of the stipulation and agreement itself. For example, other  
3 parties in this case argue the Company cannot remove measures  
4 because it agreed in the stipulation not to interrupt. The  
5 language of the stipulation does not say interrupt measures.  
6 It says the Company must offer uninterrupted programs, which  
7 is a different requirement.

8 As Mr. Lovett explains in his surrebuttal, a  
9 measure is a device or a practice that, when installed,  
10 reduces the amount of energy used. A program is a  
11 combination of energy efficiency measures. The company's not  
12 shutting down its residential Energy Efficiency program.  
13 It's not shutting down its commercial Energy Efficiency  
14 program. It is changing the combination of measures to  
15 ensure it continues to offer cost-effective programs.

16 The other parties in this case argue the  
17 Company cannot know whether a program or measure is  
18 cost-effective until it completes a postimplementation  
19 evaluation, which is due December 31st of 2012. As Mr.  
20 Lovett testifies in his surrebuttal, the Company agrees this  
21 evaluation is important and will provide information that  
22 should be used to develop the Company's natural gas energy  
23 efficiency efforts going forward.

24 However, to argue that changes cannot be made  
25 to the measures before that evaluation is complete requires

1 one to insert a restriction which doesn't exist in the  
2 stipulation and agreement and to ignore a restriction that  
3 does exist. That is, to only offer cost-effective programs  
4 or measures.

5 Further, Commissioners, it would require  
6 Ameren Missouri to abandon best practices in implementing its  
7 energy efficiency programs because best practices don't  
8 ignore information regarding cost effectiveness just because  
9 a postimplementation evaluation has not been completed.

10 Thirdly, other parties in this case argue the  
11 stipulation allows the Company to add measures but not to  
12 take them away. Now, again, the language of the stipulation  
13 and agreement is clear, and you need look no further than the  
14 language within that document. The company is allowed to  
15 file with the Commission proposed revised tariff sheets  
16 concerning the energy efficiency programs if Ameren Missouri  
17 believes circumstances warrant changes. That language  
18 doesn't say that the change can only be the addition of  
19 measures, and that interpretation ignores the plain language  
20 of the stipulation.

21 Finally, the parties in this case argue that  
22 the Company brought the TRC issue to the EEAG shortly after  
23 the stipulation was approved by this Commission and somehow  
24 that means the Company acted inappropriately. To the  
25 contrary, I submit to you that ignoring this new information

1 would have been inappropriate. Continuing to spend money on  
2 measures which aren't cost-effective for customers regardless  
3 of whether that information was received eight months or 18  
4 days after you issued the Order approving the Company's  
5 tariffs in the last rate case, that would be inappropriate.

6 And that brings us right back to the crux of  
7 the issue in this case, and that is what does "cost  
8 effective" mean and how is it determined? Is it a cost  
9 benefit test which ignores the cost of measures and programs  
10 to customers? Is it a process which does not react or  
11 respond to information that comes to light during the life of  
12 a program or measure?

13 In a sense, the Company appreciates the timing  
14 of this case. If the Commission disagrees with how we have  
15 interpreted the phrase "cost effective" and wants the Company  
16 to continue these programs, then having that information will  
17 allow the Company to adjust its management of its natural gas  
18 energy efficiency efforts going forward, and we look forward  
19 to your decision.

20 Thank you.

21 COMMISSIONER JARRETT: Great. Sorry to butt  
22 in, but I just had a question, Ms. Tatro, and really this is  
23 to all the attorneys. It has to do with the list of issues  
24 in its paragraph Roman Numeral Number II, "Should the  
25 Commission adopt a definition of general applicability of

1 cost effectiveness in this case? If yes, should the test  
2 apply to all Missouri gas utilities?"

3 And my question is: Can we do that? I mean,  
4 isn't a test of general applicability that would apply to all  
5 Missouri gas utilities, wouldn't we have to institute a  
6 ratemaking docket and promulgate a rule?

7 MS. TATRO: I think you would have to have a  
8 rulemaking -- and I don't think it's necessary in this case.  
9 This case impacts Ameren Missouri and Ameren Missouri only.

10 COMMISSIONER JARRETT: Okay. Any other  
11 attorneys want to respond?

12 MS. SHEMWELL: I agree that the Commission  
13 would need to engage in a rulemaking.

14 MR. POSTON: I agree, and I think that's what  
15 our answer to that position stated to that issue.

16 COMMISSIONER JARRETT: Okay.

17 MS. MANGELSDORF: The Department of Natural  
18 Resources would also concur with that as well.

19 COMMISSIONER JARRETT: Great. Well, that was  
20 easy. Thanks.

21 JUDGE JONES: So all of you agree that the  
22 answer to this question is no?

23 MS. TATRO: I think we do. I think where we  
24 disagree is the other parties may say you should have a  
25 rulemaking and Ameren Missouri says it's not necessary.

1 JUDGE JONES: Well, but I mean, the answer to  
2 Roman Numeral Number II, then, is no from everyone?

3 COMMISSIONER JARRETT: So it's not really an  
4 issue in this case.

5 JUDGE JONES: Okay.

6 MS. TATRO: See how agreeable we are this  
7 morning.

8 COMMISSIONER JARRETT: I love it.

9 COMMISSIONER DAVIS: Okay. So I guess, let  
10 me -- let me follow-up with that. Okay. So everyone else  
11 agrees that there should be a rule. Ameren says no, we don't  
12 need a rule.

13 But would everyone here agree that any party  
14 to this case is able to file a motion to open up a rulemaking  
15 docket on this issue?

16 MS. TATRO: Absolutely.

17 COMMISSIONER DAVIS: You agree with that?  
18 Mr. Poston's shaking his head yes.

19 MR. POSTON: I do agree with that, yes.

20 COMMISSIONER DAVIS: Ms. Mangelsdorf agrees  
21 with that. Ms. Shemwell agrees with that. But nobody's done  
22 it; is that correct, Mr. Poston?

23 MR. POSTON: Not to my knowledge.

24 COMMISSIONER DAVIS: Not to your knowledge.  
25 Ms. Mangelsdorf?

1 MS. MANGELSDORF: Not to my knowledge.

2 COMMISSIONER DAVIS: Not to your knowledge.

3 Ms. Shemwell?

4 MR. POSTON: Judge, we believe that there is a  
5 definition of "cost effective" that's applicable to gas  
6 utilities found in the promotional practices rule.

7 COMMISSIONER DAVIS: Okay. So you're saying  
8 you don't need a rulemaking?

9 MS. SHEMWELL: We do not believe there needs  
10 to be a rulemaking. However, if the Commission wants to  
11 change its definition, it would need to engage in a  
12 rulemaking rather than doing it in this docket.

13 COMMISSIONER DAVIS: Okay. And you're saying  
14 we don't need to change, we just need to use the definition  
15 that's in the promotional practices rule?

16 MS. SHEMWELL: Well, we have for many years,  
17 and yes, it's a reasonable definition for cost-effective.  
18 It's in the promotional practices rule.

19 COMMISSIONER DAVIS: Okay. So you're saying  
20 no change, use the definition that's already in the other  
21 rule?

22 MS. SHEMWELL: That's certainly what we have  
23 to do in this case.

24 COMMISSIONER DAVIS: Okay. That's what we  
25 have to do in this case. All right.



1                   Ms. Tatro, in your opening statement, you  
2     seemed almost angry. Is there something about this case that  
3     angers you?

4                   MS. TATRO: No. I mean, we're trying to do  
5     the right thing here. We believe the definition of  
6     promotional practices conflicts with the later requirement,  
7     that it has to benefit customer and the utility. Perhaps I'm  
8     bewildered, but I'm not angry.

9                   COMMISSIONER DAVIS: Okay.

10                  MS. TATRO: You would know if I was angry.

11                  COMMISSIONER DAVIS: All right. If the price  
12     of natural gas was \$6 per million Btu, would we be having  
13     this discussion?

14                  MS. TATRO: It probably would greatly change  
15     those TRC results, so it probably -- more measures would  
16     probably be cost-effective. So we might not.

17                  But I think we would still evaluate it using  
18     the TRC methodology, and we think that is still the  
19     appropriate standard, even under the Commission's promotional  
20     practices rule. You can ignore the definition of  
21     cost-effective. If you want to say it's the definition  
22     that's in the promotional practices definition of  
23     cost-effective, there's still another part of that rule that  
24     says a promotional practices, a practice which energy  
25     efficiency measures are, have to benefit both the customer

1 and the utility.

2 So I don't know. But philosophically, perhaps  
3 we wouldn't get that far because the TRC results would be  
4 different. We'd have more measures and the other parties  
5 wouldn't -- you know, we wouldn't get to that point.

6 COMMISSIONER DAVIS: Okay. Is -- what is the  
7 standard of review in this case?

8 MS. TATRO: The standard of review?

9 COMMISSIONER DAVIS: What is our standard for  
10 deciding this case?

11 MS. TATRO: Well, I think you have to start  
12 with the terms of the stipulation and agreement. I think you  
13 have to look at -- first, start with the language of the  
14 stipulation and agreement, and if it's not unclear, if it's  
15 not unambiguous, then you don't have to go any further.

16 I would say the majority of the stipulation  
17 and agreement is perfectly clear. The one issue that might  
18 be unclear is what's cost-effective and, you know, that's the  
19 whole discussion that we just had. But, for example, talking  
20 about the GT case that happened last November has nothing to  
21 do with this case. It might have caused someone to put some  
22 particular portion of the stipulation and agreement into the  
23 stipulation and agreement, but as long as that language is  
24 clear, it says what it says, and it doesn't matter what their  
25 intent was, or what my intent was.

1                   You don't look at intent as long as the  
2                   language is clear.

3                   COMMISSIONER DAVIS: Is the GT case or the  
4                   stip in GR-2010-363, are those contracts?

5                   MS. TATRO: Well, it's an agreement. Yeah, I  
6                   suppose it's a form of a contract.

7                   COMMISSIONER DAVIS: So if it's a form of a  
8                   contract, it is a contract.

9                   MS. TATRO: Yeah.

10                  COMMISSIONER DAVIS: If there is a breach of  
11                  contract, is the remedy here, or is the remedy in circuit  
12                  court?

13                  MS. TATRO: Well, I think under the  
14                  Commission's procedure, they have to start here, yeah.

15                  COMMISSIONER DAVIS: Okay.

16                  MS. TATRO: Which, in all fairness to the  
17                  parties, I think would say that's what they were doing.

18                  COMMISSIONER DAVIS: Okay. No further  
19                  questions, Judge.

20                  Thank you, Ms. Tatro.

21                  JUDGE JONES: Thank you. Opening statement  
22                  from the Department of Natural Resources.

23                  MS. MANGELSDORF: Good morning. May it please  
24                  the Commission.

25                  JUDGE JONES: Good morning.

1 MS. MANGELSDORF: We're here today because  
2 Ameren Missouri changed its mind. Ameren Missouri entered  
3 into a unanimous stipulation and agreement which this  
4 Commission approved on January 19th, 2011. The company has  
5 now changed its mind and decided to question the cost  
6 effectiveness of the new energy efficiency programs  
7 introduced in the stipulated compliance tariffs.

8 The agreement of the parties was for the new  
9 programs to remain in effect uninterrupted until April 2012  
10 and then to be evaluated. Ameren Missouri changed its mind  
11 about this commitment to leave the programs in effect for the  
12 agreed-upon period and took it upon itself to evaluate the  
13 cost effectiveness of the measures within the programs in a  
14 time frame and in a manner that is unacceptable to all other  
15 members of the Energy Efficiency Advisory Group.

16 Ameren Missouri is looking for a way to change  
17 the agreement by claiming that circumstances have changed.  
18 The Missouri Department of Natural Resources is here today to  
19 ask this Commission to not allow this to happen, to reject  
20 Ameren Missouri's tariff filing because it's not consistent  
21 with the Commission's Order approving the unanimous  
22 stipulation and agreement and is not consistent with the  
23 public interest.

24 While the Commission did not sign the  
25 stipulation, it did approve the stipulation, which as the

1 Commission will recall, provided for a significant rate  
2 increase that included a significant increase in the amount  
3 of funds to be provided by ratepayers for energy efficiency  
4 programs with a ramp-up of funding over three years in  
5 exchange for a specific set of energy efficiency measures to  
6 be implemented uninterrupted by Ameren Missouri for a  
7 specified period of time.

8 And so as you sit here today, please ask  
9 yourselves, when the Commission approved this additional  
10 funding from ratepayers, is this the result it expected from  
11 Ameren Missouri?

12 Now, I would like to take a step back for a  
13 moment and talk a little bit more about how we got here. The  
14 unanimous stipulation and agreement required the Company to  
15 file tariff sheets. It also required these tariffs, which  
16 were attached to the agreement as Appendix C, to provide for  
17 the uninterrupted availability of these energy efficiency  
18 programs through December 31st, 2012. These tariffs were  
19 filed with the Commission by January 31st of 2011 and became  
20 effective on February 20th, 2011.

21 However, only 18 days later, Ameren Missouri  
22 e-mailed the Energy Efficiency Advisory Group informing them  
23 that it wanted to make changes to the tariff. After  
24 receiving negative responses from the group, this proposal  
25 was abandoned until approximately another month later. And

1 despite further objections from OPC, Staff and MDNR, the  
2 Company filed its proposed changes to the tariff with the  
3 Commission on May 27th, 2011, anyway, merely three months  
4 after the tariffs that were agreed upon by all of the parties  
5 in the unanimous stipulation and agreement became effective.

6               So what are these changes? Well, the  
7 residential program that was agreed to by all of the parties  
8 in the unanimous stipulation and agreement contained 19  
9 measures. And the business program that was also agreed to  
10 by all of the parties in the agreement contained 28 measures.  
11 What Ameren Missouri is now proposing is to remove 68 percent  
12 of the residential energy efficiency measures and 25 percent  
13 of the business energy efficiency measures.

14              The company claims that, because these two  
15 programs still contain some measures within them, the  
16 programs are still intact and, therefore, uninterrupted.  
17 However, in the case of the residential program, only six of  
18 the original 19 measures remain.

19              Okay. So let's think about this for a moment.  
20 As an example, I depend on my car to get to work every  
21 morning, but let's say someone removes the engine,  
22 transmission, the carburetor and the brakes. Sure, the shell  
23 would still be there, and I guess you could still call it a  
24 car, but, of course, I wouldn't be able to drive it. Just  
25 because I can point to a hunk of metal and call it a car

1 doesn't mean that it's functioning as a car because it needs  
2 certain parts in order for it to work.

3 Similarly, an Energy Efficiency program, like  
4 my car, it needs a group of measures in order for it to work.  
5 In this case, the parties agreed to specific measures that  
6 were to be included in the programs in order to make them  
7 work. By removing a significant number of measures within  
8 these programs, the customers are left with programs that may  
9 not function in the manner they were intended to, and that  
10 the parties, including Ameren Missouri, agreed to in the  
11 unanimous stipulation and agreement.

12 Okay. So now let's turn to why these changes  
13 are being made. Ameren Missouri is claiming that  
14 circumstances have changed. The company points to the  
15 unanimous stipulation and agreement which allows it to file  
16 proposed tariff sheets concerning the Energy Efficiency  
17 program if the Company believes circumstances warrant  
18 changes. So what circumstances changed in this case?

19 The evidence will show that circumstances did  
20 not change. Rather, Ameren Missouri conducted a Total  
21 Resource Cost test, a TRC, that is -- and is now claiming  
22 that the results of the tests themselves are a change in  
23 circumstances. In other words, the Company is not proposing  
24 these changes to the tariff as a reaction to external  
25 circumstances, such as a change in natural gas prices that

1 are outside of its control. Instead, Ameren changed  
2 circumstances within its own control by conducting a TRC test  
3 less than halfway through an agreed-upon time period  
4 specified in the unanimous stipulation and agreement.

5               So now let's talk briefly about this Total  
6 Resource Cost test. A TRC is not required, let alone  
7 mentioned in the unanimous stipulation and agreement.  
8 However, what is required by the agreement is a  
9 postimplementation evaluation performed by an outside firm of  
10 all the programs or measures that includes data from the  
11 program participants through the end of April 2012. So does  
12 the TRC that Ameren Missouri conducted and is now using as  
13 its basis for changing its tariff meet these requirements?  
14 No.

15               And here are three reasons why it does not.  
16 First, it was not conducted by an outside firm; second, it  
17 was not done postimplementation; and third, it did not  
18 include usage data from program participants through the end  
19 of April 2012. Therefore, how can Ameren Missouri claim that  
20 circumstances have changed based solely on a test that is not  
21 based on usage data from participants produced in Missouri.

22               If Ameren claims that it is not intended to be  
23 a postimplementation evaluation despite their witness's  
24 reference to the term "evaluation," the TRC is facially  
25 flawed, again, for three reasons.



1           First, it will result in ENERGY STAR rated  
2     appliances being rejected as not cost-effective. Ameren  
3     Missouri is a certified ENERGY STAR partner. This result is  
4     equivalent to cheating on their partner.

5           Second, this TRC will result in building shell  
6     measures being rejected inappropriately since Ameren  
7     Missouri's existing building shell measures uniformly require  
8     a certified home energy auditor's evaluation for cost  
9     effectiveness on a residence-by-residence basis with no  
10    incentives available unless the applicant's residence passes  
11    the cost effectiveness test applied by the auditor.

12          Third, the TRC inappropriately rejects  
13    individual measures without the necessary step of evaluating  
14    those measures with other measures on a program-level basis  
15    to determine whether the combination of measures in the  
16    program evaluates to a TRC of plus one or more. The  
17    stipulation does not prohibit measures within a TRC less than  
18    one. And, in fact, the evidence will show that there were  
19    several measures in the compliance tariffs approved by this  
20    Commission that Ameren's 2010 TRC calculation showed were  
21    less than one.

22          Finally, Ameren Missouri has asserted that,  
23    because the unanimous stipulation and agreement states that  
24    it is responsible for all final decisions regarding its  
25    natural gas energy efficiency programs, the Company can now

1 make changes to its energy efficiency tariff, including  
2 removing a large portion of its residential and business  
3 energy efficiency measures. While it is true that Ameren  
4 Missouri is responsible for all final decisions regarding its  
5 natural gas energy efficiency programs, it is responsible for  
6 these programs within the context of the unanimous  
7 stipulation and agreement. Simply because the agreement  
8 states that Ameren Missouri is responsible for all final  
9 decisions regarding its natural gas energy efficiency  
10 programs does not mean that the Company can now disregard  
11 what it has previously agreed to in the unanimous stipulation  
12 and agreement.

13 Ameren Missouri's assertions regarding  
14 exposure to possible prudence arguments are not well-founded  
15 either. The other members of the advisory group have never  
16 sought to challenge Ameren Missouri's prudence of the  
17 decision to implement its energy efficiency programs, and the  
18 very fact that these programs and measures were agreed to in  
19 the unanimous stipulation and agreement belies the notion  
20 that any advisory group member would do so.

21 In fact, Public Counsel's evidence states that  
22 no EEAG member would challenge the prudence or cost  
23 effectiveness of the decision to use the agreed-upon measures  
24 between February 2011, when the new program measures became  
25 effective in UE's tariff in December 2012 when the

1       signatories agreed the program measures are to be evaluated  
2       by a third party and UE's concern that UE could have  
3       expenditures disallowed due to the decision to offer the  
4       agreed-upon measures and rebates has no merit. MDNR is in  
5       full agreement with those statements. The Commission should  
6       disregard this as a red herring.

7               In conclusion, the Missouri Department of  
8       Natural Resources requests this Commission to reject Ameren  
9       Missouri's tariff filing and order the Company to comply with  
10      the unanimous stipulation and agreement agreed to by  
11      providing uninterrupted availability for its energy  
12      efficiency programs, including the measures included in  
13      Appendix C of the agreement through December 31st, 2012.  
14      Thank you.

15             JUDGE JONES: Questions? Thank you,  
16      Ms. Mangelsdorf.

17             COMMISSIONER DAVIS: Yes. Ms. Mangelsdorf,  
18      Ameren has alleged a change in circumstances, correct?

19             MS. MANGELSDORF: Correct.

20             COMMISSIONER DAVIS: How is the change in  
21      circumstances that Ameren is alleging in this case any  
22      different from the change in circumstances that you alleged  
23      last month in EO-2011-275, 276, 277 and 278 when DNR changed  
24      its position with regard to the RES compliance plans?

25             MS. MANGELSDORF: I think what's different in

1     this circumstance is that the parties have a unanimous  
2     stipulation and agreement which they agreed to certain terms.  
3     In the case of the -- in the RES issue, the Department of  
4     Natural Resources was not under a unanimous stipulation and  
5     agreement where it agreed to take a certain position on that  
6     issue, if I'm recalling correctly.

7                   COMMISSIONER DAVIS:   Okay.   Well, let me go  
8     back to your car analogy.

9                   MS. MANGELSDORF:    Sure.

10                  COMMISSIONER DAVIS:   What if I gave you a car,  
11     something classy, a brand new Ford made here in Missouri with  
12     leather seats, all the bells and whistles.   But let's say  
13     that that car doesn't run at night, it doesn't run on days  
14     that it rains or days that it's cloudy.   So that you could  
15     really only drive the car about 20 percent of the time.  
16     Would that be a very good deal?

17                  MS. MANGELSDORF:    Well, it depends on what the  
18     purpose of my use of the car is.

19                  COMMISSIONER DAVIS:   Okay.   Well, it would  
20     still be free to you.

21                  MS. MANGELSDORF:    If you gave it to me, sure,  
22     yeah.

23                  COMMISSIONER DAVIS:   Okay.   Now, what -- what  
24     if you found out that that car costs \$30,000, and I went out  
25     and collected the money from all of the other ratepayers in

1       this state to pay for it? How would you feel about it then?

2       Would that be a very good use of ratepayer money?

3               MS. MANGELSDORF: Well, I think in this  
4       case -- I mean, perhaps what the car analogy, I mean, I think  
5       in some respects you might be comparing apples and oranges.  
6       In the context of this case, there is a --

7               COMMISSIONER DAVIS: Right. My car actually  
8       has a motor, it just only runs at certain times.

9               MS. MANGELSDORF: Right. But I think the  
10      analogy stops in this case when there is a unanimous  
11      stipulation and agreement where the parties agree that  
12      certain things would happen.

13              So if -- if I agreed -- if in the case of the  
14      car, if there was some sort of, you know, agreement in which  
15      I agreed to say that I would -- I would drive the car in  
16      these circumstances, then I would have to abide by the terms  
17      of that agreement.

18              COMMISSIONER DAVIS: So could you conceive of  
19      a change in circumstances where it would be prudent for  
20      Ameren to discontinue a program or an offering, or would you  
21      just say that, nope, pursuant to the terms of the stip, they  
22      agree to keep providing all of this through, I believe it was  
23      April 2012?

24              MS. MANGELSDORF: I think in this case that it  
25      would be until April 2012, and I think earlier when you had

1 asked the question of Ameren that if the natural gas prices  
2 were \$6, if we would still be here, I think that that --  
3 that's a very good point in that part -- part of the reason  
4 that these measures and these programs are supposed to be  
5 interrupted through 2012 is that there could be some changed  
6 circumstances that could significantly change the TRC values,  
7 and that's why, within the agreement, they wanted  
8 approximately a three-year span of data from Missouri program  
9 participants in order to see over a span of three years  
10 whether or not these are cost-effective measures.

11 If you take, you know, data from, you know,  
12 within just a couple months and even use data that isn't from  
13 program participants, the numbers can be skewed in different  
14 ways and may not be representative of whether or not these  
15 measures are cost-effective.

16 In addition, if you look -- if you do a TRC on  
17 a measure-by-measure basis, that doesn't look at the totality  
18 of the measures interacting together and whether or not the  
19 program as a whole is cost-effective.

20 COMMISSIONER DAVIS: Right. You're saying  
21 abolishing two-thirds of the measures effectively gets the  
22 program correct?

23 MS. MANGELSDORF: Correct.

24 COMMISSIONER DAVIS: So do you think it would  
25 be -- maybe this might be a better question for one of the

1 experts, but would it be appropriate to do a gas sensitivity  
2 analysis to look at, you know, \$4 gas, \$6 gas, \$9 gas to --  
3 when we're evaluating these measures? Do you think that  
4 would be a prudent thing to do?

5 MS. MANGELSDORF: I can't answer that  
6 question. You would have to ask one of my witnesses.

7 COMMISSIONER DAVIS: Okay. That's fine. I  
8 think I'll ask Mr. Kind.

9 Remind me, Mr. Kind, and I'll ask you that  
10 question when you're on the stand.

11 I don't have any further questions. Thank  
12 you, Ms. Mangelsdorf.

13 COMMISSIONER JARRETT: Thank you.  
14 Good morning, Ms. Mangelsdorf.

15 MS. MANGELSDORF: Good morning.

16 COMMISSIONER JARRETT: I want to make sure I  
17 understand your position correctly. Your position is --  
18 first of all, Ameren's come in and said these programs that  
19 they want to drop are inefficient?

20 MS. MANGELSDORF: Correct.

21 COMMISSIONER JARRETT: Let's assume that's  
22 true, just for purposes of argument, that these are  
23 inefficiency, they're not good programs, they're not working  
24 the way they're supposed to work.

25 DNR's argument is you agreed by stipulation to

1 do these programs and, by God, even if they're not working,  
2 you have to keep on doing them. Is that what your position  
3 is?

4 MS. MANGELSDORF: Well, I think part -- I  
5 think part of the frustration on the part of the Department  
6 of Natural Resources, if there was a new change in these  
7 circumstances that were brought to the attention of --

8 COMMISSIONER JARRETT: I don't care if there's  
9 been any change in circumstances or not. If, assuming for  
10 purposes of argument that these programs are not efficient,  
11 then is it DNR's position that, by God, the stipulation and  
12 agreement says you have to keep doing them, so keep doing  
13 them?

14 MS. MANGELSDORF: I think the Department's  
15 position is that that determination cannot be made  
16 appropriately until after the three-year period when this  
17 postevaluation evaluation can be -- the postevaluation can be  
18 done. Because taking a very small set of numbers that is --  
19 I think some of the data might have been from program  
20 participants, but much of the data was not. It was from  
21 outside sources.

22 We can't -- we can't say whether or not for  
23 sure these programs are cost-effective within Missouri until  
24 this postevaluation is done.

25 COMMISSIONER JARRETT: Okay. So your position



1 is we don't know whether they're efficient or not until after  
2 they've been done; is that right? Until after this certain  
3 period of time?

4 MS. MANGELSDORF: I think -- right. I think  
5 the purpose of -- the purpose is for them to have  
6 uninterrupted until, I think it was April 2012, as the  
7 stipulation states, when the postevaluation can be done to  
8 determine whether or not they are, in fact, cost-effective.

9 COMMISSIONER JARRETT: Commissioner Davis, do  
10 you remember, aren't they holding hearings in Washington  
11 about a company by the name of Solyndra where they were,  
12 like, pouring government money down a bad hole?

13 COMMISSIONER DAVIS: I disagree with that  
14 characterization, Commissioner Jarrett. They did not pour  
15 the money down a bad hole, they just gave them \$500 million.  
16 The money is gone, the Company has filed for bankruptcy, and  
17 they don't want to disclose what bonuses the executives were  
18 paid. It's the greedy Wall Street people that we've been  
19 hearing about.

20 COMMISSIONER JARRETT: I see. I appreciate  
21 that. I joke, but I am concerned, you know, that if these  
22 programs are inefficient, I believe we have a duty to -- to  
23 not make ratepayers have to pay for inefficient programs.  
24 And so I'm glad it's not DNR's position that they have to  
25 continue to use inefficient programs, that it's just that you

1       can't evaluate them yet.

2                   MS. MANGELSDORF:   That's correct, because I  
3       think some of these -- I apologize for interrupting. But I  
4       think some of these programs do take some time to fully  
5       develop. And so if, after they initially start, you know, a  
6       TRC done right away may not be representative of the program  
7       as it ramps up over a couple of years. So it may become more  
8       cost-effective as the program gains traction.

9                   And so that's why they need this longer period  
10      of time in order to fully evaluate. Because as Commissioner  
11      Davis had pointed out, that natural gas prices can change and  
12      that would significantly effect a TRC. And so I think by  
13      taking just a small sample of numbers, it wouldn't truly be  
14      representative of what the actual cost effectiveness is.

15                  COMMISSIONER JARRETT: My final question is:  
16      You said in your statement that all of the parties here have  
17      agreed that they're not going to challenge the prudence of  
18      these programs if at the end of the day they are -- have been  
19      inefficient and effectively ratepayers' money has been  
20      wasted, that you're not going to challenge the prudence of  
21      that?

22                  MS. MANGELSDORF:   Correct.

23                  COMMISSIONER JARRETT: Okay. Are you sure  
24      that all of these parties are going to be the only parties in  
25      the next rate case? Will there be other parties that aren't

1 parties to this that might come in and challenge the prudence  
2 of that?

3 MS. MANGELSDORF: That is true.

4 COMMISSIONER JARRETT: Thank you.

5 JUDGE JONES: And opening statement from the  
6 Office of Public Counsel.

7 MR. POSTON: Good morning. May it please the  
8 Commission. We shouldn't be here today. First, we shouldn't  
9 be here today because UE should never have filed to gut a  
10 program that it had agreed just months earlier to implement  
11 and continue uninterrupted through December 2012.

12 Second, we shouldn't be here today because we  
13 believe this tariff filing should have been rejected back in  
14 June as requested by the Commission Staff, OPC, and DNR. But  
15 here we are anyway, spending limited resources litigating  
16 issues that we already resolved and that were already ordered  
17 by the Commission.

18 Central to this case is a stipulation and  
19 agreement entered into by the four parties here today and  
20 ordered by the Commission. Three parties here today will  
21 tell you that we all shared a similar understanding of what  
22 the terms of that agreement meant when we signed it. One  
23 party, the one we all trusted with administering this program  
24 when we agreed to allow them to switch from a collaborative  
25 group to an advisory group, will try to convince you that the

1 agreement meant something different.

2           The more utility companies try to dishonor  
3 their agreements, the more difficult it becomes for our  
4 office to justify entering into agreements. I can't imagine  
5 the burden it would place on everyone here if no case settled  
6 and every case went to hearing. But we have to have faith in  
7 the Commission, faith that you will protect consumers,  
8 protect your own Staff, and protect the interests of the  
9 important work of the Missouri Department of Natural  
10 Resources, and ultimately, protect the process here before  
11 you by ordering UE to live up to its commitments. Not only  
12 UE's commitments, but UE's obligations.

13           Stipulations entered into by the parties to a  
14 case and ordered by this Commission are binding contracts.  
15 So this is more than just a matter of a company dishonoring  
16 an agreement. It's also a matter of a company breaking its  
17 legal obligation to continue offering the same rebate program  
18 in the tariffs today uninterrupted through December 2012.

19           As you know, the agreement in question  
20 resolved three cases. First, it resolved UE's request for a  
21 rate increase, Case GR-2010-0363. Second, it resolved Case  
22 Number GT-2010-0130, which is consolidated with GO-2010-0131.  
23 The GT case involved a tariff filing by Ameren requesting  
24 permission to move commercial energy efficiency funds to the  
25 residential Energy Efficiency program. Ameren later withdrew

1       that tariff.

2                   The GO case was OPC's request to the  
3       Commission to resolve the issue of Ameren stopping its rebate  
4       program in October of 2010 despite an ongoing marketing  
5       campaign encouraging consumers to invest in energy efficiency  
6       improvements. The campaign promised the availability of  
7       rebates that were not available.

8                   These three cases were eventually resolved  
9       through the unanimous stipulation entered in the rate case.  
10       OPC agreed to withdraw its request to investigate Ameren's  
11       decision to stop offering rebates because the unanimous  
12       stipulation provided that the programs would continue  
13       uninterrupted through December of 2012.

14                   The programs that Ameren would like to see  
15       with a large reduction of the measures we agreed to are not  
16       the programs that these four parties agreed would continue  
17       through December 2012. The programs we agreed to are the  
18       ones that include the measures in place today and we ask the  
19       Commission to force Ameren to honor its agreement and order  
20       Ameren to obey the Commission's Order directing Ameren to  
21       provide these programs through December 2012.

22                   JUDGE JONES: Commissioner Jarrett?

23                   COMMISSIONER JARRETT: Yeah. Mr. Poston, good  
24       morning. I agree with you completely with these stipulations  
25       and agreements. I mean, this has happened, I don't know, in

1 the last six months, we've had two or three of these disputes  
2 over language in stipulations and agreements that we have  
3 approved. I guess, apparently everybody's writing bad  
4 stipulations and agreements because nobody can agree three  
5 months later what they say.

6 Should we just stop approving stipulations and  
7 agreements and go to hearing every time? Because we sure are  
8 wasting time, aren't we, Commissioner Davis, litigating over  
9 these stipulations and agreements that everybody agrees to  
10 and then three months later comes in and it's like they don't  
11 agree on anything?

12 COMMISSIONER DAVIS: I agree with Mr. Poston.  
13 We shouldn't even be here today because we should have been  
14 here yesterday.

15 COMMISSIONER JARRETT: But anyway, what can we  
16 do? I agree with you completely. What is the answer?

17 MR. POSTON: I think the answer is enforcing  
18 the agreement as it's written, which is our position.

19 COMMISSIONER JARRETT: No further questions.

20 JUDGE JONES: Do you have any questions,  
21 Commissioner Davis?

22 COMMISSIONER DAVIS: I'm just trying to figure  
23 out, should -- should we -- should we promulgate a rule to  
24 the parties that says that if you're going to file a  
25 stipulation, you should make the terms more definite? Should

1 we define every word that's more than five letters long? I  
2 mean, I don't know what it takes, but this -- this has been  
3 continually an issue for seven years now, Commissioner  
4 Jarrett. It's -- and it happens three, four times a year.  
5 And it's -- it's all parties. It's not -- I mean, there's  
6 no --

7 COMMISSIONER JARRETT: I mean, it's  
8 frustrating. We try to exercise judicial economy and save  
9 money, and it doesn't -- we might as well just go to hearing  
10 on all of them if we're going to keep relitigating these  
11 stipulations. That's my two cents.

12 COMMISSIONER DAVIS: I don't think I have any  
13 questions. I've got just a couple for Mr. Kind. Thank you.

14 JUDGE JONES: Okay. Now, let's move right  
15 into Ameren's first witness. Oh, I'm sorry, Staff.

16 MS. SHEMWELL: Good morning. May it please  
17 the Commission.

18 One of the first points I want to make is that  
19 this is customer money. This is being collected in rates.  
20 The stipulation and agreement specifically set aside 700,000  
21 in customer funds to be spent on energy efficiency programs.  
22 I believe \$437,000 is to be spent on programs available to  
23 all customers, and the rest is to go to the EIERA for  
24 low-income energy efficiency.

25 One of the issues that I would like to address

1 is something you raised, Commissioner Jarrett, and that issue  
2 would ask customers to pay for programs that are not  
3 cost-effective. And in this case, we're talking about  
4 eliminating things that are ENERGY STAR appliances. We're  
5 talking about things that have been rated by that recognized  
6 organization, and we're also talking about things that  
7 certainly, as a practical matter, you and I consider to be  
8 sort of gold standard, ceiling and wall insulation.

9 Cost effective is defined in the Commission's  
10 rules. It's defined in the promotional practices rules in  
11 gas utilities. It is also defined in Chapter 22 for electric  
12 utilities. However, the TRC is not the primary measurement  
13 used for electric.

14 Staff agrees that it is one measure that may  
15 be used but certainly should not be the only measure used to  
16 determine cost effectiveness. The standard of review,  
17 Commissioner Davis, is in the public interest. Staff does  
18 not believe that making this change at this time would be in  
19 the public interest.

20 Ameren is going to be collecting this money in  
21 rates regardless of the number of measures that they offer in  
22 their programs. I don't think that the information before  
23 the Commission at this time will permit the Commission to  
24 decide whether or not these programs are cost-effective. It  
25 was not new information that's been presented in the TRC.



1 The TRC is flawed in a number of ways that will come out in  
2 testimony.

3 Additionally, customers are paying for most of  
4 their improvements themselves because to make building  
5 measures, they have to pay for an energy audit themselves  
6 before they can even get a rebate. So the customer has a  
7 significant investment, and then they have to decide as a  
8 result of the energy audit that is done by a qualified  
9 auditor who is Ameren-approved, whether or not they want to  
10 employ any of these measures.

11 Now, if a qualified auditor recommends ceiling  
12 insulation as an effective measure for a particular home,  
13 then -- and they are Ameren-approved qualified auditors, then  
14 I think that that should carry weight with whether or not  
15 it's cost-effective for that particular customer. All  
16 customers are paying this, so all customers should benefit  
17 from these improvements. And that's one of the reasons that  
18 an audit is required and, again, the customer has to pay for  
19 it, somewhere between three and perhaps as high as \$600 from  
20 the DNR web site.

21 So customers themselves must make an  
22 investment before they are eligible for a rebate. The most  
23 popular rebates for Ameren, the testimony will show, are for  
24 ceiling insulation.

25 Ameren speaks about its obligations, and Staff

1 feels its true obligation under this stipulation and  
2 agreement is to use 437,000 of customers' money to assist its  
3 natural gas customers in making energy efficiency  
4 improvements to their homes and small general service  
5 customers in making energy efficient improvements to their  
6 buildings.

7           They also have an obligation to this  
8 Commission to comply with Commission's Order, which  
9 specifically mentions the \$700,000 to be spent on energy  
10 efficiency improvements.

11           If we look at the stip under Section 6A,  
12 specifically directs the money to customer funds -- of  
13 customer funds to the EIERA. They use a ramping-up provision  
14 of annual funding. It's going to be hard to ramp up and  
15 actually spend the money if you're eliminating most of the  
16 measures. That, by the way, all of the parties have agreed  
17 to probably four years as being appropriate measures to offer  
18 to customers.

19           Section C describes Ameren's actual obligation  
20 to do an evaluation to determine the effectiveness of its  
21 energy efficiency programs. That's where the evaluation  
22 should be done, and the reason that we have an evaluation  
23 after this program has been implemented is because anyone who  
24 wishes to evaluate -- in this case, it's a third-party  
25 evaluator, will have data specific to Ameren Missouri's

1 natural gas service territory in Missouri. Ameren  
2 Missouri serves gas and electric in about 70 percent of its  
3 territory. Only Columbia has its own electric.

4 Staff agrees that Ameren has a responsibility  
5 for all final decisions regarding the Energy Efficiency  
6 program, but the advisory group does remain advisory.

7 Mr. Lovett says a suspension of this tariff  
8 stands in the way of the Company being able to effectively  
9 manage its investment. Again, this is customer money.  
10 Ameren does manage it, but this is customer funds.

11 Section G under paragraph 6 of the stipulation  
12 and agreement incorporates Appendix C, which lists the  
13 measures to be offered by Ameren to its Missouri gas  
14 customers. These are measures that we all agreed to. That  
15 was Staff's intent in agreeing to this provision, is that  
16 those programs and measures, which have been offered to the  
17 customers in the past, would continue to be offered to  
18 customers in the future.

19 One of the issues resolved in this case or one  
20 of the issues in the rate case, let me say, was whether or  
21 not Ameren's having programs and then stopping the programs,  
22 as they did in the GT case, was not in the public interest  
23 because the public was not only confused but angered when  
24 Ameren did that.

25 MS. TATRO: I would object to that statement.

1 I don't think there's anything in the record to support that  
2 at this point.

3 JUDGE JONES: Well --

4 MS. SHEMWELL: What, stopping and starting  
5 programs?

6 MS. TATRO: That any customer was angry.

7 JUDGE JONES: Before you-all start arguing  
8 about it, I'm going to overrule the objection. I don't  
9 consider that to be evidence.

10 MS. TATRO: Thank you.

11 MS. SHEMWELL: Ameren claims it found new  
12 information by doing an in-house TRC with assumptions that  
13 they admitted changed depending upon the price of gas. So  
14 the assumptions that go in are very subjective, and Staff  
15 disagrees that the information is new.

16 Staff disagrees that there was a change of  
17 circumstance that warrants removal of these measures.

18 That's all I have. Thank you.

19 JUDGE JONES: Questions?

20 COMMISSIONER DAVIS: Yes. Okay. So is it  
21 your impression that -- that Ameren would just bank the money  
22 for ratepayers? I mean, because it's -- it's 400 -- I mean,  
23 the EIERA money goes directly to DNR.

24 MS. SHEMWELL: Once a year.

25 COMMISSIONER DAVIS: Once a year. And so the

1 money in the funds for customer measure programs, that  
2 gets -- that gets set aside in special accounting, correct?

3 MS. SHEMWELL: Only at the end of the year,  
4 and unspent funds go into an account, separate account.

5 COMMISSIONER DAVIS: Right.

6 MS. SHEMWELL: So that would not happen until  
7 January. So during this time, Ameren could be using that  
8 money for any purpose.

9 COMMISSIONER DAVIS: Okay. And would they  
10 be -- I mean, is it -- I mean, I'm just asking, is it your  
11 position that they would be earning a more substantial rate  
12 of return on that internal capital than they -- than they --  
13 than they would be otherwise? I mean, I'm just -- I mean,  
14 you know, it's more of an accounting function.

15 I know that there is a value to them having  
16 the access to, at most, \$435,000, but with interest rates are  
17 what they are right now, I just -- yes, it's some money, but  
18 is it that much? Is that what you're really concerned about  
19 here, Ms. Shemwell?

20 MS. SHEMWELL: The point I'm making is that  
21 this is customer money. Ameren's not spending its own money  
22 and setting up a regulatory account later. It's coming in as  
23 revenue, and it's not being spent on programs. And that will  
24 be particularly true if they get -- if, as Mr. Poston said, I  
25 think, or you said, other programs.

1                   COMMISSIONER DAVIS: Okay. In your opening  
2 statement, you referenced ENERGY STAR.

3                   MS. SHEMWELL: I did.

4                   COMMISSIONER DAVIS: Is a gasoline-fired alarm  
5 clock that has an ENERGY STAR rating on it, do you think  
6 that's energy efficient?

7                   MS. SHEMWELL: I'm just saying that Appendix C  
8 included a lot of ENERGY STAR appliances that the public  
9 generally accepts as being energy efficient. So when a  
10 customer reads it, looks at the tariff, they will see ENERGY  
11 STAR appliances.

12                  COMMISSIONER DAVIS: And I -- and I understand  
13 that, but do you know, did anyone from Staff look at the GAO  
14 audit of the ENERGY STAR program last year?

15                  MS. SHEMWELL: I don't know.

16                  COMMISSIONER DAVIS: It came out in March of  
17 2010.

18                  MS. SHEMWELL: I don't know.

19                  COMMISSIONER DAVIS: One of the other  
20 appliances that actually made the ENERGY STAR list was listed  
21 as an air purifier when it was, in fact, a space heater with  
22 a feather duster taped on top. You know, they found that,  
23 once approved for one -- for one product, the vendors had  
24 access to the ENERGY STAR logo that they could put it on any  
25 other product, and that many times EPA would just take the

1       claims of the people and do no work to verify that the  
2       products were, in fact, more energy efficient.

3                       So I guess, Ms. Shemwell, I'm just going to  
4       say that I am concerned about everybody just saying, well,  
5       these are ENERGY STAR and they're more efficient, when we  
6       don't necessarily know that they are; and further, if we add  
7       a volume of ENERGY STAR products, I mean, although we've made  
8       several advances in terms of plasma screen TVs here in the  
9       last few years, I mean, being an ENERGY STAR plasma TV may  
10      mean you're the best in class. It may not mean that you're  
11      actually energy efficient.

12                      I mean, do you understand the point that I'm  
13      trying to make here?

14                      MS. SHEMWELL: I do understand the point, but  
15      I would also say that no one's recommending rebates on  
16      televisions. We're talking about refrigerators and things  
17      like that. And I sure hope the ENERGY STAR rating means  
18      something because I paid a lot extra for an ENERGY STAR  
19      refrigerator and freezer recently.

20                      COMMISSIONER DAVIS: I mean, but do you know,  
21      Ms. Shemwell?

22                      MS. SHEMWELL: I do know that my electric bill  
23      has gone down as a result of replacing a 30-year-old freezer,  
24      so --

25                      COMMISSIONER DAVIS: Okay. All right. Thank

1       you, Ms. Shemwell. No further questions.

2                   JUDGE JONES: Commissioner Jarrett?

3                   COMMISSIONER JARRETT: Ms. Shemwell, don't  
4       leave yet.

5                   MS. SHEMWELL: I'm sorry.

6                   COMMISSIONER JARRETT: I wanted to follow-up a  
7       little bit on the line of questioning Commissioner Davis  
8       started. You had indicated this is ratepayer money.

9                   MS. SHEMWELL: Yes.

10                  COMMISSIONER JARRETT: So now -- and correct  
11       me if I'm wrong. Maybe my assumptions are wrong, but I'm  
12       assuming that there's a certain program that, if Ameren says  
13       it's inefficient, that means there's not very much  
14       participation in it. So they've got all this money that  
15       they're not going to be able to spend anyway because people  
16       just aren't -- it's not -- it's not a good program and  
17       people -- or people are just not interested in using it.

18                  I mean, isn't Ameren going to bank the money  
19       anyway? I mean, you say they have to spend this money. If  
20       nobody's taking it, how are they supposed to spend it?

21                  MS. SHEMWELL: I think that's a good point. I  
22       don't think that anyone would have recommended this level of  
23       money if we didn't think that it could be spent looking at  
24       past experience. However, the evidence will show that the  
25       ceiling insulation program has quite a few reservations from



1 customers have indicated that they are planning to do ceiling  
2 insulation.

3 So you're right. If the money isn't being  
4 spent, then next January or February, it will go into a -- an  
5 account for future spending on energy efficiency programs.  
6 Let me say, though, that there are constant improvements in  
7 energy efficiency measures. And so they could spend the  
8 money, but we would like to see them offering these to their  
9 customers.

10 The customers, again, want to pay for an  
11 energy audit, and the rebate is only half of the measure.  
12 So the customer is significantly invested in doing this and  
13 must believe it's a benefit to them, and we believe it's a  
14 benefit to them.

15 COMMISSIONER JARRETT: Right. Do you think  
16 the Company should be more aggressive in marketing these  
17 programs? I mean, can they use the money to -- to do that?

18 MS. SHEMWELL: The company can, yes, market  
19 the program and --

20 COMMISSIONER JARRETT: And use that money --

21 MS. SHEMWELL: I believe there's money set  
22 aside for marketing. Let me double-check with Henry. Yes.  
23 Yes, there is money set aside for marketing. And that was --

24 COMMISSIONER JARRETT: Do you think Ameren's  
25 being aggressive enough in marketing these programs?

1 MS. SHEMWELL: I don't think Ameren has -- I  
2 don't really have an opinion about that.

3 COMMISSIONER JARRETT: Okay. I'll ask some of  
4 the other -- maybe DNR's witness.

5 MS. SHEMWELL: I do think that consumers are  
6 interested in energy efficiency. Because of the price of  
7 gas, customers are not, I guess, as anxious about their gas  
8 bills, but they are interested in energy efficiency.

9 COMMISSIONER JARRETT: Okay. Thank you,  
10 Ms. Shemwell.

11 MS. SHEMWELL: Thank you.

12 JUDGE JONES: Okay. Ameren, call your first  
13 witness.

14 MS. TATRO: Frank Lovett.

15 (The witness was sworn.)

16 JUDGE JONES: Could you please state and spell  
17 your name for the court reporter, please.

18 THE WITNESS: Gregory Lovett. G-r-e-g-o-r-y,  
19 L-o-v-e-t-t.

20 (Ameren Exhibit Number 1 and Ameren Exhibit  
21 Number 2 were marked for identification by the Court  
22 Reporter.)

23 DIRECT EXAMINATION

24 QUESTIONS BY MS. TATRO:

25 Q. Mr. Lovett, could you please state your

1 business title for the Commission.

2 A. Managing supervisor of the Energy Efficiency  
3 Group.

4 Q. And are you the same Gregory Lovett who caused  
5 to be pre-filed five pages of direct testimony with four  
6 schedules and 14 pages of surrebuttal?

7 A. Yes, I am.

8 Q. Do you have any additions or corrections to  
9 that testimony?

10 A. No, I do not.

11 Q. If I were to ask you the questions that are  
12 pre-filed in that testimony, would your answers be  
13 substantially the same?

14 A. Yes, they would.

15 MS. TATRO: I move Mr. Lovett's direct, which  
16 has been marked Ameren Missouri 1 and surrebuttal, which has  
17 been marked Ameren Missouri 2, into the record and tender the  
18 witness for cross-examination.

19 JUDGE JONES: Any objections to the testimony  
20 being entered into the record?

21 Seeing none, Exhibits Ameren Missouri 1 and  
22 Ameren Missouri 2 are admitted into the record.

23 (Ameren Exhibit Numbers 1 and 2 were received  
24 into the record by Judge Jones.)

25 JUDGE JONES: And cross-examination from the

1 office of -- Department of Natural Resources.

2 CROSS-EXAMINATION

3 QUESTIONS BY MS. MANGELSDORF:

4 Q. Good morning, Mr. Lovett.

5 A. Good morning.

6 Q. Ameren Missouri was a signatory to the  
7 unanimous stipulation and agreement in this past case,  
8 correct?

9 A. That is correct.

10 Q. And the agreement included an Appendix C,  
11 which was a tariff entitled Missouri Energy Efficient Natural  
12 Gas Equipment and Building Shell Measure Rebate Program,  
13 correct?

14 A. That is correct.

15 Q. And in that agreement, Ameren Missouri also  
16 agreed to ramp up its level of annual funding for its  
17 energy efficiency programs within a three-year period,  
18 correct?

19 A. That is correct.

20 Q. And in the unanimous stipulation and  
21 agreement, Ameren Missouri agreed to increase its target  
22 level spending for these energy efficiency programs?

23 A. That is correct.

24 Q. And in the recent tariff filing, Ameren  
25 Missouri did not propose any replacement measures for the

1 tariffs it is now proposing to remove, correct?

2 A. That is correct. The only -- we only removed  
3 measures.

4 Q. And Ameren Missouri's currently receiving  
5 money for its residential and business energy efficiency  
6 programs from its ratepayers, correct?

7 A. Yes, we are collecting that money. We've also  
8 set aside the money already into a special account.

9 Q. Thank you. You answered my question.  
10 How much money is Ameren Missouri receiving  
11 from ratepayers on an annualized basis for its energy  
12 efficiency programs?

13 A. \$700,000 as specified in the stipulation and  
14 agreement.

15 Q. And other than for marketing, is Ameren  
16 Missouri spending any of its own money, for example, from  
17 shareholders on the implementation of its non-low-income  
18 energy efficiency programs?

19 A. None of the direct costs of the programs are  
20 -- the direct cost of the programs aren't coming out of that;  
21 however, none of the internal labor that's associated with  
22 running the program is included in that.

23 Q. And in your testimony, you state that the  
24 tariff modification is required by the terms of the  
25 stipulation because non-cost-effective programs have been

1 identified and is necessary so that Ameren Missouri can  
2 prudently administer its national -- natural gas  
3 energy efficiency programs, correct?

4 A. Could you state the question again?

5 Q. Sure. In your testimony, you state that the  
6 tariff modification is required by the terms of the stip  
7 because non-cost-effective programs have been identified and  
8 it's necessary so that Ameren Missouri can prudently  
9 administer its natural gas energy efficiency equipment  
10 programs?

11 A. That is correct. The programs -- the  
12 residential program is non-cost-effective because it has  
13 measures within the program that are very non-cost-effective,  
14 and we've identified the measures that are --

15 Q. Thank you. You've answered my question.

16 And isn't it true that Ameren Missouri has  
17 never been challenged for prudence for their energy  
18 efficiency programs or measures since their inception in  
19 2003?

20 A. That is correct. And it's because under the  
21 old --

22 Q. Thank you. You've answered my question.

23 And wouldn't you agree that labeling an  
24 appliance as ENERGY STAR is a method to inform customers that  
25 an appliance is energy efficient?

1           A.       The ENERGY STAR label is a way that customers  
2       can see whether or not one product is more cost -- or is more  
3       energy efficient over another product.

4           Q.       And Ameren Missouri did enter into a  
5       partnership agreement with ENERGY STAR in 2003; isn't that  
6       correct?

7           A.       That is correct.

8           MS. MANGELSDORF:   That's all the questions I  
9       have.   Thank you.

10          THE WITNESS:   Thank you.

11          JUDGE JONES:   Office of Public Counsel?

12          MR. POSTON:   Thank you.   Good morning.

13          THE WITNESS:   Good morning.

14                           CROSS-EXAMINATION

15       QUESTIONS BY MR. POSTON:

16          Q.       Just real quick, I'd like to follow-up on a  
17       question that Ms. Mangelsdorf asked you.

18                   Were you -- you responded that internal labor  
19       costs are not taken from the energy efficiency funding; is  
20       that correct?

21          A.       That is correct.

22          Q.       Do you recall that?

23                   Is it true that internal labor costs were  
24       included in rates following the last rate case?

25          A.       From my limited knowledge on that, I think

1       that is correct. We charge our internal labor to our O & M.

2               Q.       So consumers are paying for those internal  
3       labor costs?

4               A.       If that's the way that it works, yes.

5               Q.       Do you have a copy of OPC's DR Number 34 that  
6       was sent to you?

7               A.       I do not have one up here.

8               MR. POSTON: May I approach?

9               JUDGE JONES: Yes, you may.

10       BY MR. POSTON:

11              Q.       Are you familiar with the document I just  
12       handed you?

13              A.       Yes, I am.

14              Q.       And would you agree that this data request  
15       asked you to provide all documents created by or for UE or  
16       its affiliates in calendar year 2011 that contain  
17       descriptions or analysis of possible changes to UE's natural  
18       gas energy efficiency portfolio, including, but not limited  
19       to, changes in measures offered or incentive levels?

20                      Is that an accurate description of what's  
21       requested of you in DR-34?

22              A.       That is correct.

23              Q.       And before I get more into this, I'd like to  
24       establish that this is correct that this is a Data Request  
25       Number 34 from OPC to Ameren in which you prepared the



1 response for this data request; is that correct?

2 A. That is correct.

3 Q. Okay. And your answer does not say that no  
4 such documents exist, does it?

5 A. It says they have not been developed and will  
6 not be developed until this case is resolved.

7 Q. So is it your testimony today that there are  
8 absolutely no documents at UE or its affiliates regarding  
9 possible changes to its natural gas energy efficiency  
10 portfolio as asked in this question?

11 A. As designed for changes to the -- to the  
12 actual program, no, it is not.

13 Have we done other analysis on all different  
14 types of measures and things? Mr. Kyle Shoff has calculated  
15 all kinds of other TRC analysis and continuously looks at  
16 things to add and remove and change. But nothing has been  
17 identified as changes specific to our tariff.

18 Q. And would that also apply for any possible  
19 changes that UE may have discussed? There's been no  
20 documents created?

21 A. That is correct.

22 Q. When answering this DR, how did you go about  
23 looking for any documents?

24 A. I went through and discussed with all of the  
25 members that's working on this with me. And we wanted to

1     see, you know, is there something out there, you know, that  
2     actually fit this. And as we put together our answer, there  
3     was nothing out there.

4             Q.     And who did you discuss this with?

5             A.     Dan Danahy that does -- program manager, works  
6     for me in my group; Mr. Kyle Shoff, who has presented  
7     testimony. That was the two that I talked to, and they also  
8     participate in the advisory group with me.

9             Q.     And who ultimately made the decision at Ameren  
10    to propose the changes?

11            A.     It was my decision.

12            Q.     And was there any meetings held to discuss  
13    this proposal?

14            A.     There was a lot of meetings held with the  
15    advisory group to discuss the changes. Different options  
16    were put together and discussed and explained multiple times.

17            Q.     How about internal meetings just with Ameren  
18    employees?

19            A.     Myself, Dan Danahy, Kyle Shoff, we all  
20    discussed the TRC values that Kyle was putting together and  
21    looked to see if this was something that was appropriate. We  
22    then -- I made the decision that these measures were not  
23    cost-effective and that it would be imprudent for me to go  
24    ahead and offer these types of programs.

25                   And so that's the reason why I informed the

1 advisory group that, hey, we've got some of these measures  
2 out there.

3 Q. Okay. That's kind of beyond the question that  
4 I asked you. Thank you.

5 A. Okay.

6 Q. So you're saying there were no e-mails  
7 exchanged between you or any other Ameren employee about  
8 these proposals?

9 A. About the proposals that -- other than the  
10 ones that we have presented or --

11 Q. Any possible changes to UE's natural gas  
12 energy efficiency portfolio. There's been no e-mails  
13 exchanged regarding possible changes to that in 2011?

14 A. There was e-mails associated with the changes  
15 that we have presented to the advisory group and that we  
16 filed.

17 Q. And that's all?

18 A. And that's all.

19 MR. POSTON: Thank you. Just a minute.

20 BY MR. POSTON:

21 Q. Can you explain why those e-mails are not  
22 referenced in your response to this data request?

23 A. The response is for other changes and not the  
24 changes that were included in the tariff filing. So I took  
25 it that you were looking for changes other than what we

1 included in our tariff filing.

2 Q. Does the question starting with "Please  
3 provide," does it say anything about other changes?

4 A. You referenced my line 2, page 3 of my  
5 surrebuttal that talks about the other changes and so I read  
6 that. That's the way I took the question.

7 Q. Okay. But you agree, though, that the  
8 question does not use that phrase, "other changes?"

9 A. I read into it -- I read the question as  
10 "other changes" is the way I answered the question.

11 Q. Well, my question was, but the question does  
12 not use that term "other changes," does it, where it says  
13 "Please provide?" When it's asking you to provide, it does  
14 not refer to other changes?

15 A. It says, "Please provide a copy of all  
16 documents created by or for UE or its affiliates in calendar  
17 year 2011 that contain descriptions or analysis of possible  
18 changes to UE natural gas energy efficiency portfolio,  
19 including, but not limited to, changes in the measures  
20 offered or incentive levels."

21 Q. So then you would agree that your answer is  
22 not responsive to that -- to that request?

23 MS. TATRO: I'm going to object at this point.  
24 I think Mr. Lovett has explained how he interpreted the  
25 question because of the lead-in sentence which clearly says

1 "other changes."

2 JUDGE JONES: Objection is sustained.

3 MR. POSTON: That's all the questions I have.

4 JUDGE JONES: Any cross from Staff of the  
5 Commission?

6 CROSS EXAMINATION

7 QUESTIONS BY MS. SHEMWELL:

8 Q. Good morning, Mr. Lovett.

9 A. Good morning.

10 Q. I'm Lera Shemwell. I represent the Staff, and  
11 I have a few questions for you this morning.

12 I'm referring to your direct, page 2, line 16.  
13 Do you have a copy with you?

14 A. Yes, I do.

15 Q. And it's through 18. You claim that the  
16 change or the thing that caused you to analyze the cost  
17 effectiveness of these programs was the term of the  
18 stipulation and agreement?

19 A. That is correct. That's the reason why we're  
20 here, because --

21 Q. Thank you. You indicate, The stipulation --  
22 and I'm quoting on page 23 -- is a change from how the  
23 Company's natural gas energy efficiency programs have been  
24 administered. Have I read that correctly?

25 A. What line are you on?

1 Q. 23 to 24.

2 A. That is correct. In the past we will --

3 Q. Thank you. You discuss, then, on 24, "prior  
4 to the Stipulation, decisions had been made by mutual  
5 agreement" -- which means unanimous agreement, correct?

6 A. That is correct.

7 Q. And the measures that are contained in the  
8 stipulation and agreement in Appendix C had been in place at  
9 Ameren prior to this rate case, correct?

10 A. That is correct, and --

11 Q. Do you need a copy of Appendix C, or you're  
12 comfortable answering without it?

13 A. I have a copy.

14 Q. Okay. And so all parties had agreed that  
15 these measures were at least appropriate for Ameren to  
16 include in its Energy Efficiency program?

17 A. The parties agreed to Appendix C, which was  
18 the program.

19 Q. Thank you. Appendix C is part of the  
20 stipulation and agreement that was filed with the Commission,  
21 correct?

22 A. That's correct, and it's also part of the  
23 stipulation, it says that we can change the -- the tariff.

24 Q. Thank you. And Appendix C, again, was the --  
25 the stipulation and agreement was approved by the Commission?

1           A.       That's correct.

2           Q.       Thank you. On page 3, you address the  
3 TRC evaluation, starting at line 10. Mr. Shoff completed  
4 that?

5           A.       That's correct.

6           Q.       And you indicated that you discussed these  
7 findings multiple times in April and May; is that right?

8           A.       That's correct. We had several advisory group  
9 meetings in April and May.

10          Q.       And you attached e-mails to your testimony?

11          A.       That describe, yes, what the -- we were, you  
12 know, providing with the -- in those different meetings.

13          Q.       Sir, did you attach all of the attachments to  
14 those e-mails? Did you put all of the attachments to the  
15 e-mails in your testimony?

16          A.       No, we did not. The --

17          Q.       Thank you.

18          A.       -- workbooks contained many, many pages.

19          Q.       Who directed Mr. Shoff to complete the  
20 TRC analysis or evaluation?

21          A.       It was my understanding that Mr. Shoff  
22 monitors different changes, and as he gets changes that come  
23 in, he runs -- he runs the TRC analysis based upon those  
24 changes.

25          Q.       So you're saying that was his choice; no one

1 directed him to do that?

2 A. That is his job.

3 Q. Mr. Shoff chooses the assumptions and inputs  
4 into the TRC, then?

5 A. You'll have to ask Mr. Shoff.

6 Q. Does he work for you?

7 A. No, he does not.

8 Q. For whom does he work?

9 A. He works for Rick Voytas in the corporate  
10 planning group.

11 Q. That's Richard Voytas, V-o-y-t-a-s? Did I  
12 spell that right?

13 A. V-o-y-t-a-s, yes.

14 Q. Thank you. Your first filing after the  
15 stipulation and agreement involved a proposal that would  
16 limit rebates to the Columbia, Missouri area; is that  
17 correct?

18 A. That was one of the things that we had put  
19 forward was to --

20 Q. Let me interrupt, I'm sorry. I need to ask if  
21 you consider this highly confidential communications between  
22 the EEAG and Ameren?

23 MS. TATRO: We do not.

24 BY MS. SHEMWELL:

25 Q. Let me pull that document. Just a moment. Do



1       you have a copy?

2               A.       No, I do not.

3               MS. SHEMWELL:   We'll mark this as Staff 3.

4               (Staff Exhibit Number 3 was marked for  
5       identification by the Court Reporter.)

6       BY MS. SHEMWELL:

7               Q.       Do you recognize this document?

8               A.       Yes, I do.

9               Q.       If we look on what is marked in that document  
10       as Sheet Number 79 under "Availability," there is highlighted  
11       in red the change that Ameren was proposing.

12               And let me say, I'm going to refer to Ameren  
13       as -- Ameren Missouri in this case as Ameren.

14               A.       Okay.

15               Q.       Okay.   And I'm going to read that red section.  
16       "Rebates for measures listed under the residential and  
17       commercial energy and non-energy audit improvement programs  
18       are not available to a participant when incentive payments  
19       are available for the same or similar measures at that  
20       premise from a utility other than Company."

21               Have I read that correctly?

22               A.       I don't have a section that's highlighted in  
23       red, so I had to jump to it.   But in "Availability," that's  
24       the section that's underlined.

25               MS. SHEMWELL:   If I may approach.   Oh, we

1 didn't get a red copy. I'm sorry. Thank you.

2 BY MS. SHEMWELL:

3 Q. In this offering, there's no discussion of the  
4 cost effectiveness programs, is there?

5 A. That is correct. What we were going for here  
6 is that --

7 Q. Thank you, sir. You removed 12 residential  
8 measures; is that correct? Does that accurately reflect your  
9 testimony?

10 A. I believe that's correct.

11 Q. And you discuss Ameren's TRC evaluation with  
12 the energy efficiency advisory group, correct?

13 A. Can you state the question --

14 Q. You discussed Ameren's TRC evaluation with the  
15 EEAG?

16 A. We discussed the TRC calculations, not an  
17 evaluation.

18 Q. Did anyone on the EEAG agree with your  
19 TRC evaluation?

20 A. There was a lot of discussion about the  
21 TRC values and what the inputs were that go into the -- and  
22 so the members of the EEAG weren't comfortable with our  
23 calculations.

24 Q. Thank you. Let's look at Schedule 2 to your  
25 direct, please. And the first page of that, your name is at

1 the top, and it's from Dan Danahy. Are you there, sir?

2 A. Yes, I am.

3 Q. And can we agree that as we look down into the  
4 body of the e-mail, there's a sentence that says, "In summary  
5 it was suggested" -- and I'm assuming "it," meaning the  
6 EEAG suggested -- that Ameren Missouri take a look at the  
7 following items." Are you there?

8 A. Yes, I am.

9 Q. And do you agree that it was the EEAG that  
10 suggested this, members of the EEAG?

11 A. Yes, it was.

12 Q. Okay. And under Number 2, the suggestion was  
13 "Consider auditing an 'actual' residence to see how  
14 cost-effective the residential audit program is."

15 Have I read that correctly? Number two?

16 A. That is correct.

17 Q. And that was the EEAG's suggestion to Ameren?  
18 And then in bold is the response where it says "Response,"  
19 correct?

20 A. Yeah, all the responses are in bold.

21 Q. Thank you. The response is that "this  
22 activity was not completed because the analysis that Ameren  
23 Missouri has already performed and provided to the EEAG uses  
24 similar data that it -- "believes, I suppose -- "is  
25 statistically more accurate to the mass market than relying

1 on a single data point."

2 I read that to indicate that the TRC did not  
3 consider that customers had to have a home or residential  
4 audit program prior to getting a rebate for building  
5 measures.

6 Is that Ameren's response, is that the TRC --  
7 or Ameren's response is that TRC does not consider that  
8 customers must have a home energy audit before they can get a  
9 rebate?

10 A. From the limited knowledge that I have about  
11 how TRCs are calculated -- Mr. Kyle Shoff is the expert in  
12 this area -- I don't think that it matters if you have an  
13 energy audit or not.

14 Q. No, I'm asking you, does the TRC consider  
15 that. If you don't know, that's fine. I'll ask Mr. Shoff.

16 A. I do not know the specifics.

17 Q. You do agree with me that Ameren's current  
18 tariffs -- do you have those? Do we need to mark them?

19 A. I do not have the current tariff. The one  
20 that's in Attachment C?

21 Q. That is the same as your current tariff.

22 A. Yes, I do have that.

23 Q. Starting on Sheet 78 is where I'm starting.  
24 Do you have that? Do you need another copy?

25 A. No, I have one. Okay. Sheet 78?

1           Q.       Yes. And the title of this section is  
2 "Missouri Energy Efficient Natural Gas Equipment and Building  
3 Shell Measure Rebate Program." Correct?

4           A.       That is correct.

5           Q.       And as we look under "Definitions," we have  
6 "Administrator," which is the Company. And then on the top  
7 of Page 79, we have a definition for "Qualified Auditor,"  
8 correct?

9           A.       That's correct.

10          Q.       And this describes the qualifications for an  
11 auditor to perform the home energy audit?

12          A.       That's correct.

13          Q.       They must be nationally recognized and trained  
14 in certain systems and equipment.

15                   The last sentence says, "Approved Energy  
16 Auditors are found in the Company's Value Added Partner  
17 Network." So Ameren approves certain auditors and puts it  
18 out in the Company's Value Added Partner Network, correct?

19          A.       The way the Value Added Partner Network works  
20 is that auditor -- or partners will submit their application  
21 into us. We will review that and base it upon the  
22 customers --

23          Q.       Sir, my question really was --

24          A.       Sorry.

25          Q.       You give this information to your customers?

1 A. Yes.

2 Q. That they're approved by Ameren?

3 A. Yes.

4 Q. Thank you. And, again, you agree with me that  
5 customers will only receive a rebate for building shell  
6 measures if they've first had an audit?

7 A. That's correct.

8 Q. Do you know what a home audit costs? Is my  
9 estimate between 300 and 600 accurate, do you know?

10 A. I do not know.

11 Q. Thank you.

12 A. I do know there's a wide range, and it can be  
13 free for --

14 Q. Thank you. You talked about the Company's  
15 obligations.

16 You would agree with me that the Company has  
17 an obligation to its shareholders, right?

18 A. That's correct.

19 Q. The company has a statutory obligation to  
20 provide safe and adequate service. Are you aware of that?

21 A. On a limited basis, yes.

22 Q. The company is a utility regulated by the  
23 Missouri Public Service Commission and, therefore, has an  
24 obligation to comply with Commission Orders, right?

25 A. That is correct.

1           Q.       And the Company also has an obligation to  
2       comply with the Commission's rules. And in this case, we're  
3       talking about the rules governing natural gas utilities in  
4       Missouri?

5           A.       That is correct. And that's what I have tried  
6       to do for our customers.

7           Q.       Thank you. Can you tell me, in about 70  
8       percent of your natural gas territory, Ameren also provides  
9       the electric service to those customers?

10          A.       Are you talking about service area or number  
11       of customers?

12          Q.       I guess I'm talking about number of customers.

13          A.       That seems way high because most of our  
14       natural gas customers are in the City of Columbia or City of  
15       Columbia serves them electric. But I do not know the actual  
16       percentage.

17          Q.       Columbia is the only area where you do not  
18       serve both gas and electric?

19          A.       No, that is incorrect. Also, we have many gas  
20       customers that are served by co-ops.

21          Q.       Okay. So where you do not provide the  
22       electric?

23          A.       That is correct.

24          Q.       Thank you. And you agree with me that this  
25       program is being funded with customer money primarily?

1           A.       That's correct, according to the stipulation.

2           MS. SHEMWELL:   Just a moment, please.   If I  
3   may approach?   I suppose we'll mark this 2, Exhibit Number --  
4   yeah, Staff 2.   No, sorry, Exhibit 4.

5                   (Staff Exhibit Number 4 was marked for  
6   identification by the Court Reporter.)

7   BY MS. SHEMWELL:

8           Q.       Thank you.   Mr. Lovett, this is Staff's Data  
9   Request Number 3 proposed -- or submitted to you and you  
10   prepared the response, correct?

11          A.       That is correct.

12          Q.       And your -- in your response, you show a list  
13   of the current residential programs, Ameren's expenditure as  
14   of the date you answered this, which was August 3rd, 2011,  
15   correct, under expenditures?

16          A.       I've identified the two programs, residential  
17   and general services, and then I also identified the measures  
18   that make up those programs and expenditures, the  
19   reservations and the rebates paid.

20          Q.       Was that a yes?

21          A.       That was a yes to part of the question.

22          Q.       Let me rephrase this just a little bit.  
23   You're covering the total expenditures to date from  
24   February 20th to August 3rd, 2011.   Those are the dates on --

25          A.       Yes, that is correct.



1           Q.       Okay. And as we look under ceiling and wall  
2 insulation, we see that the expenditures to date are 37,000.  
3 That is just 37,000, right? No extra zeros or anything?

4           A.       \$37,359.

5           Q.       Thank you. With 333 reservations, correct?

6           A.       Yes.

7           Q.       And customers make reservations with Ameren  
8 indicating that they plan to do that measure and, therefore,  
9 may be applying for a rebate; is that correct?

10          A.       That is correct.

11                 MS. SHEMWELL: I'd like to move for admission  
12 of Staff 3 and 4, please.

13                 JUDGE JONES: Any objections?

14                 MS. TATRO: No objection.

15                 JUDGE JONES: Okay. I don't see any, and I  
16 hear no objections, so Staff Exhibits 3 and 4 are admitted  
17 into the record.

18                 (Staff Exhibit Numbers 3 and 4 were received  
19 into the record by Judge Jones.)

20                 MS. SHEMWELL: Thank you. That's all I have.

21                 JUDGE JONES: Okay. Commissioner Davis?

22                         EXAMINATION

23                 QUESTIONS BY COMMISSIONER DAVIS:

24           Q.       Good morning, Mr. Lovett.

25           A.       Good morning.

1           Q.       Do you remember Ms. Shemwell's question, I  
2 think she asked how much a home energy efficiency audit  
3 costs, and said you didn't know; is that correct?

4           A.       I -- the home energy audits, they range  
5 considerably. They can be free all the way up to six, \$700,  
6 that is correct.

7           Q.       Okay. But I mean, your -- I mean, that's  
8 the -- that would be a cost as part of the program. I mean,  
9 you know how much one would cost to perform, correct?

10          A.       I am not an auditor, so I don't know, you  
11 know, what the actual cost would be to do an audit.

12          Q.       And you are the -- the manager of energy  
13 efficiency and demand response; is that correct?

14          A.       I am a managing supervisor in energy  
15 efficiency, and part of the --

16          Q.       Energy efficiency or energy efficiency and  
17 demand response?

18          A.       Energy efficiency and demand response group,  
19 yes.

20          Q.       And you're the managing supervisor?

21          A.       That is correct.

22          Q.       And as managing supervisor in that group, you  
23 oversee the operations of the natural gas energy efficiency  
24 equipment rebate program, correct?

25          A.       That is correct.

1           Q.       And you're also the lead Ameren Missouri  
2 representative on the energy efficiency advisory group?

3           A.       That is correct.

4           Q.       Okay. And so you know that the program cost  
5 is anywhere between being free and \$700, correct?

6           A.       That is correct.

7           Q.       You've never had a discussion about what one  
8 of these rebates actually -- or one of these energy  
9 efficiency inspections actually cost?

10          A.       We've talked about it in the advisory group  
11 many times. If you -- some auditors will come in and just do  
12 an inspection on windows and they'll just include that in the  
13 price. I believe the question for Mr. Kyle Shoff that if  
14 it's a cost the customer has to bear, then that would be part  
15 of the TRC calculation.

16          Q.       Okay. Looking at your surrebuttal testimony,  
17 page 3, I want to look at lines 1 through 15 where you  
18 responded to the question: Is this suspension of this tariff  
19 problematic for Ameren Missouri? And the tariff suspension  
20 leaves Ameren Missouri unable to make other changes to its  
21 energy efficiency portfolio while the allegations about this  
22 modification are sorted out by the Commission. For example,  
23 if Ameren Missouri decides it needs to modify the incentive  
24 levels or even add new measures to its portfolio, to do so  
25 would require a tariff filing. Ameren cannot make a second

1     tariff filing while this tariff change is pending unless it  
2     were to withdraw this tariff and file another.

3                 Wouldn't -- wouldn't it make more sense to --  
4     if you had pieces of the program that you didn't feel were --  
5     now, if they didn't meet the TCR [sic] test of being 1.0 when  
6     we're far away from it, if you could either modify the other  
7     programs or offer other incentives in lieu of so there isn't  
8     this, hey, we're just going to reduce the number of  
9     residential programs by -- by 69 percent and I forget what  
10    the -- the commercial was, but by -- that was, like, a 25  
11    percent reduction, I think.

12                I mean, did you ever think of offering these  
13    parties a fig leaf, or did you just say, hey, we're going to  
14    withdraw these and then we'll come back with something at a  
15    later date?

16                A.     We're always looking to increase our programs  
17    and the measures within it. And we would offer to add new  
18    programs or, you know, change rebate amounts. Those are all  
19    considerations, do more marketing. But we did not want to  
20    make any changes like that while this case was going on  
21    because we are wanting to make sure that we had a target  
22    level of \$700,000 that we were shooting for, and if we  
23    started making other changes, then our target level would  
24    be -- could potentially be missed if we started adding more  
25    measures in addition to non-cost-effective measures that were

1 already on the books.

2 Q. Okay. But I guess I'm just a little confused  
3 here because wouldn't it be that you would offer a tariff  
4 that would maybe eliminate some of these programs that you  
5 didn't deem to be cost-effective but to offer alternative  
6 programs that would have -- would at least, you know, have a  
7 higher cost benefit ratio that -- I mean, I understand there  
8 might be some -- some ramp-up time, but wouldn't it be --  
9 wouldn't it be better to offer a package instead of saying,  
10 well, we're just going to withdraw these and next Tuesday  
11 we'll come back and let you know what we're going to do in  
12 its place?

13 A. Ameren -- we would be open to adding  
14 additional cost-effective measures as long as we got the  
15 non-cost-effective measures removed from a program. Yes,  
16 we'd be very open to that.

17 Q. Okay. So do you have any cost-effective  
18 measures in mind?

19 A. Yes, we have. Kyle Shoff has ran TRC numbers,  
20 and there are a handful, and Kyle can answer the direct  
21 questions about any of those.

22 Q. Now, if I get into settlement talks and you  
23 want to object, that's fine, just object and let me know, and  
24 I'll stop.

25 So did you say, hey, we'd like to do this

1       instead of that and everybody's like no, we want to keep  
2       these programs until December 31st, 2012? Or I mean,  
3       what's -- I'm -- nobody's objecting yet, so --

4                   MS. MANGELSDORF: I think I'm going to object  
5       to that. That gets into settlement discussions.

6                   COMMISSIONER DAVIS: Okay.

7                   JUDGE JONES: Objection's sustained.

8       BY COMMISSIONER DAVIS:

9                   Q.       Okay. So it's your position that you just  
10       have to have the tariff, you know, that basically withdraws  
11       these specific offerings, and once that's approved, you can  
12       come back and offer a new tariff with alternative programs?

13                  A.       Yes. We were hoping to get the  
14       non-cost-effective measures removed from the program, and  
15       then we can put together additional marketing, additional  
16       programs, changes to the incentive levels, if necessary, to  
17       -- to run a cost-effective program. That was our original  
18       intent whenever we filed it back in June.

19                  But a lot of time has passed, and we want this  
20       case settled before we invest any activities into any  
21       additional things to increase participation.

22                  Q.       Uh-huh. It seems to me that in one of the  
23       prior gas cases -- and it may not have even been Ameren's --  
24       but there was some talk about the -- the cost benefit and  
25       what, you know, what portion -- maybe it was what portion the

1 ratepayers should pay, that they should have to pay half or  
2 something.

3 Is there -- do you recall, are there any rules  
4 of thumb that the -- the group uses or has used in the past  
5 to -- in devising these energy efficiency promotional  
6 programs where the customer has to pay half or something like  
7 that? Do you recall any discussions of that nature?

8 A. If you're talking about the actual incentive  
9 levels --

10 Q. Yes.

11 A. -- the rule of thumb is you look at the  
12 incremental cost and then about half of the incremental  
13 cost -- the incremental cost over just a standard measure and  
14 then the cost-effective measure that we're proposing that's  
15 in the tariff. You'd look at -- that's the rule of thumb,  
16 the incremental cost, the customer would have to pay, about  
17 half of that would be the incentive level.

18 So if a regular gas furnace costs \$1,000 and  
19 the energy efficient one that was part of our cost-effective  
20 measures was \$1,200, the incremental cost is \$200, so then we  
21 would make -- the rule of thumb would be that the incentive  
22 would be about \$100. That is the rule of thumb.

23 Q. Okay. And you don't get into fuel switching  
24 or anything like that?

25 A. No.

1           Q.       Now, it seemed to me, maybe it was in the ER  
2     2010 case when we moved from being -- from the advisory group  
3     moved from being, I guess you'd have to have unanimity to it  
4     being advisory. I think I had some questions then because I  
5     was concerned that people might have been ganging up on  
6     Mr. Kind over there.

7                   And it certainly looks like that here, I mean,  
8     all of those concerns have already manifested themselves, you  
9     know, really less than a year -- a year after we approved  
10    that agreement. Do you have anything to say to that?

11          A.       Yeah. The -- in -- prior to the existing  
12    stipulation that was agreed to, the group operated under a  
13    collaborative agreement where we needed consensus around our  
14    decisions to -- that it was part of our programs. And that  
15    type of a consensus type collaborative works very well for a  
16    new program starting up, starting part of the program back in  
17    2003, 2004.

18                  And as we tried different types of measures  
19    out, it worked very well to talk, you know, talk through this  
20    because there wasn't a whole lot of detail around what was  
21    cost-effective. Cost effective has always been part of one  
22    of the things that we consider, but it was not the driving  
23    force.

24                  And so now our programs have matured and we --  
25    you know, as part of that maturity, we are now doing an



1 evaluation of it in EM&V that's part of the stipulation.

2 We are also increasing the amount of energy efficiency  
3 programs four and five times what they used to be. We're now  
4 solely responsible for it. Before as a collaborative and  
5 consensus, the entire group agreed to the -- to the measures  
6 that were being offered. And so now, then, it's Ameren's  
7 sole responsibility.

8           However, the advisory group still serves a  
9 function that we can bring new ideas, new concerns that we  
10 would have as we -- as me and my group, we run these  
11 programs, we bring them to the advisory group and get their  
12 advice on, you know, are we going down the right path, do you  
13 see any other obstacles, do you see any other concerns that  
14 we should be looking at? And I think that's what we've done  
15 all spring.

16           We started back in March, and April we had  
17 more meetings and in May, multiple times, multiple times.  
18 And so the process is working and it's -- and in this  
19 particular case, the advisory group, you know, has a concern,  
20 and so they have, you know, used the -- the -- the terms that  
21 are in the stipulation agreement to bring this to a hearing  
22 because there are disagreements in what is cost-effective and  
23 the timing and things.

24           What we're trying do is follow -- now that  
25 Ameren Missouri has the responsibility of the programs, we

1 bring -- we bring things to the advisory group's attention,  
2 and then we make a decision and present that to the  
3 Commission for your approval. And it's all, you know, with  
4 the -- taking the -- looking at the interest of the customer,  
5 and also we're including the interest of the Company, too,  
6 into consideration.

7 Q. Did you hear Ms. Mangelsdorf's opening  
8 statement?

9 A. Yes, I did.

10 Q. Okay. Going back to the rate case stipulation  
11 in the -- I think it was GR Case 2010-0263, you've got that  
12 paragraph 6G in the stipulation that talks about --

13 MS. SHEMWELL: Commissioner Davis, I  
14 apologize. It's 0363.

15 COMMISSIONER DAVIS: 0363.

16 MS. SHEMWELL: Yes, sir.

17 COMMISSIONER DAVIS: Sorry. I was trying do  
18 it from memory.

19 BY COMMISSIONER DAVIS:

20 Q. Such tariffs shall provide for uninterrupted  
21 availability of these energy efficiency programs through  
22 December 31st, 2012.

23 And you distinguish between program and  
24 measure, do you not?

25 A. Yes, I do.

1           Q.        was Ms. Mang- -- and then you've got a  
2   residential program and you've got a general services  
3   program, correct?

4           A.        That is correct.

5           Q.        Okay. Was Ms. Mangelsdorf correct in saying  
6   that you're essentially removing 69 percent of the  
7   residential program?

8           A.        I guess if you just look at the number of  
9   measures and total number of measures that's included in the  
10   existing tariff versus the number that we are removing,  
11   that's -- probably sounds about right. There's other things  
12   that go into that, you know, that we still have very good  
13   measures out there. We've got furnaces that are still in the  
14   program, we have thermostats, and we have the bread and  
15   butter cost-effective water heater that's still in the  
16   program.

17          Q.        Okay. Okay. But would you agree that if  
18   you're effectively removing 69 percent of the program and  
19   you're not replacing it with anything, that -- that you are,  
20   in effect, interrupting the availability of -- of that  
21   program?

22          A.        The way that -- that I read those -- the words  
23   in the stipulation and agreement is that if you have one  
24   measure and one customer is participating in the program,  
25   that program is available. So you could have one measure in

1 the program and that program would be available to customers,  
2 by reading the words in the stipulation.

3 And we have -- we still have furnaces --

4 Q. Mr. Lovett, I missed in your -- in your Vitae,  
5 did you go to law school?

6 A. No, I have not.

7 Q. Okay. What about in terms of dollars? In  
8 terms of the measures that you're removing, in terms of the  
9 overall residential program on an annual basis, what  
10 percentage of the -- 435,000, Ms. Shemwell?

11 MS. SHEMWELL: 463.

12 BY COMMISSIONER DAVIS:

13 Q. 463. What percentage of the 463 did those  
14 represent?

15 A. Well, since I haven't spent the 463, I could  
16 tell you the percentage on what we've actually spent to date.

17 Q. Okay. So what have you actually spent to  
18 date?

19 A. Okay. On the measures that we are proposing  
20 to remove, the non-cost-effective ones, it amounts someplace  
21 between 65 and 70 percent of the expenditures that we've had  
22 on the programs so far. And so that's one of the reasons why  
23 it's a very big concern of ours is that we're spending this  
24 money on non-cost-effective measures, and we should be  
25 spending it on cost-effective measures.

1           Q.       Okay. So roughly, then, whether you're  
2       looking at the number of measures in the program or the  
3       actual dollars being spent in the program, it's really --  
4       appears to be about the same that you would be removing the  
5       sum total of all those measures from the program so you would  
6       at least temporarily lose about 70 percent of the -- 69  
7       percent of the program offerings or between 65 and 70 percent  
8       of the -- the program offerings in terms of dollar values on  
9       the residential side as well?

10          A.       That's correct, and that would open up more  
11       money for cost-effective measures that we could potentially  
12       add.

13          Q.       Okay. Now, once again, I don't want to get  
14       into settlement negotiations here, and if someone wants to  
15       object, I'll happily stand down, but if that's the case, and  
16       there's something better out there, then why can't you get  
17       these other parties to agree?

18          A.       We would -- we would more than happily add  
19       additional measures that are cost-effective as long as we  
20       could remove the non-cost-effective measures because we don't  
21       want to continue to offer non-cost-effective measures and  
22       spend customers' money that's in direct violation of the  
23       stipulation agreement that says the programs have to be  
24       cost-effective?

25                COMMISSIONER DAVIS: Judge, I don't have any

1 further questions.

2 JUDGE JONES: Commissioner Jarrett?

3 EXAMINATION

4 QUESTIONS BY COMMISSIONER JARRETT:

5 Q. Yeah, I want to follow-up a little bit along  
6 the lines that Commissioner Davis was -- was questioning you  
7 about.

8 Can you state here today that if we approve  
9 this tariff that Ameren Missouri has ready to go, has planned  
10 out, they've got energy efficiency -- substitute energy  
11 efficiency programs that are cost efficient, that will --  
12 will at least match the expenditures that are going out on  
13 these inefficient programs?

14 A. We have cost-effective measures that we could  
15 implement. I'm not sure about matching exactly, you know,  
16 all those that -- those details, but we have -- we've  
17 identified measures that could be cost-effective measures  
18 that could be put in place very quickly.

19 Q. So why haven't you done it?

20 A. We are -- as I stated previously, it has been  
21 one of our considerations that we would have done once -- if  
22 this tariff revision was approved, that would have been one  
23 of the things that we would have looked at. Also we would be  
24 looking at marketing. We'd be looking at many other things.

25 So that's one of the things we would consider

1     doing.  However, with this case going on, we did not want to,  
2     you know, introduce one more detail to it that would kind of  
3     muddy the water, I guess.  And we wanted to get this case  
4     settled and then we could move forward and effectively  
5     running our programs.

6             Q.     I wanted to ask a little bit about some of the  
7     programs that your testimony is that are not cost-effective  
8     and they're below that 1.0 threshold under the test.

9                    Tell me why -- I know they're different  
10    programs, but just generally, can you tell me why they are  
11    inefficient?  Are they inefficient because people aren't  
12    using them?  Are they inefficient because you're paying a lot  
13    of money out and not seeing much in return as far as energy  
14    efficiency?  What's the basis for them being not cost  
15    efficient?

16            A.     My knowledge about, you know, the inputs into  
17    the TRC calculation is limited.  Kyle Shoff is -- that's his  
18    job, and he's very familiar with that.  I know that  
19    participation levels is -- is part of that, that goes into  
20    the calculation, but I can't, you know, answer that directly,  
21    so --

22            Q.     Okay.  I think one of -- you listened to all  
23    the opening statements this morning; is that correct?

24            A.     That's correct.

25            Q.     I can't remember, maybe it was -- I can't

1 remember which attorney said it, but I think a couple of  
2 attorneys may have said it, is that you-all didn't use  
3 Missouri-specific information in the study. True or not  
4 true?

5 A. We have not done a -- there was not an  
6 evaluation that has been done in Missouri, so we have not  
7 used Missouri-specific data. We used national databases, and  
8 also we just received new information from our sister company  
9 over in Illinois, Ameren Illinois, and we used data from  
10 that. And Kyle Shoff can expand upon that more.

11 Q. Okay. But are you able to state today that if  
12 we would approve this tariff, that, say, within 30 days or  
13 some -- some prudent time, you're going to be filing a new  
14 tariff with a bunch of new efficient programs that are going  
15 to take these programs' places; is that your testimony?

16 A. We would agree to something like that.

17 COMMISSIONER JARRETT: Okay. Thank you.

18 JUDGE JONES: I just have one question, and it  
19 may be best for the other Ameren witness.

20 Had the TRC been run in January, would these  
21 measures have been found to be cost efficient?

22 THE WITNESS: I think Mr. Kyle Shoff should  
23 answer that question.

24 JUDGE JONES: And Commissioner Davis?

25 ///



## 1 FURTHER EXAMINATION

2 QUESTIONS BY COMMISSIONER DAVIS:

3 Q. Okay. I want to come back, Mr. Lovett.

4 A. Okay.

5 Q. What does the word availability mean to you?

6 A. To me, that means that there is money in the  
7 fund, and we have a customer -- and we have a measure that is  
8 applicable, and we have a customer that is willing to  
9 participate.

10 Q. So -- so it's your -- once again, when I asked  
11 you about the interpretation of paragraph 6G in the stip,  
12 it's your position that, as long as there is one customer  
13 making use of one measure, then you have not violated that  
14 portion of the stip that provides for uninterrupted  
15 availability of the energy efficiency programs?

16 A. That's correct, by the words of the -- the  
17 words in the stipulation. That's not the best way to run a  
18 program. That's not the way Ameren wants to run a program.  
19 It wants to run a program that -- where we can offer as many  
20 cost-effective measures that fits into the -- the target  
21 range of the funding that we have available.

22 Because we have the monies already set aside,  
23 we have it in a special account. And now it's my  
24 responsibility to use that money in that account to the most  
25 cost-effective way for our customers. And I can't do that

1 with only one measure.

2 Q. Do you see how other reasonable people might  
3 take issue with the way you are construing that portion of  
4 the stipulation?

5 A. I think there's confusion around the word  
6 measure and the word program.

7 Q. Okay.

8 A. Because yes, we are stopping measures. And  
9 there will be measures that are not available.

10 Q. Well, I mean, in your -- you're stopping 65 to  
11 70 percent of the measures either in terms of number or  
12 dollars so that when you're looking at the residential  
13 program, I mean, technically, it will not be interrupted  
14 because, you know, customers can still avail themselves of  
15 the ones that you haven't.

16 But, in effect, aren't you interrupting a  
17 significant portion of the residential program?

18 A. Well, it goes back to, you know, we want to  
19 spend our -- have the program that's available to customers  
20 for cost-effective measures. And we don't believe that  
21 spending money just to spend money on non-cost-effective  
22 measures is the correct way to run a program.

23 Q. Okay. Can you give me an example or examples  
24 of more cost-effective measures that you would like to enact  
25 that would get more bang for the buck?

1           A.       Mr. Kyle Shoff has a list that he can provide  
2     you, and one example that comes to mind is insulation on  
3     ductwork, ceiling ductwork. It's very cost-effective.

4           Q.       I mean, just out of curiosity, how much  
5     does -- does having insulation blown on to ductwork cost?  
6     Because I don't know. I'm guessing it's fairly expensive.

7           A.       It's a question that -- I don't know the  
8     answer to that. Mr. Kyle Shoff can respond to that better.

9           COMMISSIONER DAVIS: All right. No mas,  
10    Judge. Thank you.

11           JUDGE JONES: Commissioner Jarrett?

12                   FURTHER EXAMINATION

13           QUESTIONS BY COMMISSIONER JARRETT:

14           Q.       Yeah, while Commissioner Davis was discussing  
15    those additional questions, I have been chewing on one of  
16    your answers I just want to make clear.

17                   You all are basing this tariff filing on a  
18    study that uses national data and other state's data, but  
19    doesn't examine the specific programs here in Missouri. Did  
20    I hear you correctly?

21           A.       From my knowledge, I believe that that is  
22    correct, because we don't have any Missouri-specific data  
23    available. When you put together a program at the very  
24    beginning, you run TRC analysis based upon the database, and  
25    Mr. Kyle Shoff can explain to you how that database is

1 arrived at.

2 But then also we have data that we've just  
3 received from Illinois that is very similar and he's applied  
4 appropriate there. I do know that we do use weather data  
5 that's Missouri-specific, but Mr. Kyle Shoff can answer that  
6 precisely.

7 Q. But you can't tell me here today whether or  
8 not these specific programs in Missouri are, in fact,  
9 inefficient; just based on data nationally and from Illinois,  
10 they're inefficient?

11 A. It's the best of my knowledge, we do not have  
12 any Missouri-specific measure data.

13 COMMISSIONER JARRETT: Thank you.

14 JUDGE JONES: Okay. Any recross from the  
15 Department of Natural Resources based on questions from the  
16 bench?

17 MS. MANGELSDORF: Yes.

18 JUDGE JONES: You may proceed.

19 RECROSS-EXAMINATION

20 QUESTIONS BY MS. MANGELSDORF:

21 Q. Isn't it true that Ameren can file new  
22 measures on new tariff pages now?

23 A. I'm not sure about if we would have to pull  
24 the existing tariff and then refile it. I'm not sure about  
25 legally. I don't know the answer to that legally.

1           Q.       Well, doesn't the prohibition on filing  
2       tariffs only apply to tariffs that are currently suspended?

3           A.       So we could offer a brand new tariff?

4           Q.       Correct.

5           A.       I guess we could do that. Like I say, it may  
6       be outside of my legal area. I didn't go to law school.

7           Q.       And you touched on obtaining data from  
8       Illinois programs earlier, and I just want to touch on that  
9       for just a second.

10                  Isn't it true that Ameren Illinois is  
11       currently offering programs to its customers for building  
12       shell insulation?

13           A.       I'm not -- I don't know exactly the answer to  
14       that. Mr. Kyle Shoff runs TRC values for both Illinois and  
15       Missouri, and he could answer that question.

16           Q.       So do you know -- so are you aware of whether  
17       or not they're even offering the building insulation programs  
18       in Illinois?

19           A.       At this time -- at this particular time, I do  
20       not know.

21           Q.       Okay.

22                  MS. MANGELSDORF: Thank you.

23                  JUDGE JONES: Recross from the Office of  
24       Public Counsel?

25                  MR. POSTON: Thank you.

## 1 RECROSS-EXAMINATION

2 QUESTIONS BY MR. POSTON:

3 Q. In response to a question from Commissioner  
4 Davis, I believe you claim that you're actively considering  
5 changing the program by adding measures. Do you recall  
6 saying that?

7 A. That we could put additional measures in  
8 place?

9 Q. That you're actively considering that?

10 A. We could consider it, sure.

11 Q. No, my question is you claim that you are,  
12 Ameren is actively considering that. I believe that was your  
13 testimony.

14 A. Mr. Kyle Shoff has run TRC values and has  
15 identified cost-effective measures.

16 Q. Okay.

17 A. So I guess that's actively.

18 Q. Okay. And then in response to a question from  
19 Commissioner Jarrett, you said that you've identified cost  
20 measures that you could put in place -- I'm sorry, energy  
21 efficiency measures you can put in place that you claim are  
22 cost-effective?

23 A. That's correct.

24 Q. So is it your testimony that there are no  
25 e-mails, analysis, or any document that Ameren has created

1 regarding any of these other measures that you're  
2 considering?

3 A. Repeat the question, please.

4 Q. I'm going back to the DR-34 --

5 A. Okay.

6 Q. -- question about us trying to get some  
7 documents from you.

8 Is it your testimony there are no e-mails,  
9 analysis, or any other documents regarding any of these other  
10 measures that you are considering adding?

11 A. I don't have any e-mails or documents, no.

12 Q. Okay. So you don't have any, but is it your  
13 testimony that no such e-mail or document exists?

14 A. I mentioned that Mr. Kyle Shoff has run  
15 analysis and has identified cost-effective measures that we  
16 could put in place.

17 Q. And were those provided to OPC's response to  
18 DR-34?

19 A. They were not.

20 Q. And you also testified while you think an  
21 advisory group is better is because now the program has  
22 matured?

23 A. Yes, the program has matured, yes.

24 Q. And is it your testimony the program matured  
25 between February 2011 and May 2011?

1           A.       No. The -- it was when the -- part of the  
2 stipulation agreement that was put together on January the  
3 4th, that by all parties of the existing collaborative at the  
4 time, that's when it was decided that the program had matured  
5 because we -- that increased the funding amount four to five  
6 times. We were now doing evaluations and --

7           Q.       So the program had been matured before the  
8 stipulation is what you're saying?

9           A.       That's correct.

10          Q.       And during the spring of this year when you  
11 first brought this idea to the advisory group to remove  
12 measures, did you also propose any -- adding any other  
13 measures to the advisory group?

14          A.       I don't believe we did.

15                   MR. POSTON: Thank you. That's all I have.

16                   JUDGE JONES: Recross from the Staff of the  
17 Commission?

18                   MS. SHEMWELL: Thank you.

19                               RE CROSS-EXAMINATION

20                   QUESTIONS BY MS. SHEMWELL:

21          Q.       Mr. Lovett, there's been a lot of discussion  
22 between you and the Commissioners about the cost of a home  
23 energy audit.

24                   MS. SHEMWELL: I would like to approach, if I  
25 may.



1 JUDGE JONES: You may.

2 MS. SHEMWELL: I'd like to mark this exhibit,  
3 please. It will be Staff 5.

4 (Staff Exhibit Number 5 was marked for  
5 identification by the Court Reporter.)

6 BY MS. SHEMWELL:

7 Q. Mr. Lovett --

8 MS. TATRO: I'm sorry. Could you give me just  
9 a moment to look at it before you ask questions, please?

10 MS. SHEMWELL: Sure.

11 MS. TATRO: Thanks.

12 BY MS. SHEMWELL:

13 Q. Mr. Lovett, if I represent to you that this is  
14 from the Missouri Department of Natural Resources web site,  
15 would you accept that?

16 A. I would take your word from it.

17 Q. And will you take my word that is --

18 A. Yes, that's fine.

19 Q. And it's entitled "Homeowner Frequently Asked  
20 Questions," updated December 2nd, 2010. And I'd like to  
21 point out to you page 4. About two-thirds of the way down,  
22 there is a question: "How much does an energy audit cost?"

23 And DNR's answering this question to Missouri,  
24 I guess anyone who accesses their web site. The cost will  
25 vary depending on the location and the size of the home. The

1 typical cost of an energy audit in Missouri can range from  
2 350 to \$600.

3 Have I read that correctly?

4 A. Yes, you did.

5 Q. And is that generally your understanding as  
6 well?

7 A. Sure. That seems in the range.

8 MS. SHEMWELL: I'd like to move this into  
9 evidence.

10 JUDGE JONES: Any objections?

11 MS. TATRO: I'm not sure there's a foundation.  
12 Mr. Lovett said he didn't know what it was.

13 MS. SHEMWELL: But he was willing to accept my  
14 assurance it was from DNR's web site.

15 JUDGE JONES: So you laid the foundation for  
16 him?

17 MS. SHEMWELL: That would be my assertion.

18 MS. TATRO: I would disagree. I think for  
19 purposes of answering questions, he accepted that assumption,  
20 but as far as whether or not that document has been  
21 identified as from a web site from DNR, I don't think that  
22 has happened.

23 JUDGE JONES: I agree with her, Ms. -- I'm  
24 going to have to sustain the objection.

25 MS. SHEMWELL: Perhaps we can check with DNR

1 later.

2 BY MS. SHEMWELL:

3 Q. Mr. Lovett, you've indicated you're targeting  
4 \$700,000 to spend on energy efficiency. That was your  
5 response, I believe, to Commissioner Davis?

6 A. That's correct.

7 Q. So you expect to spend the \$463,000 this year  
8 on rebates to customers for energy efficiency?

9 A. That's correct.

10 Q. And that includes with your most popular  
11 programs eliminated?

12 A. That includes all expenditures and all of the  
13 measures that we offer.

14 Q. You mentioned the bread and butter hot water  
15 heater. On this list, which is Staff 4, do you still have  
16 that?

17 A. Yes, I do.

18 Q. Which one would that be?

19 A. That would be the tank storage water heater,  
20 tier one.

21 Q. And so far this year, you've spent \$23 -- or  
22 I'm sorry, \$50 on that?

23 A. That's correct. 23 reservations.

24 Q. 23 reservations, one rebate paid. Have I read  
25 that correctly?

1           A.       That's correct.

2           Q.       You mentioned free audits. Do you know how  
3 someone gets a free audit?

4           A.       It's my understanding that it's not really  
5 free if you have an auditor that's also selling insulation or  
6 windows, he will include the audit price into the cost of the  
7 product that he's selling.

8           Q.       And have you included that calculation in the  
9 TRC evaluation that Mr. Shoff did?

10          A.       You'll have to ask Mr. Shoff on that.

11          Q.       You were talking about rebates and tariffs and  
12 the amount of rebate a customer can receive. I'd like to  
13 refer you to your current tariffs, which is Attachment C. Do  
14 you need a copy of that?

15          A.       No. I have it.

16                 MS. SHEMWELL: Judge, do we need to move the  
17 stipulation and agreement and the attachment into evidence?

18                 JUDGE JONES: I don't know.

19                 MS. SHEMWELL: I'd like to move them into  
20 evidence.

21                 JUDGE JONES: Any objection?

22                 MS. TATRO: No objection.

23                 MS. SHEMWELL: And they should be marked as, I  
24 guess, Staff 6 for the stipulation and agreement and Staff 7  
25 for Attachment C.

1 MS. TATRO: Are you referring to Appendix C?

2 MS. SHEMWELL: Appendix C.

3 MS. TATRO: I mean, Appendix C is part of the  
4 stipulation and agreement, so it's already there.

5 MS. SHEMWELL: That's fine. I just thought  
6 people might want to refer to it separately.

7 JUDGE JONES: Well, it is part of the stip and  
8 agreement.

9 MS. SHEMWELL: We can make it one.

10 JUDGE JONES: So we'll mark the stip and  
11 agreement as Staff Exhibit 6.

12 MS. SHEMWELL: I'm going to hand these to the  
13 court reporter for -- or this to the court reporter to mark.  
14 I assume others don't need copies.

15 MS. TATRO: I do not, thank you.

16 COMMISSIONER DAVIS: I've got a copy of the  
17 stip.

18 MS. SHEMWELL: Do you need Appendix C?

19 COMMISSIONER DAVIS: You know what, I do need  
20 Appendix C.

21 MS. SHEMWELL: Judge, do you need copies?

22 JUDGE JONES: No.

23 COMMISSIONER DAVIS: I do have it if you need  
24 this back.

25 MS. SHEMWELL: I don't need it back, thank

1       you. But I do need to hand it to the court reporter.

2                       (Staff Exhibit Number 6 was marked for  
3       identification by the Court Reporter.)

4       BY MS. SHEMWELL:

5               Q.       As we look at Appendix C, sheet Number 81,  
6       there are dollar limits as well as percentage limits on the  
7       rebate amounts, correct?

8               A.       That is correct.

9               Q.       We talked about your -- the Commissioners have  
10      spoken with you about e-mails to the EEAG and your  
11      interaction with the EEAG, right? And how they react -- I'm  
12      sorry. I'll stop at that one.

13              A.       Yes, ma'am.

14              Q.       And how they reacted to the Company's  
15      proposals?

16              A.       Correct.

17              Q.       Were these members of the EEAG also parties to  
18      your last rate case?

19              A.       Yes, the natural gas rate case, yes.

20              Q.       So all the parties to the stipulation and  
21      agreement are here today?

22              A.       Yes, I believe that's correct.

23              Q.       Has anyone suggested that they were going to  
24      file a complaint against you for dropping the -- or the  
25      measures that are in the programs?

1           A.       I'm not aware of one.

2           Q.       Thank you. Mr. Lovett, do you also manage the  
3 Energy Efficiency program for Ameren Illinois?

4           A.       No, I do not.

5           Q.       In response to Commissioner Davis' question  
6 about who's paying, you would agree that ratepayers are  
7 paying for the cost of the energy efficiency programs,  
8 they're paying in rates 463,000?

9           A.       As part of the stipulation, yes, it identifies  
10 that, yes.

11          Q.       And the remainder of the 700,000 then goes to  
12 the EIERA annually?

13          A.       That's correct, which we've already paid.

14          Q.       Before you implemented your tariff proposal,  
15 did you take suggestions from the EEAG as a result of the  
16 interaction you had with them?

17          A.       So the current tariff proposal?

18          Q.       Yes.

19          A.       Yes. March, April, May, yes.

20          Q.       Okay. I'd like to hand you a document that  
21 was part of your interaction with the EEAG.

22                   (Staff Exhibit Number 7 was marked for  
23 identification by the Court Reporter.)

24 BY MS. SHEMWELL:

25          Q.       Do you recognize this, Mr. Lovett, as an

1 attachment to your April 19th, 2011, e-mail to the EEAG?

2 A. I cannot say that I do.

3 Q. You don't recognize this document as an  
4 attachment to --

5 A. I recognize that I've seen a document similar  
6 to this, but if this is the exact document, I cannot say that  
7 it is.

8 Q. But it's at least similar to a document that  
9 you -- can you verify, subject to check, that this is --

10 A. I can --

11 Q. -- what you sent out?

12 A. I can do that.

13 Q. Thank you.

14 MS. SHEMWELL: I'd like to offer this into  
15 evidence, Judge, as an attachment to one of Mr. Lovett's  
16 e-mails, that April 19th e-mail. Again, he'll verify it.  
17 Shall we wait until he checks it?

18 JUDGE JONES: Do you have any objection to  
19 that?

20 MS. TATRO: I would prefer to wait until  
21 that's been verified.

22 JUDGE JONES: Okay. We'll wait until it's  
23 verified.

24 MS. TATRO: Which I'm sure we can do over  
25 lunch, Judge.



1 BY MS. SHEMWELL:

2 Q. Just to verify, as a result of Commissioner  
3 Jarrett's questions, these programs have been offered to  
4 Missouri customers, to Ameren Missouri's customers for a  
5 number of years, at least four years?

6 A. Not all of the measures have been offered for  
7 four years, no, but they were offered in 2010.

8 Q. Okay. But you don't have any  
9 Missouri-specific data that you can use in performing an  
10 analysis or an evaluation of the programs?

11 A. We don't have any evaluation data.

12 Q. So you're claiming the program is mature, but  
13 you still don't have any Missouri-specific data to do an  
14 evaluation; is that a correct statement?

15 A. The program has matured to point that now we  
16 need, with the increased spending level, it's now time to run  
17 an evaluation offered by a third party.

18 Q. So the spending level determines the maturity  
19 of the program is your testimony?

20 A. That's part of it, along with the  
21 responsibility and having to do a --

22 Q. Thank you. You agree that a third-party  
23 evaluation is the requirement in the stipulation and  
24 agreement?

25 A. Yes, to be conducted, you know, have the

1 report by the end of 2012.

2 Q. And that will be on Missouri-specific data?

3 A. Yes, it will be with Missouri-specific  
4 customers that have participated in the program.

5 Q. If you eliminate -- if the Commission approves  
6 your tariff to eliminate programs at this point, then you  
7 won't have -- then the third-party evaluator won't have  
8 complete information to evaluate the program?

9 A. The evaluators will have program details of  
10 all of the participants that have used the program up to this  
11 point.

12 Q. But not for the entire period of time for  
13 which they're doing the evaluation, correct? If you  
14 eliminate them tomorrow --

15 A. It will be for any customer that participates  
16 in the program and with the reservations that we have -- we  
17 still have outstanding for it, you know, it could run for  
18 several more months.

19 Q. If the program isn't available throughout the  
20 evaluation period, you're not going to get complete data,  
21 right?

22 A. I'll have all the data that participants will  
23 have --

24 Q. You will have all the data?

25 A. They evaluators will use all of the

1 participants' information from when the program started until  
2 April the 12th.

3 Q. April the 12th?

4 A. 2012.

5 Q. Again, if you end the program tomorrow, it's  
6 not going to continue until April 20th, 2012, correct?

7 A. That is not correct, because -- we will stop  
8 accepting new reservations and stop -- and not make any  
9 additional new incentive payments; however, we still have an  
10 outstanding amount of reservations that we will honor.

11 Q. And you don't know how many of those  
12 reservations will be honored or will need to be honored?

13 A. I don't know the -- you know, you had the one  
14 exhibit that you, you know, as of the August --

15 Q. Let me rephrase. Just because someone's made  
16 a reservation does not necessarily mean they will take  
17 advantage of it?

18 A. That is correct, they are not required to.

19 Q. Thank you. Did I understand you to say,  
20 Mr. Lovett, that Ameren is not currently marketing its Energy  
21 Efficiency program?

22 A. We are not actively marketing. It's on our  
23 web site. Customers can --

24 Q. Thank you.

25 A. -- go to our web site and look for it.

1 MS. SHEMWELL: Judge, we have discussed  
2 Ameren's proposed change to the tariffs, and I have copies  
3 here, and I would like them marked as exhibits in this case.

4 MS. TATRO: I have a question. Was this item  
5 marked?

6 JUDGE JONES: It was marked Staff 7.

7 MS. TATRO: 7, okay. Thank you.

8 JUDGE JONES: And this is Staff 8, and it is  
9 the proposed tariff?

10 MS. SHEMWELL: That's correct.

11 (Staff Exhibit Number 8 was marked for  
12 identification by the Court Reporter.)

13 BY MS. SHEMWELL:

14 Q. Mr. Lovett, are you familiar with this  
15 document?

16 A. Yes, I am.

17 Q. And you agree with me that it is a cover  
18 letter to Mr. Reed, Steven Reed, the secretary of the  
19 Commission, June 8, 2011, that contains Ameren's proposed  
20 revised tariff sheets?

21 A. That's correct.

22 MS. SHEMWELL: I'd like to move this into  
23 evidence, Judge.

24 JUDGE JONES: Any objection?

25 MS. TATRO: I would just like clarification

1       that the -- it looks like something was written on it and  
2       scribbled. That is not part of the original filing?

3                   MS. SHEMWELL: That is correct.

4                   JUDGE JONES: Is that something that -- is  
5       that a note or something you wrote?

6                   MS. SHEMWELL: I think that's a note of the  
7       GAG in this case and that became -- that was the tariff  
8       filing number.

9                   JUDGE JONES: Noting that, Staff Exhibit 8 is  
10      admitted into the record.

11                   (Staff Exhibit Number 8 was received into the  
12      record by Judge Jones.)

13      BY MS. SHEMWELL:

14                  Q.       Mr. Lovett, can you agree with me that the  
15      customer has to pay for a -- for an audit from a qualified  
16      auditor before applying for the rebates listed on sheet  
17      Number 81, the building shell measures?

18                  A.       That's correct.

19                  Q.       And one of those is switch an outlet  
20      insulation.

21                         Do you have an estimate of the cost of switch  
22      an outlet insulation?

23                  A.       For -- I don't know exact value. It's small.  
24      Probably for one switch or outlet insulation or piece of  
25      foam, it's a quarter, 50 cents. I don't know. It's small.

1           Q.       Is this the sort of thing that a customer can  
2   install themselves?

3           A.       Sure.

4           Q.       Do you know the cost of a faucet aerator?

5           A.       Not specifically, but it's less than \$5,  
6   probably.

7           Q.       And the rebate for that would be 50 percent of  
8   the value?

9           A.       That's the way -- that's the way the tariff is  
10   put together.

11          Q.       In its TRC evaluation, did Ameren include in  
12   its evaluation the cost from the Company's perspective?

13               MS. TATRO: Your Honor, I'm sorry. I'm going  
14   to object. There's been a lot of discussion of TRC, and  
15   Mr. Lovett keeps saying that Mr. Shoff is the correct  
16   witness, and he is, and he's the next witness. So I would  
17   object that it's beyond the scope.

18               JUDGE JONES: Well, it doesn't make the  
19   question legally objectionable, but he can answer and just  
20   simply say he doesn't know if he doesn't know.

21               MS. TATRO: Thank you.

22               JUDGE JONES: So you can answer the question.

23               THE WITNESS: Yeah. I don't know the answer  
24   to that question. Mr. Kyle Shoff can answer that question.

25                       ///

1 BY MS. SHEMWELL:

2 Q. Do you know if the maximum rebate to be  
3 offered is 250 on any measure?

4 A. I think on the general services, there's  
5 \$7,500.01, I believe.

6 Q. I'm sorry, I was referring to residential,  
7 okay. But let's start with residential and then we'll go to  
8 general service.

9 A. That is correct, \$250.

10 MS. SHEMWELL: Mr. Lovett, thank you.

11 COMMISSIONER JARRETT: I apologize for doing  
12 this, and it may open another round of cross and redirect,  
13 but I'm sorry.

14 COMMISSIONER DAVIS: That's all right,  
15 commissioner Jarrett, I may ask one more question, too, so  
16 seize the moment.

17 FURTHER EXAMINATION

18 QUESTIONS BY COMMISSIONER JARRETT:

19 Q. Okay. When did Mr. Shoff do his analysis,  
20 what time frame?

21 A. Mr. Shoff has done analysis for us starting  
22 back in 2010.

23 Q. I mean, this specific one, yeah, that you're  
24 relying on for the case today.

25 A. I believe it was in March or April.

1           Q.       Okay. The stipulation has been put in -- in  
2 place, and I know the stip was filed here on the 4th of  
3 January 2011. Does that sound about right?

4           A.       Yes, it does.

5           Q.       So you're saying maybe two months later, he  
6 started evaluating these programs for cost effectiveness?

7           A.       As I mentioned, we started running -- Mr. Kyle  
8 Shoff has started running TRC calculations back in the summer  
9 of 2010. We brought those to the attention of the  
10 collaborative at the time.

11                   Cost effectiveness has always been a  
12 consideration of our programs for the -- in the -- as the  
13 collaborative under the old stipulation and agreement.  
14 Now -- and so then this spring, as part of just our normal  
15 evaluation of -- or not evaluation, but the study of the  
16 measures, when we get new information, standard practice to  
17 go ahead and rub those TRC calculations again, and that's  
18 what he did back in March and April of 2011.

19          Q.       Okay.

20          A.       But we started the process back in the summer  
21 of 2010.

22          Q.       Okay. So my question is: Did you know before  
23 the stipulation and agreement was signed that these programs  
24 that you want to cut were not cost-effective?

25          A.       The -- I did not know that the programs were



1 not cost-effective. All of the collaborative members knew  
2 that the individual measures, there were some of the  
3 individual measures that were not cost-effective.

4 Q. But you didn't -- you said some of the  
5 collaborators knew, but you didn't know?

6 A. No -- yes. But we also had measures that we  
7 had not run TRC values on at all and -- as of January.

8 Q. If he was working on this since 2010, which  
9 was before the stipulation was signed, why wasn't he running  
10 the TRC values on -- on these programs before you guys signed  
11 the stip?

12 A. Under the old collaboration model, that was  
13 not the driving force of the measures that we put into place.  
14 It was just a consideration that we took into account.

15 Q. So cost effectiveness wasn't very important  
16 prior to this, but now it is?

17 A. Now it is the driving force, yes.

18 Q. Okay. But it wasn't before, you didn't really  
19 care about cost effectiveness before; is that what you're  
20 telling me?

21 A. What we used is the experience from all of the  
22 different collaborative members. We also looked at other  
23 programs and measures that were being offered by other  
24 utilities across the nation and put together our programs  
25 based upon that analysis, and then we just started running

1 the TRC analysis in the summer of 2010.

2 Q. Okay.

3 A. The program side was very small. I think we  
4 started off a couple years ago at \$50,000 a year, and we were  
5 up to \$100,000 a year, and now we're much higher.

6 Q. I want to make sure I heard you correctly, and  
7 I'm asking this. I'm not asking about what the collaborative  
8 thought or -- this is what Ameren thought.

9 Prior to this stipulation, the concern for the  
10 energy efficiency programs was not necessarily cost  
11 effectiveness of the programs; however, after the stipulation  
12 was signed, that became Ameren's primary focus was cost  
13 effectiveness?

14 A. The way the stipulation is put together is  
15 that it spells out specifically that cost effectiveness is  
16 the driving factor and so --

17 Q. Well, I understand what the stipulation says.  
18 I'm trying to figure out what Ameren thought before the  
19 stipulation was signed. So would you please answer my  
20 question?

21 A. Okay. Could you repeat the question?

22 Q. Yes, the question is: Was cost effectiveness  
23 of energy efficiency programs important to Ameren prior to  
24 this stipulation being signed?

25 A. It was a consideration, and it was important.

1 Q. Okay. But was it as important as it is today?

2 A. No, it was not.

3 COMMISSIONER JARRETT: Okay. Thank you.

4 JUDGE JONES: Commissioner Davis?

5 FURTHER EXAMINATION

6 QUESTIONS BY COMMISSIONER DAVIS:

7 Q. Mr. Lovett, I mean, when we talk about  
8 building shell measures, I mean, are we really just talking  
9 about insulation here?

10 A. Insulation, doors, windows, caulking.

11 Q. So, I mean, this is just -- really this is  
12 just a discussion about insulation?

13 A. No. We also are removing the tankless water  
14 heaters and also the Tier Two ENERGY STAR water heaters  
15 because they have a low TRC value.

16 Q. And why is -- and just -- tell me why that is.  
17 Why are you removing the tankless water? Heaters because  
18 I've always heard that they're extremely efficient.

19 A. Through the TRC analysis that Kyle Shoff has  
20 run, they have a TRC value of less than one, which identifies  
21 cost effectiveness.

22 Q. All right. So if it's just less than one,  
23 then it's out?

24 A. That's correct.

25 COMMISSIONER DAVIS: Okay. No further

1 questions. Sorry, Judge.

2 JUDGE JONES: Any recross based on the second  
3 round of questions from the Commission? Department of  
4 Natural Resources?

5 MS. MANGELSDORF: Just a couple of questions.

6 RECROSS-EXAMINATION

7 QUESTIONS BY MS. MANGELSDORF:

8 Q. For the TRCs that were done in 2010, do you  
9 know how many of those TRCs had a score of less than one for  
10 the measures that the Company is proposing to remove now?

11 A. I don't know the answer to that. Mr. Kyle  
12 Shoff ran all those values for me.

13 Q. Would it surprise you to know that all of the  
14 measures that the Company is proposing --

15 MS. TATRO: I'm going to object. He said he  
16 doesn't know.

17 JUDGE JONES: It sounds like she may be asking  
18 a different question or making testimony. I'm not sure.  
19 I'll let you go ahead and finish your question or statement.

20 MS. MANGELSDORF: Okay.

21 BY MS. MANGELSDORF:

22 Q. Would it surprise you if you learned that all  
23 of the measures that the Company is proposing to remove  
24 currently had TRCs of less than one back in 2010?

25 MS. TATRO: I will object. It assumes facts

1 not in evidence, she's testifying.

2 JUDGE JONES: Objection's sustained.

3 MS. MANGELSDORF: Thank you.

4 JUDGE JONES: Any recross based on questions  
5 from the bench from Office of Public Counsel?

6 MR. POSTON: Yes, thank you.

7 RECROSS-EXAMINATION

8 QUESTIONS BY MR. POSTON:

9 Q. You testified that all collaborative members  
10 knew the measures were not cost-effective in 2010. What's  
11 the basis of your opinion that Mr. Kind believed any measures  
12 were not cost-effective?

13 A. We provided TRC values of those measures, and  
14 the TRC values was less than one, and we defined them --  
15 since the TRC was less than one, that makes them not  
16 cost-effective.

17 Q. Isn't it true that that was only Ameren's  
18 position? Your testimony was that all of the collaborative  
19 members essentially agreed that these programs and measures  
20 were not cost-effective. Is that what you meant to testify?

21 A. I meant to testify that all the collaborative  
22 members knew the TRC values were less than one.

23 Q. They knew that your calculation of TRC values  
24 were less than one according to your calculations. Is that  
25 more accurate?

1           A.       That's correct.

2           Q.       Isn't it true that you brought the  
3 TRC calculation results to the collaborative in the summer of  
4 2010 in response to a request from Mr. Kind?

5           A.       I don't remember the specifics on why we  
6 brought them, but that was one of the considerations that we  
7 wanted to do was actually see if we had TRC values available  
8 for those measures, and we brought them to the collaborative  
9 at the time. But I don't remember specifically who asked for  
10 them.

11          Q.       But the cost effectiveness of these programs  
12 have been a discussion among the collaborative prior to the  
13 stipulation; is that correct?

14          A.       Yes, that is correct.

15                 MR. POSTON: That's all. Thank you.

16                 JUDGE JONES: Any recross from Staff?

17                 MS. SHEMWELL: No, thank you.

18                 JUDGE JONES: Okay. Let's move into redirect  
19 from Ameren, then we'll break from lunch after that.

20                 MS. TATRO: Thank you.

21                         REDIRECT EXAMINATION

22                 QUESTIONS BY MS. TATRO:

23                 Q.       Mr. Lovett, do you remember when Staff handed  
24 you Staff Exhibit 3, which was a tariff proposal?

25                 A.       Yes, I do.

1 Q. And do you have that tariff with you?

2 A. Yes, I do.

3 Q. Was that tariff ever filed?

4 A. No, it was not.

5 Q. And why was it not filed?

6 A. We took it to the advisory group and asked for  
7 comments on it as part of the advisory process, and as we got  
8 feedback from them, realized that there was a better approach  
9 to -- to use, you know, for -- to accomplish the free  
10 ridership that was being taken advantage of by customers in  
11 service areas that they could get rebates from Ameren through  
12 Ameren Missouri and another utility. And so we looked at a  
13 different approach once we had the -- you know, got some  
14 advice from the advisory group.

15 Q. And Commissioner Davis talked to you about --  
16 he pointed out that we're here fighting about these tariffs  
17 just months after the stipulation has been approved.

18 Do you remember that line of questioning?

19 A. Yes, I do.

20 Q. And, Mr. Lovett, if the Commission issues an  
21 order in this case which determines the appropriate  
22 definition of cost effectiveness, how is that going to impact  
23 agreement or disagreement among parties moving forward?

24 A. I think we'd have a clear definition of what  
25 cost effectiveness is, and then we could manage the programs

1 appropriately.

2 Q. Do you think it will reduce or increase or not  
3 impact disagreement among the parties?

4 MS. SHEMWELL: This calls for speculation.

5 JUDGE JONES: Objection sustained.

6 BY MS. TATRO:

7 Q. Mr. Davis also talked to you about the  
8 percentage of residential programs that were being removed  
9 and how that impacted the portion of the stipulation that  
10 talks about uninterrupted availability of programs. Do you  
11 remember that discussion?

12 A. Yes, I do.

13 Q. Do you know if there's any other part of the  
14 stipulation that specifically allows for tariff changes?

15 A. Yes, it's in -- I believe it's paragraph 6 --  
16 yes, it's in the same paragraph, 6G, I believe. "Ameren  
17 Missouri may file with the Commission proposed revised tariff  
18 sheets concerning the Energy Efficiency programs, if Ameren  
19 Missouri believes circumstances warrant changes."

20 Q. Okay. Later on you and Commissioner Jarrett  
21 had a discussion about the use of Missouri data in the TRC.  
22 Do you remember that conversation?

23 A. Yes, I do.

24 Q. Do you know if Missouri-specific weather data  
25 was used?



1           A.       Yes, weather data was used, yes.

2       Missouri-specific weather specific data was used.

3           Q.       How about heating and cooling systems?

4           A.       I'm not sure about that.

5           Q.       Building vintage?

6           A.       I'm not sure about that.

7           Q.       Then the attorney for the Department of  
8       Natural Resources asked you a question about whether or not  
9       the restriction on filing tariffs only applies if the tariff  
10      is suspended. Do you remember that question?

11          A.       Would you repeat it, please.

12          Q.       She asked you questions about when you can  
13      file tariffs and when you can't file tariffs.

14                   And part of the question was it only applies  
15      when tariffs are suspended. Do you remember that  
16      conversation?

17          A.       Yes, I do.

18          Q.       Has this tariff that's the subject of this  
19      hearing been suspended?

20          A.       Yes, it has.

21          Q.       Mr. Poston from Office of Public Counsel asked  
22      you some questions about Data Request 34?

23          A.       I remember that.

24          Q.       And specifically about whether or not you  
25      provided the TRCs in response to that data request. Do you

1 remember that?

2 A. That's correct, I do remember.

3 Q. Sorry. Do you know if those TRCs were  
4 provided in response to another OPC data request?

5 A. I know we did provide TRC values for  
6 additional measures in another data request, that is correct.

7 Q. Do you know what that data request number is?

8 A. No, I do not.

9 Q. On Staff recross, Ms. Shemwell talked to you  
10 about how some of the measures that are being removed are the  
11 measures that the most money is being spent on.

12 Do you remember that conversation?

13 A. Yes, I do.

14 Q. So if these measures are removed -- and I  
15 think you had a similar discussion later with Commissioner  
16 Jarrett again.

17 If these measures are removed, how -- how does  
18 Ameren Missouri anticipate still spending the \$700,000?

19 A. What we can do then is look at additional  
20 measures that we can add. We're also going into the winter  
21 heating season, so our -- the amount of participation for the  
22 existing cost-effective measures will increase -- it should  
23 increase.

24 Also, we'll look at one of the biggest  
25 marketing ways to get to our customers is through our trade

1 allies, really start working with our trade allies. We've  
2 actually gone and installed furnaces, we install water  
3 heaters, make sure they're aware of our rebates and to get in  
4 front of our customers, and we'd also look at additional  
5 marketing activities.

6 Q. Is it your opinion that Ameren Missouri can  
7 spend the money that's been built into rates even with  
8 removal of these measures?

9 A. Yes, I feel confident that we can spend the  
10 target money.

11 Q. Ms. Shemwell also talked to you about the fact  
12 that you do not have an evaluation of any of these measures  
13 yet, correct?

14 A. That's correct.

15 Q. You do remember that conversation, correct?

16 A. Yes, I do.

17 Q. Did the collaborative ever agree to conduct an  
18 evaluation?

19 A. Not prior to the existing stipulation and  
20 agreement.

21 Q. Did the collaborative ever discuss that?

22 A. If it was -- it probably was discussed, but it  
23 was that the programs were so small, and evaluations on small  
24 programs don't -- it does not make sense. So now that our  
25 programs have increased four to five times bigger than what

1       they were, and now they were a size that would make sense to  
2       do an evaluation.

3                   MS. TATRO: Thank you, sir. I'm done.

4                   JUDGE JONES: Okay. We have a couple of  
5       questions. Commissioner Davis?

6                   COMMISSIONER DAVIS: Okay. This is for  
7       counsel. This is not for --

8                   JUDGE JONES: You're excused.

9                   COMMISSIONER DAVIS: He's excused.

10                  JUDGE JONES: Thank you, Mr. Lovett.

11                  COMMISSIONER DAVIS: Okay. So we're right  
12       here before lunch. And this is my question for everybody.

13                  Does this Commission have the authority to  
14       issue an order allowing Ameren Missouri to withdraw its  
15       tariff in this case contingent on Ameren Missouri filing a  
16       new tariff that would provide alternative measures to replace  
17       the old ones that are acceptable to the parties? Being DNR,  
18       Office of the Public Counsel and the Staff. Can we do that?

19                  MS. TATRO: Well, let me start.

20                  COMMISSIONER DAVIS: All right, Ms. Tatro.

21                  MS. TATRO: I don't think the Commission can  
22       force Ameren Missouri to add measures. I do think Ameren  
23       Missouri can agree to add measures, and I was just having  
24       that discussion with my client because I think we would agree  
25       to have measures. So if we would -- we would need to discuss

1     what that meant, do you want a one-for-one tradeoff, you  
2     know, I'm not sure what you're looking for, but conceptually,  
3     we would agree to that. And, of course, if I agree to it,  
4     you then can approve that.

5                 COMMISSIONER DAVIS: Right. So yeah, you have  
6     to agree to it, but assuming -- and I didn't mean to leave  
7     you out earlier, but so you're -- you would agree with the  
8     premises that we could issue an order in this case that says,  
9     yes, Ameren, you may withdraw this tariff contingent on you  
10    coming up with something that Mr. Poston and Ms. Mangelsdorf  
11    and Ms. Shemwell and everyone agree to.

12                MS. TATRO: I think I -- I'm sorry. I have  
13    two conversations going at once. My bad. I apologize.

14                COMMISSIONER DAVIS: That's all right.

15                MS. TATRO: Ameren Missouri will agree to make  
16    your order allowing us to withdraw the non-cost-effective  
17    measures contingent upon us adding measures which we believe  
18    are cost-effective.

19                Now, the number of measures may or may not be  
20    exact, but there is a data request that lists some numbers.  
21    We certainly would be willing to talk with the other parties  
22    and see if we can even reach an agreement on what those are  
23    and resolve that issue. I just don't want to be back here in  
24    three months saying you didn't add enough, Ameren.

25                COMMISSIONER DAVIS: Right. Well, once again,

1 we kind of get back to the -- to the old unanimous consent  
2 discussion that we had here before. But anyway, I'm going to  
3 let anyone else chime in here that wants to chime in.

4 Mr. Poston?

5 MR. POSTON: Yes. Well, the question of  
6 whether the Commission has the authority to do that, I would  
7 Say yes. Whether the Commission should do that, I would say  
8 no. We should not remove any measures, and I think the  
9 Company should first put forward the new measures they'd like  
10 to put in. Let's look at those before we gut the program.

11 COMMISSIONER DAVIS: So is it -- is it OPC's  
12 position that you just want to see these programs go through  
13 December of 2012 so that you can measure them and so we can  
14 get some baseline Missouri data on those measures?

15 I mean, is that your -- your ultimate, I mean,  
16 is that where you want -- is that where you want to get to  
17 here? I mean, if so, I'm just trying to --

18 MR. POSTON: That is fair. And we also have  
19 no reason to believe that these measures are not  
20 cost-effective. We have no reliance -- we don't think this  
21 test they provide is at all reliable or that it's the right  
22 test.

23 COMMISSIONER DAVIS: Right. Well, when  
24 Mr. Kind comes back, we can maybe talk about the KEMA  
25 (phonetic) analysis and maybe make some analogies.

1 Ms. Mangelsdorf?

2 MS. MANGELSDORF: I think we would agree with  
3 OPC that I think part of the issue here is that the  
4 Parties -- it's the Department's position that the parties  
5 agreed to these programs with these specific set of measures,  
6 and in order to get reliable data from Missouri, from the  
7 actual program participants, that these measures need to be  
8 run until April of 2012 or when the stipulation says the end  
9 date is so that they can be evaluated to see if they're  
10 cost-effective.

11 Because right now, we don't think that there  
12 is reliable data showing that they aren't.

13 COMMISSIONER DAVIS: Right. Because the  
14 filing was made two months after the strips became -- or the  
15 tariffs became effective, correct?

16 MS. MANGELSDORF: I'm sorry, can you please --

17 COMMISSIONER DAVIS: I mean, once again, we  
18 are getting back to the point -- you get back to the point  
19 that the -- I guess Ameren's initial communication on this  
20 subject came two months after the -- the tariffs became  
21 effective that were part of the stip in the last case.

22 MS. MANGELSDORF: Correct. And in addition,  
23 I'd also like to add that in the stipulation, it talks about  
24 the programs as being cost-effective, and I think part of the  
25 issue is that the TRC that was done was done per measure and

1 it wasn't looking at the programs.

2 COMMISSIONER DAVIS: Entire package, right.

3 MS. MANGELSDORF: Correct.

4 COMMISSIONER DAVIS: Ms. Shemwell?

5 MS. SHEMWELL: Staff agree.

6 COMMISSIONER DAVIS: All right. Back to you,  
7 Ms. Tatro.

8 MS. TATRO: And if I can further clarify, I've  
9 spoken with my client, and there's a data request that we  
10 provided to OPC that lists measures that we believe -- that  
11 we don't currently have in place that we believe have a  
12 TRC above one, and the Company would be willing to add those  
13 programs, I think you said to have tariffs proposed in 30  
14 days. We're willing to commit to that.

15 COMMISSIONER DAVIS: But I think we're still  
16 kind of back to where we were because if it's contingent on  
17 acceptance, then I'm not sure that the other parties are  
18 willing to accept.

19 MS. TATRO: Well, I -- I think it's only -- I  
20 think you can't force Ameren Missouri to add programs they  
21 don't want to add, but I think you can add programs over  
22 Staff's objection or over OPC's objection if you believe  
23 that's in the best interest of the customers, as Ms. Shemwell  
24 set forth.

25 COMMISSIONER DAVIS: Right.



1 MS. SHEMWELL: I do believe that the question  
2 is in the public interest, but I think we do still run into  
3 the problem of a program evaluation at the end of this that  
4 judges all of the measures over a length of time that is  
5 valuable to they evaluator. And eliminating and adding  
6 programs is going to affect the quality of that evaluation.

7 MS. TATRO: Actually, the evidence in the  
8 record thus far is that it does not impact the quality.  
9 That's what Mr. Lovett testified to on the stand.

10 MR. POSTON: If I could jump in for a minute.  
11 I don't want there to be any idea that I agree, the OPC  
12 agrees with the claim that the Commission could not order  
13 them to add measures to this program -- these programs.

14 COMMISSIONER DAVIS: Okay.

15 MS. SHEMWELL: One of the issues, I believe,  
16 is that it's customer funds. It is customer funds that are  
17 paying for the program.

18 COMMISSIONER DAVIS: Okay. Does this  
19 Commission need to prescribe the methodology by which the  
20 cost effectiveness is measured at the end of the 2012 period?  
21 I mean, it seems like -- I mean, do we need to get in the  
22 weeds here and say, okay, Ameren, give us an overall program  
23 evaluation, give us an individual program evaluation -- or,  
24 I'm sorry, an individual measure evaluation, and do we really  
25 need to get -- do we need to get in the weeds and prescribe

1       how that gets done before we get there?

2                   MS. SHEMWELL: My response to that would be  
3       no, because it's going to be a third-party evaluator.

4                   COMMISSIONER DAVIS: Okay.

5                   MS. SHEMWELL: And a third-party evaluator  
6       should not have any bias. You would hope that you would get  
7       an evaluator --

8                   COMMISSIONER DAVIS: If they're a true third  
9       party, they will.

10                  MS. SHEMWELL: That's right. They will have a  
11       bias or they will have no bias.

12                  COMMISSIONER DAVIS: Do we have a third party  
13       picked out yet?

14                  MS. SHEMWELL: I don't believe we have a third  
15       party, but I know that OPC certainly has evaluators that they  
16       can suggest and have suggested to others.

17                  MS. TATRO: And I believe there's currently an  
18       RFP that's been issued, and all the advisory groups saw the  
19       RFP and commented on the RFP, so that process has begun, but  
20       we've not hired anyone yet.

21                  MR. POSTON: If I can add, the RFP requires  
22       the evaluator to use all known tests of cost effectiveness.  
23       So I would say it may be premature for the Commission to jump  
24       in and require a particular test.

25                  COMMISSIONER DAVIS: Okay. And that's fine.

1 I'm just -- we've done it on integrated resource planning, I  
2 mean, we've done it on some other issues, and I thought, you  
3 know, in terms of judicial economy, I just thought I would  
4 inquire if we need to pierce the level of dispute in this  
5 case that we might have needed to go down that road. But if  
6 everyone says no, then that's fine.

7 I'm sorry, Judge. I don't have any further  
8 questions for the parties at this time.

9 JUDGE JONES: Okay. We'll break for lunch and  
10 get here between quarter after and 1:30.

11 (A lunch recess was held.)

12 (Ameren Exhibit Numbers 3 and 4 were marked  
13 for identification by the Court Reporter.)

14 JUDGE JONES: We are back on the record with  
15 Case Number GR-2000 -- I'm sorry -- GT-2000-110410. We've  
16 completed one witness for Ameren, and Ameren has a second  
17 witness. But prior to that, there is an exhibit that was  
18 offered by Staff.

19 Let me go ahead and do this. There was an  
20 exhibit that was offered by Staff, Staff Exhibit Number 7.  
21 That is a list of measures for the Energy Efficiency program,  
22 and it was necessary to determine whether or not this was the  
23 actual list over the break. And I've been told off the  
24 record that it is.

25 And are there any objections on the record to

1 Staff's Exhibit Number 7?

2 MS. TATRO: No objection.

3 JUDGE JONES: Okay. Then Staff Exhibit  
4 Number 7 is admitted into the record.

5 (Exhibit Number 7 was received into the record  
6 by Judge Jones.)

7 JUDGE JONES: And, Ameren, you can call your  
8 second witness.

9 MS. TATRO: Kyle Shoff.

10 (The witness was sworn.)

11 JUDGE JONES: Thank you, sir. You may be  
12 seated.

13 DIRECT EXAMINATION

14 QUESTIONS BY MS. TATRO:

15 Q. Can you state your name and your business  
16 title for the record.

17 A. My name is Kyle Shoff. I am a planning  
18 consultant for Demand Side Management.

19 Q. And are you the same Kyle Shoff who pre-filed  
20 direct testimony consisting of nine pages and surrebuttal  
21 testimony consisting of 11 pages and two schedules?

22 A. Yes, I am.

23 Q. Do you have any corrections or additions to  
24 make to your testimony?

25 A. Yes, I do. In my direct testimony, in certain

1 instances, I refer to TRC being greater than one. I would  
2 like to change those to TRC result greater or less than one.  
3 The first instance --

4 Q. I was going to ask if you had a specific  
5 reference.

6 A. Page 3, line 20. There is a reference to  
7 TRC below one. That should read "TRC result below one."

8 And then further, on page 5, lines 4 and 5,  
9 program level TRC exceeding 1, that should read "Program  
10 level TRC result exceeding 1."

11 Furthermore, in my direct testimony, there are  
12 several references to evaluate cost effectiveness. I would  
13 like to change evaluate to analyze cost effectiveness. The  
14 first instance of this is on page 2, Line 11. Evaluate the  
15 cost effectiveness. That should read "Analyze the cost  
16 effectiveness."

17 The next instance is page 3, line 10, "How did  
18 Ameren Missouri use the TRC to evaluate?" That should read:  
19 "How did Ameren Missouri use the TRC to analyze."

20 The next reference is page 7, line 6. "The  
21 TRC as the major metric to evaluate demand side programs;  
22 should read: "The TRC as the major metric to analyze demand  
23 side programs."

24 MS. SHEMWELL: What line was that, please?

25 THE WITNESS: Page 7, line 6.

1 MS. SHEMWELL: Thank you.

2 THE WITNESS: And final edit is on page 8,  
3 line 18. "The best method to evaluate the cost  
4 effectiveness" should read: "The best method to analyze the  
5 cost effectiveness."

6 And then in the last change is in my  
7 surrebuttal testimony. On page 8, lines 17 through 18, I  
8 would like to strike "wall insulation" from line 17, and at  
9 the end of that sentence add a new sentence reading: "Ameren  
10 Missouri also proposes to remove wall insulation from the  
11 residential program." And I promise, that's all.

12 Q. If I were to ask you the questions that are in  
13 your pre-filed testimony, would your answers remain  
14 substantially the same with those corrections?

15 A. Yes, they would.

16 MS. TATRO: I move Mr. Shoff's direct and  
17 surrebuttal into the record and tender him for  
18 cross-examination.

19 JUDGE JONES: Do you have copies of his  
20 testimony to give to the court reporter?

21 MS. TATRO: I already did.

22 JUDGE JONES: And they've been marked as  
23 Ameren Missouri's 3 and 4?

24 MS. TATRO: Yes, they were. His direct was  
25 premarked as Ameren Missouri 3 and his surrebuttal was Ameren

1 Missouri 4.

2 JUDGE JONES: Okay. Good. Is there any  
3 objection?

4 Hearing none, Ameren Missouri Exhibits 3 and 4  
5 are admitted into the record.

6 (Ameren Exhibit Numbers 3 and 4 were received  
7 into the record by Judge Jones.)

8 JUDGE JONES: And we'll have cross-examination  
9 beginning with DNR.

10 CROSS-EXAMINATION

11 QUESTIONS BY MS. MANGELSDORF:

12 Q. Good afternoon, Mr. Shoff.

13 A. Good afternoon.

14 Q. You are aware that Ameren Missouri conducted a  
15 TRC test in April of 2010 for all of the measures that are  
16 now included in its current energy efficiency tariff to be  
17 removed?

18 A. Yes.

19 MS. MANGELSDORF: May I approach?

20 JUDGE JONES: Yes, you may.

21 BY MS. MANGELSDORF:

22 Q. I'm going to hand you what's been marked as  
23 Exhibit 2.

24 (MDNR Exhibit Number 2 was marked for  
25 identification by the Court Reporter.)

1 BY MS. MANGELSDORF:

2 Q. I'd kind of like to go through this table a  
3 little bit with you. And if you look in column one, under  
4 both the residential and the general services, do you have a  
5 copy of your data request that you answered from the Public  
6 Service Commission? It's Data Request 0002.

7 A. I don't have a copy with me, unless that's  
8 what this is.

9 Q. Well, would you agree that the numbers in --  
10 in column one are the -- are the same as the numbers you  
11 provided in Data Request 002 from the Missouri Public Service  
12 Commission?

13 MS. TATRO: May I request the witness be  
14 provided a copy of that data request so he can compare that?

15 MS. MANGELSDORF: Sure, absolutely.

16 MS. TATRO: Thanks.

17 BY MS. MANGELSDORF:

18 Q. I believe in your response to Data Request  
19 002, there were also two attachments that were tables. I  
20 think those are being referenced from, so if you want to  
21 check to see if those are, in fact, the same numbers.

22 A. These appear to be the same, yes.

23 Q. And for columns two, four, and five for both  
24 residential and general services, if you would take a look at  
25 your answer to the Department of Natural Resources data



1 request, would you agree that -- Number 16, would you agree  
2 that those numbers are the same as that -- that you provided  
3 in that data request?

4 A. Yes, they appear to be the same.

5 Q. And for column Number 3 for both residential  
6 and general services, if you could take a look at  
7 Appendix C of the unanimous stipulation and agreement, would  
8 you agree that -- with this column that the measures that  
9 indicate an audit is required, that that's consistent with  
10 the tariff in Appendix C?

11 A. I don't have the tariff in front of me, but  
12 you're talking about column five? I'm sorry.

13 Q. Column three.

14 A. Oh. That appears to be consistent.

15 MS. SHEMWELL: I have a copy of that,  
16 Mr. Shoff, if you'd like to see it.

17 BY MS. MANGELSDORF:

18 Q. I think there should have been one in there.

19 A. Oh, in this?

20 Q. Yeah.

21 A. They appear to be the same, yes.

22 Q. So would you agree with me that the  
23 information provided in this table is a summary of  
24 information you provided in previous data requests, as well  
25 as from the unanimous stipulation and agreement?

1 MS. TATRO: I'm going to lodge an objection.  
2 The first column says June of '10 for those TRC dates. And  
3 tell me if I'm incorrect, but I believe for that you're  
4 referring to MPS Data Request 2, which I don't think is June  
5 of '10 numbers. I think that's the TRC calculations that  
6 were made for this filing, so in '11.

7 BY MS. MANGELSDORF:

8 Q. So if you could go to --

9 JUDGE JONES: Well, let me -- the objection  
10 has -- isn't legally based. It sounds like she's just making  
11 a mistake.

12 MS. MANGELSDORF: And I disagree.

13 JUDGE JONES: Are you making a mistake?

14 MS. MANGELSDORF: I don't think so. If you  
15 look at the top of the tables, it says June 2010.

16 MS. TATRO: All right.

17 JUDGE JONES: And you ask your questions, and  
18 if you think she's wrong, you can make her be wrong on  
19 redirect. Go ahead.

20 MS. MANGELSDORF: Okay.

21 BY MS. MANGELSDORF:

22 Q. If you could look at your -- your response to  
23 the data request for -- from the Public Service Commission.  
24 It's Data Request Number 002. In the table you provided,  
25 what year does that say that those TRC results are from?

1           A.       In this table?

2           Q.       No.   In your answer to Data Request 0002 from  
3 the Missouri Public Service Commission.

4           A.       I don't see a specific date in the actual  
5 response.   I guess I'm not sure where you're referring to.  
6 I'm sorry.

7           Q.       If you could look in the table that I provided  
8 from your answers to the data request, if you turn to the  
9 first page where it lists the TRC results, in the column at  
10 the top, does it say a year?

11          A.       Yeah, June of 2010.

12                   MS. MANGELSDORF:   I'd like to move for the  
13 admission of MDNR Exhibit Number 2 into evidence.

14                   JUDGE JONES:   Any objection?

15                   MS. TATRO:   If I could have just a moment to  
16 look at this table.   Thank you.

17                   I have no objection.

18                   JUDGE JONES:   DNR Exhibit Number 2 is admitted  
19 into the record.

20                   (MDNR Exhibit Number 2 was received into the  
21 record by Judge Jones.)

22 BY MS. MANGELSDORF:

23           Q.       Mr. Shoff, I would like to go through some of  
24 these -- this table with you.

25                   So as you mentioned before, a TRC test was

1 done for the measures that are listed in -- in June of 2010,  
2 correct?

3 A. Yes, for some of them. There was other ones  
4 that were completed at a later date based on new updated data  
5 as we talked about earlier.

6 Q. Sure. But the measures that are included on  
7 this table, there was a TRC that was done in June of 2008  
8 that's listed in column one, correct -- or 2010, I'm sorry,  
9 that's listed in column one?

10 A. Yes, but not for all of the measures. Some of  
11 the measures in our initial database, we didn't have them in  
12 our initial database, so TRCs were not conducted in June of  
13 to 2010 for them.

14 Q. But for these measures that are specifically  
15 on this table, there are TRCs that were done in June of 2010  
16 that was also listed in your data request, Exhibit 2?

17 A. I mean, yes, there are -- I calculated TRCs in  
18 June of 2010 for some of the measures.

19 Q. Okay. And, again, would you agree with me  
20 that the TRC measures that were -- the results that were  
21 calculated in June of 2010 are the same as the TRC results  
22 that were calculated after the unanimous stipulation and  
23 agreement went into effect?

24 A. Not for all of them, no. We've got new  
25 updated data, as I mentioned earlier, that informed the

1 results.

2 Q. As of -- as of the date of your answer to the  
3 Missouri Department of Natural Resources Data Request Number  
4 16, the postunanimous stipulation and agreement TRC was the  
5 same as the TRC results from June of 2010, correct?

6 A. Are you talking about the TRC for the proposed  
7 tariff that we're talking about now?

8 Q. Correct.

9 A. Do you have a copy of the PSC 16 I believe you  
10 referenced?

11 Q. Yes. You should have a copy that we went  
12 through, and if you'll recall, you agreed that the --

13 A. Oh, I'm sorry. Can you restate your question  
14 again? I'm sorry.

15 Q. So would you agree with me that the TRC that  
16 was conducted in June of 2010, the results are the same as  
17 the results in column two of the TRC that was done after the  
18 unanimous stipulation and agreement?

19 A. Yes, those numbers appear to be the same.

20 Q. Thank you. And would you agree with me that  
21 several of these measures also require an audit to be done?

22 A. Yes, I would agree with that statement.

23 Q. And would you also agree that there are  
24 several of these measures that are labeled ENERGY STAR?

25 A. Yes.

1           Q.       And with respect to the measures that require  
2     an audit, isn't it true that, in order for a customer to  
3     receive the benefit of the building shell measure, that a  
4     qualified auditor is required to perform a home energy audit  
5     and make the determination that the measure would be energy  
6     efficient for that customer?

7           A.       While it is true that an auditor recommends  
8     certain measures, it is also true that he doesn't calculate  
9     cost effectiveness in the same manner that we would. They're  
10    using different benefits. They use the retail rate of  
11    electricity and natural gas. They use dual benefits which we  
12    haven't accounted for. The utility uses the avoided cost of  
13    energy, which is much lower than the retail rate of  
14    electricity that the auditor would use.

15          Q.       But my question was, in order for these  
16    customers to receive the benefit of these measures, that an  
17    audit is required?

18          A.       Yes.

19          Q.       And the TRC test that is noted in columns one  
20    and two of the table that's marked as Exhibit 2, would you  
21    agree that the results for both of the TRCs resulted in a  
22    natural gas only TRC benefit cost score?

23          A.       Yes.

24          Q.       And for the TRC test, data was developed using  
25    both best practice database and field data when available,

1 correct?

2 A. Yes.

3 Q. So Ameren Missouri used non-Ameren Missouri  
4 participant usage data in calculating these tariffs; is that  
5 correct?

6 A. That's not totally correct. We didn't use  
7 necessarily non-Missouri specific usage data. The way that  
8 we calculated this for building -- or for weather sensitive  
9 measures, we used Missouri-specific weather data. We used  
10 Ameren Missouri-specific building vintage or the age the home  
11 was constructed.

12 Q. Did you use specific customer data from  
13 program participants?

14 A. We did not use data from program participants.

15 Q. And approximately 70 percent of Ameren  
16 Missouri's gas customers are also served by Ameren's electric  
17 site; is that correct?

18 A. I don't know the answer to that.

19 Q. Would you agree that many of Ameren Missouri's  
20 gas customers are also served by Ameren's electric site?

21 A. There are a portion of natural gas customers  
22 also served by Ameren Electric. I don't know a percentage.

23 Q. And would you agree that some of the measures  
24 that Ameren Missouri's removing, such as is involving  
25 building insulation, can also have an impact on the electric

1 side?

2 A. I would agree with that.

3 Q. And isn't it true that Ameren Illinois is  
4 currently offering programs for its customers for building  
5 shell insulation?

6 A. while it is true that Ameren Illinois is  
7 offering building shell measures, they are able to  
8 incorporate by law the electric and natural gas benefits in  
9 their cost effectiveness testing. There is no such law that  
10 exists in Missouri.

11 Q. Is there any prohibition against doing that in  
12 Missouri?

13 A. Not to my knowledge.

14 Q. And has Ameren Missouri performed TRCs in  
15 Illinois for their residential home insulation?

16 A. Yes.

17 Q. And were those found to be cost-effective?

18 A. They were found to be cost-effective using  
19 both fuels. But on a single basis using natural gas benefits  
20 only, they're not.

21 Q. And, again, you didn't use natural gas -- or  
22 you only used natural gas benefits for your TRC calculation  
23 in Missouri and didn't use electric, correct?

24 A. For this, we did; however, back in June of  
25 2010, we did run a dual fuel counting electric and natural



1 gas TRC, and a majority of the measures still didn't reach a  
2 TRC above one. I think the only exception might have been  
3 wall insulation but, again, those were using the older set of  
4 assumptions before we got updated data.

5 Q. And in columns one and two, you only used the  
6 gas?

7 A. That's correct.

8 Q. And does Ameren pay a rebate to customers for  
9 the cost of home energy audits?

10 A. I'm not aware that we pay for the actual  
11 audit. That's not my responsibility. I just calculate the  
12 cost effectiveness.

13 Q. The cost of -- the cost of that, though, is  
14 included in the TRC calculation, though, correct?

15 A. At the program level, the inclusion of the  
16 audit cost should be included. At the measure level,  
17 however, it is not included. So these numbers would not  
18 include the cost of an audit. If you did include an audit  
19 cost, the TRC would be less because you can't ascribe savings  
20 to an audit.

21 MS. MANGELSDORF: Thank you. I don't have any  
22 further questions.

23 JUDGE JONES: Cross, Office of the Public  
24 Counsel.

25 MR. POSTON: Thank you.

## 1 CROSS-EXAMINATION

2 QUESTIONS BY MR. POSTON:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. You've been working for Ameren for a little  
6 over three years now; is that correct?

7 A. Yes, that is correct.

8 Q. And before that, you were in college working  
9 on your Bachelor's degree?

10 A. That is correct.

11 Q. And isn't it true that before the analysis you  
12 did of Ameren Missouri's rebate programs, you had not  
13 performed any prior energy efficiency evaluations in your  
14 three-year career?15 A. I think it's important to define evaluation.  
16 Are you referring to analyzing or evaluation measurement  
17 verification, which is what a third party would do?18 Q. I'm referring to the type of evaluation that  
19 you did that you are using to claim that the rebate programs  
20 are not cost-effective.21 A. Right. So that's what I was trying to clear  
22 up earlier with my revisions to my testimony. We'll call  
23 that analyzing for now. It's just clearer that way. And so  
24 that's not necessarily true.

25 What was your question again? I'm sorry. I

1 didn't do any analysis of TRCs before this?

2 Q. Before the analysis that you did for this case  
3 of the rebate programs, you had not performed any prior  
4 energy efficiency evaluations in your three-year career?

5 A. That's incorrect. I've analyzed a TRC for  
6 Ameren Illinois' programs. I analyzed a TRC back in June of  
7 2010 for the Ameren Missouri IRP. So while I -- I mean, I  
8 think there's a confusion about evaluate. If you call  
9 evaluating, you know, calculating cost effectiveness, then  
10 yes. If you call evaluating doing energy measurement and  
11 verification where I'm serving customers, then no, I haven't  
12 done any of that.

13 Q. And are you familiar with OPC DR 33?

14 A. Is that one that I answered?

15 Q. Yes.

16 A. Okay. I don't have a copy. I'm sorry.

17 Q. Are you familiar with this data request  
18 response?

19 A. Yes.

20 Q. Will you agree that you provided the response?

21 A. Yes.

22 Q. And would you just read what the response is?

23 A. "Kyle Shoff has not performed any prior energy  
24 efficiency evaluations. Kyle's TRC analysis was based on  
25 evaluations performed by others and databases containing

1 national measure performance and evaluation-related data."

2 Q. Thank you. And you state in your direct  
3 testimony on page 2 that you were asked to evaluate the cost  
4 effectiveness of Ameren Missouri's natural gas energy  
5 efficiency portfolio; is that correct?

6 A. Yes.

7 Q. And who asked you to do that?

8 A. The Missouri energy efficient natural gas  
9 energy efficiency team.

10 Q. And who makes up that team?

11 A. Dan Laurent, Greg Lovett, Dan Danahy.

12 Q. Can you explain how that request was  
13 communicated to you?

14 A. I don't remember.

15 Q. Do you know when you were asked to do the  
16 analysis?

17 A. I was initially asked to provide TRCs back in  
18 June of 2010. There was a stakeholder meeting or  
19 collaborative meeting at the time to go over the various  
20 measures that were included within the programs. I utilized  
21 the data that we had on hand and provided those TRCs.

22 Q. And that was the result of -- was it a meeting  
23 that you had with this team?

24 A. I honestly don't remember. They could have  
25 called me and asked me. They could have e-mailed me to ask

1 me. I don't remember.

2 Q. But you were given a directive to do this; it  
3 wasn't on your own initiative, you decided you were going to  
4 do this analysis?

5 A. Well, they asked me for the analysis that we  
6 had on hand back in June of 2010. As Greg mentioned earlier,  
7 after we filed -- the unanimous stipulation and agreement was  
8 agreed upon, we received new data, I reran the numbers, and I  
9 provided the data to the natural gas management team to help  
10 inform their decision-making.

11 Q. So the analysis you did was triggered by you  
12 receiving new data, not necessarily a directive from  
13 somebody; is that correct?

14 A. For the latest proposed tariff, yes. For the  
15 previous stip and agreement, they asked me to run the  
16 numbers.

17 Q. And did you provide your TRC analysis results  
18 to Mr. Lovett?

19 A. I sent them to the management team, which I  
20 listed earlier.

21 Q. And --

22 A. He's included in that.

23 Q. Is that a yes?

24 A. He is included within that group, yes.

25 Q. So that's a yes, you provided it to

1 Mr. Lovett?

2 A. Yes.

3 Q. And when did you provide this to him?

4 A. Again, I provided them prior to the meeting in  
5 June of 2010. The exact date, I'm not sure of. And I also  
6 provided him and the other management team various updated  
7 TRCs in 2011 after the stip and agreement.

8 Q. And how were these results provided? E-mail?

9 A. Yeah, probably.

10 Q. And did you ever have discussions with  
11 Mr. Lovett where you talked about your TRC analysis and  
12 explained your analysis to him?

13 A. Yes.

14 Q. Did you explain what changed from the summer  
15 2010 analysis to your most recent analysis?

16 A. Yes, in an auditory meeting.

17 Q. Did you ask for Mr. Lovett's feedback on your  
18 analysis?

19 A. I asked for feedback from Mr. Lovett's team.  
20 I don't know if Greg was directly involved.

21 Q. Did you get feedback from any -- any Ameren  
22 employee or any member of the team?

23 A. I believe I received minor comments just in  
24 passing.

25 Q. And who did you receive those comments from?

1           A.       Dan Danahy.

2           Q.       Did anyone suggest that you make any  
3 adjustments to your analysis?

4           A.       At what point are you referring to my  
5 analysis?

6           Q.       At any time.

7           A.       So yes, various -- after meetings with  
8 various -- or the collaborative and the energy efficiency  
9 advisory group, questions were brought up about the inputs  
10 that we were using and the results. So in that case, we went  
11 back and revisited the numbers, and I took into account the  
12 information that, you know, they were questioning, and I  
13 incorporated that into my analysis.

14          Q.       And who was it who raised those questions?

15          A.       So to my knowledge, back in 2010, Mr. Kind had  
16 several questions about the insulation values, and so I reran  
17 the numbers and disaggregated the insulations. Furthermore,  
18 there was a water heater issue that was brought up in 2011  
19 from an Arkansas Center Point Energy that Mr. Kind brought  
20 up. Also, there were various ceiling and wall insulation  
21 concerns brought up by the PSC that I took into account.

22          Q.       And how about for your 2011 analysis, has  
23 anyone within Ameren suggested any adjustments to your  
24 analysis?

25          A.       Not to my knowledge. I'm the expert, and they

1 trust me to do the job.

2 Q. Do you believe -- let me change gears for a  
3 little bit.

4 Do you believe that the natural gas energy  
5 efficiency programs currently offered by Union Electric  
6 Company can be described as having high administrative costs?

7 A. I'm not sure.

8 Q. Okay. Can these programs be characterized as  
9 having high incentive costs?

10 A. Some costs included in the Ameren Missouri's  
11 program ranged in the 40 to 50 percent range. Although that  
12 is a little bit maybe on the high side, it's definitely not  
13 out of the norm of most energy efficiency programs.

14 Q. In which of the gas programs do you believe  
15 have high incentive costs? Which measures?

16 A. I don't have a copy of the rebate levels with  
17 me.

18 Q. Well, do you have your testimony? Or no?

19 A. I don't think it's in my testimony. But I do  
20 have it.

21 MS. TATRO: Marc, I'm sorry, I'm having a hard  
22 time hearing you.

23 MR. POSTON: Can I approach with a copy of the  
24 tariff?

25 JUDGE JONES: Yes, you may.



1                   THE WITNESS: I don't see very many measures  
2     that have outlandish incentive levels. When we make  
3     incentive levels, we do -- we look at -- sorry, go ahead.

4     BY MR. POSTON:

5                   Q.       How about high incentive? You said  
6     outlandish, but the question asked if any of the measures  
7     have high incentive costs.

8                   MS. TATRO: Your Honor, I'm going to object.  
9     At this point, I'm not sure what this relevance of this line  
10    of cross-examination is. That tariff was agreed upon by all  
11    parties and the stipulation and agreement, as has been  
12    pointed out multiple times thus far.

13                  MR. POSTON: I'm going to tie this into his  
14    testimony in a minute.

15                  JUDGE JONES: Okay. Objection overruled.

16                  THE WITNESS: I don't see very many that would  
17    be high except for maybe the modulating burner, the  
18    commercial.

19     BY MR. POSTON:

20                  Q.       Okay. If you could please turn to your  
21    surrebuttal testimony, page 10.

22                  A.       Okay.

23                  Q.       And at line 14, there's a sentence that begins  
24    with the word "Typically." Can you read the two sentences  
25    that begin with that word typically, the next two sentences.

1           A.       "Typically, programs with high administration  
2       costs or high incentive costs have lower UCT results when  
3       compared to the program level TRC. Some programs that fall  
4       into this category include Appliance Recycling and Home  
5       Energy Performance."

6           Q.       And when you refer to the home energy  
7       performance program, is that a program that's offered by  
8       Ameren in Illinois?

9           A.       Yes.

10          Q.       And does that program offer thousands of  
11       dollars of incentives to individual Illinois customers for  
12       certain measures, such as duct, ceiling, attic and wall  
13       insulation?

14          A.       I don't know specifically what the rebates  
15       are. They just are in program year four, so I'm not uber  
16       familiar with them, but I do notice they offer incentives for  
17       several measures.

18          Q.       Okay. Just a minute, please.

19                   MR. POSTON: Approach again?

20                   JUDGE JONES: Yes.

21       BY MR. POSTON:

22          Q.       Does this look familiar to you?

23          A.       Yeah, it appears to be off the Act On Energy  
24       web site, which is Ameren Illinois And now Ameren Missouri's  
25       web site.

1 Q. Okay. And does that refresh your recollection  
2 of the incentive levels in Ameren Illinois?

3 A. Yeah. Assuming that this was printed on 10-3,  
4 which it appears it was at the bottom, those would likely be  
5 the most up-to-date incentive levels.

6 Q. Okay. And what are those?

7 A. \$1,200 for air and duct ceiling, up to \$1,400  
8 for attic insulation, up to \$2,400 for wall insulation. I  
9 don't think they're doing duct ceiling anymore, though.

10 Q. And turning back to Missouri, does the UE home  
11 energy audit offer thousands of dollars of incentives per  
12 individual residential customer that participate in these  
13 programs?

14 A. Are you talking about for the home energy  
15 performance program or the audit program?

16 Q. Any residential program or measure.

17 A. I don't think any of the incentives for the  
18 residential side are that high.

19 Q. What is the maximum incentive paid to  
20 residential customers that participate in the UE home energy  
21 audit program?

22 A. I think \$250 after a quick review. \$250, I  
23 believe.

24 Q. Do any of the programs or measures that you  
25 are proposing to remove have administrative costs or

1 incentive costs that are about as high as the cost in the  
2 appliance recycling program or home energy performance  
3 program that you refer to in your direct testimony, page 10,  
4 lines 16 and 17?

5 A. I don't believe many of the programs involved  
6 in the Ameren Missouri natural gas programs have  
7 administrative costs that are that high; however, there are  
8 programs, such as the home audit program, that do have  
9 somewhat high administrative costs.

10 Q. How about incentive costs, same question?

11 A. Well -- I mean, we have a lot of measures that  
12 have incentive costs that are greater than \$35, which is that  
13 for appliance recycling.

14 Q. Does the appliance recycling program have high  
15 incentive -- high administrative costs, and that's why you  
16 included it there?

17 A. Relative to other programs, it does typically  
18 have a higher administrative cost.

19 Q. I'd like to have you turn back to page 10 of  
20 your surrebuttal, that same paragraph or Q and A we were  
21 looking at before.

22 And do you see where you state there that  
23 "Mr. Kind's assertion that measures would have a higher UCT  
24 result than TRC result is not fully accurate"?

25 A. Yes, I see that.

1           Q.       Do you have a copy of Mr. Kind's testimony  
2 with you?

3           A.       I do not have it in front of me, no.

4           Q.       Can you turn to page 16?

5           A.       Yes.

6           Q.       Can you read the sentence beginning on line 19  
7 on that page that starts with the word "accordingly"?

8           A.       "Accordingly, the cost effectiveness test  
9 results that appear under the 'TRC' column in the table on  
10 page 4 of Mr. Shoff's testimony for most, if not all of the  
11 measures would be significantly higher if participant costs  
12 were excluded from the denominator as they are excluded in  
13 the cost effectiveness definition in the Commission's Utility  
14 Promotional Practice rule."

15          Q.       And is this one of Mr. Kind's statements that  
16 you were referring to here in your testimony when you refer  
17 to Mr. Kind's assertions that are "not completely accurate"  
18 in your surrebuttal testimony?

19          A.       Yes.

20          Q.       Now, let's look at your direct testimony,  
21 page 4, if you could. And you have a table?

22          A.       Okay.

23          Q.       And you have the TRC results, your TRC test  
24 results in the first column of that table, correct?

25          A.       Yes.

1           Q.       Have you ever provided the Commission with the  
2   UCT test results for each of these measures where you  
3   calculated the TRC test results?

4           A.       You can't calculate the utility cost test at  
5   the measure level because it includes program level costs  
6   when you calculate them.

7           Q.       So the answer is no, you have not provided  
8   those?

9           A.       Well, you can't do it, so no. However, I have  
10   provided the utility cost test for the program level in one  
11   of my data request responses.

12          Q.       You're familiar with the DSMore program?

13          A.       That's correct.

14          Q.       And does the DSMore program used to calculate  
15   TRC test results also calculate UCT test results?

16          A.       Yes, it does.

17          Q.       And does it do it at the measure level?

18          A.       It does it at the program level; however, it  
19   can somewhat prescribe them to individual measures.

20          Q.       Have you looked at the UCT test results for  
21   some of the measures in this table on page 4?

22          A.       We've looked at them. I'm not super familiar  
23   with them, as much as I am with the TRC.

24          Q.       And so the results that you looked at, have  
25   they been provided in this case?

1           A.       Yes, they should be in the batch tools and at  
2       the program level and the aggregate tools.

3           Q.       I mean, to the Commission, have you filed them  
4       in this case?

5           A.       As part of my testimony or --

6           Q.       Yes. Or Mr. Lovett's testimony.

7           A.       I mean, if you look in the batch tools, which  
8       I believe were included as part of my work papers, you can  
9       find program level UCTs in the results tab.

10          Q.       Well, can you point anywhere in your testimony  
11       where you provided those results?

12          A.       It's not in my testimony, no.

13          Q.       Did you have any discussions with Mr. Lovett  
14       about the possibility of providing the UCT test results in  
15       this case?

16          A.       Not to my knowledge.

17          Q.       How about Mr. Laurent?

18          A.       Not to my knowledge.

19          Q.       Mr. Voytas, discussions with him about  
20       providing --

21          A.       Not to my knowledge.

22                   MR. POSTON: Just one minute. It might be the  
23       last question here. That's all I have. Thank you.

24                   JUDGE JONES: Okay. Cross from the Staff of  
25       the Commission?

## 1 CROSS-EXAMINATION

2 QUESTIONS BY MS. SHEMWELL:

3 Q. Mr. Shoff, I'm Lira Shemwell. I represent the  
4 Staff, and I have a few questions for you today.5 In your direct testimony, page 1, line 23, you  
6 indicate that part of your responsibility is tracking new  
7 technologies?

8 A. Yep.

9 Q. What new technologies or ENERGY STAR  
10 developments have you identified since January 2011?

11 A. Can you repeat the question again? I'm sorry.

12 Q. Yes. What new technologies or ENERGY STAR  
13 developments have you identified since January 2011?14 A. As far as new technologies go, I don't know  
15 specifically offhand any new ones that we've made. As far as  
16 ENERGY STAR developments, as I think you referenced, there  
17 are some standards that are coming into effect for natural  
18 gas furnaces in the 2013 time frame, so we've been reviewing  
19 how those will affect the program.20 Q. How long have you been the lead energy  
21 efficiency analyst at Ameren?22 A. I've been the lead energy efficiency analyst  
23 for the natural gas efficiency programs since June of 2010  
24 when I started working on these programs.

25 Q. For Illinois and Missouri?



1           A.       For Illinois, probably since about 2009.

2           Q.       Mr. Shoff, in your direct testimony, page 6  
3       [sic], line 5, you reference the Commission's energy -- or  
4       I'm sorry, electric utility resource planning, correct,  
5       4 CSR 240-22?

6           A.       I'm sorry, what page were you referring to?

7           Q.       Seven, line 5.

8           A.       Yes.

9                   MS. SHEMWELL: Judge, I'd like to mark this as  
10       Staff 9.

11       BY MS. SHEMWELL:

12           Q.       Do you need a copy of that, Mr. Shoff?

13           A.       If you're going to question me on it, then  
14       yeah, that would probably be a good idea.

15                   (Staff Exhibit Number 9 was marked for  
16       identification by the Court Reporter.)

17       BY MS. SHEMWELL:

18           Q.       And we agree that the title of this is  
19       Electric Utility Resource Planning, correct?

20           A.       Yes.

21           Q.       If you would look at page 14. The page  
22       numbers are at the bottom left-hand corner of the page.

23                   Are you there, sir, page 14?

24           A.       Yes, I am.

25           Q.       And in the first column under B, there is a

1 description or definition of total resource cost test -- or  
2 let me say a description. "Shall be used to evaluate the  
3 cost effectiveness of the potential demand-side programs and  
4 potential demand-side rates."

5 Have I read that correctly?

6 A. Yes. Where are you referring to again? I'm  
7 sorry.

8 Q. B, in the first column.

9 A. Yep, I'm sorry.

10 Q. And if you'll go down a little bit, there's C,  
11 the utility cost test?

12 A. Okay.

13 Q. "Shall also be performed for purposes of  
14 comparison;" is that correct?

15 A. Yes.

16 Q. And then under D, I'm going down to about  
17 halfway through, it says that the -- well, let me start over.

18 D says -- and I'm going to summarize here --  
19 the present value should be or must be greater than one for a  
20 potential demand side program to pass the utility cost test  
21 or total resource cost test.

22 Do you agree that that's not an exact reading,  
23 but generally what's said there?

24 A. Yeah. If the benefits exceed the cost, that  
25 would yield a result greater than one.

1           Q.       And you agree with me that the TRC at its most  
2 basic is benefits divided by costs?

3           A.       Yes.

4           Q.       However, it continues. "The utility may relax  
5 this criterion for programs that are judged to have potential  
6 benefits that are not captured by the estimated load impacts  
7 or avoided costs." Correct?

8           A.       Yes.

9           Q.       And would you define -- you said you did not  
10 use a dual fuel calculation in your TRC. So your TRC does  
11 not, then, capture the potential benefit for electric  
12 customers or the potential benefit -- well, let me just ask  
13 you for electric customers.

14          A.       The natural gas only TRC would not capture the  
15 benefits for electric customers.

16          Q.       And it also would not capture the benefits to  
17 the utility for demand side management, for reduction in  
18 demand; is that correct?

19          A.       On the electric side?

20          Q.       Yeah. It wouldn't capture the electric, yes?

21          A.       Right, a natural gas only TRC would not do  
22 that.

23          Q.       And, again, you're saying it's a natural gas  
24 only TRC?

25          A.       That's right.

1           Q.       I'd like to hand you a copy of the  
2 Commission's Chapter 14. You referred to that on page 3 of  
3 your surrebuttal. This will be Staff 10.

4                   (Staff Exhibit Number 10 was marked for  
5 identification by the Court Reporter.)

6 BY MS. SHEMWELL:

7           Q.       This is the Commission's utility promotional  
8 practices rule, correct?

9           A.       Yes.

10          Q.       And you refer to that in your testimony?

11          A.       I do.

12          Q.       On page 3 at the top of the center column,  
13 there's a definition of cost-effective, correct?

14          A.       Yes.

15                  MS. SHEMWELL: Thank you. I'd like to enter  
16 both of these exhibits into evidence.

17                  JUDGE JONES: Any objection?

18                  MS. TATRO: No objection.

19                  JUDGE JONES: Staff Exhibits 9 and 10 are  
20 admitted into the record.

21                  (Staff Exhibit Numbers 9 and 10 were received  
22 into the record by Judge Jones.)

23 BY MS. SHEMWELL:

24          Q.       Mr. Shoff, you used a term when you were  
25 talking with Mr. Poston, an auditory meeting. What is that?

1           A.       Just a meeting not over-the-phone or not an  
2 on-line communication.

3           Q.       Mr. Shoff, do you agree with me that Ameren's  
4 customers do fund this program?

5           A.       To my knowledge, they fund it up to \$700,000.

6           Q.       Thank you. Mr. Shoff, do you know the cost of  
7 performing a home energy audit?

8           A.       I would agree with Mr. Lovett. It really  
9 ranges. The audit cost for the Ameren Illinois program is  
10 \$25. It's not as extensive. They don't do blower door  
11 testing, they don't do any diagnostic testing. All of those  
12 testing and those costs are associated with the follow-up  
13 measures, which is why their incentives are greater because  
14 the measures themselves cost more.

15                   However, I do agree that if they're doing a  
16 full-blown blower door test, the values that you provided  
17 earlier, \$350 to \$600 seem reasonable. And that varies, as  
18 was mentioned, on house size.

19           Q.       Thank you, Mr. Shoff. In the Jefferson City  
20 area, Ameren gas customers are also Ameren electric  
21 customers, right?

22           A.       I'm not familiar with the service territory,  
23 but I think so.

24           Q.       Do you know if that's true of Cape Girardeau?

25           A.       I believe so, to some extent.

1           Q.       Did you choose one of these areas for your  
2 TRC evaluation?

3           A.       I don't know how you could do specific areas  
4 for a TRC evaluation.

5           Q.       So the answer is no, you did not?

6           A.       No.

7           Q.       On page 2, line 14 -- I think this is your  
8 direct -- you mention a ratio of analyzed benefits to  
9 analyzed costs?

10          A.       Yep.

11          Q.       And you should have in front of you the  
12 document, or you should have somewhere the document that has  
13 green and orange on it?

14          A.       I didn't bring that up with me. Sorry.

15          Q.       Do you recognize this, Mr. Shoff?

16          A.       Yes.

17          Q.       I'm sorry, did you say yes?

18          A.       Yes.

19          Q.       And the green is general service, right, and  
20 the sort of peachy color is residential?

21          A.       Yes.

22          Q.       Would you look at the very bottom line under  
23 general service.

24          A.       Yep.

25          Q.       It says ceiling insulation, right?

1           A.     Yep.

2           Q.     And under TRC, it says 1.56, right?

3           A.     Yes. That is no longer the case.

4           Q.     Thank you.

5           A.     Okay.

6           Q.     How did you calculate cost reductions --

7           A.     Can you please --

8           Q.     -- in making your TRC evaluation or analysis?

9           A.     I don't know what you mean by cost reductions.

10 Did I refer to that in my testimonies?

11           Q.     I'm just questioning if you calculated cost

12 reductions. You say you don't know what that is, so that's

13 fine.

14                   Did you use actual field data from Ameren

15 Missouri's natural gas service area?

16           A.     We did not specifically use data that was

17 gathered from Ameren Missouri natural gas customers.

18           Q.     Is that a no, then?

19           A.     Well, no, I guess that's not totally true

20 because we did look at vintages of homes, as I mentioned

21 earlier, and we also used system types.

22           Q.     For the -- your electric area or your natural

23 gas area?

24           A.     That was representative of all our customers.

25           Q.     So that would have included electric, then?

1 A. And natural gas.

2 Q. Ameren gas does not serve in St. Louis City or  
3 St. Louis County, right?

4 A. Not to my knowledge.

5 Q. And on page 4 of your direct, you say no  
6 potential study has been completed for natural gas, right?

7 A. That's correct.

8 Q. Your TRC analysis inputs do not include a  
9 typical Ameren Missouri natural gas customer's home, right?

10 A. Do not contain?

11 Q. Right, do not include a typical Ameren  
12 Missouri natural gas customer's home or residence?

13 A. I don't believe that's true.

14 Q. You think it does include?

15 A. Yeah.

16 Q. For your natural gas territory, a typical  
17 residence?

18 A. Yes.

19 Q. And does it include building codes for Ameren  
20 Missouri natural gas customers in your analysis?

21 A. The buildings that we used to model our energy  
22 efficiency measures were, at the time they were completed,  
23 the most up to date anywhere in the nation. So to the extent  
24 that Ameren Missouri's building codes were up to that level,  
25 then yes, we incorporated that. To the extent --



1           Q.       But your answer is actually no, right? You're  
2       saying you're using a national building code?

3           A.       Well, no. I mean, the building code that we  
4       used was the most stringent anywhere possible. So to the  
5       extent that any of the Ameren Missouri homes fell into that  
6       or were sub that, that was included.

7           Q.       So you didn't look to the building codes of  
8       the various areas --

9           A.       We didn't go region by region.

10          Q.       Let me finish my question. You used a  
11       national code; is that your answer?

12          A.       Yes.

13          Q.       Thank you. Would you agree with me that  
14       ceiling insulation is one of Ameren customers' most requested  
15       rebates?

16          A.       Yes.

17          Q.       I would like to turn to the nappy guides. On  
18       page 6 of your direct, starting at line 3, you refer to the  
19       nappy guides?

20          A.       Okay.

21          Q.       As I hold this up, is this -- can you see, is  
22       this a NAPEE guide?

23          A.       It looks like one, yes.

24          Q.       This is attached to Mr. Stahlman's testimony;  
25       would you agree?

1           A.       I don't remember, but I think so.

2           MS. SHEMWELL:   If I may approach?

3           JUDGE JONES:   Yes, you may.

4           MS. SHEMWELL:   Judge, thank you.

5   BY MS. SHEMWELL:

6           Q.       This is Mr. Stahlman's testimony.  It has not  
7   yet been entered into evidence.

8                    I'm going to hand you this for ease of use,  
9   okay?  Mr. Stahlman included the entire document because  
10   there were a number of tables that were referred to and he  
11   felt it was important to have the context.  I'm going to hand  
12   you one of those tables.  And it's marked in the colored  
13   guide that I gave you.  It's the first one.

14           MS. SHEMWELL:   And this will be Staff 11.

15                    (Staff Exhibit Number 11 was marked for  
16   identification by the Court Reporter.)

17   BY MS. SHEMWELL:

18           Q.       Just for our records, this describes the  
19   various tests that can be performed and the Table 2-2 is  
20   described as the five principles cost effectiveness tests  
21   used in energy efficiency, right?

22           A.       Yep.

23           Q.       And the participant cost test is listed on the  
24   left, and then the acronyms are in the second column --

25           A.       Yes.

1 Q. -- right?

2 Would you agree that any of these five tests  
3 might be used by someone doing either an analysis or an  
4 evaluation?

5 A. Depending on what you're trying to convey,  
6 each of them could be used, but they all represent something  
7 different.

8 Q. This next document that I'm going to hand you  
9 will be 12, Staff 12.

10 (Staff Exhibit Number 12 was marked for  
11 identification by the Court Reporter.)

12 BY MS. SHEMWELL:

13 Q. And this describes the various tests, right?

14 A. It appears to, yes.

15 Q. Okay. Well, do you agree with TRC that it  
16 evaluates the benefits and costs from a prospective of all  
17 utility customers, participants, and non-participants in the  
18 utility service territory?

19 A. Yes.

20 Q. And it includes energy-related costs avoided  
21 by the utility, correct?

22 A. Yes.

23 Q. Thank you. And it also describes -- or says  
24 additional resource savings, i.e., gas and water if the  
25 utility is electric, right?

1           A.       Yes, it does say that.

2           Q.       In your testimony -- I'm sorry, I don't have a  
3       cite.

4                    You say that the most common primary measure  
5       of energy efficiency cost effectiveness is a TRC?

6           A.       Yep.

7                    (Staff Exhibit Number 13 was marked for  
8       identification by the Court Reporter.)

9       BY MS. SHEMWELL:

10          Q.       And it has a table on it, 5.1, emphasizing  
11       cost effectiveness tests, right?

12          A.       Yep.

13          Q.       And it lists the primary cost effectiveness  
14       test used by states in Table 5-1?

15          A.       Yes, it does.

16          Q.       And under TRC, it lists five states?

17          A.       Yes, it does, but that's not really accurate  
18       because this was done in 2008, and the rules, for instance,  
19       in Illinois have such changed, so now that is the primary  
20       cost effectiveness test used --

21          Q.       So there may be six?

22          A.       There's probably a lot more than that.

23          Q.       Do you know that for sure?

24          A.       I don't have evidence right now to back that  
25       up, but --

1           Q.       If this chart shows that the greatest majority  
2 of states have not specified a primary cost effectiveness  
3 test; that's what this chart shows, right?

4           A.       Yes.

5           Q.       From NAPEE 2008? Isn't that what you cited in  
6 your direct, Mr. Shoff?

7           A.       Can you refer me to the page and line that  
8 you're referring to, please.

9           Q.       Page 6, 11 through 17. Page 17, you refer to  
10 the nappy guide, understanding cost effectiveness of the  
11 energy efficiency programs, which I believe is what I handed  
12 you, 2008.

13          A.       Right. And so if you turn the page --

14          Q.       Okay.

15          A.       -- in the document that you gave me, there is  
16 a list of cost effectiveness tests by state, and TRC is by  
17 far the most -- has the most states in it. That's Table 5.2  
18 or 5-2.

19          Q.       I don't have that entered into an exhibit, but  
20 it's in Mr. Stahlman's testimony.

21                   It also includes secondary considerations,  
22 doesn't it, Mr. Shoff?

23          A.       Yes.

24          Q.       As primary or secondary?

25          A.       Primary or secondary, yes.

1           Q.       So we don't know if that's primary; we can  
2       assume that it includes secondary since that's the way the  
3       table is listed?

4           A.       You could assume that, yes.

5           Q.       Okay. I'm going to hand you Table 5-3 from  
6       that same document.

7                   (Staff Exhibit Number 14 was marked for  
8       identification by the Court Reporter.)

9       BY MS. SHEMWELL:

10          Q.       Mr. Shoff, we see a lot of -- it says use the  
11       cost effectiveness test by state. And TRC has a lot of dots  
12       in it, a lot of different states. Actually, I don't know the  
13       number.

14                 What I'm trying to get to is that states use a  
15       variety of cost effectiveness tests, including SCT, PCT pack,  
16       and over at the far right-hand side is non-specific. So  
17       there are a lot of states listed as non-specific, correct?

18          A.       Yes.

19          Q.       Thank you. Have we established, Mr. Shoff,  
20       that before Ameren will pay a rebate for building shell  
21       measures, an auditor must recommend that building shell  
22       measure or home energy auditor must recommend that?

23          A.       Yes.

24          Q.       And that the auditors are, among a group,  
25       Ameren approved auditors?

1           A.       I believe so, yes.

2           Q.       Thank you. Mr. Shoff, on -- you say there is  
3 a plethora of evidence to support the fact that the TRC is  
4 the de facto standard in the nappy guide?

5           A.       Yep.

6           Q.       But you don't have any citations to that  
7 plethora of evidence? You haven't provided any in your  
8 testimony, right?

9           A.       I did not directly cite any.

10          Q.       Thank you.

11          A.       However, I think all the tables that we've  
12 gone through have shown that the TRC is widely used.

13          Q.       As are other measures widely used? Other  
14 measurements, I should say, widely used? You're nodding your  
15 head. Is that a yes?

16          A.       Yep.

17          Q.       Is that a yes?

18          A.       Yes.

19                 MS. SHEMWELL: I think that's all I have for  
20 you, Mr. Shoff. Thank you.

21                 JUDGE JONES: Commissioner Davis?

22                         EXAMINATION

23                         QUESTIONS BY COMMISSIONER DAVIS:

24           Q.       Good afternoon, Mr. Shoff.

25           A.       Good afternoon.

1 Q. So you've been employed with Ameren Missouri,  
2 looking at these programs, since mid-2010?

3 A. I'm an employee of Ameren Services. I've been  
4 working for Ameren Missouri since 2010, though, yeah.

5 Q. Okay. So you're an employee of Ameren  
6 Services, but you've been working on these issues for Ameren  
7 Missouri since June 2010?

8 A. That's correct.

9 Q. Did you ever -- did you ever look at the KEMA  
10 energy efficiency study that we were doing here?

11 A. I'm not totally familiar with it, but I've  
12 looked it over.

13 Q. Okay. And wasn't one of the Ameren criticisms  
14 of the KEMA study the fact that it didn't rely on  
15 Missouri-specific data when there was some -- at least some  
16 Missouri-specific data available?

17 A. Yeah, I believe that was a criticism. We had  
18 done an extensive DSM potential study on the electric side,  
19 and it was very robust and very thorough. And I believe we  
20 tried to work with the KEMA folks and felt that they didn't  
21 utilize our data as much as they could have.

22 Q. Okay. Did you use any of that data in  
23 performing your TRC analysis?

24 A. The DSM potential study for the electric side  
25 data?



1 Q. Uh-huh.

2 A. I believe we used -- well, I'm not totally  
3 sure.

4 Q. You're not sure. Okay. Doesn't the way that  
5 you have -- have calculated the -- the TRC for -- for these  
6 measures in this case, the ones that Ameren is seeking to  
7 withdraw, doesn't -- doesn't that methodology lend itself to  
8 the same reason that Ameren criticized the KEMA study  
9 relative to relying on data from other states and not  
10 Missouri?

11 A. Well, I don't know if that's totally true. We  
12 did the best we could to incorporate the Missouri data where  
13 we could. As I mentioned, we used Missouri-specific weather,  
14 Missouri-specific building vintage or the year the homes were  
15 constructed, and Missouri-specific heating and cooling system  
16 types.

17 So at the time, that was the best data that we  
18 had available. We certainly don't have postevaluation  
19 results yet, and when we do get those, we will, of course,  
20 incorporate those into our analysis.

21 COMMISSIONER DAVIS: Commissioner Jarrett, do  
22 you have questions?

23 COMMISSIONER JARRETT: Yes, I do.

24 COMMISSIONER DAVIS: Why don't you go ahead,  
25 and we can come back to me.

## EXAMINATION

QUESTIONS BY COMMISSIONER JARRETT:

Q. Good afternoon, Mr. Shoff.

A. How you doing?

Q. I'm doing peachy. I want to go back and make sure I understand, you had an exchange with Ms. Mangelsdorf, and she gave you an exhibit marked MDNR Exhibit 2. Do you have that?

A. Are you referring to this?

Q. Yes.

A. Yeah, okay.

Q. And column one, she had labeled pre-0363, natural gas only, TRC by UE 06/10?

A. That's correct.

Q. And then there's numbers underneath that for residential and general service?

A. Yes.

Q. Okay. Now, if you would go to your testimony, direct testimony, page 4, there's a table at the top. And actually, let's go back to page 3, line 20, where the question to you is: Did any measures have a TRC below one? And your answer was yes, the tables below summarize the measures that have TRC values less than one. The company believes these measures should be removed from the natural gas programs.

1                   And then page 4, you have the table of those  
2 programs and their TRC values; is that correct?

3           A.       Yes.

4           Q.       Now, if you compare the table with  
5 Ms. Mangelsdorf's exhibit, MDNR Exhibit 2, under number one,  
6 which was the -- which was the TRC performed in June of 2010,  
7 all those numbers are exactly the same; is that correct?

8           A.       They appear to be, yes.

9           Q.       Okay. So in June of 2010, you identified all  
10 of these programs as being below one?

11          A.       These measures, yes.

12          Q.       These measures, yeah, measures. And that's  
13 exactly identical to the testimony you provide as evidence of  
14 Ameren wanting to remove these measures from the program; is  
15 that correct?

16          A.       That's why we want to remove them, yes.

17          Q.       Right. Okay. So you did this in 2000 -- in  
18 June of 2010, and did you provide that -- who did you provide  
19 that information to in June?

20          A.       I provided it to the energy -- at that time,  
21 it was the collaborative. So the parties, I think all the  
22 parties here were involved with that same effort.

23          Q.       Okay. So everybody knew that these were less  
24 than one in June of 2010?

25          A.       I think so. I don't know if the -- to be

1 honest, in looking -- do you have this sheet available? If  
2 you look at, for instance, number -- Number 6 on the  
3 residential, the tier two, you will notice that it has a  
4 TRC of greater than one.

5 Q. Okay.

6 A. And so this was provided in April 19th, as we  
7 agreed to earlier, and so I don't know if the pre -- if this  
8 date in the MDNR Exhibit 2 is necessarily accurate.

9 Q. Well, that's what's in your testimony, too.

10 A. Right. But --

11 Q. So are you amending your testimony? Is that  
12 the purpose of this?

13 A. No.

14 Q. Okay.

15 A. I guess I'm confused on what you're --

16 Q. Well, I'm confused now on what exactly you  
17 guys are asking to remove because you seem to indicate now  
18 that it's greater than one, so you want to keep it in.

19 A. No, no. I was saying that those were old  
20 numbers. And I agree with what's in my testimony.

21 Q. Oh, these are old numbers?

22 A. Yes.

23 Q. And these are correct numbers?

24 A. Right.

25 Q. And you did these in June of 2010?

1           A.       Not all of them is what I'm trying to get at.  
2       Like, for instance, the insulation values have been updated.

3           Q.       Okay. The insulation values. Which one is  
4       that?

5           A.       That would be the ceiling insulations or the  
6       wall insulation.

7           Q.       And let's see, the new ceiling insulation R-38  
8       to R-50. In your testimony, it has a TRC value of 0.11?

9           A.       Yes.

10          Q.       What is it now?

11          A.       No, they appear to be the same. I guess I'm  
12       questioning, I'm not sure of where they got this June 2010  
13       numbers from.

14          Q.       Oh, so -- so you're saying that -- this  
15       Exhibit 2 that Ms. Mangelsdorf questioned you about is not  
16       accurate?

17          A.       I don't -- I'm not -- I don't think so.

18          Q.       Okay. Can you tell me where it's not  
19       accurate?

20          A.       I guess, you know, for the insulation values,  
21       those for ceiling insulation, those numbers used to be prior  
22       to the proposed tariffs that we're filing now, what was  
23       indicated in the colored sheet that I was referencing  
24       earlier.

25                   And as you can see in my testimony, they've

1 changed because we updated several cost values based on new  
2 data. And so I think that the June 2010 column one might be  
3 mislabeled.

4 Q. All right. So -- so help me out here.

5 A. Okay.

6 Q. You're talking new ceiling insulation, R-38 to  
7 R-50?

8 A. Yep.

9 Q. And in your testimony, it's .11. What is it  
10 on this sheet, the big color-coded sheet?

11 A. It's also .11.

12 Q. Okay. That didn't change.

13 A. No, it did not.

14 Q. Okay. Can you -- can you look -- compare  
15 these for me right now quickly and show me which ones are  
16 different?

17 A. Sure. If you look at the -- a couple lines  
18 up, ceiling insulation blend, and if you look over, there's a  
19 0.25 for the TRC.

20 Q. Okay.

21 A. Do you see that?

22 Q. Uh-huh.

23 A. And then if you look at the same ceiling  
24 insulation -- I've omitted the word blend, so apologies, but  
25 it's the same measure, and it's 0.56.

1 Q. Yeah, that's the third one.

2 A. Third one from the bottom.

3 Q. On the residential?

4 A. Right. So the -- so we got some new cost  
5 data, so we've updated the TRCs.

6 Q. So that should be 0.56, but in your June  
7 analysis, it would have been 0.25?

8 A. Right. But what's in my testimony is the most  
9 up-to-date values, and I believe those measures should be  
10 removed from the program.

11 Q. Okay. Well, actually that went up a little  
12 bit, didn't it?

13 A. Yes, it did.

14 Q. A little bit more efficient. Still not one.  
15 Any others?

16 A. Quickly glancing through here, I think those  
17 might be the only ones. And, of course, the water heaters,  
18 the tank storage tier two.

19 Q. Okay. I see that's .06 now?

20 A. Right.

21 Q. What was it in June?

22 A. It was 1.52, it looks like.

23 Q. Okay. So that's one that's changed.

24 COMMISSIONER JARRETT: Actually, I hate to put  
25 you on the spot. Why don't I ask Ms. Tatro to -- could you

1 go through here and provide me with a chart -- provide a  
2 chart for the Commission that goes through and see which ones  
3 have changed from June of 2010 to currently?

4 MS. TATRO: I'd be glad to do so.

5 COMMISSIONER JARRETT: Rather than -- I don't  
6 want to put you on the spot on the stand.

7 MS. TATRO: When would you like that to be  
8 provided?

9 COMMISSIONER JARRETT: I don't know.

10 JUDGE JONES: Well, how soon could you provide  
11 it?

12 THE WITNESS: Maybe by tomorrow, end of day,  
13 Monday.

14 COMMISSIONER JARRETT: That's fine.

15 MS. TATRO: And shall we call that Ameren  
16 Missouri 5?

17 JUDGE JONES: No, Commission 1.

18 MS. TATRO: Commission 1. Okay.

19 COMMISSIONER JARRETT: Judge, thank you.

20 MR. POSTON: Judge, can I just make a request  
21 that the source data for all of the data that's in those  
22 tables be clear?

23 COMMISSIONER JARRETT: Thank you, Mr. Poston.  
24 That would help.

25 ///



1 BY COMMISSIONER JARRETT:

2 Q. We've had a lot of talk about what data was  
3 used, Missouri or non-Missouri, so I'm a little confused. I  
4 want you to tell me right now, we'll go through this item by  
5 item.

6 First of all, tell me all of the  
7 Missouri-specific data that you used in your analysis.

8 A. Sure. We used Missouri-specific weather for  
9 building simulation runs. We used Missouri-specific building  
10 vintages, so there are three different types, and that's when  
11 the homes were built.

12 Q. Okay.

13 A. And we used Missouri-specific heating and  
14 cooling system combinations. So whether it be an air  
15 conditioner with a natural gas furnace or an air conditioner  
16 with an electric furnace or a heat pump, you know, those type  
17 of heating and cooling system.

18 Q. So you had that data from your customers, and  
19 that's what you used --

20 A. That's correct.

21 Q. -- in the analysis?

22 Any other Missouri-specific information that  
23 you used?

24 A. I think that's it.

25 Q. Now tell me the non-Missouri data that you

1       used.

2               A.       So the non-Missouri specific data that we used  
3       were costs for the various measures and some of the  
4       non-weather sensitive energy savings. So, for example, like  
5       a showerhead, an efficient showerhead. You calculate that  
6       just using a standard formula, but we didn't have any  
7       Missouri-specific data involved.

8               Q.       Okay. Go back to the -- what was the first  
9       one again?

10              A.       Costs.

11              Q.       Costs. Okay. What was the source that you  
12       used to determine the costs?

13              A.       So for a lot of the measures, we used the DEER  
14       database.

15              Q.       What's that?

16              A.       It is database that's developed for  
17       California -- or in California, but is widely used by  
18       utilities across the nation. We also used --

19              Q.       Okay. So you used that. Now, do you know  
20       what -- what -- where they get that data? Is that  
21       California-specific data? Is it national data?

22              A.       I think it's national data, but I'm not really  
23       sure.

24              Q.       Okay. Go on.

25              A.       We also used a database called RS Means for

1 the costs.

2 Q. Okay. Now, what is in -- what is RS Means?

3 A. It's similar to DEER, but it's only for the  
4 costs side of things, and so --

5 Q. And is that -- are those national numbers?

6 A. Those are national numbers, to my knowledge.

7 Q. Okay. Go on.

8 A. So what do we have? Costs, non-sensitive  
9 weather energy savings.

10 Q. What source did you use for that?

11 A. A lot of those were provided by the Morgan  
12 measure -- Morgan Marketing Partners. That was a consultant  
13 that we hired to develop our database for us.

14 Q. Okay.

15 A. And so they used standard engineering formulas  
16 to calculate, measure level savings for various technologies.

17 Q. Okay. And do you know what inputs they used  
18 to determine that? Was it national data?

19 A. Yes, most of it was national data.

20 Q. Anything else?

21 A. That's all I can think of.

22 Q. Okay. Those are -- that's pretty much all the  
23 data that you -- you-all used in your analysis, your  
24 TRC analysis?

25 A. Yes.

1 Q. Okay.

2 COMMISSIONER JARRETT: I don't think I have  
3 any more questions, Mr. Shoff. Thank you.

4 THE WITNESS: Thanks.

5 JUDGE JONES: Commissioner Davis?

6 FURTHER EXAMINATION

7 QUESTIONS BY COMMISSIONER DAVIS:

8 Q. Mr. Shoff, can you review the -- the timeline  
9 for me one more time about --

10 A. Sure.

11 Q. This -- this stipulation in GR 2010-0363 --

12 MS. SHEMWELL: Yes, sir.

13 BY COMMISSIONER DAVIS:

14 Q. -- was signed on or about January 4th, 2011.  
15 Does that sound right? Close enough for government work?

16 A. I'm not familiar.

17 Q. January?

18 A. Yeah, sounds familiar.

19 Q. And then the tariffs didn't become effective  
20 until March, right?

21 A. I thought February 20th, maybe.

22 Q. February 20th. All right. So end of  
23 February.

24 And then Ameren gives its notice on May -- do  
25 you remember what day it was, roughly?

1           A.       I do not remember. Middle of May, I think.

2           Q.       Middle of May. So the tariffs were effective  
3 February 20th, eight days in February, March, April, you  
4 know, so I mean, we're roughly talking two and a half months  
5 there.

6                   And at what point were you instructed to go do  
7 the -- the new TRC analysis?

8           A.       Well, I was never instructed to do it. I  
9 realized that we received new data, and so I provided that  
10 data.

11          Q.       And what date did you receive the new data, on  
12 or about, roughly?

13          A.       I don't remember the exact date, but probably  
14 in the March time frame. Also, I realized that there was  
15 just, more or less, a discrepancy in our database where we  
16 had values reported that we had not updated the TRC. And so  
17 when rerunning the TRC with those values, it changed the  
18 results. So that was some of the other data.

19          Q.       Okay. So this was -- the new data came in  
20 March. You ran the numbers, and then the filing and the  
21 notice -- or the notice to the other parties and the filing  
22 came in mid-May. When did -- you didn't make the decision.

23                   I mean, that was Mr. Lovett or someone above  
24 your pay grade that made the decision to go do this, correct?

25          A.       That's correct.

1           Q.       I mean, what is your impression of when  
2       that -- when that date actually was, to say we're going to go  
3       forward and we're going to file a tariff to take out these --  
4       these measures?

5           A.       Probably -- I don't really recall  
6       specifically, but probably in early May after I had time to  
7       run the analysis and provide them.

8           Q.       Okay. So how long did it take you to complete  
9       your analysis?

10          A.       Several, several weeks. We were -- I was  
11       working on other projects and --

12          Q.       So you were working on several other projects.  
13       You finished your analysis around the first of May, you  
14       showed it to everyone, they had an a-ha moment in mid-May,  
15       Ameren's filing to repeal those measures by -- with the  
16       tariff?

17          A.       I believe so.

18          Q.       Do you see how it's possible that someone  
19       might -- like myself might get the impression that there was  
20       a stip signed in January that Ameren did whatever it had to  
21       do to settle the rate case at the time, and it was Ameren's  
22       theory all along that, since they were in the driver's seat  
23       in terms of programs now that they didn't have to have the  
24       unanimous consent of the group, that they could just come  
25       back in and, you know, file something a couple of months

1 after the -- the tariffs were effective and that, you know,  
2 if you subscribed to Mr. -- to Mr. Lovett's lay analysis,  
3 that just by the fact that you have one measure in the  
4 residential program that's still active and people can take  
5 advantage of that, then the program is effectively  
6 uninterrupted.

7 I mean, do you see how people like myself  
8 could -- could -- could perceive there to be a little  
9 subterfuge there?

10 A. You know, what we agreed to was to run  
11 cost-effective programs. So including those measures makes  
12 the programs not cost-effective. So we're trying to, you  
13 know, be good stewards with our customers' money and spend it  
14 in a cost-effective manner.

15 Q. Okay. So you're the expert. And I mean, I'm  
16 just looking at these. I mean, in terms of the -- the  
17 insulation portion of these programs, is it -- is it fair to  
18 say that most of the expensive programs have a difficult time  
19 meeting the -- the TRC score of 1.0?

20 I mean, it seems like insulation gets shut  
21 out, it seems like the -- the higher cost, you know, tankless  
22 water heaters get shut out. I mean, is -- I mean, that's my  
23 impression. I mean, is that a fair impression?

24 A. I mean, typically, yeah, the more expensive a  
25 measure is, it is more difficult to pass a TRC because you

1 have to have benefits that exceed the costs. However, if you  
2 look at some of the commercial measures, like the food  
3 service steamer, for instance, its incremental cost is  
4 \$6,200. So that's, you know, an expensive measure, but it  
5 passes the TRC.

6 Q. Okay. Well, but -- and I guess I'm going to  
7 restrict my analysis to -- to the -- to the residential side  
8 because that's one where it looks like the vast majority  
9 of -- of the residential program in terms of either dollars  
10 or actual offerings is -- is being both, with nothing to  
11 replace it at this time. Is that a fair analysis?

12 A. Yes. We're removing measures and we have not  
13 yet proposed to put any new ones back in to replace them.

14 Q. All right. Now, going back to the commercial  
15 side, it's been my lay impression that, in terms of actual  
16 savings of BTU of efficiency, the commercial side is the --  
17 there's more low-hanging fruit in terms of you can save a lot  
18 more BTU on the -- by remodeling or doing things at one  
19 commercial location as opposed to going out and trying to  
20 weatherize 30, 50, or 75 homes. Is that a fair analysis?

21 A. Yeah, I would say in general, on a  
22 dollar-per-therm basis, business programs can be more  
23 cost-effective. There are plenty of low-hanging fruit still  
24 on the natural gas side. Faucet aerators, low-flow  
25 showerheads those are sort of the CFL equivalent for the



1 natural gas side, if you will.

2 Q. Uh-huh. So -- so let me ask you this: If you  
3 were in charge of this program for a day and it was your  
4 \$400,000 to spend, what would save us the most energy? Would  
5 it be buying everyone a faucet aerator and a low-flow  
6 showerhead or some combination thereof that would do that?  
7 Would it be somehow paying everyone to wrap their pipes?

8 I mean, what -- what would truly get us the  
9 most bang for our buck because we're going to use all our  
10 natural gas now to generate electricity?

11 A. For the residential side, I still think, you  
12 know, you can look at measures with high TRCs typically to do  
13 that, and thermostats are a pretty good one. You can get  
14 pretty high savings, and they're relatively inexpensive.

15 Depending on what the goal of the program is,  
16 whether it's resource acquisition or market transformation,  
17 your measurement is going to vary. I would still do --  
18 furnaces are still a good measure and the pipe wrapping, as  
19 you mentioned, are a pretty high TRCs.

20 Switching over to the commercial side, a very  
21 good measure that is currently not in our program but we  
22 could consider adding are our prerinse spray valves, which  
23 are for kitchen use. They use them to spray off dirty dishes  
24 before they go into dishwashing machines. And faucet  
25 aerators and showerheads are still applicable on the

1 commercial side.

2 Q. Okay. So the -- I mean, you gave me kind of a  
3 range there, but if I've got \$400,000 to spend and let's say  
4 I'm going to spend it in Ameren's gas service territory, what  
5 is the most efficient use of that money, in your opinion?

6 A. You want me to identify a single measure?

7 Q. A single measure or a single combination of  
8 measures. I mean, you're the expert, and so I'm asking you  
9 as the guy who does the analysis and crunches the numbers.

10 A. Right.

11 Q. I mean, I don't know what a -- for instance,  
12 what a faucet aerator or a low-flow showerhead costs, but  
13 assuming I could give away hundred -- if I could acquire them  
14 all for a dollar apiece, you know, would installing 400,000  
15 do that? I mean, would it -- would it also save those  
16 customers on their water bill, I mean, or was it something  
17 else?

18 And yes, I realize I've gone off into  
19 irrelevant territory, but this will be my last question, so I  
20 mean, if you don't know, that's fine. If you've got an  
21 opinion, I'd like to hear about what we should be doing.

22 A. Well, without doing any further analysis than  
23 what I've already done, I'm personally a big proponent of the  
24 hot water savings measures, such as, you know, faucet  
25 aerators, prerinse spray valves, showerheads. As you

1 mentioned, they also have the added benefit of saving water,  
2 and so those are typically very cost-effective.

3 Q. And the programmable thermostats?

4 A. That's another good one.

5 Q. And what about the tankless water heater? I  
6 know they're really expensive, but --

7 A. Yeah, they're very expensive. And a lot of  
8 that generates from the additional piping and installation  
9 costs that are required above your normal water heater  
10 installation. They are very efficient, yes, but the benefits  
11 just don't get over the incremental cost. I think it's  
12 around 15 to \$1,600 to install one.

13 COMMISSIONER DAVIS: Okay. All right. No  
14 further questions. Thank you.

15 JUDGE JONES: Any recross -- recross based on  
16 questions from the bench? Department of Natural Resources?

17 RECROSS-EXAMINATION

18 QUESTIONS BY MS. MANGELSDORF:

19 Q. Yes. I'd like to get some clarification on  
20 the table that we had discussed previously. It's MDNR  
21 Exhibit Number 2, if could you pull that out.

22 A. Okay.

23 Q. And in addition, I had also provided you with  
24 a packet of information that was the source documents for  
25 that.

1           A.       Okay.

2           Q.       If you could please pull out what's been  
3 marked as MDNR Exhibit Number 3, and I'm marking that as  
4 highly confidential because the attachments, I believe, have  
5 highly confidential information.

6           A.       Okay.

7                   (MDNR Exhibit Number 3 was marked for  
8 identification by the Court Reporter.)

9           JUDGE JONES: If you're going to talk about  
10 this exhibit, should we go in-camera?

11           MS. MANGELSDORF: I'm only going to refer to  
12 that first column that we talked about with the TRC number,  
13 and I'm not sure that's highly confidential.

14           JUDGE JONES: So that's a no?

15           MS. MANGELSDORF: Uh-huh.

16           MS. SHEMWELL: Is that a no, Sara?

17           MS. MANGELSDORF: No, we don't need to.

18           JUDGE JONES: Okay.

19 BY MS. MANGELSDORF:

20           Q.       Okay. In Exhibit 3, that's marked highly  
21 confidential, if you could please first turn to the eight by  
22 ten --

23           A.       Yep.

24           Q.       In that first column, it says measures screen  
25 TRC results, June 2010; did I read that correctly?

1 A. Yeah.

2 Q. And as you previously testified, the numbers  
3 in that column are accurately reflected in column one of  
4 Exhibit 2, correct?

5 A. Yeah.

6 Q. Thank you.

7 A. And so I think what happened --

8 Q. Thank you.

9 A. -- that was just a --

10 Q. You answered my question. Thank you.

11 A. Oh, sorry.

12 Q. And the same for if you go to the legal size,  
13 the column says -- the first column says measures screen TRC  
14 results, June 2010, correct?

15 A. Yes, it does.

16 Q. And as you previously testified, the numbers  
17 here correspond with number one on MDNR Exhibit 2, correct?

18 A. Yeah.

19 MS. MANGELSDORF: I'd like to move for Exhibit  
20 MDNR 3-HC to be entered into evidence.

21 JUDGE JONES: Any objection?

22 MS. TATRO: No objection.

23 JUDGE JONES: DNR Exhibits 3-HC is entered  
24 into the record.

25 (MDNR Exhibit Number 3-HC was received into

1 the record by Judge Jones.)

2 BY MS. MANGELSDORF:

3 Q. And next if you could pull out what was MDNR  
4 Exhibit 4.

5 (MDNR Exhibit Number 4 was marked for  
6 identification by the Court Reporter.)

7 BY MS. MANGELSDORF:

8 Q. And this is a data request that you responded  
9 to, correct?

10 A. Yes.

11 Q. And as you previously testified, the data  
12 that's included in this -- in this data request  
13 corresponds -- corresponds with columns two, four, and five  
14 on MDNR Exhibit Number 2, correct?

15 A. It appears so, yes.

16 MS. MANGELSDORF: I'd like to move for entry  
17 of Exhibit -- MDNR Exhibit No. 4 into evidence.

18 JUDGE JONES: Any objection?

19 MS. TATRO: No objections.

20 JUDGE JONES: DNR Exhibit 4 is admitted into  
21 the record.

22 (MDNR Exhibit Number 4 was received into the  
23 record by Judge Jones.)

24 BY MS. MANGELSDORF:

25 Q. Mr. Shoff, was Morgan Marketing Partners hired

1 specifically for gas energy efficiency analysis?

2 A. They were hired for gas energy efficiency  
3 analysis and electric energy efficiency analysis.

4 Q. And you stated earlier in your testimony that  
5 Missouri weather data was used, correct?

6 A. Yes.

7 Q. And what geographical region was weather data  
8 analyzed?

9 A. I'm not -- I think we used the St. Louis  
10 weather region because it's representative of the entire  
11 service territory for weather.

12 Q. Okay. If you could please turn to page 4 of  
13 your testimony.

14 A. Direct testimony?

15 Q. Of your direct testimony.

16 A. Okay.

17 Q. Now, just to make sure that I understand  
18 correctly, TRC was calculated for each of the measures in the  
19 table on Number 4, correct?

20 A. Yes.

21 Q. And then -- or for all of the measures in the  
22 two programs, correct?

23 A. Yes.

24 Q. And then if the measures had a TRC below one,  
25 those measures were not included in calculating a TRC at the

1 program level; is that correct?

2 A. Initially, yes. I believe in one of my data  
3 requests -- and I don't recall which one -- I also provided  
4 the TRC -- well, actually, I think it's in my surrebuttal.  
5 If you look at page -- page 8. On that first table there, I  
6 also calculated the program level TRC including the  
7 non-cost-effective measures, and that's the existing  
8 TRC label.

9 MS. MANGELSDORF: Thank you.

10 JUDGE JONES: Are you finished?

11 MS. MANGELSDORF: Yes, I am. Sorry.

12 JUDGE JONES: Recross from the Office of the  
13 Public Counsel.

14 MR. POSTON: Thank you. Did you want to  
15 enterer those exhibits?

16 MS. MANGELSDORF: I believe I entered both of  
17 them.

18 MR. POSTON: They were entered? Thank you.

19 RECROSS-EXAMINATION

20 QUESTIONS BY MR. POSTON:

21 Q. When you talked about Missouri-specific data  
22 that you used in your analysis, you had mentioned weather,  
23 building vintages, and what was the other one?

24 A. Heating and cooling system type.

25 Q. And the data that -- the Missouri-specific



1 data that you used, was it for consumers that use gas only,  
2 or did it also include electric?

3 A. It was for both.

4 Q. For both. And there was this Staff Exhibit 7  
5 that's the colored --

6 A. Okay.

7 Q. Do you know what the date is of this?

8 A. I believe that was attached in a 4/19 --  
9 April 19th, 2011, e-mail.

10 Q. So that's when this was performed was in  
11 April?

12 A. Before that sometime, yeah.

13 Q. And you talked with Commissioner Jarrett about  
14 the inputs that you used in your TRC analysis.

15 And can you explain how the use of what you've  
16 described as a stringent building code impacted the inputs  
17 for incremental measure costs in your TRC analysis?

18 A. Can you repeat the question, please.

19 Q. Sure. Can you explain how the use of what  
20 you've described as a stringent building code impacted the  
21 inputs for incremental measure costs in your TRC analysis?

22 A. Sure. So if you have a more stringent  
23 building code that requires you to have, for instance, as a  
24 baseline higher insulation values or more efficient furnace  
25 or so on and so forth, to get the same level of incremental

1 savings, you would have to increase the efficiency.

2 So, for instance, if the building code had a  
3 baseline standard of, you know, R-5 for wall insulation, just  
4 as a hypothetical example, but another more stringent  
5 building code had a baseline of R-11, to get equivalent  
6 energy savings, you would have to add in more wall  
7 insulation, and so your incremental costs would go up. So  
8 that's just one example of how that might affect the inputs.

9 Q. I'm going to ask you the same question but  
10 slightly different.

11 Can you explain how the use of what you've  
12 described as a stringent building code impacted the inputs  
13 for incremental measure savings in your TRC analysis?

14 A. It's pretty similar to what I just said except  
15 looking at the savings side. So if you were -- let's say  
16 your efficient measure is R-15 wall insulation or R-11 wall  
17 insulation; actually, let's use that.

18 So if the old building code or the less  
19 stringent building code was R-5, you would have that six  
20 increment R value. And so that would be a cost. However, if  
21 the -- or that savings value. However, if the new baseline  
22 was R-8 or something, you would only have that incremental  
23 3-R level insulation savings. So your savings would be less  
24 with more stringent building codes.

25 Q. Do you believe most homes in Missouri are

1 built to the more stringent building codes?

2 A. Probably not.

3 MR. POSTON: That's all I have.

4 JUDGE JONES: Recross from Staff.

5 MS. SHEMWELL: Thank you.

6 RECCROSS-EXAMINATION

7 QUESTIONS BY MS. SHEMWELL:

8 Q. In answer to one of Commissioner Davis'  
9 questions, Mr. Shoff, you said that you would incorporate  
10 Missouri-specific data in your analysis when you get it,  
11 right? Do you remember that?

12 A. Yes.

13 Q. And when you do that, you would expect that  
14 your TRC would change in some way?

15 A. Possibly, it could, yes.

16 Q. When Commissioner Jarrett asked you about  
17 using Missouri-specific and you said you use  
18 Missouri-specific building vintages, that was for your  
19 electric territory, right?

20 A. It was for both.

21 Q. Electric and gas, you used St. Louis?

22 A. Well, not for the building vintages.

23 Q. What did you use for the building vintages?

24 A. We surveyed a sample of customers. I'm not  
25 specifically sure what geographic region they came from.

1           Q.       So you don't know if they came from Columbia  
2       or Jefferson City or Cape Girardeau?

3           A.       I'm not sure. I think we tried to incorporate  
4       everyone, but I'm not sure.

5           Q.       Commissioner Davis asked you who asked you to  
6       do your analysis, and I think you said you don't remember  
7       being asked. Is that what you said to him?

8           A.       Well, that was for the new analysis in 2011.  
9       In June 2010, I was asked by Greg Lovett and his Staff to  
10      provide the TRC analysis.

11          Q.       So on page 2, lines 10 through 12 of your  
12      direct testimony, are you talking about this year or last  
13      year?

14          A.       What lines again? I'm sorry.

15          Q.       Ten through 12.

16          A.       Oh, yep.

17          Q.       Is that a yes?

18          A.       Yes. I was referring to this year, so I must  
19      have been asked by someone in Greg's team.

20          Q.       And you don't remember who?

21          A.       It was probably Greg or Dan Danahy.

22          Q.       And you told Commissioner Davis you didn't  
23      even remember being asked; isn't that right?

24          A.       I think so. I don't remember.

25          Q.       You talked about being good stewards for your

1 customers' money. Let's just say that, as a result of  
2 changes to your tariff, you spent 100,000 of customer's money  
3 instead of 400. Would you consider that being a good  
4 steward?

5 A. I don't think we're trying to target spending  
6 \$100,000. We want to spend all of our money.

7 Q. I'm just asking, is there some level that you  
8 would consider being good stewards?

9 A. Well, I think if we're spending the money cost  
10 effectively, then yes, that's being good stewards.

11 Q. Your definition of cost-effective, right?

12 A. Yes.

13 Q. Yes. We're talking about low-flow  
14 showerheads, and that's a building measure, right? And you  
15 were discussing those with Commissioner Davis?

16 A. It's a measure, yes.

17 Q. It's a measure. And I can't remember what  
18 Mr. Lovett testified as to the cost of those, but I think it  
19 was \$5?

20 A. No, they're more than that. They're probably  
21 in like the 30 to 40 range.

22 Q. So let's assume \$30?

23 A. Okay.

24 Q. And that is a measure requiring the customer  
25 to get a home energy audit prior to getting a rebate for

1       that?

2               A.       I believe that's case in our program.

3               Q.       And the rebate would be \$15 or 50 percent,  
4       right?

5               A.       I believe so.

6               Q.       Do you think customers are going to spend  
7       money on a home energy audit 300 to \$600 for a \$15 rebate as  
8       a practical matter?

9               A.       Probably not, if that's the only measure that  
10       they --

11              Q.       And a faucet aerator, how much do those cost?

12              A.       \$2 to \$4.

13              Q.       Is it your testimony that you can get market  
14       transformation using the measures that you have proposed here  
15       or that you mentioned faucet aerators and low-flow  
16       showerheads?

17              A.       Is it in my testimony?

18              Q.       No. Is it your testimony?

19              A.       That --

20              Q.       When you were talking to Commissioner Davis,  
21       was that your testimony?

22              A.       That you can get market transformation through  
23       incentivizing --

24              Q.       He was talking about market transformation and  
25       you mentioned the items that you were proposing to continue

1 to offer.

2 A. Okay.

3 Q. So are you saying you can get market  
4 transformation offering those measures?

5 A. I don't know if those measures by themselves  
6 you can do that.

7 MS. SHEMWELL: Thank you. That's all I have.  
8 Thank you, Judge.

9 JUDGE JONES: Redirect, and then we will take  
10 a short break.

11 MS. TATRO: Thank you.

12 MS. SHEMWELL: May I ask one question?

13 JUDGE JONES: Redirect.

14 MS. TATRO: Thank you.

15 REDIRECT EXAMINATION

16 QUESTIONS BY MS. TATRO:

17 Q. Mr. Shoff, let's start with DNR Exhibit 2.

18 A. Okay.

19 Q. Well, first, let's start, you previously  
20 testified that the TRCs that you provided for 2010 were not  
21 the same as the TRCs you calculated for 2011. Do you  
22 remember that discussion?

23 A. Yeah. And --

24 Q. And then DNR -- I handed you Exhibit 2.

25 A. Right.

1           Q.       Can you explain why the numbers in column one  
2       and two aren't different?

3           A.       So I think the confusion is in MDNR Exhibit 3,  
4       which is the batch tools and the associated spreadsheets,  
5       column one is mislabeled as June 2010. I think that's  
6       something that exists in the previous batch tools and I  
7       forgot to change, so that's my fault.

8                    But in regards to answering your question, I  
9       mean, they're the same.

10          Q.       Well, let's turn to -- let's turn to MDNR 3.

11          A.       Okay.

12          Q.       If it's not June 2010, about what date would  
13       it be?

14          A.       I think these were done in the June of 2011  
15       time frame. And these were used to inform our proposed  
16       tariff changes.

17          Q.       So when you compare column one and two,  
18       they're the same because they are the same?

19          A.       Yeah. Yes.

20          Q.       You also had testified that some of the  
21       measures that were implemented during the stipulation, you  
22       didn't have a TRC for and that's why you calculated that  
23       later?

24          A.       That's correct.

25          Q.       Do you know what measures those were?



1           A.       Let's see. Off the top of my head, I believe  
2       they were in the commercial side, the modulating burner, I  
3       believe the ceiling insulation, and window replacement. And  
4       there were a couple others, but I don't remember off the top  
5       of my head. But there were several.

6           Q.       Okay.

7           A.       I think there was five to seven.

8           Q.       All right. All right. Let's go back when  
9       Department of Natural Resources was talking to you about the  
10      measures that require -- it's been a long day already, and I  
11      can't talk. Let's try that again. Measures that require an  
12      audit?

13          A.       Uh-huh.

14          Q.       And that they have to be cost-effective before  
15      they're installed. Do you remember that conversation?

16          A.       Yes.

17          Q.       Cost effective for whom?

18          A.       The customer. As I mentioned earlier,  
19      auditors typically calculate cost effectiveness completely  
20      different using completely different assumptions than what we  
21      did. They use the retail rate of energy. They often combine  
22      the energy savings for the customer, both of which yield a  
23      higher result.

24          Q.       And when you say the customer, are you  
25      referring to the customer who is installing the measure or

1 Ameren Missouri's customers overall?

2 A. The auditor would calculate it for that  
3 specific customer.

4 Q. And who do you calculate it for when you're  
5 doing the TRC?

6 A. The TRC calculates it for the entire customer  
7 base.

8 Q. Because the entire customer base is paying for  
9 the cost as Ms. Shemwell has pointed out?

10 A. That's correct.

11 MR. POSTON: Objection, leading.

12 JUDGE JONES: Objection sustained and answer  
13 is stricken, even though it will still be there.

14 MS. TATRO: I apologize.

15 BY MS. TATRO:

16 Q. All right. Mr. Poston talked to you about  
17 Illinois incentive levels and costs. Do you remember that  
18 conversation?

19 A. I do.

20 Q. Can you explain how Illinois can justify  
21 paying higher incentive levels than Ameren Missouri?

22 A. Ameren Illinois' programs operate under a  
23 different construct. They're allowed to count both fuel  
24 benefits, electric and natural gas. They also have specific  
25 energy savings goals and much larger budgets than what we

1 have.

2 As I mentioned earlier, a lot of their  
3 measures do -- specifically talking about building shell  
4 measures, they do require an audit; however, that audit is  
5 only \$25, which the customer is not reimbursed for, but the  
6 associated air ceiling has that blower door test, which is  
7 anywhere from 350 to \$400 embedded in the incremental cost.  
8 So if the incremental cost is higher, they have to offer a  
9 higher incentive to encourage customers to implement the  
10 measure.

11 Q. Thank you. Office of Public Counsel also  
12 talked to you about the UCT, whether it would be higher or  
13 lower than the TRC and your comment that Mr. Kind's testimony  
14 was not fully accurate.

15 Do you remember that part of the conversation?

16 A. I do.

17 Q. Can you explain why it is not appropriate to  
18 exclude participant costs?

19 A. Yeah. I mean, if we want to be good stewards  
20 over our customers' money, I think we should be incorporating  
21 the costs and the benefits to the customers. The utility  
22 cost test only looks at the program costs, the cost to  
23 administer, the programs to the utility, and it excludes the  
24 customer costs.

25 Q. And what does the TRC look at?

1           A.       The TRC looks at both the participant and the  
2 utility cost and benefits.

3           Q.       Mr. Poston also asked you if you provided the  
4 UTC calculations in your testimony. Do you remember that  
5 conversation?

6           A.       I do.

7           Q.       Did any party in this case provide those  
8 calculated numbers?

9           A.       Not to my knowledge.

10          Q.       Were they available to the parties in the work  
11 papers?

12          A.       Yes.

13          Q.       Ms. Shemwell, when she was cross-examining  
14 you, handed you a copy of the integrated resource planning  
15 rules?

16          A.       Yep. Yes.

17          Q.       When you calculate the TRC on the electric  
18 side, do you include gas benefits?

19          A.       We do not.

20          Q.       Why is that?

21          A.       It's specifically stated in the rules that we  
22 cannot.

23          Q.       She also asked you questions about whether or  
24 not you looked at specific areas when you were looking at the  
25 homes. She said Jefferson City, Cape Girardeau. Do you

1 remember that conversation?

2 A. Yes.

3 Q. Would it be standard practice to choose an  
4 area that's a service territory for calculating costs?

5 A. No. If you want to look at the whole  
6 system-wide basis, you would use a representative area.

7 Q. And why would you look at a system-wide basis?

8 A. So it benefits all customers. Those who are  
9 actively participating in the program and also those who are  
10 not actively participating but are still paying for it in  
11 rates.

12 Q. Ms. Shemwell also asked you questions about  
13 home vintage, and she asked if that included electric and  
14 natural gas homes. Do you remember that conversation?

15 A. I do.

16 Q. Do you -- have you found that natural gas --  
17 Ameren Missouri natural gas customers have different homes  
18 than Ameren Missouri electric customers?

19 A. From my experience, the homes are relatively  
20 similar. There's not distinguishable factors that will  
21 drastically impact the cost effectiveness results.

22 Q. Do they experience different weather?

23 A. No. Given that they're in the same proximity  
24 and the same geographic region, the weather would be exactly  
25 the same.

Q. Do they have different heating and cooling systems?

A. Again, we analyzed various heating and cooling systems combinations, so they would be relatively similar.

Q. You and Commissioner Jarrett had a discussion about what Missouri data you used and what non-Missouri data you used as your inputs for your calculations of the TRC. Do you remember that conversation?

A. Yes.

Q. Are you familiar with how evaluators calculate and what inputs they look at when they're calculating results, cost effectiveness of a program?

A. Yes. From my experience in the Ameren Missouri programs, the electric programs and also the Ameren Illinois programs, we have discussed with evaluators their methodologies that they use to calculate and measure level savings.

Q. And in your experience, would the input data that they used vary substantially from the input data you used?

A. The methodologies would be very similar. They would likely do building simulations just as we did. They would use and they have used similar formulas to calculate savings.

One example is on some direct hot water

1 measures for the Ameren Illinois program. The formulas were  
2 exactly the same, but some of the inputs were slightly  
3 different, so we reconciled those. But they're very similar.

4 Q. Would an evaluator -- when I say evaluator, I  
5 mean the M and V evaluator. Would they look at the  
6 characteristics of a particular home in Missouri service  
7 territory to determine whether it was a measure was  
8 cost-effective?

9 A. No. They would aggregate their samples into  
10 an average and calculate savings based on that average.

11 Q. Okay. On recross, Ms. Shemwell asked you that  
12 when going forward when you incorporate Missouri evaluation  
13 data, could the TRC change. Do you remember that  
14 conversation?

15 A. Yes.

16 Q. And I believe you indicated that it could  
17 possibly change?

18 A. That's correct.

19 Q. Would you expect a program that's at a .06 to  
20 suddenly become cost-effective?

21 A. It's highly doubtful.

22 MS. TATRO: Thank you.

23 JUDGE JONES: Okay. Ms. Shemwell, what was  
24 your question?

25 MS. SHEMWELL: I was just going to ask to be

1       excused for a moment.

2                   JUDGE JONES:  Oh, well, we're all excused for  
3       about five minutes until about a quarter to.  So it's a  
4       bathroom break.

5                   (MDNR Exhibit Number 1 was marked for  
6       identification by the Court Reporter.)

7                   JUDGE JONES:  Let's go back on the record.  
8       We're back on the record with Case Number GT 2011-0410, and  
9       DNR, you may call your witness.

10                  MS. MANGELSDORF:  We'd like to call John  
11       Buchanan.

12                  (The witness was sworn.)

13                               DIRECT EXAMINATION

14       QUESTIONS BY MS. MANGELSDORF:

15               Q.       Would you please state your full name and  
16       spell your last name for the court reporter.

17               A.       Yes.  John Buchanan.  J-o-h-n,  
18       B-u-c-h-a-n-a-n.

19               Q.       And by whom are you employed and in what  
20       capacity?

21               A.       I'm employed by the Missouri Department of  
22       Natural Resources, and I serve as a senior planner with the  
23       Department of Natural Resources.

24               Q.       And for whom are you testifying in this case?

25               A.       I am testifying on behalf of the Missouri



1 Department of Natural Resources.

2 Q. And are you the same John Buchanan who  
3 prepared or caused to be prepared rebuttal testimony marked  
4 MDNR Exhibit No. 1 in this case?

5 A. Yes, I am.

6 Q. And was that testimony prepared by you or  
7 under your direct supervision?

8 A. Yes, it was.

9 Q. Do you have any changes or revisions in any of  
10 the testimony filed?

11 A. Yes, I have one slight change. This appears  
12 in my rebuttal testimony dated September 8th of 2011. It  
13 appears on page 11, line 7. The second word challenges  
14 should be changed to challenged, with a D. That is the only  
15 change I have.

16 Q. If I ask you the same questions as they appear  
17 in your testimony, would your answers as revised be the same?

18 A. I'm sorry. Repeat that.

19 Q. If I asked you the same questions as they  
20 appeared in your testimony, would your answers as revised be  
21 the same?

22 A. Yes, they would.

23 Q. Are your answers true and correct to the  
24 questions asked?

25 A. Yes.

1 MS. MANGELSDORF: I would now like to move for  
2 the entry of MDNR Exhibit 1 as revised into the record in  
3 this case, and I will tender Mr. Buchanan for  
4 cross-examination.

5 JUDGE JONES: Any objection?

6 MS. TATRO: I do have an objection.  
7 Mr. Buchanan's pre-filed testimony contains multiple  
8 statements for which he cites to data request answers by  
9 AmerenUE but -- Ameren Missouri. Of course, data requests  
10 are not part of the record of the case unless someone places  
11 them in the record, and the data requests he cites are not  
12 attached to his pre-filed testimony, nor have they otherwise  
13 been made a part of the record.

14 For that reason, I move the Commission strike  
15 the following portions of his pre-filed rebuttal testimony.  
16 Page 7, line 1 through line 5; page 10, line 3 through line  
17 13 -- I do have them listed, so that it will be a little bit  
18 easier.

19 So I'm just going to read them off, but  
20 they're on this sheet. Page 11, line 11 through 21. Page  
21 12, line 8 through line 17. Page 13, line one through page  
22 16, line 20. Page 18, line 1 through line 17, page 19, line  
23 9 through page 20, line 1, page 20, line 19 through page 21,  
24 line 3, and page 23, lines 14 through 17.

25 JUDGE JONES: So your objection is that he's

1 referring to responses to data requests?

2 MS. TATRO: He cites data requests as evidence  
3 for his point, but he doesn't attach the data requests, and  
4 they're not part of the record.

5 JUDGE JONES: So if that -- I've only looked  
6 at a couple of those, and the two I looked at were in  
7 parentheses. I'm thinking probably all of them are like  
8 that.

9 MS. TATRO: Yeah.

10 JUDGE JONES: If that -- if the parenthetical  
11 were scratched out, you wouldn't have an objection?

12 MS. TATRO: I guess I'd have to look and see  
13 what the statement is, but generally, that might be a way to  
14 solve the problem, yes.

15 JUDGE JONES: So you haven't looked to see  
16 what the statement was; you just saw a parenthetical  
17 reference to a general data request?

18 MS. TATRO: Well, I guess I should rephrase my  
19 answer. I did look, but I looked a few days ago and I'd have  
20 to look again.

21 But I agree, if he can testify to it of his  
22 own knowledge without relying on a data request answer, then  
23 scratching the reference to the data request answer answers  
24 solves the problem.

25 JUDGE JONES: I'm going to overrule the

1 objection. I know it looks like you put a little work into  
2 it, but I just don't think it matters.

3 MS. TATRO: Okay.

4 (OPC Exhibit Number 1 was received into the  
5 record by Judge Jones.)

6 JUDGE JONES: Let's see. Cross-examination,  
7 OPC.

8 MR. POSTON: Yes, just a few.

9 MS. TATRO: I thought you said one.

10 MR. POSTON: I'll try to keep it to one.

11 JUDGE JONES: And be sure your microphone is  
12 on. I'm not sure it is.

13 MR. POSTON: Okay. Can I approach?

14 THE COURT: Yes, you may.

15 (OPC Exhibit Number 2 was marked for  
16 identification by the Court Reporter.)

17 CROSS-EXAMINATION

18 QUESTIONS BY MR. POSTON:

19 Q. Okay. I've just handed you what's been marked  
20 as OPC Exhibit 2. Do you have that?

21 A. Yes, I do. Thank you.

22 Q. And do you recognize this exhibit?

23 A. Yes, I do.

24 Q. And what is this?

25 A. This is a request for proposal that was issued

1 by Ameren Missouri dated October 3rd to perform an  
2 ex-postevaluation of the residential and commercial natural  
3 gas energy efficiency programs.

4 Q. And were you in the room earlier today in  
5 response to questions to the attorneys from Commissioner  
6 Davis where this RFP was raised by, I believe it was,  
7 Ms. Tatro?

8 A. Yes.

9 Q. And looking at this RFP, would you agree that  
10 there are attachments that have not been added to this, that  
11 there was a tariff attachment that is not included as part of  
12 this?

13 A. Yes. In terms of the copy that you supplied  
14 to me, yes.

15 MR. POSTON: Judge, I move to have OPC  
16 Exhibit 2 entered.

17 JUDGE JONES: Any objection?

18 MS. TATRO: Relevance.

19 MR. POSTON: This is the RFP regarding the  
20 programs that are at issue in this case, and this particular  
21 RFP was raised earlier today by Ms. Tatro in response to a  
22 Commissioner Davis question.

23 JUDGE JONES: Is this from October of 2010?

24 MR. POSTON: This is 2011. This was just  
25 Monday.

1 JUDGE JONES: Objection overruled. So OPC  
2 Exhibit 2 is admitted into the record.

3 (OPC Exhibit Number 2 was received into the  
4 record by Judge Jones.)

5 MR. POSTON: And that's all I have. Thank  
6 you.

7 JUDGE JONES: Cross from Staff.

8 MS. MCCLOWERY: Staff has no questions.

9 JUDGE JONES: And cross from Ameren.

10 MS. TATRO: Thank you.

11 CROSS-EXAMINATION

12 QUESTIONS BY MS. TATRO:

13 Q. Mr. Buchanan, can you turn to your rebuttal,  
14 page 18.

15 A. Yes, I have my rebuttal open. Thank you.

16 Q. Page 18.

17 A. I'm sorry?

18 Q. Page 18.

19 A. 18?

20 Q. Yeah.

21 A. Thank you. I'm sorry. I'm having a hard time  
22 hearing you up here.

23 Q. All right. I'll try to talk louder.

24 A. Thank you. I have page 18 open.

25 Q. Thank you. On this page, you're talking about

1 the ENERGY STAR partnership agreement, right?

2 A. That is correct, yes.

3 Q. Because some of the measures that Ameren  
4 Missouri is proposing to remove Are ENERGY STAR measures,  
5 correct?

6 A. According to testimony filed by Mr. Kyle  
7 Shoff, that is correct.

8 Q. Okay. On lines 22 and 23, you say removal of  
9 ENERGY STAR measures "seems to run contrary to the terms of  
10 an ENERGY STAR partner"; is that correct?

11 A. Yes, that is correct.

12 Q. And ENERGY STAR Partners have an agreement  
13 with ENERGY STAR?

14 A. From my understanding, that is correct.

15 Q. Is it your testimony that Ameren Missouri's in  
16 violation of that agreement?

17 A. No, not in violation.

18 Q. Did you review the contract prior to making --  
19 filing your testimony?

20 A. Yes, I did.

21 Q. Okay. Does it require any ENERGY STAR partner  
22 to promote all ENERGY STAR products?

23 A. No.

24 Q. Does it require ENERGY STAR partners to  
25 promote any particular number of ENERGY STAR products?

1 A. No.

2 Q. Does the agreement list what natural gas  
3 ENERGY STAR measures Ameren Missouri is supposed to promote?

4 A. No.

5 Q. Do you know if Ameren Missouri has received  
6 anything from ENERGY STAR indicating they have any type of  
7 dispute with the way that Ameren Missouri's performing under  
8 the agreement?

9 A. None that I'm aware of, no.

10 Q. Did you contact ENERGY STAR to see if Ameren  
11 Missouri was out of compliance?

12 A. No.

13 Q. Did you ask Ameren Missouri if it received  
14 notification from ENERGY STAR that it was in violation of a  
15 partnership agreement?

16 A. With respect to my data request, no.

17 Q. Okay. Page 8.

18 A. I have page 8 open.

19 Q. Your statement is that the stipulation does  
20 not state or imply that Ameren Missouri is to limit its  
21 energy efficiency funding expenditures. Do you see that,  
22 around line 7?

23 A. Yes, I see that.

24 Q. Does the stipulation require expenditures be  
25 made only on cost-effective programs?



1           A.       The stipulation states cost-effective  
2 programs. That is correct.

3           Q.       So DNR's position is that Ameren Missouri's  
4 free to spend on any Energy Efficiency program regardless of  
5 whether it's cost-effective?

6           A.       Repeat the question, please.

7           Q.       Let's strike that question.

8           A.       All right.

9           Q.       The fact that the stipulation requires  
10 expenditures to be made only on cost-effective programs,  
11 isn't that a limitation?

12          A.       No, it's not.

13          Q.       Is Ameren Missouri free to spend money on  
14 non-cost-effective measures?

15          A.       Yes, it is.

16          Q.       But it would not -- but that would not be  
17 prudent, right?

18          A.       Not necessarily.

19          Q.       And the stipulation requires it to be  
20 cost-effective, correct?

21          A.       Cost effective program. It doesn't say  
22 cost-effective measure.

23          Q.       All right. Let me ask my question again,  
24 then.

25                   Is it a limitation that Ameren Missouri must

1 spend its energy efficiency measure on cost-effective  
2 programs?

3 A. Yes.

4 Q. Page 9.

5 A. I have page 9 open.

6 Q. You start talking about the post  
7 implementation evaluations.

8 A. Beginning on which line, please?

9 Q. It looks like you start talking about it in  
10 the question that starts on line 6.

11 A. Page 9?

12 Q. Page 9. Look at lines 9 and 10. It's bolded,  
13 post-implementation evaluation.

14 A. Yes, I have 9 and 10.

15 Q. Okay.

16 A. Yes.

17 Q. Does the stipulation explicitly provide that  
18 Ameren Missouri cannot change programs or measures prior to  
19 the evaluation result being received?

20 A. Repeat that question again.

21 Q. Does the stipulation explicitly state that  
22 Ameren Missouri may not change programs or measures prior to  
23 the evaluation being complete?

24 A. I think that would be subject to  
25 interpretation of uninterrupted service.

1           Q.       All right. Well, I'm talking about the  
2       evaluations. Do you have the stipulation in front of you?

3           A.       Yes, I believe I do. I have it.

4           Q.       Would you agree that Paragraph 6C is the  
5       evaluation requirement?

6           A.       Yes, it does.

7           Q.       Okay. Can you read that paragraph to yourself  
8       and let me know when you're done.

9           A.       I have completed my review.

10          Q.       Is there anything in that paragraph that says  
11       Ameren Missouri cannot modify its natural gas energy  
12       efficiency tariffs until after this evaluation is complete?

13          A.       There's no such language in that paragraph C.

14          Q.       All right. Let's look at paragraph G. Can  
15       you read that to yourself, unless you're already familiar  
16       with it.

17          A.       Yes. I've completed my review.

18          Q.       And this is the paragraph that contains the  
19       sentence you referred to earlier about uninterrupted  
20       availability of energy efficiency programs, correct?

21          A.       That is correct.

22          Q.       Can you read the next sentence?

23          A.       The next sentence?

24          Q.       After the sentence that has the uninterrupted  
25       clause in it. I'm sorry. Would you read that one out loud.

1           A.       Beginning with, "The parties agree"?

2           Q.       Yes, sir.

3           A.       "The parties agree that Ameren Missouri may  
4       file with the Commission proposed revised tariff sheets  
5       concerning the Energy Efficiency programs, if Ameren Missouri  
6       believes circumstances warrant changes."

7           Q.       And that's in the same paragraph as the  
8       uninterrupted availability clause, correct?

9           A.       That is correct.

10          Q.       Let's walk through how programs and measures  
11       are determined cost-effective. Okay?

12                    So let's presume for a moment a utility wants  
13       to add a new measure or a program, a program, one that hasn't  
14       implemented before. How would cost effectiveness be  
15       determined?

16          A.       Well, that depends on whether you're  
17       discussing a measure or a program.

18          Q.       Let's start with a program.

19          A.       Programs may be modified where you can add  
20       measures and expand that program. In this case perhaps a  
21       residential program or a small general service program, by  
22       adding a single measure. That would be a change.

23          Q.       But in my hypothetical, it's a different  
24       program than one that's currently existing.

25          A.       How to change one that's currently in

1       existence?

2               Q.       Now, what if a utility wants to propose a new  
3       program.

4               A.       A new program?

5               Q.       Yes.   How would you determine if it is  
6       cost-effective?

7               A.       Are we talking with hypothetically, or are we  
8       talking about within the confines of the programs that we  
9       have in place by this stipulation and agreement?

10              Q.       Hypothetically.

11              A.       Hypothetically.   It would be done in the same  
12       manner that we have developed as a collaborative in  
13       cooperation with Ameren Missouri.   Identification of two  
14       programs, one for residential and one for small general  
15       service, and then we built into that a series of program  
16       measures to support that program.

17              Q.       All right.   Perhaps I wasn't clear, so let's  
18       try this again.   If a utility -- hypothetically, if a utility  
19       wanted to propose a new natural gas Energy Efficiency  
20       program, would it be standard practice for it to look at the  
21       TRC of that program prior to implementing?

22              A.       That is one approach, yes.

23              Q.       Okay.   It might look at other utility cost  
24       tests, other tests as well?

25              A.       Correct.

1 Q. Right?

2 A. That is correct.

3 Q. But it likely wouldn't have information about  
4 that program in its service territory at that point in time;  
5 wouldn't you agree?

6 A. That's a possibility.

7 Q. So it would have to look for similar data in  
8 similar areas, or it would have to look outside the service  
9 territory for that information, right?

10 A. Yes. In a hypothetical world, yes.

11 Q. Okay. Now, once the utility has implemented  
12 the program, does it have an obligation to monitor cost  
13 effectiveness or look at cost effectiveness during the  
14 program year prior to EM&V, evaluation, measurement,  
15 verification?

16 A. I would believe that the utility, in a  
17 hypothetical situation, or in this case, would want to  
18 monitor different variables related to the performance of  
19 that program. That may include internal costs, promotional  
20 activities, advertising, staffing, any of those types of  
21 efforts.

22 But with regard to -- to the actual evaluation  
23 of the program, that would have to be done in the absence of  
24 specific information regarding ex ante review, you would do  
25 that in ex-post where you do an evaluation after the fact.

1 And you would have to do it with some of level of maturity or  
2 time taking place to aggregate data sufficient to support  
3 what would be considered a statistically confident analysis  
4 of that review.

5 Q. Mr. Buchanan, I'm talking about during the  
6 life of the program right now.

7 A. Uh-huh.

8 Q. If the utility receives information that a  
9 cost input has changed --

10 A. Uh-huh.

11 Q. -- is that's something the utility should --  
12 should the utility look at the cost benefits of that program  
13 again?

14 A. For the purposes of changing a measure or  
15 changing the program?

16 Q. As part of its prudent implementation of a  
17 program.

18 A. I would say it would be an approach, yes.

19 Q. Do you believe that Ameren Missouri should  
20 have ignored additional information and not rerun  
21 calculations of the TRC calculations?

22 A. Are we speaking of the same hypothetical  
23 situation, or are we shifting now?

24 Q. We're shifting.

25 A. Okay.

1           Q.       In -- earlier this year, Ameren Missouri reran  
2 the TRC tariff or TRC results, correct?

3           A.       I understand, yes.

4           Q.       Using some new information, correct?

5           A.       It's my understanding from -- from company  
6 representatives that new calculations were performed on their  
7 part. They were done so unilaterally, and the results were  
8 provided to the EEAG, that's correct.

9           Q.       Do you believe it was prudent for the Company  
10 to take that step?

11          A.       I believe that the Company has the ability to  
12 do that; however, pursuant to the stipulation and agreement,  
13 the formal evaluation as identified by the stipulation and  
14 agreement is, I think, quite straightforward. States it  
15 shall be done beginning or starting with data ending April of  
16 2012, and that report to be issued in December of 2012. I  
17 think the evaluation --

18          Q.       I think you answered my question. Let me ask  
19 you this question: Is the fact that Ameren Missouri reruns  
20 TRC analysis mid-program year prevent the Company from doing  
21 a postimplementation evaluation?

22          A.       I don't think it would prohibit the Company  
23 from performing a postimplementation or ex-post evaluation,  
24 EM&V, however you want to label it.

25          Q.       All right. So back to my original question.



1 Is it prudent, given the circumstances facing the utility, to  
2 recalculate the TRC earlier this year?

3 A. I believe the Company acted in what it  
4 considered to be prudent.

5 Q. Okay.

6 MS. TATRO: Thank you. I have no further  
7 questions.

8 JUDGE JONES: Redirect. That would be you,  
9 Ms. Mangelsdorf.

10 MS. MANGELSDORF: We don't have any questions.

11 JUDGE JONES: Then you're excused.

12 THE WITNESS: Thank you.

13 JUDGE JONES: OPC, call your witness.

14 MR. POSTON: Ryan Kind.

15 (OPC Exhibit Number 1 was marked for  
16 identification by the court reporter.)

17 (The witness was sworn.)

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. POSTON:

20 Q. Please state your name.

21 A. My name is Ryan Kind.

22 Q. By whom are you employed, and in what  
23 capacity?

24 A. I am employed by the Missouri Office of the  
25 Public Counsel as the chief energy economist.

1           Q.       Are you the same Ryan Kind that caused to be  
2 prepared and filed rebuttal testimony that's been premarked  
3 as OPC Exhibit 1?

4           A.       Yes, I am, and I have some corrections to make  
5 to that.

6           Q.       Okay. What are those?

7           A.       The first correction is on page 11, at line  
8 15. There's a bullet that says building shell measures and  
9 then it lists several individual measures within parentheses.  
10 My correction is to strike all of those things that are  
11 listed in parentheses there beginning with weather stripping  
12 and ending with low-flow showerheads, and to replace what was  
13 deleted within the parentheses with the following words:  
14 Ceiling or wall insulation, ENERGY STAR windows and doors,  
15 and door weather stripping.

16                   The next correction I have is on the next  
17 page, on page 12 at the top. The first bullet at the top of  
18 that page is natural gas boiler replacement, and that bullet  
19 should be deleted completely.

20                   The next bullet is -- begins with words  
21 building shell measures, and similar to the last deletion of  
22 what was in parentheses, everything in parentheses -- and  
23 this is at line 2 on page 12, beginning with weather  
24 stripping and ending with low-flow showerheads should be  
25 deleted, and within that parentheses, these words should be

1 inserted: Ceiling or wall insulation and ENERGY STAR windows  
2 and doors.

3 Those are all my corrections.

4 Q. With these corrections, is your testimony true  
5 to the best of your knowledge?

6 A. Yes, it is.

7 MR. POSTON: Your Honor, I offer OPC Exhibit  
8 1.

9 JUDGE JONES: Any objections?

10 MS. TATRO: No objections.

11 JUDGE JONES: OPC -- is this OPC 1 -- OPC  
12 Exhibit 1 is admitted to the record.

13 (OPC Exhibit Number 1 was received into the  
14 record by Judge Jones.)

15 JUDGE JONES: And cross-examination from the  
16 DNR.

17 MS. MANGELSDORF: No questions. Thank you.

18 JUDGE JONES: Cross-examination from Staff.

19 MS. SHEMWELL: We have no questions for this  
20 witness. Thank you.

21 JUDGE JONES: Cross-examination from Ameren.

22 MS. TATRO: No questions. Thank you.

23 JUDGE JONES: You may step down.

24 THE WITNESS: Thanks.

25 JUDGE JONES: Staff, you may call your first

1 witness.

2 MS. SHEMWELL: Thank you. Staff calls Michael  
3 Stahlman.

4 (Staff Exhibit Number 1 was marked for  
5 identification by the court reporter.)

6 (The witness was sworn.)

7 DIRECT EXAMINATION

8 QUESTIONS BY MS. SHEMWELL:

9 Q. Mr. Stahlman, would you spell your name for  
10 the court reporter, please.

11 A. M-i-c-h-a-e-l, middle initial L,  
12 S-t-a-h-l-m-a-n.

13 Q. Where are you employed, Mr. Stahlman?

14 A. Missouri Public Service Commission.

15 Q. What do you do for the Commission?

16 A. I'm a regulatory economist.

17 Q. Mr. Stahlman, have you prepared testimony in  
18 this case?

19 A. Yes.

20 Q. Rebuttal testimony?

21 A. Yes.

22 Q. Do you have any additions to your testimony,  
23 Mr. Stahlman?

24 A. Yes. I was wanting to add this table of  
25 contents, which specifies the appendices.

1           Q.       Mr. Stahlman, do you have any corrections to  
2 your testimony?

3           A.       Yes. On page 3, lines 9 through 11, I wish to  
4 strike, "No. If Ameren Missouri had concerns about the  
5 cost-effectiveness of the measures contained in the Appendix  
6 C to the GR-2010-0363 Stipulation, it should have raised  
7 those" costs [sic] "during settlement discussions. Instead."

8           Q.       And do you have a correction?

9           A.       And I wish to replace it with: "No. All  
10 parties to the Stipulation and Agreement, including Ameren  
11 Missouri, adopted Appendix C which describes the energy  
12 efficiency program and the measures contained in the program  
13 that Ameren Missouri would implement. If a party did not  
14 believe that a measure was cost-effective, it should not have  
15 signed the agreement."

16          Q.       Do you have any other corrections or  
17 additions?

18          A.       No.

19          Q.       With that, Mr. Stahlman, if I were to ask you  
20 the same questions today, would your answers be the same?

21          A.       Yes.

22          Q.       Is your testimony true and correct to the best  
23 of your knowledge and belief?

24          A.       Yes.

25               MS. SHEMWELL: I would like to offer Staff 1

1       into evidence.

2                   JUDGE JONES: Any objection?

3                   MS. TATRO: No objection.

4                   JUDGE JONES: Hearing none, Staff Exhibit 1  
5       with the amendments are admitted to the record.

6                   (Staff Exhibit Number 1 was received into the  
7       record by Judge Jones.)

8                   MS. SHEMWELL: And I offer Mr. Stahlman for  
9       cross.

10                  Judge, may I note that the nappy guide that I  
11       asked Mr. Shoff about is attached in Mr. Stahlman's, and I  
12       handed out a number of exhibits that we marked, I believe  
13       it's 11 through 14, that are included in Mr. Stahlman's  
14       testimony in Appendix B.

15                  JUDGE JONES: Okay.

16                  MS. SHEMWELL: We marked them separately, so I  
17       would suggest -- for ease of reference, we marked them  
18       separately. I would suggest that with acceptance of his  
19       testimony, those would also be accepted into evidence.

20                  JUDGE JONES: Weren't they already?

21                  MS. SHEMWELL: I don't have them as received.

22                  JUDGE JONES: Any objection?

23                  MS. TATRO: No.

24                  MR. JONES: Staff exhibits -- you said 11  
25       through 14 --

1 MS. SHEMWELL: That's correct.

2 JUDGE JONES: -- are admitted into the record.

3 Any cross-examination from DNR?

4 (Staff Exhibit Numbers 11 through 14 were  
5 received into the record by Judge Jones.)

6 MS. MANGELSDORF: No questions.

7 JUDGE JONES: Office of Public Counsel?

8 MR. POSTON: No questions.

9 JUDGE JONES: Ameren Missouri?

10 MS. TATRO: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 QUESTIONS BY MS. TATRO:

13 Q. Mr. Stahlman, you're a regulatory economist;  
14 is that right?

15 A. Yes.

16 Q. Do you work with energy efficiency programs  
17 and measures?

18 A. Yes.

19 Q. And how long have you done that work?

20 A. Approximately since July of last year.

21 Q. Do you do that for both natural gas and  
22 electric?

23 A. No.

24 Q. Just natural gas?

25 A. Yes.

1 Q. So you don't have any experience with electric  
2 energy efficiency programs?

3 A. No.

4 Q. Did you discuss your testimony or position  
5 that you're taking in this case with anyone else on Staff?

6 A. Yes.

7 Q. Can you tell me who that is? And I would not  
8 be asking about any communications with your attorney.

9 A. I have discussed my testimony with Mr. Warren  
10 and my supervisor, Mr. Emhof.

11 Q. Did they review your testimony?

12 A. Yes.

13 Q. Did they -- sorry.

14 A. Additionally, I believe Ms. Mantle has also  
15 seen the testimony.

16 Q. Did Mr. Warren, Mr. Emhof or Ms. Mantle  
17 suggest any changes to your testimony?

18 A. To current testimony?

19 Q. Yes, sir.

20 A. No.

21 Q. Is it Staff's opinion that energy efficiency  
22 programs must comply with the Commission's promotional  
23 practices rules?

24 A. Yes.

25 Q. Would you turn to page 2 of your testimony.



1 Starting on line 14, you talk about paragraph 6C of the  
2 stipulation requiring a postimplementation evaluation. Do  
3 you see that part of your testimony?

4 A. Yes.

5 Q. Has Ameren Missouri done that yet? Have they  
6 done that evaluation?

7 A. They have not done the evaluation as required  
8 by part 6C.

9 Q. When is that evaluation due?

10 A. It is, according to the stipulation agreement,  
11 it must include data after April 2012 and be completed by  
12 December of 2012.

13 Q. So it's due to be completed by December of  
14 2012; is that what you just said?

15 A. Yes.

16 Q. Is it Staff's position that Ameren Missouri  
17 cannot make a change to a program until that evaluation is  
18 complete?

19 A. Are we talking about the program that is  
20 Appendix C?

21 Q. Yes, sir. I think there's two programs,  
22 residential and a general service, right?

23 A. If we're talking about Appendix C, we maintain  
24 that the -- that those programs must be maintained until  
25 December 2012 as per the paragraph 6G of the stipulation.

1 Q. Do you have the stipulation in front of you?

2 A. Yes.

3 Q. 6G, you said?

4 A. Yes.

5 Q. Can you tell me what portion of 6G says Ameren  
6 Missouri can't make a change until after that evaluation is  
7 completed?

8 A. It would say that such tariff shall provide  
9 for uninterrupted availability of these energy efficiency  
10 programs through December 31st, 2012. And in paragraph 6C,  
11 it says that the evaluation must be completed by  
12 December 31st, 2012.

13 Q. Okay. What does the next sentence say in  
14 paragraph G?

15 A. In paragraph G?

16 Q. Uh-huh.

17 A. Such tariffs shall provide for  
18 uninterrupted -- correction.

19 Q. The next sentence.

20 A. The parties agree that Ameren Missouri may  
21 file with the Commission proposed revised tariff sheets  
22 concerning the energy efficiency programs if Ameren Missouri  
23 believes circumstances warrant changes.

24 Q. So the stipulation explicitly allows for  
25 Ameren Missouri to file tariffs to change its energy

1 efficiency programs, correct?

2 MS. SHEMWELL: To the extent that calls for a  
3 legal conclusion, I'm going to object.

4 MS. TATRO: I don't think it calls for a legal  
5 conclusion. I asked him if that's what the word says, and  
6 he's testified about it.

7 JUDGE JONES: Well, the words do say what they  
8 say. Whether he says they say them or not doesn't make them  
9 say anything they do or don't say. They say what they say.  
10 So it's pretty much irrelevant what he thinks about what they  
11 say.

12 MS. TATRO: Okay. Let me try another  
13 question.

14 BY MS. TATRO:

15 Q. Mr. Stahlman, does that sentence say that  
16 those changes cannot be filed until after December of 2012?

17 A. No.

18 Q. Does it say that changes can't be filed until  
19 after an evaluation is complete?

20 A. No.

21 Q. Okay. What paragraph is the evaluation  
22 paragraph?

23 A. Paragraph 6C.

24 Q. Would you turn to that, please.

25 A. I'm there.

1           Q.       Is there any language in this paragraph that  
2 explicitly -- that does not allow Ameren Missouri to file to  
3 change the programs?

4           A.       No.

5           Q.       Turn to page 4, please, of your rebuttal. On  
6 lines 3 through 9 you talk about cost effectiveness and you  
7 say that they were declared cost-effective with  
8 pre-implementation analysis in accordance with the  
9 Commission's promotional practices rule.

10                   Do you see that?

11          A.       Yes.

12          Q.       You have the stip in front of you, correct?

13          A.       Yes.

14          Q.       Is that language in the stipulation and  
15 agreement?

16          A.       No.

17          Q.       Was that language offered as -- in support of  
18 the stipulation and agreement at the hearing?

19          A.       The cost effectiveness was never at question  
20 during the hearing.

21          Q.       Okay. So there's no basis for this claim in  
22 the record, is there?

23          A.       I disagree.

24          Q.       What's your basis?

25          A.       The basis is the promotional practice rules

1 and the final requirements for gas utility promotional  
2 practice rules.

3 Q. What is in the record, sir, that shows that  
4 TRCs of those measures met the definition of cost-effective  
5 in the promotional practices rule at the time the stipulation  
6 and agreement was filed and approved?

7 A. Could you repeat the question?

8 Q. What evidence is in the record that the  
9 measures that are the center of this dispute were  
10 cost-effective using the promotional practices definition?  
11 That's your assertion on lines 3 through 7, right?

12 A. Yes.

13 Q. I'm asking what the evidentiary basis for that  
14 is?

15 A. The unanimous agreement of all parties to the  
16 stipulation and agreement.

17 Q. Does the stipulation and agreement ever --  
18 does it indicate anywhere that the programs are  
19 cost-effective using the test under the promotional practices  
20 rule?

21 A. Could you repeat the question?

22 Q. Does the stipulation and agreement state  
23 anywhere that the -- that Appendix C, that those programs are  
24 cost-effective under the Commission's definition in the  
25 promotional practices rule?

1 A. No.

2 Q. Would you turn to page 4, line 13 --

3 A. Okay.

4 Q. -- through 15. The question is there any  
5 requirement to reanalyze cost effectiveness? And I presume  
6 that means prior to the evaluation results. Is that a  
7 correct inference?

8 A. Say that -- could you repeat the question,  
9 please.

10 Q. Line 13, it says is there any requirement for  
11 the Company to reanalyze the preimplementation cost  
12 effectiveness? And you answer no.

13 A. Yes.

14 Q. Correct?

15 A. Yes.

16 Q. I presume you are talking about the time frame  
17 in between the initial implementation of the programs and the  
18 receipt of the evaluation. Is that a correct assumption?

19 A. The initial -- say that part again. The  
20 initial.

21 Q. When the tariffs were approved --

22 A. When the tariffs. Okay.

23 Q. -- and when the results of the -- the EM&V  
24 evaluation is received, let's say that's going to be December  
25 of '12.

1 A. Okay.

2 Q. I mean, let me back up. Your answer to this  
3 question is no, correct?

4 A. Yes.

5 Q. Is an evaluation -- does it analyze cost  
6 effectiveness?

7 A. Yes.

8 Q. Okay. Is your position that there's no  
9 requirement for Ameren Missouri to relook at cost  
10 effectiveness in the interim from when programs are  
11 implemented and tariffs are approved and the evaluation --

12 A. Yes.

13 Q. -- is issued? There is no obligation?

14 A. Yes.

15 Q. And that's -- let me ask you this question:  
16 Is there a prohibition against it?

17 A. No.

18 Q. If a utility obtains new information about  
19 significant changes and measured costs, is it possible those  
20 could impact or change TRC results?

21 A. Yes.

22 Q. But yet, your position is that the utility is  
23 under no obligation to reevaluate cost effectiveness?

24 A. Yes.

25 Q. Okay. Page 5, please, starting on line 11,

1     you talk about paragraph 6G allows for Ameren Missouri to  
2     file revised tariff sheets, and then on 13 you say file new  
3     measures to ramp up.

4                     Do you see that part of your testimony?

5             A.     Yes.

6             Q.     So if Ameren Missouri wanted to add measures,  
7     it would have the ability to file revised tariffs, correct?

8             A.     Yes.

9             Q.     Does the stipulation and agreement -- well, do  
10    you have the stipulation and agreement with you?

11            A.     Yes.

12            Q.     Look at 6B, please. 6D, I guess, is the one  
13    that has new language about filing tariffs; is that right?

14            A.     Huh?

15            Q.     Third time is a charm, right? G?

16            A.     Yes, 6G.

17            Q.     All right. Go to 6G, please. Does the  
18    language say Ameren Missouri is not allowed to remove  
19    measures or programs?

20            A.     Is it referring to the programs or measures  
21    that are contained in Appendix C?

22            Q.     Yes.

23            A.     Then yes. It says that the tariff shall  
24    provide for uninterrupted availability of these energy  
25    efficiency programs through December 31st, 2012.



1           Q.       Okay. Does that sentence contain the word  
2 measures?

3           A.       No.

4           Q.       Are measures different than programs?

5           A.       Yes.

6           Q.       Do you agree with the definition that was  
7 provided in Mr. Shoff's testimony about the difference  
8 between measures and programs? I'm sorry. It was  
9 Mr. Lovett's testimony.

10          A.       can you direct me to that in his testimony?

11          Q.       That's all right. In the interest of time  
12 I'll move on.

13                   Does this language you're pointing to -- let's  
14 go to page 7.

15          A.       Of my testimony?

16          Q.       Yes, please. Starting on line 17, you object  
17 to the definition of the total resource cost test,  
18 Mr. Shoff's definition. And you answer it by saying you  
19 disagree with using it as a retroactive basis. What does  
20 that mean?

21                   MS. SHEMWELL: Excuse me, are you on  
22 page 8, line 17?

23                   THE WITNESS: I think she's on page 7, line --  
24 can you repeat the question, please.

25                   ///

1 BY MS. TATRO:

2 Q. What do you mean when you say "retroactive  
3 basis?"

4 A. It means that you should not put a different  
5 standard to what you declared something to be cost-effective  
6 to be with an agreement of all parties to a different -- and  
7 switch to a different standard to declare something  
8 non-cost-effective.

9 Q. So if a program is cost-effective when the  
10 tariff is approved, Staff considers it cost-effective up  
11 until the time an evaluation shows it isn't cost-effective.  
12 Is that your position?

13 A. A third-party evaluation, yes.

14 Q. Okay. So the utility shouldn't bother  
15 rerunning the TRC analysis?

16 A. No.

17 Q. Even if there's a significant cost change,  
18 which means the program no longer is cost-effective even  
19 under the Commission's rules, you would still say, the  
20 utility has no obligation to modify its tariffs?

21 A. Could you be more specific on what cost would  
22 change?

23 Q. I don't know that it matters. It's a cost  
24 that changed significantly enough that the program now fails  
25 the definition that's in -- of cost-effective that's in the

1 Commission's promotional practices?

2 A. Subject -- the changes are made subject to  
3 whatever cost could also change back and reverse, such as gas  
4 costs could go to \$8, or they could stay around \$4 or \$2.

5 Q. But even if those changes happen, the utility,  
6 as part of its prudent practice, doesn't have the obligation  
7 to revisit the cost effectiveness calculations?

8 A. Under Paragraph 6G, the stipulation says that  
9 these tariffs attached as Appendix C shall remain  
10 uninterruptably available until December 31st, 2012.

11 Q. What if the utility receives new data that  
12 says additional programs would be cost-effective?

13 MS. SHEMWELL: Is this a hypothetical?

14 MS. TATRO: Sure.

15 THE WITNESS: Ameren would be allowed to look  
16 at those values and to present them to the energy efficiency  
17 advisory group for paragraph 6G for addition to the programs.  
18 BY MS. TATRO:

19 Q. Page 8, please. Starting at about line 5, you  
20 discuss the promotional practices rule, and the definition of  
21 cost-effective. Do you see that?

22 A. Yes.

23 Q. Do you agree with me that the total resource  
24 cost test or the TRC measures the net cost of a demand side  
25 management program as a resource option based on the total

1 cost of the program, including both participant and utility  
2 costs?

3 A. Yes.

4 Q. Okay. Do you have the promotional practices  
5 rule with you?

6 A. Yes.

7 Q. Can you read the definition, please, of  
8 cost-effective?

9 A. Cost effective means that the present value of  
10 life cycle benefits is greater than the present value of life  
11 cycle costs to the provider of an energy service.

12 Q. Would you agree that Ameren Missouri is the  
13 provider of an energy service?

14 A. Yes.

15 Q. So this definition focuses on the costs and  
16 benefits to the provider of the energy service?

17 A. Yes.

18 Q. To Ameren Missouri?

19 A. Yes.

20 Q. And would you agree with me that this  
21 definition of cost-effective does not take into account the  
22 cost to customers or participants?

23 A. It does not take into account participant  
24 cost.

25 Q. Would you please turn the page to 4 CSR

1 240-14.030?

2 A. Yes.

3 Q. Do you see that?

4 A. Yes.

5 Q. Sub 1?

6 A. Yes.

7 Q. Can you read that, please.

8 A. "All promotional practices of a public utility  
9 or its affiliate shall be just and reasonable, reasonable as  
10 a business practice, economically feasible and compensatory  
11 and reasonably calculated to benefit both the utility and its  
12 customers."

13 Q. And you agree that it requires that  
14 promotional practice to benefit both the utility and its  
15 customers?

16 A. Yes.

17 Q. And you just told me that the definition of  
18 cost-effective doesn't consider the participant cost,  
19 correct?

20 A. Yes.

21 Q. So it doesn't calculate the benefit to the  
22 customers?

23 A. No. Or correction. It does benefit the  
24 customers. It doesn't benefit necessarily the participant.

25 Q. Okay. Let's go back to the definition of --

1 customers as a whole is what you're saying?

2 A. Yes.

3 Q. Would that be the utility cost test?

4 A. It's reflective of the utility cost test,  
5 although no test is specifically mentioned.

6 Q. Okay. Page 9, line 16. Starts the question:  
7 Do you expect the cost benefit ratio for the building shell  
8 measures using actual data to be different than the cost  
9 benefit ratio that was calculated by Mr. Shoff. And you said  
10 yes. Do you see that question and answer?

11 A. Yes.

12 Q. And is the basis for that statement your  
13 argument that Mr. Shoff's analysis uses a typical electric  
14 residential and commercial customer?

15 A. Yes.

16 Q. And can you tell me the basis for your  
17 assertion that he's only using the typical electric customer?

18 A. It was from the meetings discussed within the  
19 advisory group.

20 Q. Are you familiar with the Morgan Measure Data  
21 Base?

22 A. To some extent.

23 Q. Does it contain information only on electric  
24 programs?

25 A. No.

1 Q. Are you familiar with the other databases that  
2 Mr. Shoff talked about? I think he called one the MMD.

3 A. No.

4 Q. Mr. Stahlman, did you calculate a TRC result  
5 for these measures to check Mr. Shoff's accuracy?

6 A. I attempted to replicate his TRCs with -- yes.

7 Q. Did you calculate one for yourself?

8 A. No.

9 Q. Did you calculate a UTC result?

10 A. It may have been included. I don't recall.

11 Q. You didn't specifically look for that?

12 A. No.

13 Q. You didn't offer that in your testimony?

14 A. No.

15 Q. Did you calculate any cost-effective test on  
16 Ameren Missouri's measures?

17 A. The only time I was attempting to run DSMore  
18 to check Mr. Shoff's TRC values.

19 Q. Is the promotional practices definition of  
20 cost-effective the same as what you would expect the auditor  
21 to use in their evaluation?

22 A. No.

23 MS. SHEMWELL: By what auditor are we talking  
24 about, please?

25 MS. TATRO: EM&V. I'm sorry, not the EM&V.

1 Auditor meaning for the --

2 A. I assume you're talking about the building  
3 shell measure auditor.

4 Q Just to be clear, who will be they evaluator?

5 A. The auditor.

6 MS. TATRO: Auditor, not they evaluator. It's  
7 my mistake. I apologize.

8 Q. Let's just make sure everybody understands.  
9 The auditor, when they're determining -- they do an audit and  
10 they say this measure would be cost-effective for you,  
11 customer, to implement. Correct?

12 A. Yes.

13 Q. And when they say it's cost-effective, what  
14 are they looking at?

15 A. They were looking at the values, the benefit  
16 to that participate versus the cost that you will have to  
17 expend.

18 Q. So if I spend \$500 on this measure, will I  
19 experience enough energy efficiency savings to pay back over  
20 some particular point in time? Is that a fair description?

21 A. That's what we hope, yes.

22 Q. He doesn't look at the -- or she doesn't look  
23 at the costs, the program costs that are paid by the rest of  
24 the customers; is that correct?

25 A. Yes, that's correct, he does not.



1 Q. So if an auditor recommends a measure, does  
2 that mean it's cost-effective under the Commission's  
3 promotional practices rule definition?

4 A. Not necessary.

5 Q. Does that mean it's cost-effective using the  
6 TRC calculation?

7 A. Not necessarily.

8 Q. On page 15 of your rebuttal, around line 7 --  
9 line 7, sorry. You talk about the spending, how much is in  
10 rates of 100,000. Do you see that?

11 A. Did you say 100,000?

12 Q. 7.

13 A. 700,000 on line 5?

14 Q. Uh-huh.

15 A. Okay.

16 Q. Is that correct?

17 A. Yes.

18 Q. Do you know if the stipulation addresses what  
19 happens if Ameren Missouri doesn't spend the 700,000 that's  
20 included in rates?

21 A. Yes.

22 Q. What happens?

23 A. Let me flip to paragraph, I believe it's 6F.  
24 Let me start at the beginning. "Expenditures of more than  
25 \$700,000 incurred in a calendar year and related to the

1 Energy Efficiency programs shall be placed in a regulatory  
2 asset account. If the Company does not spend the entire  
3 \$700,000 in a year on the Energy Efficiency programs, the  
4 remaining amount shall be placed in the asset account as a  
5 regulatory liability. In any event, all deferrals shall be  
6 for expenses prudently incurred. These prudent expenditures  
7 for cost-effective programs included in the regulatory asset  
8 will earn carrying costs at a rate equal to that of Ameren  
9 Missouri's AFUDC rate and be amortized to the cost of service  
10 over a six year period beginning with the effective date of  
11 rates in the next natural gas rate proceeding. The Parties  
12 further agree that the unamortized balance in the account for  
13 prudently-incurred cost-effective program expenditures will  
14 be included in rate base. The Parties acknowledge that this  
15 provision supersedes paragraph 19 of the 2007 agreement filed  
16 in Case No. GR-2007-0003."

17 Q. So in short, if the Company doesn't spend the  
18 entire \$700,000 in the first program year, the remaining  
19 amount is placed in a regulatory liability, and if it spends  
20 more than 700,000, the amount above 700,000 is placed in a  
21 regulatory asset; is that correct?

22 A. Yes.

23 Q. Mr. Stahlman, in Staff's opinion, which is  
24 more important: Ensuring that Ameren Missouri spends 700,000  
25 the first year of these -- the first program year or ensuring

1       that the expenditures are made on cost-effective programs?

2           A.       I would say that it's ensuring that it's on  
3       cost-effective programs, as agreed to in GR 2010-0363.

4           Q.       Okay. Can you turn to page 12, please. The  
5       questions starting on line 12 says, "Do you agree that cost  
6       effectiveness should not be measured differently for natural  
7       gas and electricity?" Do you see that?

8           A.       Yes.

9           Q.       And you say no. Can you explain to me what is  
10      different between natural gas and electricity beyond the  
11      Commission's definition of cost-effective in its promotional  
12      practices. So let's presume for a moment that doesn't exist.

13                   What is different about natural gas from  
14      electricity that makes the TRC an inappropriate test?

15          A.       I would recommend you speak to Dr. Warren on  
16      that subject. He's more familiar with the electric rules  
17      than I am.

18          Q.       Well, you testified about it in lines 12  
19      through 20, right?

20          A.       I stated that the electric utility resource  
21      planning does not apply to natural gas.

22          Q.       Okay. Would you agree with me that the  
23      TRC test best captures the portion of the Commission's  
24      promotional practices rule that are found at 14.30 sub 1?

25          A.       Just a second. Let me turn to that page. Say

1       again.

2               Q.       Would you agree with me that the TRC best  
3       calculates -- best calculates or best produces a result that  
4       satisfies the requirements in 4 CSR 240-14.30 sub 1? And  
5       that's the cost benefit test to capture that?

6               A.       No.

7               Q.       What do you think is?

8               A.       Staff believes that you need to look at  
9       several cost-effective tests and not limit it to just one.

10              Q.       I understand that. But if you are trying to  
11       determine what the benefits to both the utility and the  
12       customer, what cost benefit test best does that?

13              A.       Staff believes there are multiple tests that  
14       could satisfy that requirement.

15              Q.       All right. Does the participant test  
16       calculate the benefits to both the utility and the customer?

17              A.       On its own, no.

18              Q.       Does the utility cost test?

19              A.       Yes.

20              Q.       It calculates the benefit to both the utility  
21       and its customers?

22              A.       Yes.

23              Q.       It doesn't calculate the benefit to  
24       participants; is that the distinction you're making?

25              A.       Yes.

1 Q. How do you calculate a utility cost test?

2 A. A utility cost test is much the same as the  
3 total resource cost test. And essentially, for the total  
4 resource cost test, the energy and capacity related for costs  
5 or benefits, additional resource savings or also benefits,  
6 the incremental and install cost is a cost, as well as the  
7 program overhead cost for the utility cost test, which I  
8 should also specify is known as the program administrator  
9 cost test. The energy and capacity related avoided cost is a  
10 benefit and the overhead cost and the incentive payments are  
11 costs.

12 Q. Do the utility cost tests and the -- sorry, do  
13 the utility cost tests and the TRC look at the same costs?

14 A. Overall, no.

15 MR. TATRO: Thank you, sir. I have no further  
16 questions.

17 JUDGE JONES: Redirect?

18 MS. SHEMWELL: Does that mean Commissioner  
19 Davis didn't have any questions?

20 COMMISSIONER DAVIS: You didn't even let me  
21 say hello to Mr. Stahlman. It's five minutes to 5:00.

22 COMMISSIONER DAVIS: In the sense of judicial  
23 economy, no questions, Mr. Stahlman. Go forth and prosper.

24 THE WITNESS: Thank you, sir.

25 ///

## REDIRECT EXAMINATION

QUESTIONS BY MS. SHEMWELL:

Q. Mr. Stahlman, do you believe there's been a change of circumstance in this case?

A. No.

MS. TATRO: I didn't get to object, but I don't think that's responsive to anything that I asked.

JUDGE JONES: Objection overruled.

BY MS. SHEMWELL:

Q. Do you agree that the Company has new information? Let me ask you, have you seen the new information the Company has?

MS. TATRO: Again, I know you overruled me. I'm going to object. I didn't ask him about new information -- about what the new information was. I said hypothetically if there was new information.

JUDGE JONES: That's good enough, don't you think? Objection overruled.

THE WITNESS: Could you repeat the question?

\_(The requested portion of the record was read back by the court reporter.)

THE WITNESS: I have not.

BY MS. SHEMWELL:

Q. Mr. Stahlman, if a TRC is run whenever new data is available, hypothetically, could a new TRC be run

1 every day?

2 A. Yes.

3 Q. Mr. Stahlman, Ms. Tatro asked you about  
4 evidence in the record regarding measures.

5 Is there anything in the record that the  
6 programs currently in effect aren't cost-effective?

7 A. No.

8 Q. Was a cost-effective analysis conducted using  
9 data from this program as a whole?

10 A. Could you say that again, please?

11 Q. Yes. Was a cost-effective analysis conducting  
12 using -- and I should probably say, are you aware if any  
13 party has conducted a cost-effective analysis using data from  
14 the program or programs as a whole?

15 A. No.

16 Q. You're not aware of that being done?

17 A. No.

18 Q. There was a lot of -- there were a lot of  
19 questions from Ms. Tatro about cost effectiveness.

20 If you had run a cost effectiveness test two  
21 months after the tariff was approved and the result was  
22 TRC less than one, do you believe that the program should be  
23 stopped?

24 A. The context of this case we have, the  
25 stipulation and agreement, which states that it should be

1 maintained until December 31st, 2012.

2 Q. Is there program-specific data available to  
3 analyze?

4 A. Not that I'm aware of.

5 Q. Is it your position that the programs should  
6 remain in effect until an outside evaluator --

7 A. Yes.

8 Q. Is the definition in the promotional practices  
9 rule the definition for cost-effective the same as the TRC?

10 A. No.

11 Q. What is it? Do you believe that you can limit  
12 it to one type of evaluation?

13 A. It's most reflective of the utility cost test  
14 or the program administrator cost test, which same test,  
15 different names.

16 Q. Are you familiar with the Commission's Order  
17 in this case?

18 A. Yes.

19 (Staff Exhibit Number 15 was marked for  
20 identification by the Court Reporter.)

21 BY MS. SHEMWELL:

22 Q. On the first page of the Commission's Order  
23 starting with on January 14th, 2011, would you read the  
24 second sentence, please.

25 A. You mean January 4th?



1 Q. January 4th, yes.

2 A. And read the second sentence?

3 Q. Please, in that paragraph.

4 A. "The agreement authorizes Ameren to file  
5 tariff sheets increasing its retail base rates by \$9 million,  
6 which includes \$700,000 of annual funding for natural gas  
7 energy efficiency programs, increasing over the next three  
8 years to approximately eighty-five hundred thousand dollars."

9 Q. \$850,000?

10 A. Yes.

11 Q. Thank you.

12 MS. SHEMWELL: I'd like to offer this into  
13 evidence.

14 JUDGE JONES: Any objection? Hearing none,  
15 Staff Exhibit 15 is admitted to the record.

16 (Staff Exhibit Number 15 was received into the  
17 record by Judge Jones.)

18 BY MS. SHEMWELL:

19 Q. Ms. Tatro had some questions for you about  
20 your experience. What did you do -- do you have a master's  
21 degree?

22 A. Yes.

23 Q. In what?

24 A. Agricultural economics.

25 Q. And what did you study or what did you write

1       about?

2               A.       It was the adoption of environmentally  
3       friendly technology by farmers.  Additionally, as a graduate  
4       teaching student, I taught environmental economics.

5               MS. SHEMWELL:  Mr. Stahlman, thank you.  
6       That's all I have.

7               THE WITNESS:  Thank you.

8               JUDGE JONES:  You may step down.  Staff, you  
9       can call your next witness.

10              MS. SHEMWELL:  Staff calls Dr. Henry Warren.  
11              (Staff Exhibit Number 2 was marked for  
12       identification by the Court Reporter.)

13              (The witness was sworn.)

14                               DIRECT EXAMINATION

15       QUESTIONS BY MS. SHEMWELL:

16              Q.       Dr. Warren, I will ask the court reporter,  
17       does she need you to spell your name.  Dr. Warren, where do  
18       you work?

19              A.       Missouri Public Service Commission.

20              Q.       And what do you do at the Commission?

21              A.       I'm a regulatory economist.

22              Q.       How long have you been a regulatory economist?

23              A.       Since 1992.

24              Q.       Did you prepare testimony in this case that  
25       has been marked as Staff Exhibit 2, surrebuttal testimony?

1           A.       I did.

2           Q.       Do you have any corrections to your testimony?

3           A.       Given the part of the testimony that was  
4 struck, I do not.

5           Q.       Okay. Do you have any additions?

6           A.       No.

7           Q.       If I were to ask you the same questions today,  
8 would your answers be the same?

9           A.       Yes.

10          Q.       Is your testimony true and correct to the best  
11 of your knowledge and belief?

12          A.       It is.

13                 MS. SHEMWELL: Thank you, Dr. Warren. I  
14 tender the witness for cross.

15                 JUDGE JONES: Any objection to the Staff 2?

16                 MS. TATRO: No.

17                 JUDGE JONES: Staff Exhibit 2 is admitted into  
18 the record.

19                 (Staff Exhibit Number 2 was received into the  
20 record by Judge Jones.)

21                 JUDGE JONES: Any cross from the Department of  
22 Natural Resources?

23                 MS. MANGELSDORF: No questions.

24                 JUDGE JONES: Any cross from Office of the  
25 Public Counsel?

1 MR. POSTON: No questions.

2 JUDGE JONES: And cross from Ameren Missouri?

3 MS. TATRO: Yes, thank you.

4 CROSS-EXAMINATION

5 QUESTIONS BY MS. TATRO:

6 Q. Dr. Warren, could you turn to page 4 of your  
7 testimony, please.

8 A. Yes.

9 Q. Starting on line 16, you discuss the history  
10 of Case Number GT 2011-0130, correct?

11 A. Correct.

12 Q. Is it true that all of these issues were  
13 resolved by the stipulation in the rate case?

14 A. That's my understanding.

15 Q. Okay. Turn to page 8, please, lines 16 and  
16 20, you say the tariff revisions are in direct violation of  
17 the stipulation and agreement from the rate case, correct?  
18 Do you see that?

19 A. Yes.

20 Q. Can you tell me what paragraph of the  
21 stipulation and agreement the tariff violates? Do you have  
22 the stipulation, sir?

23 A. Yes, I do. Well, I think the -- the order,  
24 which approved the stip and agreement by the Commission and  
25 the sentence that was just read by Michael Stahlman is

1 important in this where it talks about \$700,000 of annual  
2 funding for natural gas energy efficiency programs increasing  
3 over the next three years to approximately \$850,000.

4 So I think that's the -- the primary thing  
5 that the Commission is looking for is a program that's  
6 increasing.

7 Q. All right. So the direct violation you're  
8 talking about there is you believe Ameren Missouri is not  
9 going to spend the 700,000?

10 A. I do not believe the tariff filing increases  
11 the program.

12 Q. Okay. Do you agree that the stipulation and  
13 agreement requires programs to be cost-effective?

14 A. I believe the cost-effective clause in that  
15 refers to the postimplementation evaluation. I think it's  
16 very clear. It directly -- the paragraph directly following  
17 cost-effective refers to postimplementation.

18 Q. All right. So that's paragraph 6B of the  
19 stipulation?

20 A. Yeah, paragraph 6C says cost-effective  
21 programs. The very next sentence talks about a  
22 postimplementation evaluation of the effectiveness. The  
23 effectiveness in 6C refers to the cost effectiveness in 6B.

24 Q. Okay. So let's start with 6B, as in boy. It  
25 says that -- that is the section that says the target level

1 of funding over the next three years is to \$850,000, right?

2 A. Yes.

3 Q. And it says for expenditures prudently  
4 incurred on cost-effective programs, right?

5 A. Yes.

6 Q. It doesn't say after 2012, does it?

7 A. I don't think I need to comment on what's  
8 obviously there or not.

9 MS. SHEMWELL: You're saying that it speaks  
10 for itself?

11 THE WITNESS: Yes.

12 BY MS. TATRO:

13 Q. Please turn to paragraph F, as in Frank.

14 A. I'm sorry, which paragraph?

15 Q. F, as in Frank. 6F of the stipulation. The  
16 first sentence says that expenditures of more than \$700,000  
17 incurred in a calendar year related to these programs is  
18 placed in a regulatory asset account, correct?

19 MS. SHEMWELL: Again, it says what it says.

20 MS. TATRO: Is that an objection?

21 JUDGE JONES: He can just say yes. This is  
22 ridiculous. Just say yes.

23 THE WITNESS: Yes.

24 JUDGE JONES: So she can go on with her line  
25 of questioning. It's just a lawyer thing, setting stuff up.

1 THE WITNESS: Okay.

2 BY MS. TATRO:

3 Q. Can you turn the page to page 5 still in that  
4 paragraph.

5 A. Yes.

6 Q. Does it contain a requirement that all the  
7 deferrals be cost-effective?

8 A. Where are you at on page 5? I'm sorry.

9 Q. I'm still in paragraph F.

10 A. Okay. I'll let you read it. You're saying  
11 the sentence that says in any event all deferrals shall be  
12 for expenses prudently incurred?

13 And is that -- and then let's see. Later it  
14 says that parties further agree that an amortized balance in  
15 the account for prudently incurred cost-effective programs  
16 will be included in rate base.

17 Q. So according to that paragraph, even the  
18 expenditures the first program year have to be cost-effective  
19 and prudently incurred, correct?

20 A. Subject to the other conditions in the stip  
21 and Agreement.

22 Q. Okay. Page 6 of your testimony, please,  
23 starting on line 20. We have a sentence -- well, line 21  
24 says it's standard practice that a third party be retained to  
25 perform any pre-implementation or postimplementation

1 analysis. Do you see that?

2 A. Yes.

3 Q. Now, the postimplementation analysis, that's  
4 the postimplementation evaluation, right? That that's what  
5 you're referring to?

6 A. Yes, I think we referred to the -- the RFP,  
7 the request for proposal related to that earlier, yes.

8 Q. Is that set forth in the stipulation?

9 A. I believe it is, yes.

10 Q. And the stipulation requires it be done by a  
11 third party, correct?

12 A. Yes.

13 Q. You say it's standard practice for  
14 preimplementation analysis as well?

15 A. Yes.

16 Q. What sets standard practice?

17 A. The -- what other gas utilities in the State  
18 of Missouri have done, among other things.

19 Q. Are you familiar with electric energy  
20 efficiency programs?

21 A. Yes, I'm somewhat familiar with those.

22 Q. Do you know how Ameren Missouri conducts  
23 pre-implementation cost effectiveness?

24 A. Not at this time.

25 Q. You don't know whether it's in-house or it's a



1 third party?

2 A. I've not been involved in that recently.

3 Q. You heard Mr. Shoff testify that he conducts  
4 that analysis?

5 A. I don't know that I heard him specifically  
6 testify about -- I heard him -- I can't remember the specific  
7 testimony. I'm sorry.

8 Q. Okay. That's fine. Does the stipulation and  
9 agreement require that pre-implementation analysis be done by  
10 a third party?

11 A. The stip and agreement, I don't believe, makes  
12 a -- a reference to pre-implementation analysis.

13 Q. Dr. Warren, did you calculate cost benefit  
14 measures -- cost benefit tests for the measures Ameren  
15 Missouri's proposing to remove?

16 A. No, I have not done that calculation.

17 Q. Do you know if anyone on Staff did that  
18 calculation?

19 A. I believe Mr. Stahlman attempted to replicate  
20 those.

21 Q. But he didn't put anything in the record about  
22 that, right? He didn't put it in his testimony?

23 A. No, I don't believe he put it in his  
24 testimony.

25 Q. Dr. Warren, do you agree that in the State of

1 Missouri, electric utilities use the TRC as the primary cost  
2 effectiveness test for electric energy efficiency programs?

3 A. That's my understanding of the Commission  
4 rules, yes.

5 Q. Setting aside the Commission's definition of  
6 cost-effective in the promotional practices rule, okay? So  
7 ignoring that for the moment.

8 A. Yes.

9 Q. Is there any inherent difference between  
10 electric and gas utilities that would make the TRC an  
11 inappropriate cost benefit test to major cost effectiveness  
12 of natural gas energy efficiency programs?

13 A. The -- well, the difficulty -- I think I have  
14 a little bit of difficulty setting aside the Commission  
15 rules, so I guess if you say, if you start setting aside the  
16 Commission rules, I guess that's a possibility.

17 Q. So the Commission's definition of  
18 cost-effective in the promotional practice rule is the only  
19 reason Staff opposes the use of the TRC; is that correct?

20 A. Well, okay. When you say -- I think that -- I  
21 think we're getting -- we have to be very clear in what we're  
22 talking about. Whether we're talking about, you know, the --  
23 talking about, you know, some generic TRC or whether we're  
24 talking about the TRC that Ameren has introduced in this  
25 case. So which -- what's your question about?

1 Q. Well, what's the difference between the two?

2 A. Well, the -- there's a definition in the -- a  
3 total resource cost test could be the postimplementation cost  
4 test that could be conducted as a stipulation and agreement  
5 requires with actual data from the -- from the customers  
6 receiving the measure as opposed to the hypothetical  
7 calculations that -- that seem to be, you know, somewhat  
8 floating in nature as new data appears.

9 Q. All right. So it's your testimony that the  
10 evaluator will likely calculate a TRC result, correct?

11 A. Yes.

12 Q. Does Staff oppose using that TRC result for  
13 determining what cost-effective measures -- I'm sorry,  
14 programs the Company proposes after 2012?

15 A. That could certainly be one thing that could  
16 be considered. That wouldn't be the only thing to be  
17 considered.

18 Q. Okay. The Commission's definition of  
19 cost-effective doesn't prohibit the use of a TRC measure,  
20 correct?

21 A. No.

22 MS. TATRO: I have no further questions.

23 JUDGE JONES: Redirect?

24 MS. SHEMWELL: I have no questions. Thank  
25 you.

1 JUDGE JONES: You may step down, Mr. Warren.

2 THE WITNESS: Thank you.

3 JUDGE JONES: Okay. Because you're all doing  
4 posthearing briefs, I don't suppose we need to hear closing  
5 arguments.

6 MS. TATRO: I agree.

7 MS. MANGELSDORF: If I may just really quickly  
8 clarify with respect to MDNR's Exhibit Number 1, I know that  
9 there was an objection that was overruled, but I just wanted  
10 to make sure that the record was clear that that exhibit was  
11 entered into evidence.

12 JUDGE JONES: As far as I know, it is. What  
13 makes you think it's not?

14 MS. TATRO: That's the one where I objected to  
15 the data request reference, and you overruled me, and I  
16 thought you had admitted it.

17 JUDGE JONES: Oh, I thought I did. If I  
18 hadn't, it's admitted, to be clear.

19 And the transcript will be ready by close of  
20 business Monday, which will just give you-all a week to do  
21 posthearing briefs. Do we have any other questions or  
22 concerns we need to talk before closing the record?

23 MS. TATRO: Well, we have the one exhibit  
24 we're supposed to late file tomorrow, so --

25 JUDGE JONES: Oh, okay.

1 MS. TATRO: I guess I would ask you not to  
2 close the record yet.

3 JUDGE JONES: Right. Or go off the record is  
4 what I should say. All right. With that, then, we'll go off  
5 the record.

6 (End of Proceedings.)

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## 1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI )

) ss:

3 COUNTY OF GASCONADE )

4

5 I, JENNIFER L. LEIBACH, Registered Professional

6 Reporter, Certified Court Reporter, CCR #1108, and Certified

7 Realtime Reporter, the officer before whom the foregoing

8 matter was taken, do hereby certify that the witness/es whose

9 testimony appears in the foregoing matter was duly sworn;

10 that the testimony of said witness/es was taken by me to the

11 best of my ability and thereafter reduced to typewriting

12 under my direction; that I am neither counsel for, related

13 to, nor employed by any of the parties to the action in which

14 this matter was taken, and further that I am not a relative

15 or employee of any attorney or counsel employed by the

16 parties thereto, nor financially or otherwise interested in

17 the outcome of the action.

18

19 \_\_\_\_\_

20 Court Reporter

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