Exhibit No.:	_____
Issue(s):	Demand Side Investment Mechanism
Witness/Type of Exhibit:	Kind/Rebuttal
Sponsoring Party:	Public Counsel
Case No.:	EO-2012-0009

REBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of
the Office of the Public Counsel

KCP&L GREATER MISSOURI OPERATIONS COMPANY

Case No. EO-2012-0009

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Denotes Highly Confidential Material that has been redacted

March 20, 2012

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of KCP&L Greater Missouri Operations Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	)))))	**Case No. EO-2012-0009**

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Ryan Kind, of lawful age and being first duly sworn, deposes and states:

1. My name is Ryan Kind. I am a Chief Utility Economist for the Office of the Public Counsel.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony.

3. I hereby swear and affirm that my statements contained in the attached affidavit are true and correct to the best of my knowledge and belief.

Ryan Kind

Subscribed and sworn to me this 20th day of March 2012.

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

JERENE A. BUCKMAN
My Commission Expires
August 23, 2013
Cole County
Commission #09754037

Jerene A. Buckman
Notary Public

My commission expires August 23, 2013.

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1. INTRODUCTION AND QUALIFICATIONS

Q. Please state your name, title, and business address.

A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230, Jefferson City, Missouri 65102.

Q. Please summarize your educational and employment background.

A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as a Teaching Assistant with the Department of Economics, and taught classes in Introductory Economics, and Money and Banking, in which I served as a Lab Instructor for Discussion Sections.

My previous work experience includes several years of employment with the Missouri Division of Transportation as a Financial Analyst. My responsibilities at the Division of Transportation included preparing transportation rate proposals and testimony for rate cases involving various segments of the trucking industry. I have been employed as an economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

Q. Have you testified previously before this commission?

A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several electric rate design cases and rate cases, as well as other miscellaneous gas, water, electric, and telephone cases.

Q. Have you provided comments or testimony to other regulatory or legislative bodies on the subject of utility regulation and restructuring?

A. Yes, I have provided comments and testimony to the Federal Energy Regulatory Commission (FERC), the Missouri House of Representatives Utility Regulation Committee, the Missouri Senate's Commerce & Environment Committee and the Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

Q. Have you been a member of, or participant in, any work groups, committees, or other groups that have addressed electric and gas utility regulation and policy issues?

A. Yes. I am currently a member of the National Association of State Consumer Advocates (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the

Eastern Interconnection Planning Collaborative (EIPC). I have served on the Missouri Department of Natural Resources Weatherization Policy Advisory Committee, as the public consumer group representative to the Midwest ISO's (MISO's) Advisory Committee and as the small customer representative on both the NERC Operating Committee and the NERC Standards Authorization Committee. During the early 1990s, I served as a Staff Liaison to the Energy and Transportation Task Force of the President's Council on Sustainable Development.

Q. What is the purpose of your testimony?

A. This testimony responds to the Demand-Side Management (DSM) Program cost recovery proposal in the direct testimony of KCPL Greater Missouri Operations (GMO) witnesses Tim Rush, Allen Dennis, and Kevin Bryant.

Q. How is your testimony organized?

A. My testimony is organized as follows:

1. Introduction and Qualifications.
2. Summary of Conclusions and Recommendations.
3. GMO's Request for Variances
4. Variances that GMO Requires But Failed to Request
5. General Principles in Designing Shareholder Incentives
6. Experience in Other States in Designing Shareholder Incentives
7. GMO's Proposal
8. OPC Recommendation for an Alternative Mechanism

2. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Q. Please summarize your primary conclusions.

A. The OPC supports the implementation of a well-designed Demand-Side Programs Investment Mechanism (DSIM); one that is consistent with the DSIM rules (4 CSR 240-20.093) and strikes an appropriate balance between incentivizing the Company to implement successful DSM programs and protecting the interests of ratepayers. However, GMO's proposal does not come close to striking that balance. My testimony identifies several problems with GMO's proposal, summarized below:

- GMO's shared benefits mechanism would essentially allow the Company to recover "lost revenues" from its DSM programs above the level of lost revenues as this term is defined in 4 CSR 240-20.093(1)(Y). This is significantly more lost revenues than allowed by the DSIM rules, which clearly limit the lost revenue recovery to those that result from Commission-approved DSM programs that cause sales to drop below the sales level used to set the rates in the most recent rate case. The GMO DSIM proposal is designed to further over collect lost revenues because it includes recovery of lost revenues through the mechanism provided for in 4 CSR 240-20.093(2)(G) in addition to the lost revenue recovery that would occur from GMO's shared benefits mechanism.

- GMO's shared benefits incentive is redundant with its performance incentive, and is thus inappropriate and unnecessary.

- The total amount of revenues that the Company is requesting through its DSIM is excessive and results in almost a doubling of the total costs that need to be recovered from customers in order to support DSM programs.

- The Company is requesting incentives that are dramatically higher, on a normalized basis, than the level of shareholder incentives provided to most other utilities, including utilities with much more aggressive DSM programs.

Q. Please summarize your primary recommendations.

A. I recommend the following:

- The Commission should accept the Company's request for a variance from 4 C.S.R. 240-20.093(4)(A), but should specify that if the Company chooses to make semi-annual adjustments to its DSIM rate, those adjustments can only be for DSM program cost recovery and not for the lost revenue component or the incentive component of a DSIM.

- The Commission should reject the Company's request for a variance from 4 C.S.R 240-20.093(2)(H)(3).

- The Commission should reject the Company's request for a variance from 4 CSR 240-20-094(6)(J).

- The Commission should reject the Company's proposal for a shared benefits incentive, because it is designed to collect lost revenues, is based on total shared benefits instead of net shared benefits as provided for in the rule, and is redundant with the Company's proposed performance incentive.

- The Commission should require the Company to modify its performance incentive in the following ways:

  - The amount of funds that are made available to the Company for the performance incentive should be determined on the basis of (i.e. as a percentage of) planning/budget projections of DSIM cost recovery revenue requirements, not on total level of benefits achieved.

  - The amount of funds that are awarded to the Company (i.e. the utility's share) for the performance incentive should be based on the level of annual benefits achieved and verified through Evaluation, Measurement and Verification (E M & V). These benefits should be defined as **net** benefits, consistent with industry best practices and as required by the DSIM rule, not total benefits.

  - The performance incentive mechanism should be based upon: (a) a threshold amount of actual achieved annual net benefits below which no incentive is earned, (b) a planned amount equal to the estimated amount of annual net benefits from the DSM plan, and (c) a cap (based on a high level of performance in achieving net benefits relative to the expected level of annual net benefits in the DSM plan) that places a limit on the total amount of shareholder incentive that could be awarded to the Company. If the Company's net benefits turn out to be anywhere between these points, the performance incentive award would be interpolated between them, allowing for a continuous performance incentive based upon the actual amount of net benefits achieved.

3. GMO'S REQUEST FOR VARIANCES

Q. Please summarize GMO's variance requests.

A. GMO requests three variances to the Commission's Rules.

First, GMO requests a variance to 4 C.S.R. 240-20.093(4)(A), which states: "An electric utility with a DSIM shall file to adjust its DSIM rates once every six (6) months." GMO requests to be allowed to recalculate its DSIM rates annually rather than every 6 months. GMO requests to have the option to recalculate its DSIM rates semi-annually, once it has developed experience with the DSIM mechanism. GMO requests that the optional semi-annual adjustment could be used to reflect changes in the lost revenue requirements and the utility incentive requirement, as well as changes to the DSM program cost recovery mechanism (Rush Testimony, 23).

Second, GMO requests a variance to 4 C.S.R 240-20.093(2)(H)(3), which states: "Any utility incentive component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM utility incentive revenue requirement must be measured and verified through EM&V." GMO requests to collect its proposed shared benefits on a prospective basis rather than a retrospective basis, and to true up the proposed amount to account for the actual experienced participation. The proposed performance incentive would be trued-up on a retrospective basis in order to account for the final EM&V results for the program participation metric (Rush Testimony, 23).

Third, GMO requests a variance to 4 CSR 240-20.094(6)(J), which states: "A customer electing not to participate in an electric utility's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric utility." GMO believes that the rules allow a customer exercising the opt-out provision to participate in *other* interruptible or curtailment programs, but that these customers should not be allowed to participate in the interruptible or curtailment programs approved as part of the DSM portfolio that GMO is seeking approval of in this case. GMO requests a variance from this portion of the rule, in the event that the Commission determines that the rules allow such customers to participate in interruptible or curtailment programs of any sort.

Q. Does the OPC support the Company's first variance request, with regard to annual versus semi-annual recalculation of the DSIM rates?

A. Public Counsel supports the Company's request to be able to adjust its rates for recovering its DSIM cost recovery revenue requirement on an annual, as opposed to

semi-annual, basis. Annual adjustments should be adequate to provide the Company with cost recovery that is sufficiently timely. OPC also supports the Company's request to have the option to adjust its DSIM rates semi-annually, as prescribed by the rules, if experience indicates that such an approach is more appropriate.

However, the OPC does not support the Company's request to include adjustments to reflect changes to the DSIM lost revenue requirement or the DSIM utility incentive revenue requirement in the optional semi-annual DSM rate adjustment. Section 4 C.S.R. 240-20.093(4) explicitly states that "Semi-annual adjustments to DSIM rates between general rate proceedings shall only include adjustments to the DSIM cost recovery revenue requirement and shall not include any adjustments to the DSIM utility lost revenue requirement or the DSIM utility incentive revenue requirement." The Company has not provided any reasoning why it should be provided with a variance to this portion of the rule.

Q. Does the OPC support the Company's second variance request, with regard to collecting its proposed shared benefits performance incentive on a prospective basis?

A. No, the OPC does not support this request for a variance. The Company has not provided sufficient justification for such a variance. The Commission considered arguments that utilities made in the MEEIA rulemaking for permitting the recovery of DSIM incentives on a prospective basis, prior to the availability of Evaluation, Measurement and Verification (EM & V) results, and rejected those arguments.

Q. Does the OPC support the Company's third variance request, with regard to the proposed opt-out provision?

A. No, the OPC does not support the request for this variance. The rules are quite clear that a customer electing to opt-out of the DSM programs "shall still be allowed to participate in interruptible or curtailment rate schedules or tariffs offered by the electric utility." This language is similar to language in the MEEIA statute and does not suggest that opt-out customers should be precluded from participating in the DSM programs, in fact it suggests that they should be allowed to participate in all interruptible or curtailment programs. The Company has not provided any justification for why it should be allowed

to deviate from this language. While OPC opposes GMO's request as it pertains to generally available interruptible or curtailment rate schedules or tariffs offered by the electric utility, there may be a need to determine whether the above quoted passage from the MEEIA rule is also applicable to interruptible or curtailment rates included in special contracts that are not generally available to all similarly situated customers.

4. VARIANCES THAT GMO REQUIRES BUT FAILED TO REQUEST

Q. Does the OPC have any position on the variances that the Commission Staff (Staff) has argued that the Company should have requested as a part of this DSIM filing?

A. Yes. On February 10, 2012 , the Staff filed a pleading titled "Motion for Variance Determinations and Motion for Expedited Treatment" where the Staff stated that "GMO should have requested a variance from Rule 4 CSR 240-20.093(4), two (2) variances from Rule 4 CSR 240-3.164(2)(A) and two (2) variances from Rule 4 CSR 240-20.093(2)(H)." Public Counsel agrees with the Staff that approval of the Company's application in this case could not occur without the approval of these additional variances identified by Staff.

Q. Has Public Counsel identified additional variances, beyond those identified by the Staff, that the Company should have requested as a part of this DSIM filing?

A. Yes. First, GMO should have requested a variance from 4 CSR 240-20.093(2)(G) because, as shown later in this testimony, GMO clearly intends to recover lost revenues through its proposed shared savings proposal and this proposal does not include a process for measuring and verifying the level of energy and demand savings through EM & V as required by this provision in the Commission's rule. Second, GMO should have requested a variance from 4 CSR 240-20.093(2)(G)1 because, as shown later in this testimony, GMO clearly intends to recovery lost revenues through its proposed shared savings proposal and this proposal does not include the limitation on the collection of lost revenues (i.e. revenues can only be recovered to the extent that the utility "does not recover the fixed cost as set in the last general rate case") as required by this provision in the Commission's rule.

Third, the paragraph labeled "Shared Benefits" on Sheet No. 141 in GMO's proposed tariff states that "Subsequent shared benefit incentives will be set at 12% of the fifteen

year net present value of projected shared benefits expected for the DSM programs applied equally for four years and will be trued-up to shared benefits as part of the annual update filing." The reference in this proposed tariff language to "Subsequent shared benefit incentives" is referring to incentives that would be in place for four years, subsequent to the three year DSM program and DSIM approval that GMO is seeking in this case. 4 CSR 240-20.093(5)(A) limits the duration of a DSIM to a "term of not more than (4) four years", therefore GMO cannot seek in this case ongoing approval of a 12% sharing percentage that would apply to subsequent DSIMs that may be proposed after the end of the three year term of the proposed DSIM being considered in this case. GMO has not requested a variance from the Commission's rule that would permit this proposed tariff language on Sheet No. 141 to be approved by the Commission.

5. GENERAL PRINCIPLES IN DESIGNING SHAREHOLDER INCENTIVES

Q. What guidance do the MEEIA statue (MEEIA) and the DSIM Rules provide for designing demand-side shareholder incentives?

A. MEEIA and the Commissions' Rules explicitly allow the Company to earn an incentive for implementing demand-side programs. MEEIA makes three references to shareholder incentives, stating that the Commission: (1) shall ensure that utility financial incentives are aligned with helping customer use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; (2) shall provide timely earnings opportunities associated with cost-effective measureable and verifiable DSM savings; and (3) may allow the utility to retain a portion of the net benefits of a demand-side program for its shareholders. MEEIA, § 3(2)-(3), 5.

The Commission's Rules provide guidance as to how the incentive mechanisms should be structured. Specifically, the Commission's Rules stipulate that any incentive component shall be based on the actual performance of approved demand-side programs and include a methodology for determining the utility's portion of annual net shared benefits achieved and documented through EM&V reports.

Q. Do MEEIA and the DSIM Rules provide a lot of guidance on the details of how the shareholder incentives should be designed?

A. Neither MEEIA nor the Commissions' Rules provide specific guidance on some important issues, such as how much money should be made available for shareholder incentives. While the Commissions' Rules provide a structure for shareholder incentives, they do not indicate a methodology for determining the portion of achieved annual net shared benefits that will be retained by the utility.

The Commission can play an important role in providing further guidance on how demand-side shareholder performance incentives should be structured. Public Counsel recommends that demand-side shareholder incentive mechanisms be designed in such a way as to strike the appropriate balance between promoting effective, successful DSM programs, and protecting the interests of ratepayers. The Commission can provide such guidance by adopting, in this case, certain principles to apply when reviewing shareholder incentives proposals.

Q. What are the guiding principles for designing shareholder incentives that the OPC recommends?

A. The OPC recommends the following principals be applied when designing demand-side program shareholder performance incentives:

- Shareholder incentive mechanisms should be designed in such a way as to encourage DSM programs that will best achieve the state's energy goals, including the goal of achieving all cost-effective demand-side savings. See MEEIA, § 4.
- The amount of funds available for shareholder incentive mechanisms should be both (1) sufficient to encourage achievement of the desired DSM program outcomes and (2) kept as low as possible in order to minimize the costs to electric customers.
- Shareholder incentives should be explicitly capped and should not exceed a predetermined portion of program budgets.
- Shareholder incentive mechanisms should be based on desired outcomes (e.g., energy savings, net benefits), not program considerations necessary to implement the demand-side program (e.g., expenditure levels).
- Shareholder incentives should be based on clearly-defined outcomes that can be sufficiently monitored, quantified, and verified after the fact.
- Shareholder incentives should be available only for activities where the utility company plays a distinct and clear role in bringing about the desired outcome.

- Shareholder incentives should avoid creating perverse incentives, such as the incentive to increase costs without comparable increases in savings, or the incentive to cream-skim.
- A shareholder incentive mechanism and the rate structure used to recover DSIM incentive revenue requirements should sustain or enhance the utility customer's incentive to use energy more efficiently. See MEEIA, § 3(2) and 4 CSR 240-20.093(2)(C)2.

6. EXPERIENCE IN OTHER STATES

Q. How are demand-side program shareholder incentives designed in other states?

A. A recent report by the American Council for an Energy Efficient Economy (ACEEE) examines state efforts and experiences with financial incentives for encouraging investor-owned utilities to provide effective energy efficiency programs for their customers.[1] The study found that states have shown a strong preference for mechanisms that award an incentive based on cost-effective achievement of energy savings targets, rather than other metrics such as program spending levels. Further, the study found that when these targets have been established, utilities have tended, thus far, to consistently meet or exceed them. The study categorized incentive mechanisms into three broad categories: shared benefits, performance targets, and rate of return (Hayes, 2011, iii).

The study highlights that most states establish a cap on the total DSM incentive amount available to the utility. This cap (i.e., the maximum dollar amount available for DSM incentives) is often determined by a percentage of the expected program costs, while a few states use savings or a fixed dollar amount to determine the cap. The actual amount awarded to the utility is usually based on the amount of net benefits achieved during program implementation, while a few states rely on program costs to determine the amount awarded. States usually have in place a threshold or trigger amount, below which the utility does not earn an incentive (Hayes, 2011, 11-12).

Q. How does GMO's shareholder incentive proposal compare to other states?

A. The Table 1 below summarizes the incentive mechanisms in the 18 states surveyed through the study (Hayes, 2011, 12).

[1] Hayes, Nadel, Kushler, York, *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency*, ACEEE, Report U111, January 2011.

Table 2 below includes a summary of GMO's proposed incentive mechanisms for comparison with the ACEEE study results. Note that all of the states in Table 1 except Georgia and Wisconsin have incentive caps that are either fixed or are tied to a portion of the energy efficiency program costs or benefits. Also note that most states determine the amount of incentives awarded to a utility using net benefits, as opposed to total benefits. In addition, GMO's shared benefit mechanism is not subject to any type of cap, unlike the mechanisms in all the other states. Furthermore, GMO is proposing two separate incentive mechanisms, unlike other states. For these reasons, GMO's incentive mechanism is significantly more generous than the other states in the ACEEE survey, as I will demonstrate below.

Table 1: ACEEE: Overview of Shareholder Performance Incentive in Profiled States

State	Type	Award	Threshold/Trigger	Cap
Arizona	Shared Benefit	10% of net benefits	No. Minimum spending requirement	10% of program costs
California	Shared Benefit	9-12% of net benefits	85% of savings goals	$150 million per year (reward)/$150 per year (penalty)
Colorado	Shared Benefit	0.2-12% of net benefits	81% of savings goals	20% of program costs
Georgia	Shared Benefit	15% of net benefits	50% of projected participation	none
Hawaii	Shared Benefit	1-5% of net benefits	100% of savings goals	5% of net benefits; $4 million
Idaho	Shared Benefit	1-10% of net benefits	7-11.7% of new homes in programs	10% of program benefits
Kentucky	Shared Benefit	10% of net benefits	100% of savings goals	10% of program costs
Minnesota	Shared Benefit	based on spending	90% of savings goals	150% of savings goals/30% of budget
Ohio	Shared Benefit	50-75% of net avoided costs	65% of savings goals	15% of program costs
Oklahoma	Shared Benefit	15% of program costs or 25% of net savings	no	fixed: $2.7 million in 2010
Texas	Shared Benefit	1% of net benefits – up to cap	102% of savings goals	20% of program costs
Massachusetts	Performance Target	3.75-5.5% of program costs	75% of savings goals	5.5% of program costs
New Hampshire	Performance Target	8-12% of program costs	65% of planned savings and 1:1 cost effectiveness	12% of program costs
Rhode Island	Performance Target	4.4% of program costs	60% of savings goals	125% of savings metric; $150,000 for performance metrics
Connecticut	Performance Target	1-8% of program costs	70% of energy efficiency goals	8% of program costs
Washington	Performance Target / Shared Benefit	5-100% of net benefits	100% of savings goals	150% of savings goals
Nevada	Rate of Return	5% of DSM equity	No	5% of program costs
Wisconsin	Rate of Return	Same as other investments	No	No

Table 2: GMO's Proposed Shareholder Incentive

State	Type	Award	Threshold/Trigger	Cap
Missouri - GMO	Shared Benefit	12% of total benefits	None	12% of total benefits
Missouri - GMO	Performance Target	$2-$4 million	50% of savings goals	$4 million

7. GMO'S PROPOSAL

Q. Please provide a summary of GMO's proposed DSIM.

A. GMO's proposed DSIM includes four components: a program cost recovery component, a shared benefits component, a performance incentive component, and a lost revenue recovery component. I will describe each of them in turn below.

Q. What is the program cost recovery component?

A. The Company is proposing to implement a DSIM Rider to recover program costs, as well as the incentive costs and lost revenues. The Rider will be applied to each customer on a kilowatt-hour basis ($/kWh). The Rider will include program costs based on the first three years of planned DSM program budgets, and will include all costs associated with planning, developing, implementing, monitoring and evaluating the DSM programs (Rush testimony, 15).

Q. Does the OPC take issue with GMO's program cost recovery proposal?

A. Yes. The proposal fails to set forth a clear process for ensuring that the rider only collects incremental costs (those costs not already reflected in GMO's base rates associated with planning, developing, implementing, monitoring and evaluating the DSM programs). In the absence of such a clear process, customers are exposed to the risk of having two separate cost recovery mechanisms simultaneously collecting the same cost through separate duplicative charges. Proposed Tariff Sheet No. 140 refers to "incremental cost" in the DCRR paragraph but it fails to specify the process where such incremental costs will be determined and it fails to specify the baseline level of costs that would be needed to assess the incremental level of costs. Mr. Rush also uses the term "incremental cost" at line 7 on page 15 of his direct testimony but does not describe the process where such incremental costs will be determined.

Q. What is GMO's shared benefit proposal?

A. GMO requests recovery of 12 percent of the net present value of total projected lifetime energy and capacity benefits, to be collected over a three-year period (Tim Rush Direct, page 17, line 20). This equates to $16.545 million for the three year total and $5.2 million annually (Tim Rush Direct, page 17, line 21). The Company's total projected lost margins resulting from demand-side investments over the three year period of the DSM plan is approximately $16.3 million (Kevin Bryant Direct, page 6, line 14). $16.3 million divided by the net present value of total lifetime benefits, $137.9 million (Tim Rush Direct, page 17, line 17), is equal to 11.82 percent which is roughly equal to GMO's 12 percent sharing proposal. On page 1 of Schedule TMR-5, the Company demonstrates that 12 percent of total benefits is **

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Q. Does GMO's performance incentive proposal include a calculation of total benefits based on actual program performance?

A. GMO's proposal only reflects the **actual** performance of its programs in a very limited way. The exact mechanics of how the performance incentive would operate are not clear based on the tariff language on proposed Tariff Sheet No. 141, or based on the explanation that can be found in the answer beginning at line 16 on page 18 of Mr. Rush's direct testimony. The tariff language says "each year the Company will calculate the shared benefits based on the utilization of the programs, multiplied by the respective standardized performance value for those programs." Mr. Rush's testimony also refers to the "utilization of the programs" and the "standardized performance value." I have not been able to find any tables in the testimony or tariffs which contain descriptions and values of these variables as they have been referenced in the portions of the proposed tariff and Mr. Rush's testimony cited above.

GMO representatives provided further information in the technical conferences about how its proposed shared savings mechanism would operate. Based on this information, it appears that the information needed to implement GMO's proposal can be found in Schedule ADD-12 which was attached to the direct testimony of GMO witness Allen Dennis. However, my review of this schedule raised many concerns including

projections of "standardized values" or "metrics" for some major programs such as the C & I Prescriptive Rebate Program that are not even based on prior EM & V results for GMO programs even though GMO seeks to use these "metrics" in place of the actual EM & V results that are required by the rule.

Another concern is the lack of clarity on the program utilization measurements that would apply to the demand response (DR) programs (MPower Program and the Optimizer Program). Will utilization of these DR programs be measured by the number of program participants, the number of curtailment events, the average amount of curtailable load per customer or some combination of these factors? If utilization of these programs is intended to be a proxy for customer benefits, then we should be calculating the reduction in forecasted load or reserve requirements resulting from these DR programs.

Q. What is GMO's performance incentive proposal?

A. GMO's planned demand-side program targets a 0.5 percent reduction in annual kWh sales, and a 1 percent reduction in KW demand (Rush Testimony, 19). If GMO achieves exactly these savings targets in a given year, it proposes to receive $3 million for that year (Rush Testimony, 19-20). If GMO exceeds these savings targets by 150 percent in a given year, it proposes to receive $4 million for that year (Rush Testimony, 19-20). If GMO falls below these savings targets by 50 percent in a given year, it proposes to receive $2 million for that year. GMO does not propose to earn an additional incentive for savings above 150 percent or any incentive for below 50 percent of the savings targets (Rush Testimony, 19-20). GMO proposes to recover the incentive on a one-year delayed schedule to account for EM&V results (Rush Testimony, 19). Therefore, incentives for the first year of the demand-side program would not begin to be recovered until the second year of the plan (Rush Testimony, 19).

The above description of GMO's performance incentive proposal is consistent with the description of this incentive proposal on proposed Tariff Sheet 141 but Mr. Rush's testimony contains some inconsistent (or at least unclear) descriptions. This occurs at line 17 where he refers to a threshold of 75% (instead of 100%) being the point at which GMO receives the $3 million dollar level of incentive. The table at the top of page 20 of

his testimony is also inconsistent with the tariff language where it describes a tier 3 range from 51% to 100% where the tariff language describes a tier 3 range from 50% to 100%.

Q. Does the OPC take issue with GMO's performance incentive proposal?

A. Yes. Each of the three tiers of the performance incentive is based on the Company achieving a certain portion of the target capacity and energy savings (one percent of demand and 0.5 percent of energy) in its DSM Plan. The amount of performance incentive awarded to the Company should not be based simply on the percentage reductions in energy and demand but should instead reflect the value that these reductions in energy and demand provide to customers in cost reductions. This is of course one of the reasons why the dollar value of net benefits achieved relative to the net benefits goal is a better basis for incentivizing utility DSM performance.

Q. Does GMO's performance incentive proposal appear to give more weight to demand reductions than energy reductions?

A. The testimony of Mr. Rush is unclear on this point. He states at lines 16 and 17 on page 19 that energy and demand will be weighted equally at 50%. However, in the next sentence he creates some confusion by stating there would be a 75% (the sum of 25% and 50%) threshold for incentive payments and that energy will make up one-third (25%) of this threshold and demand would make up two-thirds (50%) of this threshold.

Q. Does Public Counsel believe it is appropriate for GMO to have a DSM Plan that has a target of a percentage reduction in demand growth that is twice as large as the target for the percentage reduction in demand growth?

A. No. As discussed below, OPC believes that GMO has vastly overstated the monetary value that customers will receive from reductions in demand over the first half of the fifteen year period over which benefits are calculated. Public Counsel believes that the programs should be more balanced in terms of the energy and demand reductions that result from the proposed DSM plan because customers will receive very little value from the demand reductions in the near term. On the other hand, energy reductions will have an immediate positive impact in terms of (1) reduced fuel cost, (2) potential for increased off system sales and (3) increased flexibility in the planning and timing of retrofit investments for environmental compliance.

Q. Does Public Counsel agree with the monetary value of capacity reductions that have been incorporated into both of GMO's performance incentive proposals?

A. No. Mr. Rush explains at line 16 on page 16 of his testimony that "the capacity benefits were developed based on levelized costs of a new combustion turbine (CT) for capacity and transmission and distribution costs attributable to reduced kW peak demand for each of the programs in the portfolio." The GMO proposal to value capacity reductions that are achieved (or projected to be achieved) based on levelized costs of a new combustion turbine will drastically over-value the benefits that customers will receive from the demand reductions from its proposed DSM programs. This over-valuing will occur because of the current large amounts of excess capacity that exists in the regional electric wholesale markets where GMO buys and sells capacity. The current market price for capacity is only a small fraction of the levelized cost of installing a new CT.

The inflated value of capacity used in GMO's incentive proposals has negative impacts on both proposals but for different reasons. For the shared benefit proposal, the inflated value of capacity vastly overstates the value of the benefits that are actually achieved. Looking at page 23 of Schedule ADD-12, the monetary value of the capacity benefit during the first three years of programs far exceeds the monetary value of the energy benefits. The valuation of energy vs. capacity benefits would be reversed if the capacity valuation reflected the market value of capacity. This overvaluation of capacity benefits inflates the total value of benefits that GMO has calculated. If the Company was proposing to keep a share of the much smaller level of capacity and energy benefits that reflected the market value of capacity, it would need to propose retaining much more than 12% of these gross benefits to achieve the stated goal of keeping the Company whole financially.

The inflated value of capacity has a different affect on the DSIM incentive that GMO refers to as it "performance incentive." In this proposal, the inflated value creates a perverse incentive for GMO to try to achieve demand reductions since the programs that are primarily designed to achieve large demand reductions, the MPower Program and the Optimizer Program, are making payments to customers in order to obtain a demand-side capacity resource that is much more costly than obtaining a supply-side capacity resource through purchases of capacity in regional wholesale markets. Since it is currently more

expensive to purchase demand-side capacity than supply-side capacity, these purchases will put upward pressure on GMO's revenue requirements and ultimately increase the rates and average bills of GMO's customers. Despite the likely adverse impacts on customers from acquiring additional demand response DSM resources, this incentive encourages GMO to increase the penetration of its demand response programs since they will be the easiest way for GMO to meet the performance thresholds that give increased incentive payments to shareholders.

Q. What is GMO's lost revenue proposal?

A. GMO proposes to include a lost revenue component in its DSIM Rider. The Company states that lost revenues will be included on a retrospective basis and all energy and demand savings will be measures and verified through EM&V prior to recovery (Rush Testimony, 21). GMO further states that this lost revenue component of the DSIM rider will only occur if overall sales fall below the level as determined in the last general rate case (Rush Testimony, 21).

Q. Does the OPC take issue with GMO's lost revenue proposal?

A. Yes. The Company is essentially using its shared benefits incentive as a lost revenue recovery mechanism, and is calculating the amount of the shared benefits incentive to ensure that it recovers all, or most, of its lost revenues. While the Company claims that it is not seeking lost revenue recovery if sales exceed those of the most recent rate case, it is clear that it is attempting to do just that through the shared benefits incentive. At line 12 on page 6 of his testimony, GMO witness Kevin Bryant specified the magnitude of the lost margins associated with GMO's proposed programs where he stated "The lost margins that result from the revenue reductions described above, net of the associated avoided variable costs, are $2.8 million in 2012, $5.5 million in 2013, and $8 million in 2014 for a total of **$16.3 million** of lost margin over a three-year period. Mr. Rush describes the amount of shared benefits that GMO seeks to retain at line 20 on page 17 of his testimony where he states "GMO includes in the DSIM Rider 12% of the net present value of these benefits or approximately **$16.545** million or $5.2 million per year."

There are several places in Mr. Rush's testimony where he essentially confirms that the $16.545 million that GMO expects to receive from its shared benefit proposal is

essentially intended to make the Company "whole" financially from the lost revenues associated with its proposed DSM programs. First, at line 4 on page 22, Mr. Rush states "The shared benefit proposed by the Company will result in mitigating the negative financial impacts that are currently present for utility investment in demand response and energy efficiency programs." Next, at line 1 on page 29, Mr. Rush states "The earnings analysis provided in Schedule TMR-5 demonstrates that the incentive mechanism as proposed by the Company essentially keeps the Company whole as compared to the current recovery mechanism which works as a disincentive to promote and implement DSM programs."

As Mr. Rush noted in his above quoted statement, Schedule TMR-5 page 1 of 3 (highly confidential), demonstrates that **

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Q. What are the problems with allowing the Company to recover lost revenues through the shared benefits mechanism?

A. I have two concerns with the Company's approach. First, MEEIA and the rules are clear that a company can only recover lost revenues that arise when DSM program savings cause sales to decline relative to the sales levels used in the most recent rate case. 4 C.S.R. 240-20-093 (1)(Y), (2)(G). The Company's proposal is inconsistent with the MEEIA rule in that it is designed to recover all lost revenues from the DSM programs.

Second, the Company's proposed mechanism conflates the two goals of recovering lost revenues and earning a shared benefits incentive, creating confusion as to how much

money is being recovered for which purpose. This potential for confusion is evident in the Company's filing, where on the one hand Mr. Rush states that 'lost revenues will only be included when those fixed costs are not recovered as established in the Company's last general rate case" and that the lost revenue "component of the DSIM rider will only occur if overall sales fall below the level as determined in the last general rate case (Rush Testimony, 21), while on the other hand the Company is clearly attempting to recover most, if not all, lost revenues through the shared benefits mechanism. The Company's proposal even fails to include a means of protecting customers from the possibility that all lost revenues are recovered through the shared benefits mechanism and then the lost revenues mechanism separately double collects a portion of those same lost revenues. A mechanism as important as the DSIM should not be so confusing, or worse, misleading.

More importantly, conflating the two goals of recovering lost revenues and earning a shared benefits incentive creates a potential for over-recovery (or under-recovery) of either type of cost. For example, if the Company were to set a shared benefits incentive on certain amount of *forecasted* benefits expected in the DSM plan, but was able to actually achieve benefits greater than those forecasted, then the shared benefits incentive earned could turn out to be significantly higher than the lost revenues experienced. In my view, there are no circumstances where the Company should be allowed to recover an amount of lost revenues equal to more than its actual amount of total lost revenues. The Company might argue that any over-recovery of lost revenues should not be considered lost revenues, but should instead be considered a shareholder incentive for good performance. My response would be that any shareholder incentive should be covered by the Company's performance incentive mechanism, and that the Company, in this example, is either over-recovering its lost revenues or over-recovering the shareholder incentive it is due. Either outcome is unacceptable to customers.

Q. Does the OPC take issue with GMO's shared benefit proposal?

A. Yes. As mentioned above, the shared benefits mechanism proposed by GMO is essentially a lost revenues recovery mechanism under a different name. In addition, the Company's proposal for a shared benefit mechanism based on total benefits is inconsistent with both the MEEIA statute and the DSIM rule, which states many times that it must include a sharing of **net** benefits. Moreover, the Company's proposal is

inconsistent with industry practice and is significantly more generous than all of the shared benefits proposals identified in the ACEEE study, because it relies upon total and not net benefits.

Sharing net benefits is more appropriate than sharing total benefits because it creates dual incentives for the utility to both: (1) minimize the direct costs of program implementation and (2) maximize the amount of MWhs and MWs reductions from demand-side programs. With such dual incentives, utilities are encouraged to get the greatest usage reductions per program dollar spent (i.e. the "biggest bang for the buck"), instead of being encouraged to get a high amount of usage reductions, regardless of the cost/kWh that customers pay the utility for achieving the savings. This is a crucial difference from the point of view of the customers who are funding these programs.

Additional concerns with the shared benefit proposal include its failure to be based upon the level of energy and demand reductions that have actually been achieved by the proposed demand-side program plan and confirmed by EM & V. GMO's proposal instead uses pre-determined demand and energy reduction estimates as a proxy for load reductions verified by EM & V. Under the GMO proposal, these prior estimates of load reductions are then given a monetary value based on pre-determined values for avoided demand and energy costs that do not reflect the market value of the load reductions at the time they are caused by the DSM programs.

The only factor that goes into GMO's proposed short-cut method to calculating the level of the total value of benefits from the programs which is based on actual program performance is the "utilization of the programs." Since this is the only factor affecting its shared saving performance reward that is within the control of GMO, the Company's entire incentive is to increase utilization (i.e. the number of customers, homes, buildings, units or measures that participate in the programs) of the program, while paying little attention to the cost effectiveness of program delivery, the level of free rider participation, or the extent to which changes in the value of avoided energy and demand cost should be affecting the focus of the Company's efforts to encourage customers to participate in programs that will yield the highest level of net benefits for all customers.

One last concern that Public Counsel has with GMO's shared benefit proposal is that the Company appears to have estimated program load reductions without taking into account net to gross (NTG) ratios which reflect the impact that free riders have on program load reduction estimates. Mr. Dennis addresses GMO's approach to program EM & V at the top of page 26 of his testimony where he emphasizes the Company's focus on "gross program energy and demand savings" that "do not account for factors such as free ridership, which may influence attribution of savings to the program." If GMO is truly ignoring the impacts of free riders on its programs, then (1) this is another way in which GMO has overestimated the level of savings from its programs, from which it seeks to receive a 12% share and (2) the Company will not be getting information from its EM & V contractors that would help it identify programs with excessive amounts of free riders so that program modification options to address this problem could be considered.

Q. Does the OPC take issue with GMO's performance incentive proposal?

A. Yes. This incentive is redundant with the shared benefits incentive, is not necessary, and does not provide very clear or well-directed incentives. Additional OPC concerns were discussed as part of my prior discussion of the problems associated with the shared benefits proposal.

Q. Are there other issues with GMO's proposed demand-side plan as it relates to the shareholder incentive?

A. Yes. The models and inputs used by GMO through the DSMore model need to be fully vetted to understand the benefit calculations, and to ensure credibility and reliability for savings and benefits that the shareholder incentive proposals relies upon. Public Counsel does not have a license for the DSMore model; we are unable to dig into the details of the model and observe the interactions between the data inputs and model outputs so GMO's reliance on this model makes it difficult for OPC to be involving in the vetting that needs to take place.

Q. What does the OPC conclude from GMO's proposed demand-side incentive mechanism?

A. By any measure, the Company's shareholder incentive request is excessive. Table 3 below provides GMO's proposed program costs over the three year term, benefits over the lifetime the measures are installed, net benefits, and the benefit-cost ratio. Table 3

also includes a column with both the program costs and the proposed incentive amounts, including 12 percent of lifetime benefits and $4 million annually. As indicated, the requested incentives increase the costs to customers from ** ** If the quantity of net benefits was adjusted to reflect the overstatement of benefits from using the inflated figure for avoided capacity costs (discussed above) both the starting and ending benefit cost ratios specified above would be significantly lower.

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As discussed above, one of the key metrics for assessing the magnitude of a shareholder incentive is the percentage of program costs that the incentive represents. Most states allow for incentives that equal 5 percent to 10 percent of program costs. Some states allow as much as 15 percent of program costs for outstanding performance. Table 4 below estimates the percentage of program costs that GMO is seeking through its proposal, including the shared benefits component, the performance incentive component, and the total effect. As indicated, GMO is requesting $28.5 million in total incentives, which equates to approximately 74 percent of program costs. This is clearly excessive, will place an undue burden on ratepayers, and significantly undermines the benefits of the DSM programs.

Table 4: Summary of Requested Incentive as a Percentage of Program Costs

	Three Years Total	Percent of Program Cost
Program Costs	38,835,841	
Shared Benefit Incentive	16,545,260	43 percent
Performance Incentive	12,000,000	31 percent
Total Incentive	28,545,260	74 percent

[2] See Sch. TMR-5, 1.

8. OPC RECOMMENDATION FOR AN ALTERNATIVE MECHANISM

Q. What do you recommend with regard to the recovery of lost revenues?

A. First, I recommend that any recovery of lost revenues be achieved through a separate accounting mechanism, and not be incorporated into a shared benefits incentive or any other performance incentive. Recovery of lost revenues serves a different purpose than shareholder incentives, and the recovery mechanism should be separate in order to avoid over-compensation or perverse incentives. Furthermore, it is important that lost revenues be recovered through a mechanism that is fully transparent, so that the Commission and other interested parties will know exactly what is being recovered.

Second, I recommend that the Company be allowed to recover only those lost revenues that result from DSM savings that cause sales to be lower than the sales used to set rates in the most recent rate case. This is consistent with the DSIM rules (4 CSR 240-20.093(2)(G)1.), and is sound public policy because it ensures that a company will not be overcompensated for lost revenues in times when load is growing steadily. The lost revenue recovery mechanism on proposed Tariff Sheet No. 140 appears to comply with the rule except for it being included in the DSIM Rate calculation which would cause it to be recovered in between rate cases, contrary to the requirements of CSR 240-20.093(4).

Q. Is the Company's proposal for lost revenue recovery consistent with your recommendations?

A. Mr. Rush's testimony explains that its DSIM Rider will include three separate components; a) programs costs, b) incentives, and c) lost revenues (Rush page 14). This is consistent with my recommendation above for a separate lost revenue recovery mechanism. He further explains that the lost revenue component "will only occur if sales fall below the level determined in the last general rate case" (Rush page 21). This is consistent with my second recommendation above. Therefore, I do not have any concerns about the Company's proposal for a lost revenue recovery mechanism so long as it does not become a component of the DSIM Rider. I do have significant concerns, described above, about the Company's proposal to recover lost revenues outside of this lost revenue recovery mechanism, through the shared benefit incentive.

The Company has been very clear that it would like to recover more of the lost revenues than those that are allowed by 4 CSR 240-20.093(2)(G)1. If lost revenues are recovered through a utility incentive component of an DSIM, then this component must still comply with the limitation on lost revenue recovery required by 4 CSR 240-20.093(2)(G)1. Designing an incentive component that incorporates this limitation will create unnecessary additional complexity since this could be accomplished in a more certain and transparent manner by utilizing a utility lost revenue component of a DSIM within the parameters the MEEIA rules.

Q. What do you recommend with regard to the Company's shared benefit incentive proposal?

A. I recommend that the Commission reject this proposal in its entirety. First, the Company's shared benefits incentive is essentially a means of allowing the Company to recover the full amount of lost revenues from the DSM programs. As described above, this is an inappropriate use of any kind of shareholder incentive.

Second, the shared benefit incentive is redundant with the Company's proposed performance incentive mechanism. Either of these mechanisms should be designed to provide the Company's management with a clear incentive to implement efficient, successful DSM programs. There is no need to have two mechanisms to achieve this single goal.

Third, the level of benefits expected over the next 15 years should be re-calculated to reflect more realistic values for the cost/kW of avoided capacity that is in line with the low market prices for capacity that are likely for at least the new three to five years in the Midwest region. The avoided cost of energy used in the calculations should also reflect GMO's current view of the forward energy price curve in SPP.

I also recommend that GMO's proposed shared benefit performance incentive and the additional proposed performance incentive be combined into a single mechanism that incorporates the best elements of each. This will result in a simpler, more transparent approach that will be better suited to achieving the ultimate goals of (1) motivating the Company and (2) protecting it customers. This approach is also consistent with industry practice in other states.

Q. What do you recommend with regard to a performance incentive?

A. Public Counsel agrees that a performance incentive should be provided to the Company to help encourage good performance, and even exemplary performance, in designing and implementing DSM programs. I also agree that the level of shared net benefits achieved should be used as an indicator of program success and as a means of determining how much incentive the Company is awarded. However, I would recommend several important changes to the Company's performance incentive proposal:

- The amount of funds that are made available to the Company for the performance incentive should be determined on the basis of (i.e. as a percentage of) planning/budget projections of DSIM cost recovery revenue requirements, not on the total level of benefits achieved.

- The amount of funds that are awarded to the Company (i.e. the utility's share) for the performance incentive should be based on the level of annual benefits achieved and verified through E M & V. These benefits should be defined as **net** benefits consistent with industry best practices and as required by the rule, not total benefits.

- The amount of funds awarded to the Company should be based upon: (a) a threshold amount of actual achieved annual net benefits below which no incentive is earned, (b) a planned amount equal to the estimated amount of annual net benefits from the DSM plan, and (c) a cap (based on a high level of performance in achieving net benefits relative to the expected level of annual net benefits in the DSM plan) that places a limit on the total amount of shareholder incentive that could be awarded to the Company. If the Company's net benefits turn out to be anywhere between these points, the performance incentive award would be interpolated between them, allowing for a continuous performance incentive based upon the actual amount of net benefits achieved.

Q. Please explain why the amount of funds made available for the performance incentive should be based upon the estimated level of annual DSM program costs.

It is very important that the incentives available be tied to program costs because it helps to ensure that the magnitude of the performance incentive is in line with the magnitude of the demand-side programs. It is important to remember that every dollar that is provided

to the Company's shareholders is a dollar that could otherwise have been spent on delivering demand-side programs. This explicit and transparent connection between program budgets and shareholder incentives is important in order to allow the Commission to strike the appropriate balance between shareholders and customers. In addition, the Company and the Commission have much more control over the DSM program budgets than they do over program benefits; resulting in much more control over the amount of shareholder incentives that are awarded, and allowing for more consistent shareholder incentives from year to year.

Furthermore, the benefits of DSM programs (either total or net) can change significantly between those that are planned and those that are actually achieved, potentially leading to large unanticipated swings in the amount of the performance incentive that is awarded to the Company. The benefits of DSM programs can also fluctuate significantly due to changes in avoided costs, completely unrelated to the DSM programs or the actions of the Company, potentially resulting in unpredictable and volatile shareholder incentives. If the available shareholder incentives are based on shared savings, then several years from now the amount of available shareholder incentives, and consequently earned shareholder incentives, could be significantly different than the range of incentive amounts that were anticipated when the incentive component of a DSIM is approved by the Commission in this case.

Q. Please explain why you distinguish between the basis for the amount of funds made available for incentives and the incentive amount that is awarded based on performance in actually achieving net savings.

A. It is important to recognize that the metric that is used to determine the amount of funds that are made available for the performance incentive ("the cap") does not have to be the same metric that is used to determine the amount of funds that is awarded to the Company. The amount of the award could be based on net savings (in dollars), on the basis of energy savings (in kWh), on the basis of capacity savings (in kW), on the basis of some other measure of program success, or on a combination of these measures. This distinction is important because the DSM program budget represents the best metric for determining the amount of funds available for the performance incentive, as described above, but the level of actual DSM program expenditures is not the best metric for determining the amount of funds to award for a performance incentive. A utility that

spends a lot of money on DSM programs without achieving an appropriate level of energy or dollar savings should not be rewarded with a shareholder incentive.

Q. Please explain why the amount of money awarded for the performance incentive should be based on the level of net benefits actually achieved.

A. MEEIA and the rule are clear that the Company is entitled to a performance incentive based on the shared net savings approach. As described above, the level of net benefits actually achieved is good metric to use for awarding performance incentives because it provides a dual incentive to both maintain low costs and maximize benefits. It also incorporates a valuation of the avoided capacity and energy costs so that the amount of capacity and energy load reductions achieved are taken into account and given the value that they contribute to benefitting consumers by decreasing utility revenue requirements.

Q. Please explain why your proposal includes a threshold level, a planned level and a cap.

A. This structure is similar to the three tiers in the Company's proposed performance incentive. The threshold level represents the point below which no incentives will be awarded. This is based on the notion that the Company is not entitled to any performance incentives if the results of its DSM program activities are significantly lower than the planned results. The planned level represents the performance that the Company has planned for and committed to in its DSM program plan approved by the Commission. This level represents the mostly likely outcome of the performance incentive, assuming that the results are close to those in the plan. The cap is set to ensure that customers are protected in case some unanticipated event(s) results in the performance of the DSM programs being significantly higher than planned. It is important that the Company be able to earn incentives for achieving results above the planned level, i.e., to promote exemplary performance, but it is also important to place a cap on these exemplary rewards to protect ratepayers from the impact of unanticipated future events.

Q. Please explain how you would recommend that these aspects of the performance incentive be applied to the Company.

A. The mechanism that I recommend be applied to GMO is summarized in Table 5 below. The middle column indicates the annual net benefit targets (subject to adjustment of gross benefit amounts as described above) that should be used to determine the amount of

incentive money that is awarded to the Company, for each of the three levels. I recommend that the threshold level be set at 50 percent of annual net benefits, the planned level be set at 100 percent of net benefits, and the cap be set at 150 percent of net benefits.

The left column indicates the amount of funds that should be made available for the three different achievement levels. I recommend that the Company be eligible to receive five percent of annual program budgets at the threshold level, ten percent of program budgets at the planned level, and up to a cap of 15 percent of the program budgets if it exceeds the planned level.

Table 5: OPC's Proposed Incentive Mechanism

	Annual Net Benefit Targets (percent of planned)	Annual Incentive Earned (percent of budget)
Threshold	50 percent	5 percent
Planned	100 percent	10 percent
Exemplary Cap	150 percent	15 percent

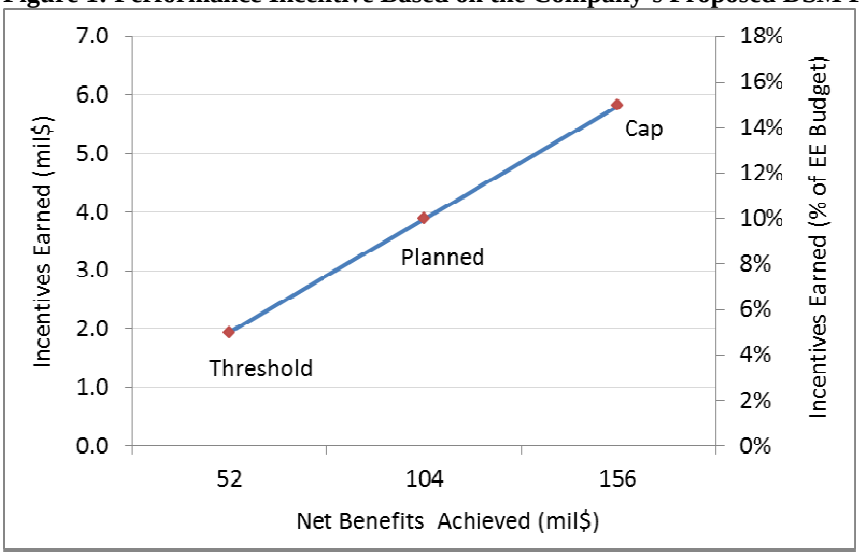
Q. Please explain how this performance incentive would be applied in the context of the Company's current DSM plan.

A. The results of applying this proposal to the Company's current DSM plan are presented in Table 6. For 2012 the planned net benefits are $37 million, which means that the threshold level would be $19 million and the cap would be $55 million. Once the Company reaches the threshold level of net benefits it would earn $0.6 million of incentives, and this amount would increase linearly reaching $1.2 million at the planned level and potentially reaching $1.8 million at the cap. For the three year total the threshold, planned and cap levels would be $1.9 million, $3.9 million and $5.8 million, respectively. Figure 1 presents the results for the three-year total.

Table 6: Performance Incentive Based on the Company's Proposed DSM Plan (million$)

	2012	2013	2014	Total
Net Benefits				
Threshold	19	17	16	52
Planned	37	35	32	104
Exemplary Cap	55	52	48	156
Incentive Earned				
Threshold	0.6	0.7	0.7	1.9
Planned	1.2	1.3	1.4	3.9
Exemplary Cap	1.8	2.0	2.1	5.8

Figure 1: Performance Incentive Based on the Company's Proposed DSM Plan – Three-Year Totals



Q. How does your proposal for the incentive component of a DSIM compare with the Company's incentive proposal?

A. Table 7 below compares the total amount of shareholder incentive that the Company would be allowed to earn under the GMO proposals and the OPC proposal, at different levels of performance. As indicated, my proposal results in much lower incentive amounts awarded to the Company. The most significant difference between my proposal and the Company's is that I eliminate the shared benefits incentive because it recovers lost revenue and is redundant with the performance incentive. This dramatically reduces the amount of shareholder incentives provided to the Company under my proposal.

Secondly my proposed performance incentives are significantly lower than the performance incentive mechanism proposed by the Company because mine is based on a percentage of DSM program budgets. The Company has not explained what its proposed

performance incentive tier levels are based upon. As described above, performance incentive levels that are based on DSM program budgets are much more transparent and much more likely to provide sufficient incentive while simultaneously protecting customers. Table 7 does not include additional annual revenues that the Company may receive from the lost revenue component of a DSIM which OPC proposes in addition to the performance incentive. The GMO shared benefits proposal attempted to hold the company harmless from the financial impacts resulting from declines in usage attributable to GMO's proposed DSM programs, whereas the OPC proposal addresses the financial impacts of decreased usages solely through the lost revenue component of the DSIM.

Table 7: Performance Incentives Proposals: GMO vs. OPC (million$)

	2012	2013	2014	Total
GMO's Shared Benefits Proposal				
Threshold	2.9	2.8	2.6	8.3
Planned	5.8	5.5	5.2	16.5
Exemplary Cap	8.7	8.3	7.8	24.8
GMO's Performance Incentive Proposal				
Threshold	2.0	2.0	2.0	6.0
Planned	3.0	3.0	3.0	9.0
Exemplary Cap	4.0	4.0	4.0	12.0
GMO's Total Proposed Incentive				
Threshold	4.9	4.8	4.6	14.3
Planned	8.8	8.5	8.2	25.5
Exemplary Cap	12.7	12.3	11.8	36.8
OPC's Proposed Incentive				
Threshold	0.6	0.7	0.7	1.9
Planned	1.2	1.3	1.4	3.9
Exemplary Cap	1.8	2.0	2.1	5.8
Difference between GMO's and OPC's Incentive Proposals				
Threshold	-4.3	-4.1	-3.9	-12.3
Planned	-7.6	-7.2	-6.8	-21.7
Exemplary Cap	-10.9	-10.4	-9.8	-31.0

Q. Are there also differences between the GMO and OPC proposals regarding the timing of when GMO would receive its incentive payments?

A. Yes, under OPC's proposal, GMO would not receive incentive payments through the DSIM rate until the level of net benefits from the GMO programs have been calculated and verified through EM & V. Under GMO's proposal, GMO begins receiving incentive payments immediately through the DSIM rate once the Commission approves the GMO MEEIA application. The approach recommended by Public Counsel complies with the requirement in 4 CSR 240-20.093(2)(H)3 that "any utility incentive component of a DSIM shall be implemented on a retrospective basis and all energy and demand savings used to determine a DSIM utility incentive revenue requirement must be measured and verified through EM&V."

Q. Are there also differences between the GMO and OPC proposals regarding the timing of when GMO would receive its payments for the recovery of DSM program cost?

A. There are no major differences between the OPC and GMO proposals. Public Counsel agrees that it is appropriate for GMO to begin receiving payments through the DSIM rate once the Commission approves the GMO MEEIA application. The minor difference between the proposals is that GMO has proposed recovering DSM program costs in year one that reflects the annual levelized amount of three years of projected DSM program costs where OPC would have the initial DSIM rate for program cost recovery based on the projected level of DSM program costs in each year. Public Counsel believes its approach is superior because the costs paid by consumers would better match GMO DSIM expenditures in each year due to the planned ramp up over time of program implementation and would reduce the magnitude of interest payments and true-ups that would be included in future DSIM rates.

Q. Do you have any additional comments regarding Public Counsel's support, at this point in time, of GMO recovering its DSM program costs as they are incurred through the DSIM rate?

A. Yes. Public Counsel supports this approach because, at this time, it is permitted under the MEEIA rules. OPC continues to pursue appeals that challenge the lawfulness of this approach and would, of course, no longer support this approach if it is found to be unlawful at the conclusion of the appeals process.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.