

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

July 22, 2015

Jefferson City, Missouri

Volume 3

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In The Matter Of Union Electric)  
Company d/b/a Ameren Missouri's )  
2nd Filing to Implement ) File No. EO-2015-0055  
Regulatory Changes in )  
Furtherance of Energy )  
Efficiency as Allowed by MEEIA )

RONALD D. PRIDGIN, Presiding  
DEPUTY CHIEF REGULATORY LAW JUDGE

ROBERT S. KENNEY, Chairman,  
STEPHEN M. STOLL,  
WILLIAM P. KENNEY,  
SCOTT T. RUPP,  
COMMISSIONERS

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Tracy Taylor, CCR No. 939  
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1 (NRDC Exhibits 301, 302 and MIEC Exhibit  
2 1000 were marked for identification.)

3 JUDGE PRIDGIN: All right. Good morning.  
4 We are on the record. I believe as we ended last  
5 night, we finished testimony of Dr. Marke and are  
6 ready to move on to Mr. Mosenthal, NRDC's witness. Is  
7 there anything further from counsel before  
8 Mr. Mosenthal takes the stand?

9 All right. Hearing nothing,  
10 Mr. Mosenthal, if you would raise your right hand to  
11 be sworn, please.

12 (Witness sworn.)

13 JUDGE PRIDGIN: Thank you very much.

14 Mr. Robertson, when you're ready, sir.

15 MR. ROBERTSON: Thank you, Judge.

16 PHILIP MOSENTHAL testified as follows, via telephone:

17 DIRECT EXAMINATION BY MR. ROBERTSON:

18 Q. Can you hear, Phil?

19 A. Yes.

20 Q. This is Henry.

21 A. Not as well as I could hear Rob, but I  
22 can hear you.

23 Q. Would you state your name and title,  
24 please.

25 A. My name is Philip Mosenthal. I am

1 president of Optimal Energy, Incorporated.

2 **Q. Did you prepare pre-filed Rebuttal**  
3 **Testimony in this case that's been marked Exhibit 301?**

4 A. I did.

5 **Q. Did you also prepare Surrebuttal**  
6 **Testimony in this case marked Exhibit 303?**

7 A. I did.

8 **Q. Do you have copies of those testimonies**  
9 **before you?**

10 A. I do.

11 **Q. Do you have any corrections that you**  
12 **would like to make at this time?**

13 A. No.

14 **Q. And if I were to ask you the same**  
15 **questions today in both of those testimonies, would**  
16 **your answers be the same?**

17 A. They would.

18 **Q. And are those answers true and accurate,**  
19 **to the best of your knowledge and belief?**

20 A. They are.

21 **Q. And you also filed with your Surrebuttal**  
22 **Testimony an appendix, which has been designated**  
23 **Exhibit 302. Can you identify that?**

24 A. Yes. That is a document that a group  
25 called Efficiency for All published related to the

1 efficiency potential in affordable multi-family  
2 housing sector in Missouri and relied on a  
3 quantitative analysis that my firm, Optimal Energy,  
4 did.

5 **Q. Were you a co-author of that report?**

6 A. I -- I was a co-author of a larger  
7 multi-state report that these numbers came from. I  
8 did not directly work on this appendix that is  
9 Missouri specific.

10 **Q. But it is an Optimal Energy report; is**  
11 **that right?**

12 A. Yes.

13 **Q. Now, on Monday, I mistakenly identified**  
14 **that as an appendix to Rebuttal, but is it not really**  
15 **an appendix to the Surrebuttal?**

16 A. That is correct.

17 **Q. All right.**

18 MR. ROBERTSON: Your Honor, I offer into  
19 evidence Exhibits 301, Rebuttal Testimony of  
20 Mr. Mosenthal; 302, the appendix we just referred to;  
21 and Exhibit 303, Surrebuttal Testimony of  
22 Mr. Mosenthal.

23 JUDGE PRIDGIN: Mr. Robertson, thank you.  
24 Any objections?

25 Hearing none, Exhibits 301, 302 and 303

1 are admitted into evidence.

2 (NRDC Exhibits 301, 302 and 303 were  
3 received into evidence.)

4 BY MR. ROBERTSON:

5 **Q. Mr. Mosenthal, are you familiar with the**  
6 **terms of the Non-unanimous Stipulation with Ameren**  
7 **that NRDC signed?**

8 A. I am.

9 **Q. And you also studied the other**  
10 **Non-unanimous Stipulation put forward by the Staff and**  
11 **OPC?**

12 A. Yes, I have.

13 **Q. All right.**

14 MR. ROBERTSON: I tender the witness for  
15 cross-examination.

16 JUDGE PRIDGIN: Mr. Robertson, thank you.  
17 I don't believe KCPL, GMO are participating.

18 United for Missouri?

19 MR. LINTON: No questions.

20 JUDGE PRIDGIN: Ameren Missouri?

21 MR. TOMC: No questions, your Honor.

22 JUDGE PRIDGIN: Division of Energy?

23 MR. ANTAL: No questions.

24 JUDGE PRIDGIN: Renew Missouri?

25 MR. LINHARES: Just a few questions, your



1 Honor.

2 JUDGE PRIDGIN: When you're ready, sir.

3 CROSS-EXAMINATION BY MR. LINHARES:

4 Q. Mr. Mosenthal, can you hear me okay?

5 A. Yes.

6 Q. Now, Mr. Mosenthal, you stated you've  
7 read the Non-utility Stipulation submitted in this  
8 case and signed by Staff, Public Counsel, Renew  
9 Missouri, MIEC, MEGC and supported in position  
10 statements by Sierra Club. Yes?

11 A. Yes. That is correct.

12 Q. And I just want to ask you one question  
13 about the expert panel provision. I believe that is  
14 paragraph 2D found in Non-utility Stipulation. Have  
15 you read that paragraph and are you familiar with it?

16 A. Yes, I -- I have and I am.

17 Q. Okay. Mr. Mosenthal, can you think of  
18 anything in the next few weeks or months that may  
19 occur that may change some of the assumptions and the  
20 general playing field, if you will, for energy  
21 efficiency in Missouri in the country that may occur?

22 A. Well, there's certainly the, you know,  
23 pending court case around the Clean Power Plan Act --  
24 Federal Clean Power Plan that -- that could -- you  
25 know, could have some influence on certainly energy

1 policy in Missouri.

2 **Q. Okay. And are you -- are you familiar**  
3 **with the general timeline and trajectory of the**  
4 **Environmental Protection Agency's impending final rule**  
5 **for the Clean Power Plan?**

6 A. Not specifically. I don't know  
7 specifically when -- you know, what dates there are.

8 **Q. Uh-huh. Now, are you generally aware of**  
9 **the Clean Power Plan?**

10 A. Yes.

11 **Q. Are you aware of some of the implications**  
12 **the final rule for the Clean Power Plan may have on**  
13 **energy efficiency for Missouri and for other states?**

14 A. Yes. Generally. I mean, I -- you know,  
15 there's certainly trade-offs between energy efficiency  
16 and other policies that could help to meet it, but I'm  
17 certainly aware that energy efficiency can contribute.

18 **Q. Do you believe that the finalization of**  
19 **the Clean Power Plan rule from EPA could affect the**  
20 **Company's decision to pursue energy efficiency at**  
21 **various levels or with various approaches?**

22 A. I do.

23 **Q. In what ways would -- do you believe the**  
24 **Company's decision making would be affected by the**  
25 **final Clean Power Plan rule, do you believe?**

1           A.     Well, I don't want to speculate on the  
2 Company's decision making, but I will note that I  
3 believe the Company indicated in its recent IRP that  
4 it had not really addressed the Clean Power Plan, but  
5 it had an estimate that it could cost as much as  
6 \$4 billion for the total system to comply on the  
7 supply side. And I believe that is likely to, you  
8 know, further improve the cost effectiveness of energy  
9 efficiency on pursuit of all cost effective energy  
10 efficiency.

11           **Q.     Okay. Thank you.**

12           MR. LINHARES: No further questions. And  
13 no questions on behalf of National Housing Trust or  
14 Tower Grove.

15           JUDGE PRIDGIN: Mr. Linhares, thank you.  
16 Sierra Club, any questions?

17           MS. OSUALA: Yes, your Honor. A few  
18 questions.

19           JUDGE PRIDGIN: When you're ready.

20 CROSS-EXAMINATION BY MS. OSUALA:

21           **Q.     Good morning, Mr. Mosenthal. Can you**  
22 **hear me?**

23           A.     Yes. If you could speak up a little bit.  
24 You're a little faint.

25           **Q.     Sure. My name is Chinyere Osuala. I am**

1 also representing Sierra Club here. I know you've  
2 heard me on a few calls.

3 Mr. Mosenthal, you stated in your  
4 Rebuttal Testimony that the EnerNOC potential study  
5 understated the true cost effective efficiency  
6 potential. Correct?

7 A. That is correct.

8 Q. And the reason for the low potential was  
9 the low participation rates used in that study; is  
10 that right?

11 A. That's one reason.

12 Q. That's one reason?

13 A. I wouldn't say that's the only reason,  
14 but it's certainly a significant reason.

15 Q. But would you say that was a significant  
16 reason, that's correct?

17 A. Yes. Yes, I would.

18 Q. And as you said before, you're familiar  
19 with the Utility Stipulation in this docket?

20 A. Yes, I am.

21 Q. And you know that the savings targets in  
22 this stipulation amount to 583,563 megawatt hours?

23 A. That is correct, yes, I do.

24 Q. Now, to be clear, you do not think that  
25 that number represents all cost effective energy

1 **efficiency; is that right?**

2 A. That is correct, yes.

3 **Q. And you would agree that increasing**  
4 **participation rates would lead to all cost effective**  
5 **energy efficiency savings in this case?**

6 A. I believe that all cost effective  
7 achievable efficiency is significantly higher than the  
8 583- and that certainly one way to do that is increase  
9 participation rates. Also, you know, increase the  
10 comprehensiveness of the services depending on the  
11 different types of programs as well.

12 **Q. But a significant way to increase those**  
13 **savings would be increasing the participation rates.**  
14 **Correct?**

15 A. You're suggesting in the -- in the -- in  
16 the study?

17 **Q. In the study and also to -- that would**  
18 **lead eventually to increased savings?**

19 A. Yes. I do believe that.

20 **Q. Okay. Thank you, Mr. Mosenthal.**

21 MS. OSUALA: No further questions, your  
22 Honor.

23 JUDGE PRIDGIN: Thank you.

24 Any questions from Brightergy?

25 MR. ZELLERS: No questions, your Honor.

1 JUDGE PRIDGIN: Thank you. MIEC?

2 MR. DOWNEY: No questions.

3 JUDGE PRIDGIN: I don't think MECG is  
4 here. Public Counsel?

5 MR. OPITZ: A few, Judge.

6 JUDGE PRIDGIN: Yes, sir. When you're  
7 ready.

8 CROSS-EXAMINATION BY MR. OPITZ:

9 Q. **Good morning, Mr. Mosenthal. This is Tim**  
10 **Opitz with Public Counsel speaking. Can you hear me**  
11 **okay?**

12 A. Yes. A little faint.

13 Q. **Mr. Mosenthal, you're familiar with**  
14 **energy efficiency market potential studies; is that**  
15 **correct?**

16 A. Yes, I am.

17 Q. **And can you describe for me what your**  
18 **experience with market potential studies has been to**  
19 **this point?**

20 A. I have conducted many of them over --  
21 probably the first one I ever did was in 1989 both on  
22 behalf of utilities, government entities and  
23 intervenors. I continue to -- my firm has conducted  
24 many that I have been involved in reading. I was  
25 elected by the EPA to be the primary author of their

1 Guide to Conducting Energy Efficiency Potential  
2 Studies for their National Action Plan as well.

3 **Q. Were you involved with the market**  
4 **potential study utilized by Ameren Missouri in this**  
5 **case?**

6 A. I participated in some stakeholder  
7 meetings and discussions around some of the scope of  
8 work and approaches that were used and -- and  
9 reviewed, you know, documents related to the study. I  
10 did not actually participate in doing the study.

11 **Q. Are you familiar with the YouGov study**  
12 **that was used to adjust the market potential study in**  
13 **this case?**

14 A. I have read some of what's in the record,  
15 including I believe there was an exhibit to  
16 Dr. Marke's testimony that had a fairly, you know,  
17 high-level description of the YouGov approach, but I'm  
18 not intimately familiar with it.

19 **Q. In your examination of the market**  
20 **potential study in this case, did you come to a**  
21 **conclusion about whether the YouGov study was**  
22 **appropriate to use?**

23 A. In -- in my opinion, it -- it was not for  
24 a number of reasons based on that description. I  
25 believe that, number one, it was not necessarily based

1 on energy efficiency products, but I think more  
2 concerning was some -- some statistical bias in that  
3 they appear to only look back at people who said they  
4 would do something and how many of them didn't follow  
5 through, but ignored people who said they wouldn't do  
6 something but then actually did do something.

7 **Q. Were there any other reasons that you**  
8 **felt that was an inappropriate adjustment?**

9 A. Well, in general, I think it was  
10 inappropriate along with the survey approach to begin  
11 with. And the reasons for that is that calling  
12 someone up in the absence of being exposed to an  
13 efficiency program, they have not been educated as to  
14 why doing energy efficiency is in their interest.

15 So I believe that the surveys are more  
16 likely to reflect typical market practices and all the  
17 existing market barriers that exist that programs are  
18 designed to overcome rather than what would happen  
19 with well-designed, well-marketed programs.

20 **Q. Mr. Mosenthal, do you have a copy of**  
21 **the -- I believe it's the Non-unanimous Stipulation**  
22 **and Agreement filed June 30th in front of you?**

23 A. I have both the Company's and the  
24 Staff/OPC one. I'm not sure which one was June 30th.

25 **Q. I'm referring to the Company Stipulation.**



1 A. Yes. I do have that in front of me.

2 Q. **Would you please turn to page 4.**

3 A. Okay.

4 Q. **And on page 4 there are two tables.**

5 **Correct?**

6 A. Correct.

7 Q. **And am I correct in understanding that**  
8 **those tables list the various programs that would be**  
9 **offered under this Stipulation and Agreement?**

10 A. That is correct.

11 Q. **Before -- and let me go back. And the**  
12 **National Resource Defense Council signed onto this**  
13 **Stipulation and Agreement. Correct?**

14 A. Yes, they did.

15 Q. **Before signing on, did you look at those**  
16 **programs and examine the program costs?**

17 A. I -- yes. I'm not sure that I  
18 specifically examined the final ones that ended up in  
19 the stip, but I certainly had reviewed program costs  
20 in general prior to that.

21 Q. **So if --**

22 A. You know, I think there was some  
23 last-minute changes that I may not have seen in  
24 advance, but probably minor ones.

25 Q. **Okay. So if I were to ask you about the**

1 **program costs per megawatt hour savings for each of**  
2 **these programs, would you have some familiarity of**  
3 **what that number might be?**

4 A. I -- I -- you know, I don't have that in  
5 front of me other than just doing the mental math, but  
6 yes, I do have something in the area. I know I have  
7 looked at it in the past.

8 **Q. Okay. In your experience working in**  
9 **energy efficiency, have you examined the program costs**  
10 **per megawatt hour for energy efficiency programs in**  
11 **other states or for other utilities?**

12 A. I have.

13 **Q. Have you examined the I guess program**  
14 **costs per megawatt hour for any utilities or states**  
15 **that you find to be comparable to Ameren Missouri or**  
16 **Ameren Missouri service territory?**

17 A. Yes, I have.

18 **Q. And what were those utilities or service**  
19 **territories?**

20 A. Well, one was Illinois, which of course  
21 Ameren is one of the utilities that delivers programs  
22 there.

23 **Q. Based on your examination of the price**  
24 **per megawatt hour, can you tell me if they were about**  
25 **equal or how did the -- the program costs per megawatt**

1 **hour compare between those jurisdictions?**

2 A. I believe the cost per megawatt hour in  
3 Illinois is significantly lower than -- than what  
4 Ameren Missouri is proposing. I will note that they  
5 are some of the lowest in the country, but they are  
6 low.

7 **Q. Thank you.**

8 MR. OPITZ: That's all the questions I  
9 have. Thank you.

10 JUDGE PRIDGIN: Thank you.

11 Any questions from Staff?

12 MR. BERLIN: Yes, Judge.

13 CROSS-EXAMINATION BY MR. BERLIN:

14 **Q. Mr. Mosenthal, I'm Bob Berlin from Staff.  
15 Are you able to hear?**

16 A. Yes.

17 **Q. Does energy efficiency occur naturally in  
18 the marketplace without utility programs?**

19 A. Sure. Yes, it does.

20 **Q. Okay. Based on your understanding of  
21 Ameren Missouri's marketplace and the level of energy  
22 efficiency requested for 2016 to 2018, would you  
23 expect the naturally occurring efficiency would be  
24 more or less than the energy efficiency from Ameren  
25 Missouri's programs?**

1           A.     I think probably less given all the  
2 market barriers and the relatively low rates, but I  
3 will note that the program goals are expressed as net  
4 megawatt so this is over and above naturally occurring  
5 efficiency.

6           **Q.     All right. Thank you. And if there --**  
7 **if there is a situation where there is no Cycle 2**  
8 **programs, will the naturally occurring energy**  
9 **efficiency in the market continue to occur?**

10          A.     At some level, but certainly at a  
11 suboptimal level from an economic's environmental  
12 standpoint.

13           MR. BERLIN: All right. Thank you.  
14 That's all my questions.

15           JUDGE PRIDGIN: All right. Thank you.

16           Let me see if I have any Bench questions.  
17 Mr. Chairman?

18           CHAIR R. KENNEY: No, thank you.

19           JUDGE PRIDGIN: Commissioner Stoll?  
20 Commissioner Kenney? Commissioner Rupp? Very good.

21           Redirect?

22           REDIRECT EXAMINATION BY MR. ROBERTSON:

23           **Q.     Mr. Mosenthal, you have made it clear**  
24 **that you believe Ameren could achieve its --**  
25 **substantially more energy savings; is that correct?**

1 A. Yes. That's correct.

2 Q. **I'd like to refer you to the Company**  
3 **Stipulation, page 10.**

4 Q. **Okay.**

5 A. Paragraph 15 begins on page 9, continues  
6 onto page 10. And on the last sentence, The  
7 signatories agree that the identification of  
8 additional cost effective saving strategies will not  
9 result in a change in the performance incentive  
10 target.

11 Do you see that?

12 A. Yes, I do.

13 Q. **Does that mean that Ameren could not earn**  
14 **more money by targeting additional energy savings?**

15 A. No, it does not. Appendix A to that  
16 stipulation shows the performance incentive mechanism  
17 and it is structured as a percent of the net benefits  
18 achieved. And it -- that percent varies from starting  
19 at -- you know, beginning earnings at 70 percent of  
20 goal with 12.5 percent and maxes out at a level of  
21 130 percent of the target at 16.9 percent.

22 So the percentage would not increase  
23 above that 130 percent level if the Company pursued  
24 greater savings. However, the net benefits would  
25 continue to grow so there would continue to -- they

1 would continue to earn that roughly 17 percent of net  
2 benefits on all additional benefits and continue to  
3 have a strong incentive to pursue more savings, unlike  
4 the Staff/OPC stip which caps the throughput  
5 disincentive at 133 percent of goal, which is roughly  
6 the goals we already have -- the Company has already  
7 agreed to in this stip.

8 So under the Comp-- under the Staff/OPC  
9 Stipulation, the Company would have a very strong  
10 disincentive to increase goals beyond that because  
11 they would not get their throughput disincentive.

12 **Q. Okay. Got a little ahead of me, but in**  
13 **short, the Company Stipulation maxes out the**  
14 **performance incentive at 130 percent; is that correct?**

15 A. It maxes out the percent of net benefits  
16 growth. There are two graphs that the Company's  
17 Appendix A Stipulation show. The bottom graph is the  
18 percent and you can see after 130 percent, it is a  
19 flat line, the percent does not increase. But, of  
20 course, the more savings you get, the more net  
21 benefits you get. So the top graph, which shows the  
22 dollars, does continue to slope upward.

23 **Q. All right. So --**

24 A. And there's no cap on that.

25 **Q. So the Company can continue to earn**

1 **additional TDNSB share; is that right?**

2 A. Well, this is the performance incentive  
3 share of NSB as opposed to the throughput, but yes,  
4 that is correct.

5 Q. **And you're referring I believe -- you**  
6 **have the amended Non-unanimous Stipulation, the non--**  
7 **that's the Non-utility Stipulation?**

8 A. The non-utility, yes, I do.

9 Q. **Okay. Do you have the amended version**  
10 **or --**

11 A. I believe I have the amended version.

12 Q. **All right.**

13 A. I believe I have the current version.

14 Q. **And I'll refer to page 8 of that**  
15 **stipulation.**

16 A. Okay.

17 Q. **At the top is a continuation of paragraph**  
18 **6 and then 6-E, small Roman numeral ii, Recovery will**  
19 **be limited to 133.33 percent of initially projected**  
20 **savings.**

21 **Is that the passage that you were**  
22 **referring to?**

23 A. Yes, it is. And I believe that's --  
24 that's very problematic because --

25 Q. **But just let me --**

1           A.     -- in the Company Stipulation, even year  
2 one savings, which is really the only part that is  
3 sort of locked in at this point given the  
4 collaborative process, is a full 44 percent higher  
5 than Staff/OPC Stipulation.

6           **Q.     Okay. Now, this 133.33 percent does not**  
7 **refer to the performance incentive; is that right?**

8           A.     That is correct. It's the throughput  
9 disincentive mechanism.

10          **Q.     And so that puts an absolute cap on what**  
11 **the Company could earn if it pursued additional**  
12 **savings?**

13          A.     It puts an absolute cap on the amount of  
14 net loss revenue recovery it can earn. So effectively  
15 any savings above 133 percent, the Company would have  
16 sort of a built-in financial disincentive to pursue  
17 that. Under the Staff/OPC Non-unanimous Stip there is  
18 a demand-based, capacity-based performance incentive,  
19 which amazingly does not cap until 690 percent of the  
20 goal.

21                         So they could continue to earn money on  
22 peak demand savings. However, I believe there's a lot  
23 of reasons why that's a bad incentive design and  
24 perversely encourages the Company to focus primarily  
25 on peak, which would provide less economic benefits to



1 ratepayers than -- than energy overall.

2 **Q. Could you briefly state your reasons --**  
3 **your opinion regarding use of demand savings?**

4 MR. OPITZ: Judge, I'm going to object at  
5 this point. I believe Mr. Robertson is far exceeding  
6 the scope of any cross-examination that occurred.

7 JUDGE PRIDGIN: Mr. Robertson?

8 MR. ROBERTSON: Well, I'm trying to  
9 establish which of these allows the achievement of  
10 greater energy savings and did -- the use of demand  
11 savings versus energy savings is a key part of that  
12 equation.

13 JUDGE PRIDGIN: I think you've gone  
14 beyond cross -- the scope of cross, so I'll sustain.

15 MR. OPITZ: Thank you, Judge.

16 MR. ROBERTSON: That's all I have. Thank  
17 you.

18 JUDGE PRIDGIN: All right. Thank you.  
19 Mr. Mosenthal, I'm going to disconnect the call.  
20 Thank you very much for your testimony, sir.

21 THE WITNESS: Okay. Thank you.

22 JUDGE PRIDGIN: All right. I believe the  
23 next witness then would be Mr. Brubaker; is that  
24 correct? Mr. Brubaker, if you'll come forward to be  
25 sworn, please. Mr. Brubaker, I see your hand is

1 raised.

2 (Witness sworn.)

3 JUDGE PRIDGIN: Thank you very much.

4 Mr. Downey, when you're ready.

5 MAURICE BRUBAKER testified as follows:

6 DIRECT EXAMINATION BY MR. DOWNEY:

7 **Q. Good morning. Please state your name and**  
8 **your business address.**

9 A. It's Maurice Brubaker, 16690 Swingley  
10 Ridge Road, Chesterfield, Missouri 63017.

11 **Q. Mr. Brubaker, did you prepare testimony**  
12 **in this case?**

13 A. I did.

14 **Q. And do you have that testimony in front**  
15 **of you?**

16 A. I do.

17 **Q. And is it Exhibit 1000?**

18 A. I believe so.

19 **Q. All right. Do you have any corrections**  
20 **to that testimony?**

21 A. I do not.

22 **Q. If I were to ask you the questions in**  
23 **that testimony today, would your answers be the same?**

24 A. They would.

25 **Q. And are those answers true and correct,**

1 **to the best of your knowledge and belief?**

2 A. Yes, they are.

3 MR. DOWNEY: Judge, I would offer  
4 Exhibit 1000.

5 JUDGE PRIDGIN: Any objections?

6 Hearing none, Exhibit 1000 is admitted  
7 into evidence.

8 (MIEC Exhibit 1000 was received into  
9 evidence.)

10 MR. DOWNEY: And I tender Mr. Brubaker  
11 for cross.

12 JUDGE PRIDGIN: Mr. Downey, thank you.  
13 Questions from Renew Missouri?

14 MR. LINHARES: No questions, your Honor.

15 JUDGE PRIDGIN: Tower Grove, National  
16 Housing Trust?

17 MR. LINHARES: No questions.

18 JUDGE PRIDGIN: Thank you. Sierra Club?

19 MS. OSUALA: No questions, Your Honor.

20 JUDGE PRIDGIN: Thank you. Brightergy?

21 MR. ZELLERS: No questions, your Honor.

22 JUDGE PRIDGIN: MECG? Public Counsel?

23 MR. OPITZ: Just a few, your Honor.

24 CROSS-EXAMINATION BY MR. OPITZ:

25 **Q. Good morning, Mr. Brubaker.**

1 A. Good morning.

2 Q. Now, you are not an attorney. Correct?

3 A. That is correct.

4 Q. So setting aside whether decoupling would  
5 be legal under the enabling statutes of the  
6 Commission, do you believe it's good policy for the  
7 Commission to consider decoupling?

8 A. No, I do not.

9 Q. And can you tell me why you do not  
10 believe it's good policy?

11 A. Sure. And I address this at the last  
12 three pages of my Surrebuttal Testimony in the main  
13 part of this case. Essentially decoupling makes the  
14 utility indifferent to what happens, their revenues  
15 are the same no matter what.

16 I give one example as a possible  
17 unintended consequence, and that is if we have a storm  
18 and service is out for customers, there's a big  
19 motivation right now for utilities to restore service  
20 as quickly as possible. Not only because it's the  
21 right thing to do, but it's -- it enhances their  
22 revenue. And sometimes they have to spend additional  
23 sums of money to accomplish that goal such as overtime  
24 for people on the repair crews, paying third-party  
25 vendors, there are other utilities who come in and

1 I lend a hand under such circumstances, so there is that  
2 negative.

3 But even more than that, you know, the  
4 whole idea, as I understand it, is -- arises because  
5 people think we can't figure out how much the impact  
6 of energy efficiency savings is so rather than try to  
7 do that, let's just throw everything together. We  
8 know it's in there somewhere is kind of how I view it.  
9 It's the effect of energy efficiency, it's the effect  
10 of weather, it's the effect of the economy and every  
11 other things that causes revenues to vary from one  
12 time period to another. And so I think that is a -- a  
13 bad regulatory approach. It totally desensitizes the  
14 revenues from all of these other factors.

15 And if you then compensate or adjust  
16 utility rates to recover those changes in revenues  
17 that occur to make them equal to test year revenues,  
18 you can make rates extraordinarily volatile. Because  
19 you're effectively saying we assume it will be  
20 \$3 billion in revenue, there was only 2.9 billion so  
21 it's \$100 million short so we're going to have to  
22 surcharge that or somehow collect it from customers.

23 So I think that's not a good approach and  
24 it can amount to charging customers for services not  
25 actually received. So I do not find much to like,

1 maybe nothing to like, about the decoupling concept  
2 for those reasons.

3 **Q. Thank you, Mr. Brubaker.**

4 MR. OPITZ: That's all I have, Judge.

5 JUDGE PRIDGIN: Thank you.

6 Any questions from Staff?

7 MR. BERLIN: No questions.

8 JUDGE PRIDGIN: Thank you.

9 United for Missouri?

10 MR. LINTON: No questions.

11 JUDGE PRIDGIN: Division of Energy?

12 MR. ANTAL: No questions.

13 JUDGE PRIDGIN: NRDC?

14 MR. ROBERTSON: No questions.

15 JUDGE PRIDGIN: Ameren Missouri?

16 MR. MITTEN: Just a few, your Honor.

17 JUDGE PRIDGIN: When you're ready,

18 Mr. Mitten.

19 CROSS-EXAMINATION BY MR. MITTEN:

20 **Q. Good morning, Mr. Brubaker.**

21 A. Good morning, Mr. Mitten.

22 **Q. MIEC's application to intervene in this**  
23 **case didn't specifically identify the industrial**  
24 **customers that it represents in this proceeding.**  
25 **Would you be able to identify those customers this**

1 **morni ng?**

2 A. I probably -- I don't have a list in  
3 front of me. I probably couldn't mention all of them.  
4 I can mention -- I hate to volunteer. I could  
5 probably list a number of them, but I probably would  
6 not be exhaustive.

7 **Q. Let me see if I can get at this a**  
8 **different way. Have all the industrial customers that**  
9 **MIEC is representing in this case voluntarily opted**  
10 **out of Ameren Missouri's energy efficiency program?**

11 A. They -- they have not all opted out.

12 **Q. Which of the industrial customers that**  
13 **MIEC is representing in this case have not opted out?**

14 A. I could answer that. I would prefer to  
15 do that under HC conditions because of client  
16 confidentiality considerations.

17 MR. MITTEN: Your Honor, could we go  
18 in-camera for just a moment?

19 JUDGE PRIDGIN: Certainly. One moment,  
20 please.

21 (REPORTER'S NOTE: At this point, an  
22 in-camera session was held, Volume 4, page 700.)

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1 JUDGE PRIDGIN: We are back in public  
2 forum.

3 BY MR. MITTEN:

4 Q. And just so I can be certain,  
5 Mr. Brubaker, the two customers that you identified  
6 why were you -- while we were in-camera are the only  
7 two MIEC companies who have not voluntarily opted out  
8 of Ameren Missouri's energy efficiency programs?

9 A. Of those who routinely participated in  
10 regulatory matters as part of MIEC. There are other  
11 people -- other companies that participate less  
12 frequently and I don't know. I can't speak to what  
13 they have done.

14 Q. Again, I'm trying to get at the MIEC  
15 companies who are -- who have intervened in this case.

16 A. I think those would be the two that would  
17 fall into that category.

18 Q. I have no further questions. Thank you,  
19 Mr. Brubaker.

20 JUDGE PRIDGIN: Any Bench questions,  
21 Mr. Chairman?

22 CHAIR R. KENNEY: Just a quick one,  
23 Mr. Brubaker.

24 QUESTIONS BY CHAIR R. KENNEY:

25 Q. Good to see you again.

1 A. Good to see you.

2 Q. **Good morning. Are there no consumer**  
3 **protective components of a decoupling regime that you**  
4 **could contemplate that would make it palatable?**

5 A. Not that I've seen that -- that to me  
6 make any sense. I've heard people say -- I think  
7 Mr. Woolf would say we limit the percentage change to  
8 something or the other, but to me that's -- that's  
9 just really an admission that you can't accomplish  
10 what you're trying to accomplish with the decoupling  
11 approach and so I don't really place a whole lot of  
12 value on that.

13 CHAIR R. KENNEY: That's all I have.  
14 Thank you.

15 COMMISSIONER STOLL: No questions.

16 COMMISSIONER KENNEY: No questions.

17 JUDGE PRIDGIN: Any recross based on  
18 Bench questions? Going once, going twice. No.  
19 Redirect?

20 REDIRECT EXAMINATION BY MR. DOWNEY:

21 Q. **Just one question, Mr. Brubaker. Do you**  
22 **know whether the MIEC companies that have not opted**  
23 **out can opt out later?**

24 A. Under the -- the Commission rules, there  
25 are some procedures that can be followed. I don't

1 recall exactly specifically what they are, but there  
2 are some requirements to continue in the program for a  
3 particular period of time following the most recently  
4 received incentive. It takes a few years, but I think  
5 there is a way to do that.

6 MR. DOWNEY: Thank you. No further  
7 questions.

8 JUDGE PRIDGIN: All right. Mr. Brubaker,  
9 thank you very much. You may step down.

10 THE WITNESS: Thank you.

11 JUDGE PRIDGIN: Our next witness would be  
12 Annika Brink. If you'll raise your right hand to be  
13 sworn, please.

14 (Witness sworn.)

15 JUDGE PRIDGIN: Thank you very much.  
16 Mr. Linhares, when you're ready, sir.

17 ANNIKA BRINK testified as follows:

18 DIRECT EXAMINATION BY MR. LINHARES:

19 Q. Morning, Ms. Brink.

20 A. Good morning.

21 Q. Are you the same Ms. Brink that filed --  
22 that caused to be filed Rebuttal and Surrebuttal  
23 Testimony in this case?

24 A. I am.

25 Q. And do you have any additions or

1 **corrections to your testimony at this time?**

2 A. No, I don't.

3 **Q. And if I asked you the same questions**  
4 **today as found in your testimony, would your answers**  
5 **be the same?**

6 A. Yes.

7 **Q. And are the answers in your testimony**  
8 **true and accurate, to the best of your knowledge?**

9 A. They are.

10 MR. LINHARES: Your Honor, I would move  
11 for the admission of Ms. Brink's Rebuttal Testimony as  
12 Exhibit 1300 and Surrebuttal Testimony as Exhibit 1301  
13 into evidence in this case.

14 JUDGE PRIDGIN: 1300, 1301 have been  
15 offered. Any objections?

16 Hearing none, 1300 is admitted, 1301 is  
17 admitted.

18 (National Housing Trust Exhibits 1300 and  
19 1301 were received into evidence.)

20 MR. LINHARES: And I tender the witness  
21 for cross-examination.

22 JUDGE PRIDGIN: Mr. Linhares, thank you.  
23 Questions for Renew Missouri or Tower Grove? No  
24 cross?

25 MR. LINHARES: No cross.

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JUDGE PRIDGIN: Sierra Club?  
MS. OSUALA: No questions, Your Honor.  
JUDGE PRIDGIN: Brightergy?  
MR. ZELLERS: No questions, Your Honor.  
JUDGE PRIDGIN: MIEC?  
MR. DOWNEY: No questions.  
JUDGE PRIDGIN: MIEC? Public Counsel?  
MR. OPITZ: No questions, Judge.  
JUDGE PRIDGIN: Staff?  
MR. BERLIN: No questions.  
JUDGE PRIDGIN: United for Missouri?  
MR. LINTON: No questions.  
JUDGE PRIDGIN: Division of Energy?  
MR. ANTAL: A few, yes.  
JUDGE PRIDGIN: When you're ready,

Mr. Antal.

CROSS-EXAMINATION BY MR. ANTAL:

**Q. Good morning, Ms. Brink.**

A. Good morning.

**Q. To clarify, the National Housing Trust has not signed onto either agreement?**

A. That's correct.

**Q. Okay. Do you still maintain your position from your Direct filed Testimony that there are quantifiable, non-energy benefits applicable to**

1 **multi-family low-income energy efficiency programs?**

2 A. Yes.

3 **Q. Okay. And do you still maintain your**  
4 **position from your Direct filed Testimony that in**  
5 **instances in which multi-family low-income energy**  
6 **efficiency programs are subject to cost effective --**  
7 **cost effectiveness tests, non-energy benefits should**  
8 **be included?**

9 A. Yes.

10 **Q. Do you believe that a third-party**  
11 **mediator selected by an RFP crafted with only the**  
12 **advice of Staff and the Company would likely evaluate**  
13 **the cost effectiveness of programs using non-energy**  
14 **benefits?**

15 A. I'm not sure I could speculate as to  
16 whether they would or wouldn't include non-energy  
17 benefits.

18 **Q. That's fine. That's all I have. Thank**  
19 **you very much.**

20 JUDGE PRIDGIN: NRDC, any questions?

21 MR. ROBERTSON: No questions.

22 JUDGE PRIDGIN: Ameren Missouri?

23 MR. TOMC: A few questions, your Honor.

24 JUDGE PRIDGIN: When you're ready, sir.

25 CROSS-EXAMINATION BY MR. TOMC:

1 Q. Good morning, Ms. Brink.

2 A. Good morning.

3 Q. Just a couple questions for context.

4 National Housing Trust, as I understand, is an  
5 organization that works in furtherance of affordable  
6 housing in the United States; is that right?

7 A. That's correct.

8 Q. And as part of that effort, National  
9 Housing Trust has taken an interest in  
10 utility-sponsored energy efficiency programs as they  
11 relate to low-income customers and low-income  
12 multi-family housing; is that right?

13 A. Yeah, I would say as relates to  
14 low-income multi-family, yes.

15 Q. And that is part of your role with the  
16 National Housing Trust?

17 A. That's correct.

18 Q. And do you testify in -- before state  
19 commissions as part of your routine duties?

20 A. I've submitted comments to other  
21 commissions and to this Commission. This is my first  
22 time testimony -- first time testifying before a  
23 Public Service Commission.

24 Q. Okay. Thank you. Now, with respect to  
25 the -- this case, as Division of Energy asked you,

1 **it's correct that you do not endorse the adoption of**  
2 **either stipulation; is that right?**

3 A. The multi-family low-income program is  
4 basically the same in both of the agreements, and  
5 there's a lot of content included that doesn't relate  
6 directly to the multi-family low-income program. So I  
7 didn't think it was prudent to endorse one agreement  
8 over the other given that the multi-family low-income  
9 program is basically the same in both.

10 That said, there's two small pieces  
11 missing from the Company's Stipulation that are  
12 present in the PSC Staff/OPC agreement that we do  
13 prefer, which is applying the 25 percent bonus  
14 incentive to residential measures and including cost  
15 information in energy audit reports.

16 **Q. And with respect to the Company's**  
17 **Stipulation, I understand there's some minor**  
18 **differences. That -- that stipulation contains terms,**  
19 **would you not agree, that were developed in**  
20 **consultation with you and the National Housing Trust?**

21 A. Yes. Absolutely.

22 **Q. And in that regard, the Company did**  
23 **cooperate with you and National Housing Trust to**  
24 **develop a compromise to assist with providing energy**  
25 **efficiency benefits to multi-family low-income**



1 **housing; is that right?**

2 A. Yes. They made a number of changes to  
3 the plan as filed that now occur in both stipulations  
4 and were quite helpful in working to find a better  
5 program design.

6 **Q. Would you not agree that the changes in**  
7 **the stipulation were responsive to the issues that you**  
8 **raised in your testimony that you filed earlier in**  
9 **this proceeding?**

10 A. For the most part, yes.

11 **Q. It would also be true to say, as you've**  
12 **noted, that the Company didn't agree with everything**  
13 **that you asked for, but the vast majority, it's fair**  
14 **to say, that they did agree with that?**

15 A. So with the -- so with the exception of  
16 those two points that I raised earlier, certainly. I  
17 think there is always improvements that could be made  
18 above what the Company has filed, but it is a big step  
19 forward.

20 **Q. Okay. And then after the Stipulation and**  
21 **Agreement dated June 30th was filed, then the -- then**  
22 **is it correct that you were -- you then became aware**  
23 **of the second stipulation that was being circulated;**  
24 **is that right?**

25 A. Yes.

1           **Q.     Now, with respect to the two competing**  
2 **proposals, would it be fair to say that on behalf of**  
3 **your organization, you feel that this Commission**  
4 **should endorse a policy that allows energy efficiency**  
5 **to go forward inclusive of multi-family low-income**  
6 **benefits; is that fair?**

7           A.     I mean you're asking whether I think the  
8 multi-family low-income program should be included in  
9 whatever programs happen?

10          **Q.     Yes.**

11          A.     Yes.

12          **Q.     Okay. And it is important to your**  
13 **constituency to see energy efficiency, low-income**  
14 **multi-family programs continue for the next three**  
15 **years?**

16          A.     Yes.

17          **Q.     And so then, you know, as a function of**  
18 **your neutrality in this proceeding, to the extent that**  
19 **the Commission were to find that the terms of the**  
20 **Non-utility Stipulation were not acceptable or could**  
21 **not be approved, would you ask this Commission to**  
22 **approve the stipulation filed by the Company and NRDC,**  
23 **United for Missouri and the other parties to this**  
24 **stipulation?**

25          A.     I mean I guess I'm not comfortable taking

1 a position in favor of the vast array of additional  
2 topics that either stipulation cover. You know, I  
3 didn't submit any testimony about the throughput  
4 disincentive or performance incentives or -- I just --  
5 I guess I'm not comfortable taking a position in favor  
6 one way or the other beyond the multi-family  
7 low-income program.

8 **Q. But as a general proposition, you would**  
9 **not like to see the energy efficiency efforts by**  
10 **Ameren Missouri come to a stop at the beginning of**  
11 **2016?**

12 A. No.

13 MR. TOMC: I have no further questions  
14 for the witness. Thank you.

15 JUDGE PRIDGIN: Bench questions,  
16 Mr. Chairman?

17 CHAIR R. KENNEY: No, thank you.

18 JUDGE PRIDGIN: Commissioner Stoll?

19 COMMISSIONER KENNEY: I have one.

20 QUESTIONS BY COMMISSIONER KENNEY:

21 **Q. You mention in your testimony about NEB**  
22 **adders, non-energy benefits --**

23 A. Yes.

24 **Q. -- and states that use those.**

25 **Can you explain those in greater detail?**

1 **You mention that Colorado has below income up to like**  
2 **25 percent adders?**

3 A. Yes.

4 **Q. How does that work?**

5 A. So the way an adder would work is you  
6 would add up the costs and the benefits for a program  
7 and then you would take the benefit side of the  
8 equation and you would multiply it. So in the case of  
9 a 25 percent adder, you'd multiply it times -- would  
10 it would be 125 percent of the benefits instead of  
11 just 100 percent of the benefits.

12 The idea there is that there are  
13 non-energy benefits that are large in magnitude, but  
14 sometimes difficult or time consuming to quantify and  
15 that an adder can take account of those benefits in a  
16 reasonable and conservative way without the need for  
17 time-consuming quantification on a benefit-by-benefit  
18 level. But in that way, the cost benefit analysis  
19 takes account of these many benefits that we know are  
20 occurring, especially with low-income programs.

21 **Q. But are those -- it's non-energy**  
22 **benefits, so it's some other societal benefit or**  
23 **some -- could be cut expenses in another area?**

24 A. So there's a -- in my testimony there's a  
25 partial list of non-energy benefits, but it could

1 include participant benefits that are not specifically  
2 related to reduce energy costs, for example, improved  
3 health that results from an energy efficiency  
4 retrofit, societal benefits like jobs created or other  
5 things in that way, or even benefits to the Company  
6 like reduced bad debt and arrearages from low-income  
7 customers and the cost of trying to collect on those.

8 **Q. You mentioned some of the states that are**  
9 **doing that.**

10 A. Uh-huh.

11 **Q. Are those the commissions that have put**  
12 **those in practice? Are they commission activities?**

13 A. I believe it varies from state to state,  
14 but in many cases I think it has been the commissions.

15 **Q. And in other states the legislature?**

16 A. You know, I --

17 **Q. Don't know?**

18 A. -- I couldn't say right now.

19 **Q. All right. Thank you very much.**

20 JUDGE PRIDGIN: All right. Thank you.

21 Any recross based on Bench questions?

22 Seeing no volunteers, any redirect?

23 MR. LINHARES: I have no redirect, your  
24 Honor.

25 JUDGE PRIDGIN: All right. Ms. Brink,

1 thank you very much. You may step down.

2 THE WITNESS: Thank you.

3 JUDGE PRIDGIN: Dana Gray is the next  
4 witness. Ms. Gray, if you'll come forward, please.  
5 If you'll raise your right hand to be sworn, please.

6 (Witness sworn.)

7 JUDGE PRIDGIN: Thank you very much.  
8 Mr. Linhares, when you're ready.

9 DANA GRAY testified as follows:

10 DIRECT EXAMINATION BY MR. LINHARES:

11 Q. Good morning, Ms. Gray.

12 A. Good morning.

13 Q. Could you please spell your name and  
14 state your business address for the Commission.

15 A. Dana Gray, D-a-n-a G-r-a-y. And the  
16 address is 4103 Shenandoah, St. Louis, Missouri 63110.

17 Q. Thank you. And are you the same Ms. Gray  
18 that filed Rebuttal Testimony in this case?

19 A. I am.

20 Q. And do you have any additions or  
21 corrections to your testimony you'd like to make at  
22 this time?

23 A. I do not.

24 Q. And if I ask you the same questions today  
25 as found in your testimony, would your answers be the

1 same?

2 A. It would.

3 Q. **And are these answers in your testimony**  
4 **true and accurate, to the best of your knowledge?**

5 A. Yes, they are.

6 MR. LINHARES: Your Honor, I would move  
7 for the addition of Ms. Gray's Rebuttal Testimony as  
8 Exhibit 14 [sic] to be added into evidence in this  
9 case.

10 JUDGE PRIDGIN: I show it marked as  
11 Exhibit 1400, and that can be offered. Any  
12 objections?

13 Hearing none, Exhibit 1400 is admitted.  
14 (Tower Grove Exhibit 1400 was received  
15 into evidence.)

16 MR. LINHARES: And I would tender the  
17 witness for cross-examination.

18 JUDGE PRIDGIN: Mr. Linhares, thank you.  
19 While you're there, any cross from Renew Missouri or  
20 National Housing Trust?

21 MR. LINHARES: No, sir.

22 JUDGE PRIDGIN: Thank you. Sierra Club?

23 MS. OSUALA: No questions, Your Honor.

24 JUDGE PRIDGIN: Brightergy?

25 MR. ZELLERS: No questions, Your Honor.

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JUDGE PRIDGIN: MIEC?  
MR. DOWNEY: No questions.  
JUDGE PRIDGIN: MIEC? Public Counsel?  
MR. OPITZ: No questions, Judge.  
JUDGE PRIDGIN: Staff?  
MR. BERLIN: No questions.  
JUDGE PRIDGIN: United for Missouri?  
MR. LINTON: No questions.  
JUDGE PRIDGIN: Division of Energy?  
MR. ANTAL: Yes, a few.  
JUDGE PRIDGIN: When you're ready,

Mr. Antal.

CROSS-EXAMINATION BY MR. ANTAL:

**Q. Good morning, Ms. Gray.**

A. Good morning.

**Q. In your opinion, are non-energy benefits important to multi-family low-income energy efficiency programs and measure?**

A. Yes, they are.

**Q. Okay. In your opinion, are there quantifiable non-energy benefits which should be included when assessing the cost effectiveness of MEEIA programs?**

A. I believe there are, although I am not familiar with how they would be quantified. That's



1 beyond the scope of my expertise.

2 **Q. Okay. Thank you. Would you support**  
3 **using a cost effectiveness test that excluded**  
4 **non-energy benefits?**

5 A. I believe that the non-energy benefits  
6 should be included.

7 **Q. Okay. Are you an owner of unsubsidized**  
8 **affordable multi-family properties?**

9 A. I am.

10 **Q. Okay. Do you also work with owners of**  
11 **both subsidized and unsubsidized affordable**  
12 **multi-family properties in your position at Tower**  
13 **Grove?**

14 A. I do.

15 **Q. And to clarify, what's the full name of**  
16 **your organization?**

17 A. Tower Grove Neighborhoods Community  
18 Development Corporation.

19 **Q. Thank you. Would the discontinuation of**  
20 **Ameren Missouri's MEEIA portfolio in the immediate**  
21 **future provide certainty for any multi-family**  
22 **low-income property owners or managers?**

23 A. I don't understand the question.

24 **Q. Let me try to rephrase. If Ameren**  
25 **Missouri's MEEIA programs were to expire at the end of**

1 **this year, would that provide certainty or reliability**  
2 **to low-income property owners?**

3 A. I don't believe it would provide any  
4 certainty.

5 Q. Okay. If you were -- if you or another  
6 multi-family low-income property owner were  
7 contemplating putting in energy efficiency measures  
8 into the properties that you own, you would want to  
9 have some assurances that the rebates and incentives  
10 that are offered through Ameren Missouri would still  
11 be in place going forward. Would you not?

12 A. We would hope that the programs would go  
13 forward.

14 Q. Would it be significantly --  
15 significantly more difficult for multi-family  
16 low-income property owners to improve their properties  
17 with energy efficiency measures if these incentive  
18 programs were not available through the utility?

19 A. It would be very difficult to pursue  
20 energy efficiency without some sort of incentive and  
21 rebate programs, yes.

22 Q. Okay. Thank you. No further questions.

23 JUDGE PRIDGIN: Thank you.

24 NRDC, any cross?

25 MR. ROBERTSON: No questions.

1 JUDGE PRIDGIN: Ameren Missouri?

2 MR. TOMC: Just a few, your Honor.

3 CROSS-EXAMINATION BY MR. TOMC:

4 Q. Good morning.

5 A. Good morning.

6 Q. Ms. Gray, I just wanted to ask you a few  
7 questions. And we've heard a lot in this case from  
8 national experts and -- with respect to more  
9 theoretical issues.

10 Being somebody that's -- that's local to  
11 St. Louis, I just ask you, I mean with respect to the  
12 proposal to increase the budget to a total of  
13 10 point -- over \$10 million, can you give a couple  
14 examples of some benefits and some usefulness of those  
15 expenditures within the St. Louis community?

16 A. I've seen a number of certainly  
17 single-family owner-occupied homes that have pursued  
18 energy efficiency and have utilized the rebates and  
19 incentive programs that have been offered by the  
20 utility. I've not witnessed much in the way of rental  
21 property owners pursuing the energy efficiency rebate  
22 programs, simply because they have not been  
23 significant enough to warrant their participation.

24 Q. And if I were to use the term  
25 "externality," would you understand what I mean by

1 **that word?**

2 A. Externality?

3 **Q. I'll try a different question.**

4 A. Okay.

5 **Q. That answers my question. Do you think**  
6 **that today there are some barriers for owners of**  
7 **multi-family low-income housing financial barriers or**  
8 **business barriers or otherwise to voluntarily adopt**  
9 **efficient measures without incentives?**

10 A. Yes, there are barriers.

11 **Q. And with respect to what's been proposed**  
12 **by the Company in this case, do you feel that the**  
13 **level of incentives offered would go a long way to**  
14 **helping reduce those barriers and increase efficient**  
15 **energy use for low-income customers?**

16 A. I do believe that the multi-family  
17 low-income program would significantly address some of  
18 those barriers. I am a little concerned that -- that  
19 they perhaps wouldn't reach all of the properties that  
20 are quantified or labeled as residential properties.

21 In the stipulations, they're labeled 2M,  
22 3M, 4M, and I'm not familiar with what that means. I  
23 noted the difference in OPC and Staff Stipulation that  
24 they also included 1M. I am assuming that that is a  
25 smaller customer. And many of the multi-family

1 properties in St. Louis are four-family properties and  
2 I'm under the assumption that those would be 1M  
3 customers of Ameren. So I would ask and hope that  
4 those properties would be included. That is the most  
5 prevalent multi-family home in the City and the  
6 service area of Ameren, so that's my concern that that  
7 could be offered.

8 **Q. Okay. That's a concern. With that**  
9 **concern stated, to the extent that concern can be**  
10 **addressed, you do believe that significant numbers of**  
11 **families in the St. Louis area would benefit from**  
12 **these programs?**

13 A. I do.

14 **Q. Okay. Now, did you hear -- you were here**  
15 **when Ms. Brink testified?**

16 A. I was.

17 **Q. And do you disagree with any of the --**  
18 **anything she said on the stand today?**

19 A. No, I do not.

20 **Q. Okay. And so then you would agree that**  
21 **in terms of the provisions for multi-family low-income**  
22 **housing, the Company has been responsive to the**  
23 **requests of Tower Grove and National Housing Trust?**

24 A. Yes, they have.

25 **Q. All right. Thank you. I have no further**

1 **questions.**

2 JUDGE PRIDGIN: Very good. Thank you.

3 Any Bench questions, Mr. Chairman?

4 CHAIR R. KENNEY: No, thank you. Thanks  
5 for your testimony.

6 JUDGE PRIDGIN: Commissioner Stoll?

7 COMMISSIONER STOLL: No questions. Thank  
8 you.

9 JUDGE PRIDGIN: No questions. All right.  
10 Any redirect?

11 MR. LINHARES: I have no redirect, your  
12 Honor.

13 JUDGE PRIDGIN: All right. Thank you.  
14 Ms. Gray, thank you very much. You may step down.

15 I think the next witness would be  
16 Mr. Rogers. Mr. Rogers, if you'll raise your right  
17 hand to be sworn, please.

18 (Witness sworn.)

19 JUDGE PRIDGIN: Thank you very much, sir.  
20 And Mr. Berlin, when you're ready.

21 JOHN ROGERS testified as follows:

22 DIRECT EXAMINATION BY MR. BERLIN:

23 **Q. Good morning, Mr. Rogers. Would you**  
24 **please state your full name and how you are employed.**

25 A. John Rogers. I am a Utility Regulatory

1 Manager for the Missouri Public Service Commission.

2 **Q. And are you the same John Rogers that**  
3 **caused to be prepared certain pre-filed testimonies in**  
4 **a question and answer format pre-marked as Exhibits**  
5 **Number 708, Rogers Rebuttal Testimony in HC and NP**  
6 **versions; Exhibit Number 709, Rogers Corrected**  
7 **Rebuttal Testimony in HC and NP versions; Exhibit**  
8 **Number 710, Rogers Surrebuttal Testimony; Exhibit**  
9 **Number 711, Rogers Supplemental Direct Testimony; and**  
10 **Exhibit Number 712, Rogers Rebuttal to Supplemental**  
11 **Testimony?**

12 A. Yes.

13 **Q. And do you have any corrections to make**  
14 **to any of those testimonies?**

15 A. I have two. On my Surrebuttal Testimony  
16 page 4, line 11, J-- it says Schedule JAR-1. It  
17 should be corrected to J-- Schedule JAR-6-3. The  
18 second correction is on my Supplemental Direct  
19 Testimony, Schedule JAR-1. There's a header in the  
20 second column -- or the second portion of the table  
21 from the left which is titled Net Incremental Demand  
22 Savings Targets. GW for gigawatt hours should be  
23 corrected to MW for megawatt. I mean -- I misspoke.  
24 GW, gigawatts, should be corrected to MW, megawatts.

25 **Q. And is that all of your corrections?**

1 A. Yes.

2 Q. And have any of those corrections changed  
3 any of your conclusions in any of your testimonies?

4 A. No.

5 Q. And if I were to ask you the same  
6 questions that are posed in those testimonies, would  
7 your answers be the same today?

8 A. Yes, they would.

9 Q. And would your answers -- are your  
10 answers true and correct, to your best information and  
11 belief?

12 A. Yes.

13 MR. BERLIN: With that, Judge, I would  
14 move to enter into evidence the John Rogers  
15 testimonies marked 708, 709, 710, 711 and 712.

16 JUDGE PRIDGIN: Mr. Berlin, thank you.  
17 Any objections?

18 Hearing none, Exhibit 708-HC and NP is  
19 admitted, Exhibit 709-HC and NP is admitted, Exhibit  
20 710 is admitted, Exhibit 711 is admitted, Exhibit 712  
21 is admitted.

22 (Staff Exhibits 708-HC, 708-NP, 709-HC,  
23 709-HC, 710, 711 and 712 were received into evidence.)

24 MR. BERLIN: And with that, Judge, I  
25 tender Mr. Rogers for cross-examination.



1 JUDGE PRIDGIN: Mr. Berlin, thank you.

2 Any cross from Renew Missouri?

3 MR. LINHARES: No, your Honor.

4 JUDGE PRIDGIN: Tower Grove, National  
5 Housing Trust?

6 MR. LINHARES: No cross, Judge.

7 JUDGE PRIDGIN: Thank you. Sierra Club?

8 MS. OSUALA: No cross, Your Honor.

9 JUDGE PRIDGIN: Brightergy?

10 MR. ZELLERS: No questions, your Honor.

11 JUDGE PRIDGIN: MIEC?

12 MR. DOWNEY: No questions.

13 JUDGE PRIDGIN: MECG? Public Counsel?

14 MR. OPITZ: Yes, Judge.

15 CROSS-EXAMINATION BY MR. OPITZ:

16 Q. Good morning, Mr. Rogers.

17 A. Good morning.

18 Q. Do you have a copy of your Corrected  
19 clean Rebuttal Testimony in front of you?

20 A. Yes, I do.

21 Q. Would you look at page 18. On lines 9  
22 and 10 you say -- you have a title there that says,  
23 The plan is not expected to be beneficial to all  
24 customers in the customer class in which the DSM  
25 programs are proposed.

1                   **Is that -- is that your testimony here**  
2 **today?**

3           A.     Let's start over with the reference. Was  
4 it Surrebuttal?

5           **Q.     Your Corrected clean Rebuttal Testimony.**

6           A.     Okay.

7           **Q.     Which was filed on April 17th.**

8           A.     Page 18.

9           **Q.     Lines 9 and 10.**

10          A.     Lines 9 and 10.

11          **Q.     There is a bolded heading there that**  
12 **says, Plan is not expected to be beneficial to all**  
13 **customers in the customer class in which the DSM**  
14 **programs are proposed.**

15                   **Is that your testimony here today?**

16          A.     Yes, it is.

17          **Q.     And on page 20, you include a -- I**  
18 **suppose it's a graph, Figure 3.8 that's titled 2016-18**  
19 **Portfolio and DSIM Rate Impact; is that correct?**

20          A.     Correct.

21          **Q.     And as I understand, some -- some parties**  
22 **to this case have interpreted your use of the words**  
23 **"rate impact" to mean that you are applying a RIM**  
24 **test. Is that your understanding as well?**

25          A.     My --

1 MS. TATRO: Your Honor, I'm going to  
2 object to the extent this appears to be friendly  
3 cross.

4 JUDGE PRIDGIN: Mr. Opitz?

5 MR. OPITZ: Judge, I and my client have a  
6 right to cross-examine Mr. Rogers on his testimony  
7 that he's offered. To the extent that we share a  
8 position or have a similar position, that does not  
9 diminish that right at all.

10 Further, I -- I'm asking questions to --  
11 I'm not asking open-ended questions at this time. I'm  
12 asking questions to point his attention to testimony  
13 and then I'm going to ask him questions that may be  
14 open-ended to clarify what is unclear in his  
15 testimony. And I think that's entirely appropriate.

16 JUDGE PRIDGIN: All right. I'll  
17 overrule. If this starts to stray closer to friendly  
18 cross, I may sustain later.

19 THE WITNESS: Please repeat the question.

20 BY MR. OPITZ:

21 Q. I'll give it a shot. So I understand  
22 that certain -- I was referring to the table on  
23 page 20. And the heading of it includes the word  
24 "rate impact." And it's my understanding that certain  
25 parties to this case have, I guess, alleged that you

1 are applying a rate -- a RIM cost effectiveness test  
2 in your testimony. Is that what you are doing?

3 A. No.

4 Q. What is it that you're doing if -- if  
5 you've got a table here that says Rate Impact?

6 A. Well, the difference between this graph  
7 and the RIM test is that I never do the present value  
8 of the cost and benefits represented in these annual  
9 rates. So what's on this chart is the data that would  
10 be used to calculate the RIM benefit cost ratio, but I  
11 never perform that calculation. I only present the  
12 data, this stream of -- the series of annual rates  
13 that would result from the portfolio.

14 Q. And can you clarify for me I guess  
15 what -- what the difference is between what you're  
16 intending to show here and what the RIM test would  
17 show?

18 MS. TATRO: Your Honor, I renew my  
19 objection. This is friendly cross. It's open-ended  
20 questions designed to help Mr. Rogers re-establish his  
21 position and their position is consistent on this  
22 point. You disallowed it earlier in the hearing and I  
23 think you should continue to uphold that ruling.

24 JUDGE PRIDGIN: Mr. Opitz?

25 MR. OPITZ: Judge, again, I would state

1 that my client and myself have the right -- a due  
2 process right to cross-examine this witness in this  
3 case. This is on his testimony. I would suggest, at  
4 least to one of the instances where I recall from  
5 yesterday where you sustained an objection for  
6 friendly cross, that was in regards to a witness  
7 testifying about another witness's testimony.

8 Here I'm asking Mr. Rogers about  
9 references in his testimony and asking him to clarify  
10 for the record. And I believe that the record  
11 benefits from having the clarification in there.

12 JUDGE PRIDGIN: I think we're straying  
13 into friendly cross, so I'm going to sustain.

14 MR. OPITZ: Thank you, Judge. I would  
15 ask that I have the opportunity to make an offer of  
16 proof on this testimony on the record.

17 JUDGE PRIDGIN: You may proceed.

18 BY MR. OPITZ:

19 **Q. Mr. Rogers, looking back at your chart on**  
20 **table 20, if you are not offering it to show a RIM**  
21 **impact, what is it that you're attempting to show with**  
22 **that chart?**

23 A. The chart shows the annual rate impact  
24 beginning in 2016 and ending in 2025 with five of the  
25 rate classes of Ameren Missouri as a result of the

1 demand-side programs in the portfolio in this case.

2 And the chart shows that with the exception of the  
3 residential rate impact in 2019, in every year on this  
4 chart, rates would be higher for customers as a result  
5 of these -- of the portfolio requested in Cycle 2.

6 **Q. And this doesn't reflect present valuing**  
7 **that might be done under an RIM test?**

8 A. And it doesn't -- correct.

9 **Q. And so for these programs, the cost**  
10 **effectiveness that would be applied would still be the**  
11 **TRC test. Correct?**

12 A. Yes.

13 **Q. And even applying that test, this data**  
14 **still shows that customers would pay more under a**  
15 **MEEIA program?**

16 A. In every year.

17 **Q. Mr. Rogers, do you have a copy of your**  
18 **Surrebuttal Testimony here?**

19 A. Yes, I do.

20 **Q. Would you turn to page -- excuse me, one**  
21 **moment.**

22 **Would you turn to page 18. And on that**  
23 **page is a Table 1. Correct?**

24 A. Correct.

25 **Q. And Table 1 is your analysis of Ameren**

1 **Missouri's 2014 throughput disincentive; is that**  
2 **correct?**

3 A. Correct.

4 **Q. And on the line where it says Deemed**  
5 **Annual Net Shared Benefits (1), the value is**  
6 **\$184,907,690. Where did you derive that number?**

7 A. That number comes from -- and it's noted  
8 in the footnote -- the 2014 fourth quarter  
9 surveillance monitoring report.

10 **Q. And so that is the value -- the deemed**  
11 **value in dollars of the Ameren Missouri MEEIA**  
12 **throughput disincentive for 2014. Correct?**

13 A. Correct.

14 **Q. Okay. And the line below that is EM&V**  
15 **annual net shared benefits. And that is \$90,541,414.**  
16 **Correct?**

17 A. Correct.

18 **Q. And how did you derive that value? Where**  
19 **did that value come from?**

20 MS. TATRO: Excuse me. I must object  
21 once again on the basis of friendly cross. Obviously  
22 their interests are not adversarial on this aspect.  
23 This is the very chart that Mr. Opitz screamed about  
24 in his opening statement.

25 JUDGE PRIDGIN: And I assume we've left

1 that -- I assume we've left the offer of proof and  
2 we've moved on. So, Mr. Opitz, I'll let you respond.

3 MR. OPITZ: Judge, I would again state  
4 that although our positions may be the same or  
5 aligned, my client and myself still have a right to  
6 cross-examine this witness on testimony that he had  
7 filed in this case.

8 My question is to clarify what that  
9 number came from. There was some confusion yesterday  
10 that Company witness may or may not have understood  
11 where that number came from.

12 MS. TATRO: Which just proves my point  
13 that it's friendly cross.

14 JUDGE PRIDGIN: I mean, I'll sustain.  
15 Again, if you want to make an offer of proof, you may  
16 do so.

17 MR. OPITZ: Judge, I would like to make  
18 an offer of proof.

19 JUDGE PRIDGIN: You may proceed.

20 BY MR. OPITZ:

21 Q. Mr. Rogers, do you recall the number I  
22 was pointing you to for EM&V annual net shared  
23 benefits?

24 A. Yes.

25 Q. And that number was approximately



1 **\$90 million?**

2 A. Yes.

3 **Q. And where did you get the information for**  
4 **that number?**

5 A. I didn't get the information for that  
6 number. I calculated that number.

7 **Q. And how did you calculate that number?**

8 A. It's identified in footnote 3. That John  
9 Rogers' calculation assumes the final EM&V ex-post  
10 gross utility cost benefits would be reduced by  
11 40 percent when the avoided cost used in the DSMore  
12 model are updated to reflect the methodology used in  
13 Ameren Missouri's most recently adopted preferred  
14 resource plan filed on October 1st, 2014 in File  
15 Number E0-2015-0084.

16 This number is not a precise number.  
17 It's based upon an assumption that I made that the  
18 benefits from the programs would be reduced by  
19 40 percent as a result of the use of the avoided cost  
20 curves that I believe should be used for the EM&V for  
21 2014 and were not.

22 **Q. And those cost curves, where did you find**  
23 **that cost curve information?**

24 A. Well, I was applying some judgment.  
25 Those cost curves are Ameren Missouri's cost curves.

1 I was looking at the curves that are in the Company  
2 plan on page 26 in Figure 2.3 of the plan document.

3 MS. TATRO: Before Mr. Opitz asks another  
4 question, are we still in the offer of proof? I think  
5 last time he didn't clearly delineate when he was done  
6 and I would appreciate, so that it's clear for  
7 everyone when it begins and ends, if he'd be very  
8 specific. Thank you.

9 JUDGE PRIDGIN: Yeah, and I would agree.  
10 If you can just state when the offer of proof is done.

11 MR. OPITZ: I will attempt to do so,  
12 Judge. Again, my preference is that none of this be  
13 an offer of proof because I believe I have the right  
14 and my client has the right to cross-examine this  
15 witness.

16 JUDGE PRIDGIN: I understand. I've  
17 ruled.

18 MR. OPITZ: That's all I have, Judge.  
19 Thank you.

20 JUDGE PRIDGIN: Thank you.  
21 Any cross from United for Missouri?  
22 Division of Energy?

23 MR. ANTAL: Yes, your Honor.

24 CROSS-EXAMINATION BY MR. ANTAL:

25 Q. Good morning, Mr. Rogers.

1 A. Good morning.

2 Q. If you would -- do you have a copy of  
3 your Corrected clean Rebuttal Testimony?

4 A. Yes, I do.

5 Q. Okay. Would direct you to page 19 of  
6 that.

7 A. Okay.

8 Q. Are you there?

9 A. Yes.

10 Q. Okay. Starting on line 13 you state, For  
11 the customer who never participates directly in any of  
12 the DSM programs, benefits will only occur if the  
13 impacts of the plan causes rates at some point in time  
14 to be lower than the rates that would have occurred if  
15 there were no DSM programs and no DSIM; is that  
16 correct?

17 A. That's my testimony.

18 Q. Okay. And it's -- is it -- and it's your  
19 position that Ameren's plan and its amended plan, as a  
20 amended through the Company Agreement, would not  
21 result in benefits to all customers?

22 A. Correct.

23 Q. Okay. And you and counsel for the -- or  
24 OPC were discussing whether or not what the analysis  
25 that you conducted was a RIM test or not. Putting

1 **that aside, would you characterize your analysis as a**  
2 **rate impact analysis?**

3 A. Well, first I'd like to say that this is  
4 not my analysis. This is Ameren Missouri's analysis.  
5 And it is a rate impact analysis.

6 **Q. Okay. Could it also be described as a**  
7 **rate impact screening?**

8 A. I'm not sure what you're trying to  
9 differentiate here between screening -- these are the  
10 results of the analysis for the programs that have  
11 been requested in this application.

12 **Q. Okay.**

13 A. The Cycle 2 application.

14 **Q. Let me ask you this instead --**

15 A. Okay.

16 **Q. -- have you reviewed the testimony of**  
17 **Sierra Club witness Mr. Woolf in this proceeding?**

18 A. Yes.

19 **Q. Okay. And were you in the hearing room**  
20 **when he testified yesterday?**

21 A. Yes.

22 **Q. Okay. Did you understand his testimony,**  
23 **both pre-filed and in the hearing room yesterday, to**  
24 **mean that he had -- or he was opposed to a rate impact**  
25 **screening that Staff did?**

1 A. Yes.

2 Q. Okay. And is Staff and the Sierra Club  
3 both signatories to the Non-utility Stipulation and  
4 Agreement?

5 A. Yes.

6 Q. Okay. And does that agreement, to the  
7 best of your knowledge, outline a process for the  
8 identification of additional cost effective energy  
9 efficiency programs which are also beneficial to all  
10 customers?

11 A. Yes.

12 Q. Okay. And is it your understanding that  
13 any additional cost effective energy efficiency  
14 programs would pass the rate impact analysis that was  
15 conducted and outlined in your testimony?

16 A. I can't presume that.

17 Q. Okay. Do you think that any additional  
18 cost effective energy efficiency programs that are  
19 identified through that process outlined in the  
20 Non-utility Agreement should pass a rate impact  
21 analysis as was outlined in your testimony?

22 A. No.

23 Q. No. Okay. I would now ask you to turn  
24 to your Supplemental Direct Testimony on page 3.  
25 Starting on line 10 your answer reads, The programs

1 and annual energy and demand savings in Appendix A in  
2 and of themselves do not meet the MEEIA goal of all  
3 cost effective demand savings that will provide  
4 benefits to all customers.

5 Did I read that sentence correctly?

6 A. Yes.

7 Q. Okay. And this sentence or -- and this  
8 answer was referring to the Non-utility Agreement; is  
9 that correct?

10 A. Correct.

11 Q. Okay. So then is the Non-utility  
12 Agreement's proposed MEEIA plan not meeting the  
13 requirements of MEEIA as it stands here today?

14 A. No, it is -- it is meeting the  
15 requirements of MEEIA. Although the portfolio  
16 currently in the Non-utility Stipulation, I believe,  
17 does not meet all cost effective. The expectation and  
18 the hope is that through the collaborative process and  
19 the Delphi panel, that we would make significant  
20 progress towards achieving that objective of MEEIA.

21 Q. Okay. So then based off your expert  
22 belief, the Non-utility Agreement is contingent on the  
23 successfulness of the expert board -- or the expert  
24 panel coming -- or finding additional savings in order  
25 to comply with the MEEIA statute?

1 A. Yes.

2 Q. Okay. Now I'll ask you to turn to your  
3 Rebuttal to Supplemental Testimony on page 6. Are you  
4 there?

5 A. Yes.

6 Q. Okay. Starting on line 18 your answer  
7 states, Mr. Laurent's Table 2 provides only the TRC  
8 values for the programs in the Utility Stipulation.  
9 The TRCs for residential, business and portfolio  
10 levels are 1.31, 1.62 and 1.50 respectively. The TRCs  
11 in Table 2 suggest that if Ameren Missouri is  
12 successful in delivering all program services as  
13 planned and all of deemed values are realized, then  
14 all -- continuing on the next page -- customers will  
15 benefit from the programs for which they pay.

16 However, when factoring in the cost for  
17 the throughput disincentive and 100 percent  
18 performance incentive, Staff's analysis suggests that  
19 the majority of the -- of Ameren Missouri customers  
20 will likely receive very little, if any, overall net  
21 benefits from the programs and the DSIM in the Utility  
22 Stipulation.

23 To clarify, you believe the programs as  
24 they are outlined in the Company Agreement are cost  
25 effective because they pass a TRC?

1           A.     The TRC is -- is a cost effectiveness  
2 screening test.

3           **Q.     Okay. And all the programs in the**  
4 **Utility's Agreement meet that cost effectiveness test?**

5           A.     They do.

6           **Q.     Okay. However, you're stating the**  
7 **programs are not beneficial to all ratepayers, as you**  
8 **understand that term, because of the rate impacts?**

9           A.     With the addition of the throughput  
10 disincentive and the performance incentive added to  
11 the analysis of -- not the TRC, but in my analysis,  
12 it's the utility cost test that I'm adding the  
13 additional cost to customers for the throughput  
14 disincentive and the performance incentive in  
15 performing my analysis of net benefits for customers.

16           **Q.     Okay. And the throughput disincentive**  
17 **and performance incentives are typically found in a**  
18 **rate impact analysis?**

19           A.     Yes.

20           **Q.     Okay. A few more questions. Could**  
21 **beneficial to all customers in a customer class, as**  
22 **you understand that term from the MEEIA statute,**  
23 **include improved public health outcomes such as**  
24 **reductions in healthcare costs?**

25           A.     Yes.



1 Q. Okay. And would you agree that reduced  
2 air pollutant emissions and improved public health  
3 outcomes would accrue to all customers regardless of  
4 their participation in MEEIA programs?

5 A. Yes.

6 Q. And if you know, did any of Ameren  
7 Missouri's Cycle 1 programs pass a rate the -- a  
8 rate -- a rate impact analysis?

9 A. I don't recall.

10 Q. Okay. If Commission rejects Ameren  
11 Missouri's Cycle 2 application as modified by the  
12 Company Agreements or approves a modified plan other  
13 than the one that the Company has expressly signed on  
14 to, could Ameren Missouri's current energy efficiency  
15 programs end before new energy efficiency programs  
16 were approved?

17 A. Let me make sure I understand your  
18 question.

19 Q. Sure. I'll restate. If the Commission  
20 approves a modified plan other than the one the  
21 Company has expressly agreed to, is there a  
22 possibility that the current energy efficiency  
23 programs would expire before new programs could be  
24 approved by this Commission?

25 A. Okay. And that's just because of the

1 timing of a decision and whether Ameren Missouri has  
2 adequate time to implement the new programs?

3 **Q. Under this hypothetical, yes.**

4 A. It's possible.

5 **Q. Okay. And if energy efficiency programs**  
6 **were to expire before new programs were approved,**  
7 **would there be less energy efficiency achieved in**  
8 **Ameren Missouri's service territory?**

9 A. Yes.

10 **Q. Okay. Thank you very much. No further**  
11 **questions.**

12 JUDGE PRIDGIN: All right. Mr. Antal,  
13 thank you.

14 I don't like to break in the middle of a  
15 witness, but middle of the morning and because the  
16 Commission has agenda at noon, I will need to attend,  
17 Commissioners will need to attend, some of you  
18 probably want or need to attend as well. But this is  
19 a good time to break and then we'll have to break  
20 again some time before noon for agenda.

21 So we will go into recess until 10:20 and  
22 then resume cross-examination of Mr. Rogers. Thank  
23 you. We're off the record. 709, 710, 711, 712 were

24 (Staff Exhibits 708-HC, 708-NP, 709-HC,  
25 709-NP, 710, 711 and 712 were marked for

1 i denti fi cati on.)

2 JUDGE PRIDGIN: Good morning. We are  
3 back on the record. Mr. Rogers is still on the stand.  
4 And, Mr. Rogers, you're still under oath. And I  
5 believe Division of Energy completed  
6 cross-exami nati on.

7 Let me see. NRDC, Mr. Robertson, any  
8 cross?

9 MR. ROBERTSON: No questions.

10 JUDGE PRIDGIN: Thank you. Ameren  
11 Mi ssouri ?

12 MS. TATRO: Thank you, your Honor.

13 CROSS-EXAMI NATION BY MS. TATRO:

14 Q. Good morning, Mr. Rogers.

15 A. Good morni ng.

16 Q. Would you agree with me that I took your  
17 deposition earlier in this case?

18 A. Yes.

19 Q. And you have a copy of that transcript in  
20 front of you?

21 A. Yes, I do.

22 Q. And you also have a calculator in front  
23 of you in case we need it?

24 A. Yes.

25 Q. Okay. Mr. Rogers, do you agree that if

1 **Ameren Missouri's energy efficiency programs are**  
2 **successful, they'll reduce the Company's energy sales?**

3 A. Yes.

4 **Q. Presuming no other load growth, do you**  
5 **agree that to the extent energy efficiency programs**  
6 **reduce retail sales, the Company's not recovering its**  
7 **fixed costs?**

8 A. In the absence of a fixed cost recovery  
9 mechanism, that would be true.

10 **Q. Okay. Let's answer these questions**  
11 **without either -- we're talking about without a MEEIA**  
12 **proposal being approved. so as we would sit without a**  
13 **MEEIA proposal. How's that?**

14 A. Okay.

15 **Q. Now, would you agree with me that even**  
16 **with load growth, energy efficiency will cause the**  
17 **Company to sell less energy than it otherwise would**  
18 **sell?**

19 A. So there's no MEEIA Cycle 2 and the  
20 question is even if there's load growth --

21 **Q. There's energy efficiency programs, but**  
22 **there's no MEEIA mechanism to recover throughput**  
23 **disincentive. Okay?**

24 A. If there are programs but there's no  
25 throughput disincentive recovery mechanism, that's

1 true.

2 Q. Okay. So just assume that same scenario  
3 for the next few questions, just to be clear. All  
4 right? So we have energy efficiency programs, but we  
5 have no specific cost recovery mechanism.

6 A. Okay.

7 Q. So all other factors held equal, does a  
8 reduction in energy sales place downward pressure on  
9 utility earnings?

10 A. Yes.

11 Q. And that's what the parties in this case  
12 have been referring to as the throughput disincentive.  
13 Would you agree?

14 A. Yes.

15 Q. And would you agree that if Ameren  
16 Missouri is unable to book revenue as earnings in the  
17 year that the retail sales are decreased because of  
18 these energy efficiency programs, then it is not  
19 offsetting the throughput disincentive during that  
20 year?

21 A. In that year, that would be my  
22 understanding.

23 Q. Okay. Do you agree that the impact of  
24 the throughput disincentive on utility financials  
25 works to deter utilities from pursuing energy

1 efficiency?

2 A. Yes.

3 Q. Do you believe that utility reluctance to  
4 pursue energy efficiency without a resolution to the  
5 throughput disincentive is a reasonable business  
6 decision?

7 A. Yes.

8 Q. Now you're familiar with the MEEIA  
9 statute. Correct?

10 A. Yes.

11 Q. Okay. And I'm not going to ask you for  
12 any legal interpretations, but would you agree with me  
13 that it provides for an earnings opportunity to be  
14 given to the utility?

15 A. Yes.

16 Q. Let's talk about that earnings  
17 opportunity. Would you agree with me that Staff's  
18 primary opposition to Ameren Missouri's originally  
19 filed earnings opportunity mechanism was based on the  
20 fact that it did not include full EM&V?

21 A. Correct.

22 Q. Okay. So ignoring the competing  
23 stipulations for a moment and just looking at an  
24 earnings opportunity mechanism by itself, isn't it  
25 true that Staff does not oppose a mechanism using

1 **shared net benefits if it is granted after a full EM&V**  
2 **study?**

3 A. And we're talking about the performance  
4 incentive now?

5 Q. Yes.

6 A. Okay. I'm going to ask you to repeat the  
7 question one more time.

8 Q. Sure. So just to be clear, we're  
9 ignoring the stipulations for a moment and just  
10 talking about a performance incentive, okay, and how  
11 that might be structured.

12 So just looking at the earnings  
13 opportunity mechanism or the performance incentive  
14 mechanism, isn't it true that Staff does not oppose a  
15 mechanism that used shared net benefits if it is given  
16 after a full EM&V study is completed and it uses those  
17 values in the calculation of the performance  
18 incentive?

19 A. And I'm answering this question in the  
20 absence of the stips, whether Staff opposes using a  
21 throughput disincentive that is basically what is in  
22 the rules, is that it be a function of the annual net  
23 shared benefits.

24 Q. Okay. Does that mean Staff doesn't  
25 oppose that mechanism?

1 A. I don't think we would oppose that.

2 Q. Okay.

3 A. It's not what we're recommending.

4 Q. I understand that. I understand that.

5 Thank you.

6 Now, Mr. Rogers, isn't it true that you  
7 believe the megawatt hours target in Cycle 2 will be  
8 less than the target from Cycle 1?

9 A. Correct.

10 Q. And why is that?

11 A. Do I believe that it -- that it is or --

12 Q. Why do you believe it's less than was  
13 available in Cycle 1? I didn't mean to make it  
14 difficult. Let me ask a different question.

15 A. It's just -- it's what's being  
16 recommended. I mean --

17 Q. So did you read Mr. Voytas's testimony on  
18 that topic?

19 A. Yes.

20 Q. And were you convinced by his arguments  
21 as to why the reasons he gave as to why there was less  
22 megawatt hour potential for the targets for Cycle 2  
23 than Cycle 1?

24 A. Given the portfolio programs that are  
25 being recommended and the analysis performed by Ameren



1 Missouri, we have a Cycle 2 portfolio that is  
2 significantly lower in terms of projected energy and  
3 demand savings than we have for Cycle 1. I didn't  
4 perform that analysis. The Company did.

5 Q. Can you please turn to page 53 of the  
6 deposition.

7 A. Okay. I'm there.

8 Q. Actually, let's turn back one page to  
9 page 52, just to make sure we capture kind of what  
10 we're talking about here. I'm going to start on line  
11 16. Okay? So page 52, line 16. All right.

12 And this is you talking. And you said,  
13 And I know Mr. Voytas addressed a lot of those in  
14 Surrebuttal Testimony to defend what the Company is  
15 proposing.

16 And apparently I said uh-huh.

17 Then you continued, And he did a good job  
18 in his testimony. I think there's still ideas the  
19 collective parties have brought to the process that  
20 could improve and strengthen the RAP portfolio for  
21 Cycle 2. I think that is best done through a  
22 collaborative technical process. Staff doesn't have  
23 the resources to do a lot of things that you're asking  
24 about to review the potential study in detail.

25 I have gained an appreciation through the

1 rounds of testimony for the situation that we're in.  
2 And I appreciate that and now have the expectation,  
3 you know, that the outcome will -- of the Cycle 2 is  
4 likely to have a lower target for energy savings than  
5 typ-- than Cycle 1.

6 And, you know, I think reading the  
7 testimony, I can understand why we are where we --  
8 where we are today. And it's basically a function of  
9 the environment we're in today relative to the  
10 environment that existed three or four years ago when  
11 Cycle 1 was planned.

12 Did I read that correctly?

13 A. Yes.

14 Q. Okay. And if you would to page 54,  
15 starting at line 4. So I think cycle -- and this is  
16 you talking, So I think Cycle 1 is successful and a  
17 lot of energy was saved. The baseline is changing.  
18 The demand to energy is reduced. The Company has  
19 significant reserve capacity and the benefits of the  
20 programs are much less. And Mr. Voytas characterized  
21 them as half of what they were for the first -- the  
22 Cycle 1 plan.

23 So when I process all that, I understand  
24 and expect that the target for energy savings and  
25 demand savings for Cycle 2 is likely to be less than

1 **Cycle 1.**

2 **Did I read that correctly?**

3 A. Yes.

4 **Q. Thank you. Now, if I say TRM, do you**  
5 **know what I'm referring to?**

6 A. Yes.

7 **Q. And what that's stand for?**

8 A. Technical Resource Manual .

9 **Q. Do you know if other states or other**  
10 **utilities use a TRM or deemed values with their energy**  
11 **efficiency programs?**

12 A. That's my understanding.

13 **Q. Okay. In your opinion, is it common or**  
14 **uncommon for TRMs to be used?**

15 A. I don't have an opinion.

16 **Q. Can you turn to page 40 of your**  
17 **deposition?**

18 A. 40?

19 **Q. Yeah. Starting at line 23. And, again,**  
20 **tell me if I'm reading this correctly. Question:**  
21 **Okay. Is it your opinion -- is it common or uncommon**  
22 **for these to be used? And the "these" here is**  
23 **referring to TRMs.**

24 **Answer: I believe it's common,**  
25 **although -- and then over on the next page -- I don't**

1 have a lot of firsthand knowledge.

2 Did I read that correctly?

3 A. Correct.

4 Q. Okay. Does Staff have a position on  
5 whether the values in Ameren Missouri's proposed TRM  
6 are reasonable?

7 A. I have no reason to believe they're  
8 unreasonable.

9 Q. Can you turn to page 41, line 23 and  
10 again tell me if I'm reading this correctly.

11 Question: Okay. Does --

12 I'm sorry. Were you there?

13 A. Yes.

14 Q. Okay. Question: Okay. Does Staff have  
15 a position on whether the values proposed in the TRM  
16 are reasonable?

17 And the next page, Answer: We do believe  
18 they're reasonable, that they're based on the outcome  
19 of full EM&V.

20 Did I read that correctly?

21 A. Yes.

22 Q. Okay. Did Staff recommend any changes to  
23 any of the values contained in the proposed TRM?

24 A. No.

25 Q. All right. I'd like to turn to your

1 **Rebuttal, page 31. Do you have that with you?**

2 A. Yes.

3 **Q. I guess that's the Corrected clean**  
4 **Rebuttal.**

5 MR. BERLIN: Which Rebuttal are you  
6 referring to?

7 MS. TATRO: Corrected clean Rebuttal.

8 BY MS. TATRO:

9 **Q. And you see there's a table that is**  
10 **labeled Table 2?**

11 A. Yes.

12 **Q. Now, there's a footnote 1 to this table.**  
13 **And I believe that it indicates you substituted 2013**  
14 **EM&V values for the deemed values in the TRM. Am I --**  
15 **is that what that footnote is indicating?**

16 A. Correct.

17 **Q. Okay.**

18 A. And --

19 **Q. Do you know what the rate case timing**  
20 **assumption was that was used in the calculation of the**  
21 **throughput disincentive for MEEIA Cycle 1?**

22 A. I believe it was 24 months, but I'm  
23 not -- but I'm not sure.

24 **Q. Okay. You want to turn to page 98 of the**  
25 **deposition? It's hard to remember all the numbers all**

1 **the time. Right?**

2 A. It is. 98?

3 Q. Yes.

4 A. Okay.

5 Q. **If you look at lines 2 through 4, does**  
6 **that refresh your memory?**

7 A. 18 months.

8 Q. **Okay. And this table is talking about**  
9 **MEEIA 1. Right? This is not --**

10 A. Correct.

11 Q. **-- a projection of MEEIA 2. This is**  
12 **MEEIA 1?**

13 A. Correct.

14 Q. **All right. Do you know how long Ameren**  
15 **Missouri actually stayed out or took between filing of**  
16 **rate cases? And I'm talking about the rate case that**  
17 **was just concluded and the rate case previous to this**  
18 **one.**

19 A. 29 months.

20 Q. **Okay. Does your calculation in this**  
21 **table account for that difference?**

22 A. No, it does not.

23 Q. **All right. Mr. Rogers, do you agree with**  
24 **me that staying out 29 months between rate case**  
25 **filings, when the throughput disincentive calculation**

1 assumed 18 months, and with all else being held equal,  
2 would produce more throughput disincentive than if the  
3 Company filed a rate case every 18 months?

4 A. Correct.

5 Q. And you didn't look at what that impact  
6 might be?

7 A. I did not.

8 Q. And you did not attempt to quantify that  
9 impact?

10 A. No.

11 Q. Okay. Now, I'd like to turn to your  
12 Surrebuttal Testimony. And I guess that's Surrebuttal  
13 to -- I think it's just labeled Surrebuttal. Page 18,  
14 please.

15 A. Okay.

16 Q. And this is Table 1 of your Surrebuttal.  
17 Before we go into this, do you have your work papers  
18 with you?

19 A. No, I do not.

20 MS. TATRO: Okay. May I approach?

21 JUDGE PRIDGIN: You may.

22 BY MS. TATRO:

23 Q. I don't think I need to mark this. You  
24 can look that over. Mr. Rogers, can you identify that  
25 document?

1           A.     That looks like a hard copy of the work  
2 papers that I used in my development of Table 1 in my  
3 Surrebuttal Testimony.

4           **Q.     Okay. Great. So this Table 1 in**  
5 **Surrebuttal, would you agree with me it's essentially**  
6 **the same chart that we just talked about in your**  
7 **Rebuttal with some additional inputs?**

8           A.     Yes.

9           **Q.     So footnote 2, would you look at that,**  
10 **please.**

11          A.     Okay.

12          **Q.     I believe footnote 2 says that you**  
13 **updated these calculations using the 2014 EM&V**  
14 **results. It was probably draft results at that time.**

15          A.     They were draft results.

16          **Q.     Okay. And footnote 3 -- well, first of**  
17 **all, that is what footnote 2 indicates. Right?**

18          A.     That's the reason for footnote 2.

19          **Q.     Right. Just got to make sure I'm**  
20 **understanding them. So footnote 3 indicates you**  
21 **changed the -- you changed the avoided cost estimate**  
22 **that was used in the throughput disincentive**  
23 **calculation. Correct?**

24          A.     Correct.

25          **Q.     Okay. And I think you talked about this**



1 **a little bit with the Division of Energy. Where did**  
2 **you get that avoided cost estimate?**

3 A. Well, what I was doing is not very  
4 scientific at all. I was just making an assumption  
5 based upon viewing the avoided cost curves in Figure  
6 2.3 of the plan and understanding in my mind that  
7 those are the avoided energy costs and that's the  
8 primary driver of benefits for customers, is the  
9 avoided energy costs. There are other components for  
10 avoided demand and avoided TND. The avoided energy  
11 cost includes the market price of energy as well as  
12 the avoided probable environmental costs through  
13 Ameren's analysis.

14 But basically as I said, it was not a  
15 real scientific approach. I assumed that -- that the  
16 end result, if you were to calculate the benefits,  
17 using the current avoided cost as a result of the  
18 Chapter 22 integrated resource analysis, that it would  
19 result in approximately a 40 percent reduction in  
20 benefits overall. Now --

21 **Q. So let me restate that and you can tell**  
22 **me if I'm understanding you correctly. You took the**  
23 **avoided cost input -- estimate input that Ameren**  
24 **Missouri was using in the throughput disincentive**  
25 **calculation for MEEIA 2 and applied it retroactively**

1 **to the results of MEEIA 1?**

2 A. In an unscientific way.

3 **Q. Absolutely.**

4 A. It's all based upon just an assumption --

5 **Q. Okay. Great.**

6 A. -- to get us in the ball park. And if  
7 the assumption is correct and all else -- all the  
8 other factors are held equal, I would expect that this  
9 would get us close to where the DSMore model would get  
10 us.

11 **Q. All right. Well, let's talk about that a**  
12 **little bit. Okay? Would you agree that the avoided**  
13 **cost estimate is an attempt at a particular point in**  
14 **time to predict long-term future market conditions?**

15 A. Yes.

16 **Q. You agree that that avoided cost estimate**  
17 **looks forward 20 years or so?**

18 A. It does.

19 **Q. Would you agree that it includes**  
20 **assumptions about future natural gas prices?**

21 A. Yes.

22 **Q. And I presume you'd agree that those**  
23 **assumptions have to also go over that long-term**  
24 **20-year period?**

25 A. Yes.

1           **Q.     Would you agree it includes assumptions**  
2 **about the impact of future environmental regulations?**

3           A.     It does.

4           **Q.     Again, looking forward 20 or more years?**

5           A.     Yes.

6           **Q.     Okay. Do you agree that it includes**  
7 **assumptions about future market level load growth over**  
8 **that same 20-or-more-year period?**

9           A.     I believe in -- in the process of  
10 modeling those avoided costs, it does.

11           **Q.     Okay. So rather than to continue to**  
12 **list, let me just summarize by saying you'd agree**  
13 **there are many other factors that have to be predicted**  
14 **in order to come up with this avoided cost estimate?**  
15 **You agree with that?**

16           A.     What avoided cost estimate?

17           **Q.     The -- in order for Ameren Missouri -- in**  
18 **order for an avoided cost estimate to be produced by**  
19 **the Company, there are a multitude of factors that**  
20 **have to be looked at and some assumptions have to be**  
21 **made in order to come up with a value?**

22           A.     It's true for any -- any calculation of  
23 avoided cost, which, in fact, is changing all the  
24 time.

25           **Q.     Because it's a prediction?**

1 A. Yes.

2 Q. Over a very long period of time?

3 A. Yes.

4 Q. Okay. And you'd expect this avoided cost  
5 prediction to not be true ultimately. Right? Likely  
6 to have errors in it or things that -- let's not say  
7 errors. Things that don't come, predictions that  
8 don't come through?

9 A. Because the future is uncertain, it's  
10 almost a certainty that the avoided cost -- the actual  
11 avoided cost in the future will not be what is  
12 forecasted today.

13 Q. And that's because all of these factors  
14 are difficult, if not impossible, to accurately  
15 predict over a long period of time?

16 A. And they're always changing.

17 Q. Okay. So the assumptions for one of  
18 these factors is probably too low?

19 A. And others are probably too high.

20 Q. Okay. But Ameren Missouri had to come up  
21 with these assumptions in order to come up with an  
22 avoided cost estimate. Right?

23 A. Correct.

24 Q. All right. Go back to the Table 1 in  
25 your Surrebuttal Testimony there on page 18. Do you

1 **still have your work paper that I gave you in front of**  
2 **you?**

3 A. Yes. Uh-huh.

4 **Q. Okay. Now, looking at your work paper,**  
5 **your substitution of the long-term avoided cost**  
6 **estimate is reflected in the line in your work paper**  
7 **titled Assumed Benefits at 60 Percent; is that right?**

8 A. Yes.

9 **Q. So that number on the far right-hand**  
10 **column then is the \$90 million number. Right?**

11 A. The result of my analysis, yes. This --  
12 making an assumption that the benefits using the  
13 current avoided cost would result in benefits at  
14 60 percent of the level that they would be using the  
15 avoided --

16 **Q. Now you said "current." It's the avoided**  
17 **cost prediction going forward. Right?**

18 A. To be correct, it would be the avoided  
19 cost that is adopted or a part of the adopted  
20 preferred resource plan methodology.

21 **Q. Okay. And that was filed in October of**  
22 **this -- of '14?**

23 A. October 1st, 2014.

24 **Q. And the line above that is**  
25 **\$178.6 million. Right?**

1 A. Yes.

2 Q. And that is the net lifetime benefits  
3 using the avoided cost as originally calculated for  
4 MEEIA 1. Correct?

5 A. Correct.

6 Q. Okay. And just to be clear, these  
7 numbers are dollars?

8 A. Yes.

9 Q. Now, if you had simply updated for 2014  
10 EM&V results and not changed the avoided cost  
11 estimate, do you know what the result would have been?

12 A. The resulting net benefits I believe  
13 would be --

14 Q. Yeah. I probably wasn't very clear, so  
15 let me try that again. I want to know back on Table  
16 1, if all you had done is update EM&V and not updated  
17 the avoided cost, what would that last number be? It  
18 wouldn't be 24 million anymore. Correct?

19 A. Okay. I'm getting -- I'm getting lost,  
20 so let's walk through there.

21 Q. Let me try to walk you through it.

22 A. Yeah.

23 Q. Okay. This \$24 million is because you  
24 changed EM&V results using the draft results of the  
25 2014 evaluation, right, instead of deemed?

1 A. Correct.

2 Q. And also because you used the new avoided  
3 cost estimate. Correct?

4 A. My assumed. Right. My assumption of the  
5 impact on benefits.

6 Q. And I'm not a mathematician, but I'm  
7 pretty sure if you only made one of those changes, you  
8 would have got a different result in this box?

9 A. I'm still not following.

10 Q. If you had only updated for EM&V  
11 results --

12 A. Uh-huh.

13 Q. -- and you had not updated for avoided  
14 cost --

15 A. Uh-huh.

16 Q. -- estimate changes, you would get a  
17 different result than 28 -- I'm sorry \$24.8 million  
18 dollars. Right?

19 A. Yes. Yes.

20 Q. So let me walk you through how I think  
21 that calculation would work. Now, we agree that the  
22 NT-- TDNSB percentage is 26.34. Right?

23 A. For Cycle 1.

24 Q. Right. So you would multiply the 100--  
25 yeah, 178.6 million times -- and the actual number is

1 **178.647830 times 26.34 percent. That would be your**  
2 **first step. Right?**

3 A. That would be my first step.

4 **Q. All right. Now I'm taking you through it**  
5 **step by step, but I want to make sure I have each step**  
6 **correct. So that's the first thing that you would do.**  
7 **Correct?**

8 A. So we're looking at the work papers.

9 **Q. Yes.**

10 A. And we're taking the portfolio net  
11 lifetime benefits --

12 **Q. Yes.**

13 A. -- of \$178 million.

14 **Q. Yes.**

15 A. And that's as a result of EM&V. Okay.

16 **Q. Right.**

17 A. However, what's on Table 1 for that  
18 corresponding figure is not based upon EM&V. It's  
19 based upon the deemed values in the DSMore model.

20 **Q. I understand that.**

21 A. Okay. All right. We're on the same  
22 wavelength. So --

23 **Q. But I --**

24 A. If -- if -- I think your question was if  
25 it's \$178 million, which is the result of EM&V, you're



1 asking me what the throughput disincentive amount  
2 would be based upon the Company receiving 26.34  
3 percent of that amount.

4 **Q. Right. Can you -- can you do that**  
5 **calculation?**

6 A. I will try. It's \$47,055,838.

7 **Q. And if we were updating your Table 1, we**  
8 **would put that number in the second-to-bottom box.**  
9 **Correct?**

10 A. No. It would be the third from the  
11 bottom.

12 **Q. No. The third from the bottom is deemed**  
13 **and you're doing updated EM&V, so it's the second --**

14 A. What table are we looking at? The  
15 work --

16 **Q. Table 1 of your Surrebuttal.**

17 A. Table 1.

18 **Q. And the line I'm talking about is labeled**  
19 **26.34 percent of EM&V annual net shared benefits. And**  
20 **that's what you just calculated for me. Correct?**

21 A. Right. But that's not -- no. That --  
22 you're going to -- 26.34 percent of EM&V annual net  
23 shared benefits, that line presumes -- includes the  
24 assumption that I made that the benefits would be  
25 reduced by 40 percent or 260 percent based upon use of

1 the avoided cost curves from the IRP.

2 **Q. You're right.**

3 A. The calculation I made would be the third  
4 line from the bottom, which would be if we were using  
5 the EM&V with the old avoided cost curves, what would  
6 be the throughput disincentive.

7 **Q. Mr. Rogers, the label on the third one is**  
8 **26.34 of deemed. I -- it doesn't matter what the**  
9 **table says. Let's just talk about this. Okay? So**  
10 **you've taken -- you've taken the 178.6 million and**  
11 **you've taken it times 26.34 percent. Right?**

12 A. Correct.

13 **Q. You've got about \$47 million?**

14 A. Right.

15 **Q. Okay. And that is the application of**  
16 **the -- so that -- that is the application of the EM&V**  
17 **instead of using deemed values for the measures that**  
18 **were installed; is that accurate?**

19 A. That's correct.

20 **Q. Okay.**

21 A. But --

22 **Q. So then if you want to look at the**  
23 **difference between the deemed value and this EM&V**  
24 **value, you would subtract the \$47 million from the**  
25 **\$48 million. Correct?**

1 A. Well, you're using EM&V, in my opinion,  
2 with the incorrect avoided cost for 2014.

3 Q. Mr. Rogers --

4 A. That's --

5 Q. -- I understand that. I am deliberately  
6 trying to calculate this without avoided cost. So I  
7 will recognize ongoing you think --

8 A. Okay.

9 Q. -- avoided cost ought to be in there.  
10 But answer my question without avoided cost changing.  
11 Okay?

12 A. Without any change --

13 Q. Right.

14 A. -- that's correct.

15 MS. TATRO: Okay. I'm going to have an  
16 exhibit marked. I believe this would be 118.

17 JUDGE PRIDGIN: That is correct.

18 (Ameren Exhibit 118 was marked for  
19 identification.)

20 BY MS. TATRO:

21 Q. Did you get this? All right. You were  
22 supposed to use that time to look at it. my bad.

23 There you go. Let me know when you've had time to  
24 look that over. Okay?

25 A. Okay.

1 Q. And do you see the \$47 million number  
2 that we calculated there in the line that says  
3 26.34 percent of EM&V annual net shared benefits?

4 A. Yes.

5 Q. Okay. And in order to determine -- well,  
6 and you see the line above it, which is the 48.704686?

7 A. Uh-huh.

8 Q. Which is 26.34 percent of deemed annual  
9 net shared benefits. Right?

10 A. Correct.

11 Q. And if you subtract the 47 from the 48.7,  
12 do you agree with me that it comes up with 1.648847?  
13 Again that's dollars.

14 A. That's dollars. And this is all  
15 presuming no modification to the avoided cost  
16 estimates.

17 Q. All right. Look at the title of the  
18 document. And it indicates that. Right?

19 A. Yes.

20 Q. It says, No modification to avoided cost  
21 estimates?

22 A. Right.

23 Q. So other than the fact that it doesn't  
24 have avoided cost estimates mod-- modified --

25 MR. BERLIN: Judge, I want to make an

1 objection.

2 BY MS. TATRO:

3 **Q. -- is this correct?**

4 MR. BERLIN: The header on this says that  
5 it's Staff analysis. This is clearly not Staff  
6 analysis. This is Ameren's analysis.

7 MS. TATRO: I agree. We can strike the  
8 word "Staff." I just took his table. I tried to  
9 indicate it was our modification by changing the title  
10 at the top, but I in no way was attempting to say it's  
11 Staff's analysis.

12 JUDGE PRIDGIN: So if we remove the word  
13 "Staff," does that cure the objection?

14 MR. BERLIN: For now, Judge.

15 JUDGE PRIDGIN: All right. Thank you.

16 BY MS. TATRO:

17 **Q. So, Mr. Rogers, acknowledging this**  
18 **doesn't include an avoided cost change, do you agree**  
19 **with this calculation?**

20 A. Yes.

21 **Q. And that it reflects the difference**  
22 **between the throughput disincentive that the**  
23 **Company -- throughput disincentive calculation if you**  
24 **use deemed values versus using the 2014 EM&V draft**  
25 **results?**

1 A. For Cycle 1, yes.

2 Q. For Cycle 1. Okay.

3 MS. TATRO: I'd like to offer 118.

4 JUDGE PRIDGIN: 118 has been offered.

5 Any objections?

6 Hearing none, Exhibit --

7 MR. BERLIN: I object.

8 JUDGE PRIDGIN: I'm sorry. What's your  
9 objection?

10 MR. BERLIN: Judge, the second line from  
11 the bottom and the bottom line should reflect that  
12 they are EM&V kilowatt hours deemed benefits per  
13 kilowatt hour.

14 MS. TATRO: I'm using the exact same  
15 label as in his testimony.

16 MR. BERLIN: But, Judge, she has changed  
17 what's used.

18 MS. TATRO: I changed the numbers. I did  
19 not change the label.

20 MR. BERLIN: Judge, she is changing the  
21 kWh, but not the deemed benefits.

22 JUDGE PRIDGIN: I'm not hearing a legal  
23 objection. I'll overrule. It certainly goes to the  
24 weight of the evidence, but I will admit it.

25 MS. TATRO: Okay. Thank you.

1 (Ameren Exhibit 118 was received into  
2 evidence.)

3 BY MS. TATRO:

4 Q. Now, Mr. Rogers, looking at 118, you'd  
5 agree with me that this doesn't make any adjustments  
6 to account for changes in assumption in rate case  
7 timing or rate case outcomes?

8 A. Correct.

9 Q. And as we discussed earlier, it would  
10 still hold true that if there is a longer period of  
11 time between rate cases than is assumed in the  
12 throughput disincentive calculation and all other  
13 factors are equal, than Ameren Missouri would collect  
14 less throughput disincentive than it actually  
15 experiences?

16 A. Correct.

17 Q. And really wouldn't you agree that that  
18 can't be fully estimated until all rate cases  
19 necessary to incorporate the energy efficiency  
20 reduction in energy sales have been completed?

21 A. I agree.

22 Q. Okay. And that certainly has not  
23 happened yet. True?

24 A. True.

25 Q. And, in fact, Mr. Rogers, I think you'll

1 agree that it can't have happened yet because a rate  
2 case has not yet been filed after Cycle 1 has been  
3 completed?

4 A. Correct.

5 Q. And I think you'll agree Cycle 1 doesn't  
6 end until the end of 2015?

7 A. Correct.

8 Q. So it won't be until some time after 2015  
9 that the full impact of MEEIA 1 Cycle energy sales and  
10 the corresponding reduction in energy sales is  
11 incorporated into Ameren Missouri's revenue  
12 requirement. Correct?

13 A. Are we talking about Cycle 1 now?

14 Q. Yes, we are.

15 A. Repeat the question, please.

16 Q. It will not be until some time after 2015  
17 that the full impact of the MEEIA Cycle 1 programs and  
18 their impact on energy sales has been incorporated  
19 into Ameren Missouri's revenue requirement?

20 A. I believe that's true, yes.

21 Q. Okay.

22 A. And the reason is because the programs  
23 have to run their course. We have to know what the  
24 costs are, we have to know what measures were  
25 installed before you can run the DSMore model and



1 determine what the throughput disincentive is based  
2 upon the deemed values, which was the agreement for  
3 MEEIA Cycle 1.

4 **Q. Thank you, Mr. Rogers. That was a very**  
5 **nice summary of my point.**

6 MS. TATRO: I have no further questions.

7 JUDGE PRIDGIN: All right. Thank you.

8 Let me see if we have any Bench questions.

9 Mr. Chairman?

10 CHAIR R. KENNEY: No thanks. Thank you,  
11 Mr. Rogers.

12 JUDGE PRIDGIN: Commissioner Stoll?

13 COMMISSIONER STOLL: I do have a couple.

14 QUESTIONS BY COMMISSIONER STOLL:

15 **Q. Good afternoon, Mr. Rogers, I guess --**  
16 **well --**

17 A. Good morning.

18 **Q. -- it's not. Good morning. Just seems**  
19 **I like afternoon.**

20 **I just had a couple questions regarding**  
21 **your Surrebuttal and let me find that. One thing I**  
22 **wanted to ask you was in your Surrebuttal Testimony on**  
23 **page 19, lines 13 through 17 you state -- you make a**  
24 **statement about Staff's opinion regarding the best**  
25 **path forward in these proceedings. And if you have**

1 **that in front of you, would you just read that**  
2 **paragraph?**

3 A. Yes. In Staff's opinion, the plan must  
4 be rejected. Therefore, Staff suggests that the best  
5 path forward is for Ameren Missouri and the parties to  
6 request suspension of the current procedural schedule  
7 in order to concentrate their energies more  
8 productively on using a collaborative technical  
9 working process to explore ways to deliver to the  
10 Commission a modified plan that satisfies the  
11 requirements of MEEIA and the MEEIA rules.

12 **Q. Would you elaborate on that?**

13 A. I'd be glad to.

14 **Q. Okay.**

15 A. Yeah. This is a difficult case. We have  
16 a lot of diverse interests represented in this case.  
17 It's very technical. Nobody knows all the details.  
18 It's impossible. There's a broad range of opinions on  
19 how to move forward. We have two competing  
20 stipulations. You have the opportunity to reject both  
21 of those. You also have the opportunity to craft a  
22 modified set of plans and a modified DSIM. I know  
23 that's a -- if I were a Commissioner, I would view  
24 that as a very challenging situation.

25 What this paragraph was intended to do

1 was to say let's have all the parties work in a  
2 collaborative way to see if we can come up with a  
3 solution. We attempted to do that and we were  
4 unsuccessful.

5 We have two competing Stipulation and  
6 Agreements that some parties have joined one or the  
7 other, some parties have not joined either one. We  
8 gave it our best shot and we are where we are.

9 There's been discussion about, well, what  
10 happens if there's no programs, which may be the  
11 outcome of a rejection or it may not be. I know it's  
12 nothing that any of us would prefer, that there be no  
13 programs. But from my point of view, it may be the  
14 appropriate outcome at this point because any --  
15 any -- any solution that we come up with is going to  
16 be a short-gap solution. It's not going to address  
17 the long-term problems.

18 The collaborative effort that we have in  
19 both stipulations -- well, in the Utility Stipulation  
20 may go further. It depends upon whether the Delphi  
21 panel is successful and Ameren can embrace the results  
22 of that panel, but we don't know. I think our  
23 situation is -- is very challenging.

24 The statute provides the utility with  
25 protections. Until this case, you know, I never

1 focused on this statute and the protections that it  
2 provides to customers; the fact that the statute  
3 includes language that all customers shall receive  
4 benefits from the programs. And I've drawn that into  
5 question. I know that was not a popular position  
6 among the parties because it -- it is a challenging  
7 objective to meet.

8 At this point we have the MEEIA  
9 rulemaking, which is at the working stage -- the  
10 working docket stage. That's possibly another avenue  
11 to address some of the issues that have been raised in  
12 this case.

13 The paragraph you had me read was  
14 intended to be a next step forward. And I think we've  
15 achieved part of those objectives in the form of the  
16 two competing Stips -- Stipulations and Agreements.  
17 That's where we are. You know, there's been  
18 discussion on revenue decoupling in this case and  
19 that's another possibility. We wouldn't be sitting  
20 here today if there was a form of revenue decoupling  
21 that had been vetted and had become a part of this  
22 process.

23 But again, the devil is in the details.  
24 Revenue decoupling changes the -- the regulatory  
25 process in a very significant way and would require

1 that business risk, proper performance metrics  
2 consistent with providing revenue decoupling would be  
3 in place. And there's a lot of work that would have  
4 to be done in that regard. So this is -- in my mind,  
5 we're -- we've come three years down the MEEIA road  
6 and we're at another crossroads. And I don't envy  
7 your task.

8 **Q. Well, I appreciate that elaboration on**  
9 **your paragraph and I think it gives all of us food for**  
10 **thought. You did mention in that explanation that**  
11 **elaboration that -- about the statute and whether**  
12 **all -- whether the programs benefit all customers in a**  
13 **customer class. Does the way that the benefits are**  
14 **being calculated for Cycle 2, are they being**  
15 **calculated differently than they were in Cycle 1?**

16 A. No. They're being deemed -- the biggest  
17 difference is the change in the avoided cost in the  
18 marketplace --

19 **Q. And in determining --**

20 A. -- that are being used to determine --  
21 calculate what the benefits actually are.

22 **Q. Okay. And -- go ahead.**

23 A. And that's -- and that's nothing that any  
24 of us have any control over.

25 **Q. Okay. And it's your opinion that all**

1 **customers, let's say in the residential class, are not**  
2 **benefiting from what is proposed in the Cycle 2?**

3 A. My -- my opinion is that there will be  
4 little to no benefits for customers who do not  
5 participate in programs as a result of Cycle 2. And  
6 in particular, the Utility Stip.

7 **Q. Does that mean that -- in your opinion,**  
8 **is the Company's position then -- does it meet the**  
9 **statutory requirement that all -- all those in a**  
10 **customer class should benefit?**

11 A. You know, technically it does based upon  
12 the calculations that were performed using the deemed  
13 values that we have today. I'm getting -- my analysis  
14 says that the net benefits would be -- would be small,  
15 but you have to remember the cost for the programs are  
16 paid in the first three years. The performance  
17 incentive, if there is one, will be paid in years  
18 six -- five and six.

19 The benefits that customers receive occur  
20 over the life of the measurements that are installed  
21 in this -- for the program. And they're based upon a  
22 static baseline. In reality, every time that baseline  
23 changes as a result of new standards, the actual  
24 energy savings change relative to that standard and a  
25 new measure at that time. And it's just drawing into

1 question whether the net benefits that you deem will  
2 actually occur.

3 **Q. Yeah. So -- well, isn't the fact that**  
4 **the statute says that all customers should benefit**  
5 **regardless of whether or not they participate, isn't**  
6 **that what makes the law non-confiscatory? Because**  
7 **otherwise those folks who get no benefit are paying**  
8 **for something that they're not getting.**

9 A. I would agree.

10 **Q. Okay. I think that's all I have now, but**  
11 **I appreciate your testimony. Thanks for your answers.**

12 COMMISSIONER KENNEY: I have no  
13 questions. Thank you.

14 JUDGE PRIDGIN: Commissioner Stoll, thank  
15 you. Commissioner Rupp?

16 QUESTIONS BY COMMISSIONER RUPP:

17 **Q. I wanted to follow up on what I think I**  
18 **heard from your interaction with Commissioner Stoll.**

19 A. Okay.

20 **Q. Because you felt that there was no**  
21 **benefit I guess -- you were talking about the**  
22 **residential class -- if the individuals don't**  
23 **participate in a program?**

24 A. There are not ex-- well, small amount of  
25 benefits are expected based upon the analysis.

1           **Q.     So explain to me your thought process.**  
2 **Is it the utility's job to get everyone to participate**  
3 **or is there a benefit available but it's up to the**  
4 **individual to choose whether or not to participate?**

5           A.     Well, that's one of -- that's one of the  
6 paths forward to make the current portfolio more  
7 acceptable is to increase through -- through some kind  
8 of process to improve the program so that more  
9 customers can participate.

10           **Q.     From a philosophical perspective, is the**  
11 **absence of an individual choosing to participate, does**  
12 **that mean that there is no benefit to them?**

13           A.     No. No, it doesn't mean that at all.  
14 And I was asked questions about benefits from the  
15 environment and -- and other things. And, you know,  
16 my analysis is just based upon the data that we use to  
17 evaluate the benefits and cost for the programs and  
18 not the externalities that are certainly there.

19           **Q.     Okay. So let me take it a step further.**  
20 **Assume there was zero externalities for an individual**  
21 **and that individual chose not to participate in a**  
22 **program.**

23           A.     Uh-huh.

24           **Q.     Was there a benefit available to them,**  
25 **but it was their choice of whether or not to**



1 **participate?**

2 A. I've seen in the testimony that just  
3 having the opportunity to participate in the programs  
4 is a benefit, and I would agree with that.

5 **Q. All right. Thank you.**

6 JUDGE PRIDGIN: All right. Thank you.  
7 Is there any recross based on Bench questions? Renew  
8 Missouri? Tower Grove?

9 MR. LINHARES: No recross.

10 JUDGE PRIDGIN: Sierra Club?

11 MS. TAUBER: Judge, I have just a couple  
12 of questions based upon that.

13 JUDGE PRIDGIN: Ms. Tauber.

14 RE-CROSS-EXAMINATION BY MS. TAUBER:

15 **Q. Good morning, Mr. Rogers.**

16 A. Good morning.

17 **Q. I just wanted to briefly ask you some**  
18 **questions following up on questions from the**  
19 **Commissioners with respect to the benefits discussion.**

20 **You mentioned briefly that the benefits,**  
21 **at least for participation -- participants themselves**  
22 **are in the -- I think you said long term. Do you**  
23 **agree with that?**

24 A. Yes.

25 **Q. And so it's part of that --**

1 A. Well --

2 **Q. I'm sorry?**

3 A. For participants themselves? There's  
4 immediate benefits for participants through the bill  
5 reduction, but then there's also long-term benefits  
6 for participants of the programs.

7 **Q. And if measures that participants install**  
8 **last for 20 years, let's just say, benefits would**  
9 **continue to accrue?**

10 A. Each measure has a different life. Some  
11 are short, some are long.

12 **Q. Now, you would agree that energy**  
13 **efficiency can defer or avoid the need for power**  
14 **plants?**

15 A. Yes.

16 **Q. And that would be a benefit to all**  
17 **ratepayers?**

18 A. Yes.

19 **Q. And in addition to those types of**  
20 **benefits that non-participants would have, one way for**  
21 **non-participants to have additional benefits would be**  
22 **to participate?**

23 A. Yes.

24 MS. TAUBER: I have no further questions.

25 JUDGE PRIDGIN: Ms. Tauber, thank you.

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Brightergy?

MR. ZELLERS: No questions, your Honor.

JUDGE PRIDGIN: MIEC?

MR. DOWNEY: No questions.

JUDGE PRIDGIN: MECG? Public Counsel?

MR. OPITZ: Just a few, your Honor.

RE-CROSS-EXAMINATION BY MR. OPITZ:

**Q. Mr. Rogers, you were asked about benefits for all customers. Is it your testimony that it's very unlikely that non-participants will benefit under the Company's plan?**

A. For residential customers.

**Q. For residential customers. Would a kilowatt savings target, energy savings target -- or kilowatt savings target make it more likely that all customers would benefit?**

MS. TATRO: I'm going to object. This is not based on a question from a Commissioner. He's talking about the stipulation, which was never raised by any of the Commissioners.

JUDGE PRIDGIN: I'll overrule.

THE WITNESS: It would.

MR. OPITZ: That's all I have. Thank you.

JUDGE PRIDGIN: Thank you.

1 United for Missouri?

2 MR. LINTON: No questions.

3 JUDGE PRIDGIN: Division of Energy?

4 MR. ANTAL: Yes.

5 RECROSS-EXAMINATION BY MR. ANTAL:

6 **Q. Mr. Rogers, you were discussing with**  
7 **Commissioner Stoll the lack of benefits or the very**  
8 **small amount of benefits to residential customers**  
9 **under the Company's proposed plan as you have**  
10 **calculated them. I was wondering in your nonlegal but**  
11 **expert opinion, does the MEEIA statute specify on how**  
12 **to quantify benefits to all customers in the customer**  
13 **class?**

14 A. No, it does not.

15 **Q. Okay. Thank you very much.**

16 MR. ANTAL: No further questions.

17 JUDGE PRIDGIN: Thank you.

18 NRDC?

19 MR. ROBERTSON: No questions.

20 JUDGE PRIDGIN: Ameren Missouri?

21 MS. TATRO: No questions.

22 JUDGE PRIDGIN: Thank you. Any redirect?

23 MR. BERLIN: Yes, Judge.

24 REDIRECT EXAMINATION BY MR. BERLIN:

25 **Q. Okay. Mr. Rogers, I will try to pose my**

1 redirect questions to you in the order that they were  
2 presented. Earlier Mr. Antal had asked you to discuss  
3 the cost effectiveness of the programs and you  
4 discussed differences between the throughput  
5 disincentive and the performance incentives. Could  
6 you explain that?

7 A. The -- yes. I think what you're asking,  
8 the traditional cost effectiveness test, the TRC and  
9 the UCT primarily, do not include the performance  
10 incentive as a cost in their calculation. The  
11 throughput disincentive is also not a part of those  
12 calculations.

13 Q. Okay.

14 A. And that was -- that was the point of my  
15 exercise in my Rebuttal to Supplemental was to provide  
16 that analysis for the Commission's consideration.

17 Q. As its impact on the portfolio?

18 A. At the portfolio level for customers  
19 overall, but then trying to break out as best I could  
20 the participants from the non-participants.

21 Q. Okay. I believe Mr. Antal asked you a  
22 question regarding your Clean corrected Rebuttal on  
23 page 19 around line 13.

24 A. Okay.

25 Q. And I think that his line of questioning

1 had to do I believe with rate screening. Now,  
2 Mr. Woolf has said that he was opposed to a rate  
3 screening test in his testimony. And actually he said  
4 that he was opposed to a rate screening test that  
5 Staff performed. What rate screening test did Staff  
6 perform here?

7 A. Well, I presented the rate impact in  
8 three different ways. I think Mr. Woolf was  
9 responding to --

10 Q. Did we -- did the Staff perform a rate  
11 impact test?

12 A. No. No. And I've already stated that,  
13 that I just presented the Company's analysis of  
14 Figure 3.8.

15 Q. Okay. So to draw a fine line there, what  
16 rate impact analysis is discussed in your testimony?

17 A. Well, I provide the Company's and then I  
18 also provided the rate impact analysis from the  
19 Chapter 22 filing that was made in October. And then  
20 in my Rebuttal to Supplemental I provide another  
21 analysis based upon the information used to calculate  
22 the TRC and the UCT and adding to that the cost for  
23 the throughput disincentive and the performance  
24 incentive.

25 Q. So would you -- is it your opinion that

1 **what Mr. Woolf objected to --**

2 MS. TATRO: Your Honor, I'm going to  
3 object that he can't use redirect of Mr. Rogers to  
4 answer something that Mr. Woolf testified about that  
5 Mr. Rogers was not asked about on cross.

6 MR. BERLIN: Judge, Mr. Antal did ask  
7 Mr. Rogers about this specifically.

8 JUDGE PRIDGIN: I'll overrule.

9 THE WITNESS: Repeat the question,  
10 please.

11 BY MR. BERLIN:

12 **Q. Sure. So basically what Mr. Woolf had**  
13 **objected to was an Ameren test; is that right?**

14 A. I believe he was objecting to the use of  
15 the rate impact test to screen the cost effectiveness  
16 of programs.

17 **Q. Okay. Thank you.**

18 **There was a couple questions regarding**  
19 **Delphi panel. Do you believe that the expert Delphi**  
20 **panel and a collaborative process provide a more**  
21 **defined process toward identifying programs and annual**  
22 **energy demand savings that will provide benefits to**  
23 **all customers than the collaborative process described**  
24 **in the Utility Stipulation?**

25 A. It can.

1           **Q.     And why is that?**

2           A.     Well, I think it's focusing on the --  
3 primarily on the issue of the volume of participation  
4 that will actually occur and be expected to occur from  
5 Ameren's programs. And that was presented in  
6 testimony by a number of parties as being a very  
7 significant concern.

8           **Q.     What would the difference be or if -- do**  
9 **you know the differences between the Utility**  
10 **Stipulation and the Non-utility Stipulation with**  
11 **regard to that collaborative process?**

12          A.     The Delphi panel?

13          **Q.     The differences between both approaches?**

14          A.     Well, the Non-utility Stipulation has the  
15 Delphi approach and the Utility Stipulation does not.

16          **Q.     Okay. Mr. Antal had asked you questions**  
17 **about whether Ameren's programs will expire before new**  
18 **programs are approved. Does the Commission have to**  
19 **approve energy efficiency programs in order for Ameren**  
20 **to continue programs?**

21          A.     No. No. Ameren could continue programs  
22 voluntarily if they choose to and it wouldn't  
23 necessarily have to be at the level of the current  
24 programs or the plan programs.

25          **Q.     So it's really the MEEIA programs that**



1 **the Commission has to approve?**

2 A. Correct.

3 **Q. Moving on, when Ms. Tatro referred to an**  
4 **earnings opportunity mechanism -- and I believe you**  
5 **may have restated her question using the term**  
6 **"throughput disincentive." Did you mean performance**  
7 **incentive?**

8 A. The earnings opportunity should result  
9 from the performance incentive only.

10 **Q. Ms. Tatro asked about a performance**  
11 **incentive and net shared benefits. You answered with**  
12 **reference to the rules. Could you discuss how the**  
13 **mechanism impacts earnings opportunities as**  
14 **contemplated under the rules?**

15 A. I can. 4 CSR 240-20.093 is the  
16 Commission's rule for the demand-side program  
17 investment mechanism. And the performance incentive  
18 is contained in subparagraph 2H of that rule. And  
19 basically the construction of the performance  
20 incentive under the rule would be that there are  
21 targets set for energy savings and demand savings for  
22 the portfolio, that the achieved level of performance  
23 for the programs would be determined through  
24 retrospective EM&V and that the performance incentive  
25 amounts would be a function of the actual net shared

1 benefits that result from EM&V.

2 Now, that function would be determined  
3 through the approval of the actual performance  
4 incentive mechanism.

5 **Q. You indicated actual net shared benefits.**  
6 **Does that also account -- do the rules account for**  
7 **changes in avoided costs?**

8 A. They do.

9 **Q. Okay. Thank you.**

10 **Ms. Tatro asked you about real versus**  
11 **assumed rate case timing. Do you recall those**  
12 **questions?**

13 A. Yes.

14 **Q. Why is a rate case timing assumption**  
15 **necessary under the utility mechanism -- utility**  
16 **proposed mechanism?**

17 A. The utility's mechanism is based upon a  
18 projection of the lost margin benefits and the --  
19 well, it -- it presumes a frequency of rate cases and  
20 then it models -- it calculates the -- the lost margin  
21 revenue. And the lost margin revenue will change with  
22 the -- changing assumption for the frequency of rate  
23 cases.

24 **Q. Now, does the Non-utility Stipulation**  
25 **reduce the need or eliminate that need?**

1 A. It eliminates it.

2 Q. Ms. Tatro went through a number of  
3 questions about EM&V to determine net shared benefits.  
4 Did those examples presume deeming of benefits?

5 A. The examples we went through the -- there  
6 would be a deeming of the benefits under Cycle 1,  
7 which is what we were discussing.

8 Q. All right. Mr. Rogers, on your Corrected  
9 clean Rebuttal table -- page -- I believe it was  
10 Table 1, page 31, Ms. Tatro had asked you about the  
11 footnote. Excuse me. I'm getting my tables mixed up  
12 here. Sorry. It's not hard to do with this case.  
13 All right. Ms. Tatro -- let me restate the question  
14 here.

15 Ms. Tatro had given you what has been  
16 marked as Exhibit 118. Do you have a copy in front of  
17 you of 118?

18 A. Yes.

19 Q. And that represents changes to your  
20 Table 1 in Surrebuttal, page 18. Are the changes made  
21 to the last two lines of the table reflective of the  
22 descriptions of those numbers? In other words, what  
23 do those revised numbers represent?

24 A. The revised number on line -- the second  
25 line from the bottom of my table, which is

1 26.34 percent of EM&V annual net shared benefits,  
2 would be the annual net shared benefits through EM&V  
3 based upon the avoided cost that was in the MEEIA  
4 Cycle 1 plan.

5 **Q. But, Mr. Rogers, does that still use**  
6 **deemed benefits per kilowatt hour as the avoided cost?**  
7 **I mean avoided costs are deemed?**

8 A. No. The avoided costs in this case would  
9 be the result of the EM&V and then -- and the  
10 net-to-gross calculations in EM&V.

11 **Q. Under your calculations, but not under**  
12 **Ameren's?**

13 A. There's -- we're looking at the third  
14 line from the bottom and the second line from the  
15 bottom of the table on Exhibit 118.

16 **Q. I'll tell you what. Let's just move on.**  
17 **That's a very complicated exhibit. I think we tried**  
18 **to beat that to death.**

19 **In response to Commissioner Stoll, I**  
20 **believe you stated that there would be little to no**  
21 **benefit to non-participants under the Utility**  
22 **Stipulation. How are the risks of benefits**  
23 **materializing supported between the Company and the**  
24 **customers?**

25 A. Well, what -- one other dimension to

1 your -- to your -- it's only residential customers in  
2 my analysis that I have determined are at risk of  
3 receiving any benefits. I've kind of lost my train of  
4 thought. Can you repeat the last part of the  
5 question? How are --

6 **Q. Well, how are they -- how are the risks**  
7 **apportioned between the customers and the utility?**

8 A. Under the Utility Stipulation --

9 **Q. Yes.**

10 A. -- where everything is deemed?

11 **Q. Yes.**

12 A. Well, deeming the throughput disincentive  
13 has proven to be a risk to customers. We've -- we've  
14 seen that --

15 **Q. And why is it a risk to customers?**

16 A. -- from Cycle 1.

17 Because Cycle 1 was based upon the best  
18 information available at the time. And the  
19 expectations for Cycle 1 were that -- well, there were  
20 a lot of assumption that were made, one of which was  
21 that the avoided cost in the marketplace would be at  
22 the level it was used to model the benefits for  
23 Cycle 1. That has not turned out to be the case.

24 We've had a lot of discussion in this  
25 room this week on the avoided cost. And there's

1 pre-filed testimony as well. There's no question that  
2 the avoided cost in the marketplace is significantly  
3 less than it was expected to be. The end result is  
4 that the benefits to customers are much less than they  
5 were expected to be.

6 **Q. How does that relate in terms of the**  
7 **apportioning of risk between the Company and**  
8 **customers?**

9 A. Well --

10 **Q. Who has the risk?**

11 A. -- the Company has been protected by  
12 deeming those values.

13 **Q. And the benefits that the customers are**  
14 **to receive are over about a 20-year period; is that**  
15 **right?**

16 A. And they're long term.

17 **Q. Long term?**

18 A. There's a risk associated with the fact  
19 that the benefits occur over many, many years while  
20 the costs of the programs are recovered on the front  
21 end, in the first three years primarily.

22 **Q. So all those costs of the programs, the**  
23 **performance incentive award and the throughput**  
24 **disincentive is all collected upfront by the Company**  
25 **from ratepayers; is that right?**

1 A. Yes.

2 Q. Okay. So the benefits that flow from  
3 these programs to ratepayers are to materialize over  
4 a, what, 20-year period?

5 A. Yes.

6 Q. And those benefits, are they certain or  
7 uncertain?

8 A. No, they're very uncertain. They could  
9 be more, they could be less.

10 Q. In what years do ratepayers pay  
11 shareholders for the shareholders' share of net shared  
12 benefits?

13 MS. TATRO: Your Honor, I'm going to  
14 object that this has gone way beyond the scope of  
15 anyone's cross.

16 MR. BERLIN: I think this is exactly what  
17 Commissioner Stoll was asking Mr. Rogers about.

18 JUDGE PRIDGIN: I'll overrule.

19 BY MR. BERLIN:

20 Q. I'll repeat the question. In what years  
21 do ratepayers pay shareholders for the shareholders'  
22 share of net benefits -- of net shared benefits?

23 A. In year five and six through the  
24 performance incentive.

25 Q. And the first few years -- the first

1 **three years for program costs recovery and throughput**  
2 **disincentive?**

3 A. Those -- those do not flow to ratepayers.

4 **Q. Okay. I believe Commissioner Rupp asked**  
5 **you some questions about benefits from**  
6 **non-participating customers. Were there any benefits**  
7 **to non-participating customers in Cycle 1?**

8 A. Yes.

9 **Q. So what is the difference between Cycle 1**  
10 **and Cycle 2 that you're raising concerns about with**  
11 **regard to benefits to non-participating customers in**  
12 **Cycle 2?**

13 A. Well, basically for Cycle 2 the  
14 relationship between the benefits and the cost of the  
15 programs has resulted in -- Cycle 1, the projected net  
16 benefits were much higher than they are projected now  
17 for Cycle 2. Cycle 2 is very challenging. That's why  
18 we're sitting here today.

19 **Q. All right. Thank you, Mr. Rogers. I**  
20 **have no further questions.**

21 JUDGE PRIDGIN: Mr. Berlin, thank you.

22 Mr. Rogers, thank you very much. You may  
23 step down.

24 This looks to be a very good natural  
25 break. We will stand in recess until 1:30 after which



1 Ms. Kliethermes will take the stand for Staff.

2 Anything further from counsel before we adjourn?

3 All right. We are in recess until 1:30.

4 We are off the record.

5 (A recess was taken.)

6 (Staff Exhibits 700, 702 and 703 were  
7 marked for identification.)

8 JUDGE PRIDGIN: Good afternoon, we are  
9 back on the record. I understand Ms. Kliethermes is  
10 the next witness. Is there anything from counsel  
11 before she takes the stand?

12 Hearing nothing, Ms. Kliethermes, if  
13 you'll come forward and be sworn, please.

14 (Witness sworn.)

15 JUDGE PRIDGIN: Thank you very much.  
16 Please have a seat.

17 And Ms. Mueth, when you're ready.

18 SARAH KLIETHERMES testified as follows:

19 DIRECT EXAMINATION BY MS. MUETH:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Can you please state your name and spell  
23 it for the record.

24 A. Sarah Lynne Kliethermes, S-a-r-a-h  
25 L-y-n-n-e K-l-i-e-t-h-e-r-m-e-s.

1           **Q.     And how are you employed?**

2           A.     I'm a Regulatory Economist III with the  
3 Staff of the Missouri Public Counsel.

4           **Q.     Are you the same Sarah Kliethermes who**  
5 **authored filed Rebuttal, Corrected Supplemental Direct**  
6 **and Rebuttal to Supplemental Testimony in this case?**

7           A.     I am.

8           **Q.     Do you have any corrections to make to**  
9 **any of that testimony?**

10          A.     Not that have -- not other than have  
11 already been indicated.

12          **Q.     Okay. If I were to ask you the same**  
13 **questions contained in that testimony here today,**  
14 **would your answers be the same?**

15          A.     They would.

16          **Q.     Is your testimony true and accurate, to**  
17 **the best of your knowledge and belief?**

18          A.     It is.

19                 MS. MUETH: Your Honor, I move to admit  
20 Staff's Exhibit 700, 702 and 703.

21                 JUDGE PRIDGIN: 700, 702 and 703 have  
22 been offered. Any objections?

23                 Hearing none, 700, 702 and 703 are  
24 admitted.

25                 (Staff Exhibits 700, 702 and 703 were

1 received into evidence.)

2 MS. MUETH: Thank you. I tender the  
3 witness for cross.

4 JUDGE PRIDGIN: Thank you.

5 Cross-examination, Renew Missouri?

6 MR. LINHARES: No questions, your Honor.

7 JUDGE PRIDGIN: Tower Grove, National  
8 Housing Trust?

9 MR. LINHARES: No questions, your Honor.

10 JUDGE PRIDGIN: Thank you.

11 Sierra Club?

12 MS. TAUBER: Judge, I just have one  
13 question.

14 CROSS-EXAMINATION BY MS. TAUBER:

15 Q. Good afternoon, Ms. Kliethermes.

16 A. Good afternoon.

17 Q. Were you here during Staff's opening  
18 statement?

19 A. I was.

20 Q. I recall that Staff indicated it no  
21 longer recommends rebasing, and I know this is your  
22 portion of the testimony. I just wanted to confirm.  
23 Is it Staff's position that rebasing is no longer  
24 recommended for the TD proposal?

25 A. There would still be a rebasing, but we

1 would work with the Company to coincide that with  
2 either the end of the test year, the end of the update  
3 period or the end of the true-up period, whatever was  
4 used to set billing determinants in the applicable  
5 rate case.

6 MS. TAUBER: No more questions.

7 JUDGE PRIDGIN: Thank you. Brightergy?  
8 MIEC? MECG? Public Counsel?

9 MR. OPITZ: Yes, judge.

10 CROSS-EXAMINATION BY MR. OPITZ:

11 Q. Good afternoon, Ms. Kliethermes.

12 A. Good afternoon.

13 Q. Does the -- your testimony describes a  
14 demand-based performance incentive. Correct?

15 A. It does.

16 Q. Does a demand-based performance incentive  
17 mean that the Company no longer has to make sure its  
18 programs are cost effective?

19 MR. MITTEN: Your Honor, I object to any  
20 questions by Mr. Opitz of this witness. Staff and the  
21 OPC have a joint position on all issues in this case.  
22 They're not at all adversarial. There's no daylight  
23 at all between their two positions. And if you need  
24 any evidence as to how closely they're aligned in this  
25 case, you can look at Exhibit 703 in which

1 Ms. Kliethermes referenced a discussion in Dr. Marke's  
2 testimony which hadn't even yet been filed.

3 There's nothing improper about two  
4 parties who are closely aligned with one another  
5 collaborating on testimony. I'm not suggesting that.  
6 But it does underscore the fact that they're not  
7 adversarial. Therefore, any questions that Mr. Opitz  
8 might ask this witness are in the nature of a direct  
9 examination in the guise of cross-examination.

10 And I think as you have already ruled  
11 several times in this case, you don't want to burden  
12 the record in this case with friendly  
13 cross-examination. Direct examination under the guise  
14 of cross is the definition of friendly  
15 cross-examination and I would object to any questions  
16 that Mr. Opitz might ask Ms. Kliethermes on that  
17 ground.

18 JUDGE PRIDGIN: And you can respond if  
19 you want to, Mr. Opitz. I'm going to overrule. You  
20 know, the parties, you know, sent an order of  
21 witnesses and an order of cross that put in a lot of  
22 friendly cross and that's why I've gone through and  
23 asked. You know, I will allow -- what I've tried  
24 consistently to do -- I may have failed -- is to allow  
25 at least brief cross when I think it's friendly and

1 then when I think it's just gone on too long, I'll cut  
2 it off.

3 So with that in mind, Mr. Opitz, you can  
4 respond if you'd like and then you can re-ask your  
5 question if you'd like. But I would hope any  
6 cross-examination that you would have of this witness  
7 would be fairly brief.

8 MR. OPITZ: Thank you, Judge. I guess to  
9 respond, I would say the objection is deficient in  
10 that it fails to state a grounds on any rule of  
11 evidence on which would prohibit me from  
12 cross-examining this witness.

13 Second, my client has a right to  
14 cross-examine the witnesses and as its representative,  
15 I have an obligation to do so. This is the first time  
16 this witness has been available to testify at the  
17 hearing and is the best time for cross-examination to  
18 inquire of her testimony.

19 As has been said many times in this  
20 hearing, any stipulation that has been signed by  
21 either the parties associated with American Missouri  
22 or the parties that have this signed the stipulation  
23 Public Counsel signed onto is a joint position  
24 statement and as such, has no binding effect in front  
25 of the Commission per the Commission's rules. I fail

1 to see how that would remove my client's right to  
2 cross-examine any witnesses in this case.

3 And lastly, your Honor, I would be  
4 concerned that limiting cross-examination in hearings  
5 before the Public Service Commission in such a manner  
6 as the Company proposes to limit it unduly burdens  
7 parties that may not have financial resources to put  
8 forward their own witnesses and, thus, rely on the  
9 witnesses of Staff or other parties, no matter how  
10 aligned their interests may be or their parties -- or  
11 their positions may be in this case. And I believe  
12 that that would be a -- tremendously unfair to the  
13 parties and I think it would cause due process  
14 concerns as well.

15 JUDGE PRIDGIN: I've already -- I've  
16 already overruled the objection. I mean, you can  
17 continue with your questioning.

18 MR. OPITZ: Thank you, Judge.

19 BY MR. OPITZ:

20 **Q. Ms. Kliethermes, I believe the question I**  
21 **asked you was does a demand-based performance**  
22 **incentive mean that the Company no longer has to make**  
23 **sure its programs are cost effective?**

24 A. Not at all. The purpose of a  
25 demand-based cost effective -- I'm sorry, the purpose

1 of a demand-based earnings opportunity as a  
2 performance incentive would be to ensure that those  
3 programs are cost effective to all ratepayers in the  
4 sense that they are encouraging programs that have a  
5 meaningful impact on the future supply side make-up of  
6 the utility.

7 **Q. And the demand-based performance**  
8 **incentive that you have suggested in your testimony is**  
9 **I believe 121,100 kilowatt; is that correct?**

10 A. Let me pull that up. I'm sorry. Could  
11 you restate the value?

12 **Q. I said the demand-based performance**  
13 **incentive target that you have presented in your**  
14 **testimony is 121,100 kilowatt; is that correct?**

15 A. That would be for the minimum payout  
16 under the earnings opportunity, correct.

17 **Q. And what is the basis for that number?**

18 A. It is my understanding based on  
19 discussion with the Company and other parties, that  
20 that is the demand savings associated with the  
21 portfolio that they have direct filed modified, as was  
22 modified by the Non-utility Stipulation, to include  
23 the multi-family program and I believe there was an  
24 additional program that I don't recall what it was, a  
25 small business direct install perhaps. That that is



1 the kilowatt savings associated with those programs in  
2 the mix proposed by the Company.

3 **Q. Is it your testimony that the Ameren**  
4 **Stipulation TDNSB, which is the throughput**  
5 **disincentive mechanism, doesn't incent the Company to**  
6 **pursue energy efficiency?**

7 A. I would say that it incents the Company  
8 to pursue programs that are deemed to have high values  
9 in energy efficiency relative to the energy efficiency  
10 they will cause.

11 **Q. So, in fact, it's -- it's -- rather than**  
12 **incenting the Company to pursue energy efficiency, the**  
13 **terms of the Ameren Stipulation and Agreement actually**  
14 **creates an improper incentive. Correct?**

15 A. That is my position, correct.

16 **Q. Ms. Kliethermes, would you agree that**  
17 **Ameren Missouri has an obligation to its shareholders?**

18 A. It does.

19 **Q. And is it true that -- would -- excuse**  
20 **me.**

21 **Would you agree that the Utility**  
22 **Stipulation performance incentive -- under the Utility**  
23 **Stipulation performance incentive, Ameren's obligation**  
24 **to its shareholders requires that the utility**  
25 **maximizes performance incentive by pursuing kilowatt**

1 **hour energy savings that do not actually require**  
2 **Ameren to forego any future capacity investments?**

3 A. I would expect under the Ameren  
4 Stipulation that Ameren management would get the best  
5 return for its shareholders if Ameren management  
6 pursued a portfolio under the performance incentive  
7 that resulted in a high level of deemed energy  
8 efficiency savings and a low level of persistent  
9 supply-side resource impact, meaning low persistent KW  
10 impact. I'm not sure if I answered your question.

11 **Q. So I'll move on. Is it your testimony**  
12 **that ratepayers of Ameren Missouri are better off with**  
13 **no MEEIA plan this year -- or this cycle?**

14 A. In the abstract, I think MEEIA we are  
15 very much in support of there being a MEEIA plan. If  
16 the alternative is the plan as Ameren has direct filed  
17 or the plan as Ameren has modified it in the Utility  
18 Stipulation, I do believe that ratepayers are better  
19 off with a no MEEIA.

20 **Q. In your Rebuttal to Supplemental**  
21 **Testimony, you raise the term "accelerated recovery."**

22 A. Yes.

23 **Q. And I believe you first say it on page 6.**

24 A. That sounds right.

25 MR. MITTEN: Your Honor, I'd like to

1 again renew my objection to Mr. Opitz's friendly  
2 cross. I understand that you wanted to give him some  
3 leeway. He's had some leeway. He's asked several  
4 questions.

5 And I would remind you that earlier in  
6 the case you cut off friendly cross of an Ameren  
7 witness on grounds that it was, in fact, friendly  
8 cross-examination. I'm simply asking that you rule  
9 consistently and that you preclude Mr. Opitz from  
10 asking any additional friendly cross of this witness.

11 If he wishes to make a record as --  
12 through an offer of proof, as he did with Mr. Rogers,  
13 I certainly have no objection. That's his right. But  
14 I don't think the evidentiary record in this case  
15 should be burdened with further friendly  
16 cross-examination.

17 JUDGE PRIDGIN: Mr. Opitz?

18 MR. OPITZ: Your Honor, again, I believe  
19 that objection fails to state any grounds on which my  
20 questioning can be excluded.

21 Second, I would restate that my client  
22 has the right to cross-examine witnesses on the  
23 testimony that they have presented to the Commission  
24 and as their attorney, it's my obligation to do so.

25 Also, this -- again, I'll restate that

1 this is the first and best time I've had to  
2 cross-examine this witness during the hearing. And as  
3 has been said many times before, aligned -- signing a  
4 joint stipulation does not mean that we no longer have  
5 questions that can be asked of witnesses that are  
6 presenting testimony.

7 MR. MITTEN: Your Honor, with regard to  
8 Mr. Opitz's allegation that I didn't state a  
9 legitimate basis for my objection, the law of the case  
10 as established by Your Honor in this particular  
11 proceeding is that you're not going to allow friendly  
12 cross-examination. That was the basis for my  
13 objection and it is a sound basis.

14 As far as this being the first  
15 opportunity for Public Counsel to ask questions of  
16 Ms. Kliethermes, this hearing is the first opportunity  
17 any party has had to ask questions of any witness. So  
18 that hardly distinguishes Mr. Opitz's examination of  
19 Ms. Kliethermes from any other parties' examination of  
20 any other witness in this case.

21 MR. OPITZ: Judge, if I may.

22 JUDGE PRIDGIN: Certainly.

23 MR. OPITZ: I have not made any  
24 objections that any other party cannot cross-examine a  
25 witness on the testimony that they've pre-filed in

1 this case.

2 JUDGE PRIDGIN: All right. You know, I'm  
3 going to sustain. I mean I think we have crossed into  
4 friendly cross. You're certainly welcome to make an  
5 offer of proof.

6 MS. MUETH: Your Honor, if I may.

7 JUDGE PRIDGIN: Certainly.

8 MS. MUETH: Just for clarification as to  
9 the ruling of disallowing friendly cross, is that for  
10 any friendly cross or just open-ended questions?

11 JUDGE PRIDGIN: I don't see the point in  
12 friendly cross at all. I mean I think we've got --  
13 whether it's open-ended or leading, I don't know that  
14 that really matters, but when -- when -- what I'm  
15 trying to prevent is just constantly supplementing  
16 testimony when parties are aligned or at least  
17 arguably aligned. And I'm wanting to try to limit  
18 cross-examination to adversarial parties instead of  
19 aligned parties. That's my whole point.

20 MS. MUETH: Thank you.

21 MR. OPITZ: Judge, for clarification,  
22 what was your ruling on that?

23 JUDGE PRIDGIN: I sustained the  
24 objection. You can make an offer of proof if you'd  
25 like.

1 MR. OPITZ: Yes, Judge. I'd like to make  
2 an offer of proof.

3 JUDGE PRIDGIN: You may proceed.

4 MR. MITTEN: Your Honor, with regard to  
5 an offer of proof, generally speaking those are made  
6 outside the view of the decision makers. And I think  
7 that there will be plenty of opportunity for Mr. Opitz  
8 to make his offer of proof after the evidentiary  
9 record in this case is closed.

10 JUDGE PRIDGIN: I'll let him continue. I  
11 mean we've done it before and I'm going to let him  
12 continue.

13 MR. MITTEN: And for clarification,  
14 should I assume that all additional questions by  
15 Mr. Opitz of this witness are part of his offer of  
16 proof and not part of the evidentiary record?

17 JUDGE PRIDGIN: I would ask him, I guess,  
18 to inform the court reporter and the Commission when  
19 the offer of proof is completed.

20 MR. MITTEN: Thank you, your Honor.

21 MR. OPITZ: Thank you, judge.

22 BY MR. OPITZ:

23 Q. Ms. Kliethermes, I believe I began to ask  
24 you about accelerated recovery.

25 A. Yes.

1           **Q.     Accelerated recovery requires making**  
2 **certain assumptions.   Correct?**

3           A.     It does.

4           **Q.     And you've testified that -- and I**  
5 **believe this is on page 7, that the Company's TDNSB or**  
6 **their throughput disincentive mechanism requests**  
7 **accelerated recovery?**

8           A.     It does.

9           **Q.     Is accelerated recovery normally used to**  
10 **set retail rates?**

11          A.     It is not.

12          **Q.     If Ameren's proposed accelerated recovery**  
13 **methodology were applied to retail rates, your**  
14 **testimony is that a customer would pay \$1,617 after**  
15 **each rate case; is that correct?**

16          A.     That is correct, using similar  
17 assumptions to those used by Ameren in this -- in  
18 their TDNSB representations.

19          **Q.     And is it your testimony that that would**  
20 **be unreasonable?**

21          A.     I testify that would be very  
22 unreasonable.

23          **Q.     And does this illustrate -- this example**  
24 **of accelerated recovery illustrate that accelerating**  
25 **recovery for the TDNSB throughput disincentive is**

1 **similarly unreasonable?**

2 A. By "this" do you mean the diagram on  
3 page 8?

4 **Q. I will get to that, but I guess I mean**  
5 **by --**

6 A. Oh, I'm sorry.

7 **Q. -- the large -- the \$1,617.**

8 A. Yes. Yes. I see that now on page 7.  
9 Yes, I believe that would be very unreasonable as a  
10 method of rate-making.

11 **Q. So if Ameren Missouri were to build a new**  
12 **generating unit, a supply-side resource, it wouldn't**  
13 **recover the total earnings opportunity for that**  
14 **investment over only three years, would it?**

15 A. Unless it were somehow a supply-side  
16 resource with a three-year expected life, which I  
17 can't think of one offhand, but who knows what the  
18 future will hold.

19 **Q. But for most power generating units, that**  
20 **would not be the case?**

21 A. No. That would -- typically I think we  
22 see 50 to longer projected life spans for depreciation  
23 purposes.

24 **Q. And MEEIA is -- I'm not asking for a**  
25 **legal opinion here, but is it your understanding that**



1 **the policy of MEEIA is to value demand-side**  
2 **investments equal to supply-side investments?**

3 A. One of the policies, yes.

4 **Q. But Ameren asked to recover its MEEIA**  
5 **performance incentive, which is the earnings**  
6 **opportunity, over three years. Correct?**

7 A. I'm sorry. Did you say over three years?

8 **Q. I think I said three years, but I mean**  
9 **two years, I believe.**

10 A. Yes. I believe the performance incentive  
11 under all of the proposals is for two years of  
12 recovery.

13 **Q. And does Ameren ask to recover its**  
14 **throughput disincentive over what period of years?**

15 A. I believe that would be three years,  
16 subject to some carryover adjustments through the EEIC  
17 that would be very minimal.

18 **Q. So would accelerated recovery for a**  
19 **demand-side investment such as MEEIA actually value**  
20 **demand-side investment more than traditional**  
21 **supply-side investments?**

22 A. I think it -- it's necessary to value  
23 them different in that there is no supply-side  
24 investment -- or I'm sorry, no demand-side investment  
25 made under a MEEIA program. The program costs are

1 paid in as close to real time as we're capable of  
2 by -- by ratepayers. So Ameren doesn't make an  
3 investment. The purpose of the performance incentive  
4 or earnings opportunity is simply to compensate Ameren  
5 for that investment that they didn't get to make, to  
6 the best of our ability.

7 **Q. So you mentioned a table in your**  
8 **testimony earlier. Can you help me understand what**  
9 **the table on page 8 is showing here? It looks like it**  
10 **says, Average retail rate recovery for 15 billing**  
11 **months of service.**

12 A. Yes. Earlier in the discussion of the  
13 \$1,600 retail rate payment, what that was drawn from  
14 is this exercise of saying if you applied the proposed  
15 recovery -- I'm sorry, the proposed throughput  
16 mechanisms to retail rate, how would that recovery  
17 look, just to give a sense of scale.

18 **Q. And so that first number, the -- is the**  
19 **accelerated recovery, that \$1,617.34?**

20 A. Yes. That would be how it would be  
21 booked. Under all of these proposals, the amount  
22 would be recovered for the applicable period based  
23 through the EEIC over -- over some amount of time.  
24 But it is my understanding that Ameren would actually  
25 book that dollar value on the first day that that

1 measure is installed.

2 **Q. But is that what would happen under the**  
3 **throughput mechanism that you propose?**

4 A. It is not. Rather than looking at what  
5 might happen over the course of the next 15 months and  
6 reducing it to a single number, the Non-utility  
7 Stipulation looks at what measures have been installed  
8 in the current month and in the prior months and  
9 multiplies those times the applicable rate to come up  
10 with a simple dollar value to be recorded. In the  
11 same time as the sale was avoided, the revenue gets  
12 booked.

13 **Q. I think you said that the Ameren**  
14 **Stipulation requests accelerated recovery for the**  
15 **throughput disincentive as well; is that correct?**

16 A. I thought we were just discussing the  
17 throughput disincentive.

18 **Q. Okay.**

19 A. So --

20 **Q. So maybe you can help me understand what**  
21 **the table on page 16 is illustrative of. It looks to**  
22 **be several -- a graph with several lines.**

23 A. Yes. This is -- I'm sorry. What we were  
24 just discussing was the mechanisms under the  
25 throughput disincentive. What this is on page 16 is a

1 graph of the throughput disincentives as applied to a  
2 single measure in this example. It's one measure  
3 installed January 1st that has the impact of saving  
4 100 watts every hour for the duration.

5 **Q. And so what is that -- I don't have a**  
6 **color copy, so what is that sharp line on that graph,**  
7 **the -- I believe it hits the bottom right around**  
8 **February?**

9 A. Yes. That would be the one-time booking  
10 that Ameren Missouri would make of the present value  
11 of all of the revenues that they have, based on a  
12 series of assumptions, expected to be foregone due to  
13 the installation of that particular measure.

14 **Q. And they would do -- they -- their**  
15 **proposed method would do that for every single measure**  
16 **that's installed under their MEEIA program?**

17 A. Yes. With an adjustment for what their  
18 updated net shared benefits calculation is, which is a  
19 further complication that I did not attempt to put on  
20 this fairly simple chart.

21 **Q. So the other two lines seem to overlap**  
22 **pretty closely, but they are much more drawn out. So**  
23 **what is that representing there?**

24 A. Yes. If you look on the previous page,  
25 on 15, that's a calculation of the actual throughput

1 di sincentive associated with that same measure. In  
2 other words, for each month, that's the amount of  
3 revenue that Ameren is missing out on due to that  
4 100 watt measure being installed. The green line,  
5 which is the Non-utility Stipulation alternative 2  
6 mechanism, exactly matches that line. And that's to  
7 deal with some accounting concerns that have been  
8 raised by Ameren.

9 The other line, the red line, is our  
10 alternative 1, which places the value in at 66 percent  
11 of the estimated value of the lost revenues, so that  
12 they would book 66 percent then and then if the  
13 measure proved to be more effective than 66 percent  
14 effectiveness for that particular measure, then that  
15 could be adjusted up to 133 percent for recovery over  
16 a second period.

17 **Q. So with that sharp line there, which is**  
18 **the Ameren Missouri TDNSB mechanism, they recover the**  
19 **value of each of those measures pretty quickly.**

20 **Correct?**

21 A. I -- I think the better word there would  
22 be book as opposed to recover.

23 **Q. Book.**

24 A. Under all of these mechanisms, the -- the  
25 EEIC rate would be designed to recover from ratepayers

1 a projection of what we expect the total amount due  
2 under the EEIC to be.

3 **Q. And so I guess we've heard testimony**  
4 **earlier about the benefits not materializing from a**  
5 **MEEIA measure, a program measure. If the Company**  
6 **collects everything upfront, who bears the risk of the**  
7 **benefits not materializing?**

8 A. All risk of benefits not materializing  
9 are placed under -- onto the ratepayers under the  
10 MEEIA proposal, including risks that are not present  
11 under the non-utility proposal.

12 **Q. Can you explain what you mean by "risks**  
13 **that are not present"?**

14 A. Well, Ameren's proposal and Ameren's  
15 direct filed plan do both the throughput disincentive  
16 and the performance incentives as a share of net  
17 shared benefits. And the shareholders get paid their  
18 share upfront based on the projected size of that  
19 share based on deeming.

20 By avoiding the use of the net shared  
21 benefits mechanism in the Utility Stipulation, we  
22 avoid the risk that the benefits do not materialize.  
23 Ameren hasn't received a cash payment from ratepayers  
24 in proportion to those benefits. Ameren has received  
25 the exact amount of money that we think that they are

1 out due to that energy efficiency measure. It may be  
2 higher, it may be lower. We don't care. We just want  
3 the number to be right. Same for the performance  
4 incentive.

5 **Q. On page -- is it your understanding that**  
6 **the Ameren Stipulation proposes to make adjustments to**  
7 **a rate case timing computation?**

8 A. I believe under tier two of the Ameren  
9 Stipulation, the assumption about the timing of the  
10 second rate case during the MEEIA cycle can be shifted  
11 to a later point in time, having the impact of  
12 increasing the TDNSB recovery only.

13 **Q. And so on page 18 of your Rebuttal to**  
14 **Supplemental Testimony, on line 18 and 19, you say,**  
15 **The rate change magnitude adjustment moves in the**  
16 **wrong way and causes Ameren Missouri to have a greater**  
17 **disincentive to promote energy efficiency programs.**

18 A. Yes. The magnitude adjustment. I think  
19 you just asked me about the timing adjustment, which  
20 was discussed in the lines above.

21 **Q. What is the magnitude adjustment, as you**  
22 **understand?**

23 A. Well, a -- and, frankly, our office and  
24 your office tend to be on very different sides of this  
25 issue. In a rate case, a big question is how much of

1 the rate should be included -- or how much of the  
2 increase should go into the customer charge versus the  
3 energy charge, the demand charge, if applicable. In  
4 fact, depending on the size of the customer charge  
5 increase proposed, particularly on the residential  
6 side, it is possible that you could have a rate case  
7 that increases rates but that reduces the energy  
8 charge applicable to a customer class.

9 And that is exactly the concern that we  
10 have with this mechanism, is that Ameren's adjustment  
11 assumes that the throughput disincentive per kilowatt  
12 hour amount grows with each rate case. And while that  
13 has been true in recent history, there have been  
14 Ameren proposals that would do the opposite of that.

15 **Q. And I guess I'm trying to understand.**  
16 **When you're saying -- when you're describing that,**  
17 **that would be a rate case that might have an increased**  
18 **customer charge but maybe a smaller increase to the**  
19 **energy charge, is that --**

20 A. Or even a decrease to the energy charge.  
21 If you have a rate case that increases retail revenues  
22 for the residential class in particular by, let's say,  
23 5 percent but a customer charge increase of, let's  
24 say, 10 percent, that's a very easy example where  
25 you're retail -- I'm sorry, where your marginal energy



1 rate and your marginal throughput disincentive amount  
2 would actually go down as a result of a rate case.

3 **Q. And so how does that create a greater**  
4 **disincentive to promote energy efficiency programs?**

5 A. Because Ameren will be able -- it's the  
6 issue we discussed earlier of the incentive to push  
7 measures with high deemed savings and low experienced  
8 savings.

9 **Q. Am I correct that your testimony is that**  
10 **the Company's TDNSB mechanism requires a variety of**  
11 **assumptions?**

12 A. Very many assumptions, yes.

13 **Q. And you also testify that the throughput**  
14 **disincentive mechanism in the Non-utility Stipulation**  
15 **makes those assumptions unnecessary?**

16 A. The vast majority of them, correct.

17 **Q. And I guess related to that, you provide**  
18 **a table on page 22 of your testimony?**

19 A. Yes.

20 **Q. And I'm a little unclear about what --**  
21 **they seem to be assumptions -- a list of various**  
22 **assumptions. And then you've got a, I guess, sideways**  
23 **bar graph there. And so what does the bar moving to**  
24 **one side or the other mean?**

25 A. That is just using a very simple example

1 that is described in the Appendix A. This is the --  
2 the impact that under that example, which was not an  
3 exhaustive example -- to do an exhaustive example of  
4 all of these assumptions, you'd end up doing whatever  
5 64 times 64 is I think, to get the total level of  
6 possible outcomes here.

7 This is just an example of using a  
8 January 1 install as the starting point and a 15-month  
9 approximate interval between rate case effective  
10 dates, what would be the impact of the assumption  
11 being off by one month or another, as an example.

12 **Q. In page -- on page 24 of your Rebuttal to**  
13 **Supplemental Testimony, you have a discussion there**  
14 **about something called an OSSMR?**

15 A. Yes.

16 **Q. What is an OSSMR?**

17 A. Off-system sales margin revenue.

18 **Q. And what would that have to do with the**  
19 **MEEIA TDNSB mechanism?**

20 A. This gets really complicated really  
21 quick. The short answer is that you have to find an  
22 estimate -- if you're going to do any sort of  
23 throughput disincentive mechanism as opposed to lost  
24 revenue mechanism contemplated in the rule, you have  
25 to come up with an avoided cost in addition to a

1 marginal energy rate -- I'm sorry, an avoided  
2 marginal -- avoided marginal cost, avoided marginal  
3 energy rate and avoided marginal off-system sales  
4 revenue.

5           Because for every kilowatt hour saved, as  
6 in not sold, Ameren avoids having to purchase that  
7 kilowatt hour through the integrated marketplace,  
8 which then restores the value of that avoided sale to  
9 the off-system sales margin revenue calculation that  
10 is integral to the FAC. And that's kind of the short  
11 version of that.

12           **Q. And so is that necessary to determine**  
13 **under the Utility Stipulation and the Non-utility**  
14 **Stipulation?**

15           A. At this time we have recommended use of  
16 the FAC base factor as a measure of avoided -- of  
17 marginal avoided cost under the Utility Stipulation.  
18 We're willing to do that under our mechanism because  
19 we're not present valuing. There are other problems  
20 that arise under that, including passing on costs to  
21 other customers, including opt-out customers, but  
22 that's the best we can do on short notice and that's  
23 the best we can do without Ameren supplying us the  
24 hourly measure curves.

25           **Q. I think we sort of mentioned this**

1 earlier, but if you would look at your appendix of  
2 your -- I believe it's Appendix A of the -- this is  
3 the Rebuttal to Supplemental Testimony.

4 A. I'm there.

5 Q. And on page 3 of 6 --

6 A. Yes.

7 Q. -- there is a question near the bottom of  
8 the page that says, What difference does an increase  
9 to the customer charge make when the same number of  
10 measures is installed each month?

11 A. Yes.

12 Q. And am I correct to understand that  
13 increasing the customer charge would mean that  
14 customers get less benefit from the MEEIA programs?

15 A. I don't think that I would phrase it that  
16 way unless I'm missing something in your question.

17 Q. How would you phrase it then, I guess?

18 A. I think the relevance of the customer  
19 charge to the throughput disincentive is that the  
20 amount of revenue requirement the utility collects  
21 through the customer charge is revenue requirement  
22 that is not susceptible to impact from a MEEIA  
23 program.

24 And so to use a throughput disincentive  
25 mechanism that waits for the outcome of a rate case

1 and adjusts the marginal avoided revenue rate  
2 accordingly, that's easily addressed at the time of  
3 the rate case. I think for a throughput disincentive  
4 that relies on setting up at the outset 36 months of  
5 expectations, that you do have to make an expectation  
6 of what the customer charge will be in two or more  
7 rate cases that have not yet occurred.

8 **Q. And is that more of an issue under the**  
9 **Company's proposal for their mechanism?**

10 A. It's only an issue under the Company's  
11 proposal.

12 **Q. Okay. So that issue goes away entirely**  
13 **under the Non-utility Stipulation?**

14 A. Yeah. Yes. Sorry.

15 **Q. Thank you.**

16 MR. OPITZ: That's all the questions I  
17 have, Judge.

18 JUDGE PRIDGIN: Thank you, Mr. Opitz.

19 Any cross from United for Missouri?  
20 Division of Energy?

21 MR. ANTAL: No questions. Thank you.

22 JUDGE PRIDGIN: NRDC?

23 MR. ROBERTSON: No.

24 JUDGE PRIDGIN: Ameren Missouri?

25 CROSS-EXAMINATION BY MR. MITTEN:

1 Q. Just a few questions. Good afternoon,  
2 Ms. Kliethermes.

3 A. Good afternoon, Mr. Mitten.

4 Q. I'm looking at your curriculum vitae that  
5 is attached to your Rebuttal Testimony, specifically  
6 Schedule SLK-1?

7 A. Let me find my Rebuttal. I'm generally  
8 familiar with it. Yes.

9 Q. These are probably going to be easy  
10 questions you can answer without looking. Do you have  
11 any formal training in the application of Generally  
12 Accepted Accounting Principles?

13 A. No.

14 Q. Do you have any formal training in  
15 accounting?

16 A. No.

17 Q. Have you ever worked as an accountant?

18 A. I have not.

19 MR. MITTEN: I don't have any further  
20 questions. Thank you.

21 JUDGE PRIDGIN: Thank you. Any Bench  
22 questions, Mr. Chairman? Commissioner Kenney?

23 COMMISSIONER KENNEY: No questions,  
24 Ms. Kliethermes. Thank you.

25 JUDGE PRIDGIN: Commissioner Stoll?

1                   COMMISSIONER STOLL: I might as well.

2                   QUESTIONS BY COMMISSIONER STOLL:

3                   **Q. Good afternoon.**

4                   A. Good afternoon.

5                   **Q. I've just got a couple questions.**

6                   **Earlier you were asked about rebasing.**

7                   A. Yes.

8                   **Q. What is the definition of rebasing?**

9                   A. What that -- what that amounts to -- and  
10 really I guess for these purposes it consists of two  
11 pieces. Under the Non-utility Stipulation, we say you  
12 look at each month at what the avoided sales were for  
13 that month and you multiply them by a rate. And then  
14 when you get to a rate case, you've got a new set of  
15 billing determinants so you forget about those  
16 measures that were already installed because the  
17 Company's going to be recovering for the change in  
18 kilowatt hours under the new set of rates.

19                   And I guess let me step back a little bit  
20 and tell you what billing determinants are.

21                   **Q. Okay.**

22                   A. Billing determinants are for each class  
23 the number of customers, the level of demand and the  
24 level of energy sold in each block, if there's  
25 multiple blocks, and for the most of the classes there

1 are. And so what happens when you install energy  
2 efficiency programs is the utility sells less energy  
3 than it otherwise would. It's probably going to sell  
4 less energy and some hours that coincide with demand  
5 for demand metered customers, so it's going to have a  
6 reduction in its demand charges as well.

7           And so what we want to do is coming out  
8 of a rate case, we want to have the right number of  
9 each of those billing determinants, whether it's  
10 higher or lower, just so we know what the Company  
11 should charge customers going forward. And you're  
12 going to have customer growth that occurs and  
13 increases the billing determinants. You're going to  
14 have energy efficiency, some of it naturally  
15 occurring, some of it due to MEEIA. You're going to  
16 have solar installations. All of those things can  
17 change the billing determinants.

18           So what Mr. Davis pointed out in his  
19 Supplemental Testimony, and it is a good point, is  
20 that what matters is what the level of MEEIA is that  
21 is in effect at the end of the update period we use to  
22 establish billing determinants. I had said the  
23 effective date of rates. That's not the applicable  
24 point. The applicable point is the end of the update  
25 period. And so that's what we would -- would use



1 that.

2 Then we would do a separate annualization  
3 adjustment to take the greater level that presumably  
4 is in place at the end of the update period and  
5 annualize it as though that level of MEEIA had been in  
6 place throughout the billing -- or throughout the  
7 update period.

8 **Q. So with -- when there is a rebasing, is**  
9 **that the -- like the resetting of the figures at a**  
10 **rate case?**

11 A. Yes. That is exactly what it's like --

12 **Q. Okay.**

13 A. -- what it is.

14 **Q. So you mentioned earlier there's some**  
15 **concern about the time between rate cases and -- and**  
16 **not being able to recover -- I don't know. Tell me a**  
17 **little bit about that. What's the concern about the**  
18 **of length of time between rate cases on recovery?**

19 A. Well, that is only a concern -- what I  
20 think you're referring to is only a concern if you try  
21 to predict the future out 36 months and then act as  
22 though that future is what happened at any point  
23 throughout that 36 months.

24 So under -- under the non-utility  
25 mechanism, we give the utility revenue for every

1 measure installed between rate cases. It doesn't  
2 matter if they're out for five years, it doesn't  
3 matter if they're out for a year. They get the  
4 revenue that they are out between rate cases.

5 Under their mechanism, they're trying to  
6 predict the future and back-cast it. And that's where  
7 you can really have some impact by shifting a month or  
8 two in rate case timing.

9 **Q. Yeah. So it's -- the way I'm**  
10 **understanding this is that -- let's say the -- with**  
11 **the purpose of the Missouri Energy Efficiency**  
12 **Investment Act --**

13 A. Uh-huh.

14 **Q. -- is that to make the Company whole for**  
15 **what seems to be regulatory lag or to address the**  
16 **throughput disincentive?**

17 A. If I could, there's -- there's three  
18 elements. And I think it does both of those things,  
19 but they do those things in different ways.

20 **Q. Okay.**

21 A. The first is program costs. And if you  
22 actually look at the MEEIA statute, it's -- I think  
23 it's easy because there's one, two and three are in  
24 little parenthesis there under it. And one says,  
25 Provide timely cost recovery for utilities. And

1 that's program costs and you haven't heard a squeak of  
2 dispute about that. Everybody wants to give the  
3 utility program costs just as quick as we can.

4 **Q. Okay.**

5 A. The second one is what -- is the  
6 throughput disincentive issue. And that is to ensure  
7 that utility financial incentives are aligned with  
8 helping customers use energy more efficiently and in a  
9 manner that sustains or enhances utility customers'  
10 incentives to use energy more efficiently.

11 And what that is looking at is it's  
12 saying that we know that all else being equal, if you  
13 install an energy efficiency measure and that energy  
14 efficiency measure works, then you're going to lose  
15 money that you otherwise would have gotten.

16 Now, the rules -- the MEEIA rules say you  
17 wait until the end of the period and you look if the  
18 billing determinants dropped below the number that was  
19 used in the last rate case. And if they haven't  
20 dropped below the number in the last rate case,  
21 there's no problem to fix. That's one view.  
22 That's -- that's the rule.

23 What Staff has said is each month we'll  
24 look at what you lost and we'll give you that amount  
25 of money. And that seems, frankly, pretty reasonable

1 to me.

2 The third view is the utility's view of  
3 you project it, you tie it to a number that doesn't  
4 have a whole lot to do with the cost incurred and then  
5 you get that number.

6 And the third component -- almost done.

7 **Q. Okay.**

8 A. Is what we've called the performance  
9 incentive, but really the term "performance incentive"  
10 doesn't appear anywhere in the statute. What it talks  
11 about is an earnings opportunity. And what the  
12 statute does is it acknowledges that if demand-side  
13 costs are expensed, there is no demand-side investment  
14 opportunity for the utility to make.

15 And it acknowledges that if DSIM impacts  
16 supply-side investment opportunity because you've --  
17 you've, you know, put in this great energy efficiency  
18 so you don't have to build that power plant but  
19 there's less supply-side investment opportunity for  
20 the investors to get their money. And that's what  
21 they're in the business in is investing in supply  
22 side.

23 And so once -- once you accept those,  
24 then you do an earnings opportunity to give  
25 shareholders an earnings opportunity to compensate

1 them for foregone supply-side investment opportunity.  
2 And that's what a performance incentive, as we've been  
3 calling it, is all about.

4 **Q. And is the method of determining the**  
5 **performance incentive a benefit -- that's in question**  
6 **in this case?**

7 A. Well, there's different ways of looking  
8 at what the benefits are under a performance  
9 incentive.

10 **Q. Okay.**

11 A. When -- when you do a Chapter 20 plan,  
12 which is the supply-side resource planning, what they  
13 look at is if you didn't do any DSIM at all, what  
14 would you need to build when. And then they look at  
15 if you did this particular portfolio of DSIM, what  
16 would you need to build when.

17 Well, now what they've proposed isn't  
18 exactly the portfolio that was used in determining  
19 what the supply-side mix would look like with DSIM  
20 under Chapter 20 -- or Chapter 22, I'm sorry. And  
21 it's -- it's the difference between what was used in  
22 that study versus what's actually proposed versus  
23 what's actually approved versus what actually gets  
24 implemented.

25 But that's where it gets real confusing

1 real quick and so Staff has just recommended going to  
2 a straight KW basis with an energy component if the  
3 Commission adds it and a participation component if --  
4 to -- to benefit some hard-to-reach customers.

5 **Q. Okay. I will think about those for a**  
6 **minute, but -- to be quite honest, but I appreciate**  
7 **your response and thank you.**

8 A. Thank you.

9 COMMISSIONER KENNEY: No questions,  
10 Ms. Kliethermes.

11 JUDGE PRIDGIN: Commissioner Kenney,  
12 thank you.

13 Any recross based on Bench questions? Go  
14 through the line. Renew Missouri, Tower Grove,  
15 National Housing Trust?

16 MR. LINHARES: No questions.

17 JUDGE PRIDGIN: Sierra Club?

18 MS. TAUBER: No questions, Judge.

19 JUDGE PRIDGIN: Brightergy? MEC?

20 MR. DOWNEY: No questions.

21 JUDGE PRIDGIN: MECG? Public Counsel?

22 MR. OPITZ: No questions.

23 JUDGE PRIDGIN: United for Missouri?  
24 Division of Energy?

25 MR. ANTAL: No questions.

1 JUDGE PRIDGIN: NRDC?

2 MR. ROBERTSON: No.

3 JUDGE PRIDGIN: Ameren Missouri?

4 MR. MITTEN: No questions.

5 JUDGE PRIDGIN: Redirect?

6 MS. MUETH: Just briefly, your Honor.

7 REDIRECT EXAMINATION BY MS. MUETH:

8 Q. Ms. Kliethermes, do you recall Mr. Opitz  
9 asking you about whether Ameren's shareholders would  
10 be better off -- something to do with deemed savings,  
11 low experience savings? Do you recall those -- those  
12 questions that he asked? This was prior to his offer  
13 of proof.

14 A. Generally, but I'm a little fuzzy on --  
15 on what was asked when, if you could --

16 Q. Okay. I believe that you had stated that  
17 shareholders would be better off if there were a  
18 high-deemed savings and a low experienced savings once  
19 the programs were implemented. Does that sound  
20 familiar or did I mis-- mischaracterize that?

21 A. That would only be true under the Utility  
22 Stipulation. The opposite of that would be true under  
23 the Non-utility Stipulation.

24 Q. Okay. So can you explain the differences  
25 there? Is this related to the throughput

1 **disincentive?**

2 A. It is, as well as the performance  
3 incentive. Well, I apologize. The performance  
4 incentive in the -- as initially filed, the Ameren  
5 performance incentive did rely on deemed savings. I  
6 believe that the Utility Stip amended it so that that  
7 was subject to EM&V for the savings though, not for  
8 the avoided costs. Sorry. I'm thinking out loud.

9 The difference on that would be that the  
10 Non-utility Stip allows an upside, if a program is  
11 found to be more effective than was anticipated. We  
12 establish a floor of 66 percent, that if a program is  
13 not affected -- is not effective, shareholders are  
14 protected for that level of inefficacy below  
15 66 percent per program -- not on a portfolio basis,  
16 but per program. And then -- or actually per measure.

17 And then the upside to that is that if a  
18 measure is more effective than was expected, the  
19 shareholders are given an opportunity to earn  
20 33 percent additional.

21 **Q. Okay. And --**

22 A. Or I should say recover, not earn.

23 **Q. And the difference there -- that's the**  
24 **Non-utility Stipulation. The Utility Stipulation is**  
25 **just a deemed value?**



1           A.     It is a deemed value relative to studied  
2 projected net shared benefits.

3           **Q.     Okay. I have nothing further.**

4           JUDGE PRIDGIN: Thank you.

5           Ms. Kliethermes, thank you very much.

6 You may step down.

7           I believe our next witness is

8 Mr. Oligschlaeger.

9           (Staff Exhibits 705, 706 and 707 were  
10 marked for identification.)

11           (Witness sworn.)

12           JUDGE PRIDGIN: Thank you very much, sir.

13 Please have a seat.

14           And Ms. Mueth, when you're ready.

15           MS. MUETH: Thank you.

16 MARK OLIGSCHLAEGER testified as follows:

17 DIRECT EXAMINATION BY MS. MUETH:

18           **Q.     Good afternoon, Mr. Oligschlaeger.**

19           A.     Good afternoon.

20           **Q.     Please state your name and spell it for**  
21 **the record.**

22           A.     Sure. Mark L. Oligschlaeger,  
23 O-l-i-g-s-c-h-l-a-e-g-e-r.

24           **Q.     And how are you employed?**

25           A.     I'm employed by the Missouri Public

1 Service Commission as the Manager of the Auditing  
2 Unit.

3 **Q. Are you the same Mark Oligschlaeger who**  
4 **authored filed Surrebuttal Supplemental Direct and**  
5 **Rebuttal to Supplemental Testimony in this case marked**  
6 **as Staff Exhibits 705, 706 and 707?**

7 A. I did.

8 **Q. Do you have any corrections to make to**  
9 **any of that testimony?**

10 A. I do not.

11 **Q. If I were to ask you the same questions**  
12 **in that testimony here today, would your answers be**  
13 **the same?**

14 A. They would.

15 **Q. Is your testimony true and accurate, to**  
16 **the best of your knowledge and belief?**

17 A. It is.

18 MS. MUETH: Your Honor, I move to admit  
19 Staff Exhibits 705, 706 and 707.

20 JUDGE PRIDGIN: Ms. Mueth, thank you.  
21 Any objections?

22 Hearing none, Exhibits 705, 706 and 707  
23 are admitted into evidence.

24 (Staff Exhibits 705, 706 and 707 were  
25 received into evidence.)

1 MS. MUETH: And I'll tender the witness  
2 for cross.

3 JUDGE PRIDGIN: Thank you.  
4 Cross-examination Renew Missouri?

5 MR. LINHARES: No questions, your Honor.

6 JUDGE PRIDGIN: Tower Grove, National  
7 Housing Trust?

8 MR. LINHARES: No questions.

9 JUDGE PRIDGIN: Thank you.  
10 Sierra Club?

11 MS. TAUBER: No questions, Judge.

12 JUDGE PRIDGIN: Brightergy? MIEC? MECG?  
13 Public Counsel?

14 MR. OPITZ: Yes, Judge.

15 CROSS-EXAMINATION BY MR. OPITZ:

16 Q. Good afternoon, Mr. Oligschlaeger.

17 A. Good afternoon.

18 Q. **It's your testimony that nothing in the**  
19 **GAAP or SEC accounting requirements prohibits the**  
20 **Commission from setting rates based on a retrospective**  
21 **review and true-up of the throughput disincentive**  
22 **share. Correct?**

23 A. That is correct.

24 Q. **And do you understand that it's Ameren's**  
25 **position that ASC 980-605-25 is an accounting standard**

1 **that the Company says prohibits Ameren from booking**  
2 **revenue subject to true-up?**

3 A. That is my understanding of the Company's  
4 position.

5 Q. **Is my understanding correct that ASC**  
6 **980-605-25 sets out standards for a utility to record**  
7 **regulatory assets to track the impact on sales of**  
8 **energy efficiency products?**

9 A. It is.

10 Q. **In other words, ASC 980-605-25 applies**  
11 **when a utility seeks to recognize revenues associated**  
12 **with lost sales from energy efficiency in a regulatory**  
13 **asset?**

14 MR. LOWERY: Your Honor, I'm going to  
15 interpose an objection at this point. This is --  
16 follows the pattern that we've seen all day of Staff  
17 witnesses who are completely aligned with the OPC's  
18 position engaging in fr-- in friendly cross.

19 I think the problem with this, Judge,  
20 is -- is you already ruled when a party who had signed  
21 the Utility Stipulation engaged in what you judged to  
22 be friendly cross, you already ruled that that was  
23 inappropriate. And it would be arbitrary and  
24 capricious on the Commission's part to allow -- to any  
25 extent, to continue here. So on that basis, I object

1 to any further questions by Mr. Opitz of this witness.

2 JUDGE PRIDGIN: Mr. Opitz?

3 MR. OPITZ: Thank you, Judge. I would  
4 say a few points. The first point being that the  
5 bas-- my understanding is that the basis of the  
6 sustained objection to the utility signatory's  
7 objection was that it was test-- it was questions  
8 asking one witness about the testimony of another  
9 witness; meaning that the -- and my understanding was  
10 that the objection raised wasn't that it was friendly  
11 cross. It was that the better witness to ask and the  
12 best available witness was the Staff witness whose  
13 testimony was being asked about.

14 Second, I would restate my concern that  
15 my client has the right and, as their attorney, I have  
16 the obligation to cross-examine any witnesses that  
17 present testimony in this case. And the fact that  
18 I've signed -- or that my position is similar to those  
19 of the Staff or any other party does not diminish my  
20 client's right nor my obligation to inquire of  
21 witnesses upon their taking the stand.

22 MR. LOWERY: Your Honor, if Mr. Opitz  
23 thinks that's the basis of your ruling, then he wasn't  
24 listening to you a few minutes ago when you explained  
25 that the basis of your ruling is you're not going to

1 allow this record to be burdened with Supplemental  
2 pre-filed testimony.

3 Mr. Oligschlaeger has filed three rounds  
4 of testimony on these accounting issues. He's had  
5 ample opportunity. He should not be afforded an  
6 additional one through friendly cross by the Office of  
7 the Public Counsel.

8 JUDGE PRIDGIN: I'm going to overrule.  
9 And here is my -- here is my take on this. You know,  
10 I stated earlier that the parties had filed an order  
11 of cross-examination that allows everyone to  
12 cross-examine and that -- and that is whether they  
13 have signed the stipulation -- you know, the Utility  
14 Stipulation, the Non-utility Stipulation or no  
15 stipulation at all. And some of this process does  
16 appear to get very quickly into friendly cross, which  
17 to me isn't really cross at all. It's simply  
18 supplementing pre-filed testimony.

19 So what I have tried to do to -- you  
20 know, as Rule 2.120 says, to take appropriate action  
21 to avoid unnecessary delay in the disposition of  
22 cases. I've tried to allow at least brief friendly  
23 cross because that's what the parties contemplated  
24 when they filed their order of cross-examination.

25 But I do want it to be brief and I'm

1 probably going to have to either, you know, sustain an  
2 objection and if somebody wants to make an offer of  
3 proof, that's fine. But I'm trying to limit, if not  
4 completely, stop friendly cross to try to get this  
5 case moving and to try to get the cross-examination  
6 where I think it belongs and that's with adversarial  
7 parties and not aligned parties.

8 So I'll overrule the objection and -- but  
9 I probably won't overrule too many more.

10 MR. LOWERY: Your Honor, just so that I  
11 preserve my legal position on this, with all due  
12 respect, I'm going to take exception to your  
13 interpretation of the order of witnesses. The mere  
14 fact that the parties provide an order of witnesses as  
15 the order of witnesses that -- the order that folks  
16 are going to appear in does not and has never been  
17 taken to waive proper objections to the -- their  
18 testimony. In fact, their pre-filed testimony does  
19 not automatically come in just because there has been  
20 a list.

21 So just to preserve that issue, I take  
22 legal exception to the conclusion that you've drawn  
23 from the order of witnesses.

24 JUDGE PRIDGIN: And that's fine. And I'm  
25 simply reading from something that's entitled Order of

1 Cross-examination. I'm not -- I'm not trying to be  
2 flippant. I'm just trying to go along with what the  
3 parties had contemplated in what I read as an order of  
4 cross-examination. But I am trying to limit, if not  
5 entirely cut out, friendly cross to keep the hearing  
6 moving.

7 So I've overruled the objection.

8 MR. OPITZ: Thank you, Judge.

9 BY MR. OPITZ:

10 **Q. Mr. Oligschlaeger, I can't recall, did**  
11 **you answer the last question?**

12 A. I did not. As I recall your question, my  
13 response would be the ASC 980-605-25 provisions are,  
14 in my opinion, intended to provide guidelines for when  
15 companies can book regulatory assets to account for  
16 future expected revenues as a result of ongoing  
17 demand-side management programs, among other things.  
18 The provisions aren't limited to demand-side  
19 management programs.

20 **Q. Thank you. Thank you. Is Ameren**  
21 **Missouri seeking a regulatory asset in this case?**

22 A. They are not.

23 **Q. And would you agree that Ameren is**  
24 **actually seeking concurrent recovery of the revenues**  
25 **related to its MEEIA -- proposed MEEIA programs?**



1           A.     They are.  And to my knowledge, all  
2 parties largely agree with that request.

3           **Q.     And is the fact that -- that the Company**  
4 **is requesting concurrent recovery the reason why**  
5 **ASC 980-605-25 doesn't apply in this circumstance?**

6           MR. LOWERY:  Objection on the same basis,  
7 friendly cross and it's arbitrary to allow it with  
8 this witness when it wasn't allowed before.

9           JUDGE PRIDGIN:  Mr. Opitz?

10          MR. OPITZ:  Thank you, Judge.  I would  
11 again raise the issue that my client has the right and  
12 I, as the attorney, have the obligation to  
13 cross-examine this witness to develop the record that  
14 will benefit my client in this case.  And I don't  
15 think being aligned one way or the other diminishes  
16 that right in any way.

17          JUDGE PRIDGIN:  All right.  I will  
18 overrule.  If you want to make an offer of proof, you  
19 may do so.  If you'll please inform the court reporter  
20 and the Commission when you're finished with your  
21 offer of proof.

22          MR. LOWERY:  Just a point of  
23 clarification, Judge.  I assume you meant to say you  
24 sustain the objection, if you're asking him -- if  
25 you're authorizing him to make an offer of proof?

1 JUDGE PRIDGIN: My apologies, yes. That  
2 would be sustaining the objection. Thank you.

3 MR. OPITZ: Thank you, Judge. I would  
4 like to make an offer of proof at this time.

5 JUDGE PRIDGIN: You may.

6 MR. LOWERY: Your Honor, I guess --  
7 just -- just in the interest, as you just mentioned of  
8 moving the hearing along, I'm sure Mr. Oligschlaeger  
9 is going to be here when the inform-- when the  
10 questions and answers that are actually part of the  
11 evidentiary record are reduced and completed.

12 Typically what would happen in a civil  
13 court is that the judge would take the offers of proof  
14 separately on the record with the court reporter. And  
15 it's my opinion that that's the appropriate procedure  
16 here, is that when the last witness -- and we're  
17 almost to the last witness to testify today, then  
18 Mr. Opitz can make his offer of proof, rather than  
19 taking incompetent evidence in front of the trier of  
20 fact.

21 JUDGE PRIDGIN: I mean, that is not how I  
22 read our rules of procedure and I don't believe that's  
23 the intent of the rules. I'm going to let him make  
24 the offer of proof here.

25 MR. OPITZ: Thank you, Judge.

1 BY MR. OPITZ:

2 **Q. Mr. Oligschlaeger, I believe the question**  
3 **I asked you was not answered before the objection so**  
4 **I'll ask again. Is that why ASC-980-605-25 doesn't**  
5 **prohibit -- doesn't apply in this situation?**

6 A. Again -- yes, in my professional  
7 judgment, the situation where a Company recovers  
8 revenue simultaneously with the occurrence of lost  
9 revenues, the accounting for that phenomenon is  
10 governed by other provisions within GAAP, not ASC  
11 980-605-25.

12 **Q. Mr. Oligschlaeger, do you know of any**  
13 **case when this standard, ASC 980-605-25, was applied**  
14 **to prevent recording revenues concurrently with the**  
15 **MEEIA program?**

16 A. Are you talking about other jurisdictions  
17 or within Missouri or --

18 **Q. I guess my question is any case. So**  
19 **either -- let's start within Missouri.**

20 A. Okay. Within Missouri, I don't believe  
21 that issue has gone before the Commission in the past.

22 **Q. And taking a step back, what about in any**  
23 **other jurisdiction?**

24 A. I have done what I consider a reasonably  
25 comprehensive review of some of the orders and other

1 pertinent case information involving -- which involve  
2 issues of lost revenue recovery and the imposition of  
3 true-up procedures. And I have not found any  
4 proceeding in which a utility raised either the same  
5 or a highly similar accounting concern regarding the  
6 provisions of ASC 980-605-25 than to that raised by  
7 Ameren Missouri in this proceeding.

8 **Q. Is it fair to say that Ameren Missouri is**  
9 **seeking to recover an amount that is based on**  
10 **forecasted values in this case?**

11 A. For throughput disincentive?

12 **Q. Yes.**

13 A. Yes.

14 **Q. And in your experience, when forecasted**  
15 **values are used to set rates, is there usually a**  
16 **true-up?**

17 A. The general policy I am aware of in this  
18 state is that in most -- I would say almost all  
19 instances in which forecast values are used, there is  
20 some sort of true-up procedure to later synchronize or  
21 reconcile the amount of the ultimate recovery from  
22 customers with the actual costs in question incurred  
23 by the utility.

24 **Q. Hypothetically, if the Company's**  
25 **interpretation was correct and some accounting**

1 **standard did apply, should that be the end of the**  
2 **Commission's inquiry into the matter?**

3 A. Well, no. As a general rule, accounting  
4 considerations should not be the sole focus of a  
5 Commission's actions in setting rates or setting other  
6 appropriate regulatory policy. And I think I explain  
7 that to some degree in my Supplemental Direct  
8 Testimony.

9 **Q. In fact, accounting rules do change from**  
10 **time to time. Correct?**

11 A. They certainly do.

12 **Q. And when a new mechanism or issue**  
13 **appears, then a new accounting rule might be created;**  
14 **is that correct?**

15 A. There's new accounting rules that  
16 periodically pop up all the time.

17 **Q. So if I understand your testimony, it's**  
18 **that the policy shouldn't necessarily drive the**  
19 **accounting treatment given here?**

20 A. I'd say the opposite. The accounting  
21 treatment shouldn't drive the policy.

22 **Q. Okay. And if -- if the Commission --**  
23 **excuse me.**

24 MR. OPITZ: That's all the questions I  
25 have. Thank you.

1 JUDGE PRIDGIN: Mr. Opitz, thank you.  
2 United for Missouri? Division of Energy?  
3 MR. ANTAL: No questions.  
4 JUDGE PRIDGIN: NRDC?  
5 MR. ROBERTSON: No questions.  
6 JUDGE PRIDGIN: Ameren Missouri?  
7 MR. LOWERY: Thank you, your Honor.

8 CROSS-EXAMINATION BY MR. LOWERY:

9 Q. Mr. Oligschlaeger, I assume that you have  
10 a copy of your deposition and your testimony -- your  
11 pre-filed testimony with you; is that true?

12 A. I do.

13 Q. Thank you. Good afternoon, by the way.

14 A. Good afternoon.

15 Q. You agree that every month energy  
16 efficiency measures are deployed, that they cost sales  
17 to go down below what those sales would have been had  
18 the energy efficiency measures not been employed --  
19 deployed; isn't that right?

20 A. I would agree with that.

21 Q. Which means that Ameren Missouri foregoes  
22 revenues because it is operating energy efficiency  
23 programs. Correct?

24 A. That's the expectation and I believe the  
25 reality.

1           **Q.     And we sometimes refer to those foregone**  
2 **lost revenues and the throughput disincentive**  
3 **synonymously, do we not?**

4           A.     We do.

5           **Q.     And you agree that if Ameren Missouri**  
6 **reduces its sales because it is pursuing energy**  
7 **efficiency, thus reducing its earnings month by month,**  
8 **and if it's not able to recognize offsetting revenues**  
9 **on its income statement to neutralize the impact of**  
10 **those reduced earnings, that there is no question that**  
11 **Ameren Missouri has a big disincentive to pursue**  
12 **energy efficiency, do you not?**

13          A.     Well, the size of the disincentive  
14 probably depends upon the shortfall and other aspects  
15 such as whether concurrent cash recovery is received,  
16 but yes, a shortfall in earnings would act as a  
17 disincentive.

18          **Q.     Put another way, if there are material**  
19 **financial detriments to pursuing energy efficiency,**  
20 **those detriments would be a financial disincentive for**  
21 **Ameren Missouri to pursue energy efficiency. Fair?**

22          A.     I would agree with that.

23          **Q.     In recognition of that reality, the**  
24 **Non-utility Stipulation, the one that was filed -- the**  
25 **amended one -- on July 8th, includes an unrealized**

1 **revenue mechanism, does it not?**

2 A. To be honest, I'm not sure it's called an  
3 unrealized revenue mechanism, but a mechanism to allow  
4 Ameren Missouri to recover throughput disincentive,  
5 yes.

6 **Q. And the reason it includes whatever the**  
7 **mechanism is called is in recognition of the reality**  
8 **of the disincentive created by the lost revenues**  
9 **caused by pursuing energy efficiency. Isn't that why**  
10 **it's there?**

11 A. I would agree.

12 **Q. And the goal of this mechanism in the**  
13 **Non-utility Stipulation is to make Ameren Missouri**  
14 **financially indifferent between making demand-side**  
15 **investments versus investments in other**  
16 **infrastructure, like supply-side investments; isn't**  
17 **that true?**

18 A. I would agree that is a goal.

19 **Q. Now, the mechanism in the Non-utility**  
20 **Stipulation replaces the Staff's earlier position on**  
21 **the throughput disincentive which was reflected in**  
22 **Rebuttal Testimony filed back in March; isn't that**  
23 **right?**

24 A. Yes, it does.

25 **Q. And if the Staff's original approach had**



1 been followed, which was to essentially calculate lost  
2 revenues, as that term is defined in the current MEEIA  
3 rules, it is reasonable to assume that the Company  
4 sales would have been lower because it pursued energy  
5 efficiency than if it had not pursued energy  
6 efficiency at all; isn't that true?

7 A. I would agree with that.

8 Q. Now, at the time the Staff took its first  
9 position, the one that's now been replaced in its  
10 Rebuttal Testimony, what you basically said in your  
11 Rebuttal Testimony at that time was that if the  
12 Commission was not going to accept Staff's first  
13 proposal, but instead was going to use the TDNSB  
14 approach that the Company was proposing at the time,  
15 that there were three modifications that needed to be  
16 made to the Company's proposal; isn't that right?

17 A. I did.

18 Q. And you agree that the modified TDNSB  
19 mechanism in the Company's and other parties June 30th  
20 stipulation addresses, for the most part, the concerns  
21 that you had expressed in your Rebuttal Testimony.  
22 Correct?

23 A. The concerns I had expressed, yes.

24 Q. And any remaining issues relating to  
25 those three concerns that you had expressed are pretty

1 **minor at this point with respect to the June 30th**  
2 **stipulation; isn't that right?**

3 A. Again, from the perspective of what I  
4 raised in March, that is true. Staff has raised  
5 other -- other Staff witnesses have addressed concerns  
6 with those mechanisms in their testimony.

7 **Q. And you understood that my question**  
8 **specifically asked you about the three concerns you**  
9 **raised, did you not, when you gave that answer?**

10 A. I did.

11 **Q. And that's because the intent of tier one**  
12 **of the modified TDNSB mechanism in the June 30th**  
13 **stipulation is conservative in such a way that the**  
14 **risk of so-called over-recovery or under-recovery**  
15 **driven by those three concerns that you raised is**  
16 **pretty low, is it not?**

17 A. The risk of over-recovery is low. I mean  
18 the concern I raised in my Rebuttal Testimony was that  
19 Ameren's assumption was not particularly realistic  
20 from my viewpoint in terms of the actual duration  
21 between rate cases. I'm still not sure Ameren's new  
22 assumption is that realistic, but it does go the other  
23 way in terms of --

24 **Q. Let me help you out.**

25 A. Sure.

1           **Q.     It's set in such a conservative way that**  
2 **the risk of rate case timing causing a, quote,**  
3 **over-recovery because of rate case timing is pretty**  
4 **low at this point; isn't that right?**

5           A.     I would agree with that.

6           **Q.     Now, you can't point me to anything else**  
7 **in the electric utility business, other than offering**  
8 **energy efficiency programs, that reflects the**  
9 **situation where a utility is knowingly taking steps to**  
10 **reduce its sales, can you?**

11          A.     Not off the top of my head, I cannot.

12          **Q.     Now, I noticed that nowhere in any of**  
13 **your pre-filed testimonies, which now number three,**  
14 **did you ever state that a loss of net income as and**  
15 **when the energy efficiency programs are being offered**  
16 **would allow the appropriate alignment of incentives.**  
17 **You haven't given that opinion, have you?**

18          A.     I did not express that opinion in  
19 testimony.

20          **Q.     And because you are not a utility**  
21 **decision maker, you can only speculate as to what it**  
22 **takes to remove the financial disincentive that is**  
23 **inherent in pursuing energy efficiency programs, at**  
24 **least if one assumes those energy efficiency programs**  
25 **are expected to be successful; isn't that right?**

1 A. I did not write my testimony from the  
2 perspective of being a utility employee or executive.

3 Q. Which means you can only speculate as to  
4 what it takes to remove the disincentive; isn't that  
5 right?

6 A. I can express an opinion on what  
7 reasonably I think it should take, but I am not a  
8 utility employee or executive.

9 Q. You have your deposition, I understand,  
10 with you?

11 A. I do.

12 Q. Could you please turn to page 11.

13 A. I am there.

14 Q. Take a look at lines 16 to 21. I'm going  
15 to ask you if I asked you the following question and  
16 if you gave the following answer. Question: You  
17 don't actually know from the standpoint of a utility  
18 decision maker what it takes or doesn't take --

19 MS. MUETH: Your Honor, I'm going to  
20 object. This question has been asked and answered.  
21 This is just argumentative at this point.

22 MR. LOWERY: Your Honor, I'm going to  
23 establish he gave a prior inconsistent statement in  
24 his -- in his deposition and I'm entitled to impeach  
25 the witness.

1 JUDGE PRIDGIN: Overruled.

2 BY MR. LOWERY:

3 Q. Are you with me, lines 16 to 21?

4 A. I am.

5 Q. Question: You don't actually know from  
6 the standpoint of a utility decision maker what it  
7 takes or doesn't take to remove the financial  
8 disincentive to reduce energy efficiency, do you?

9 Answer: I am not a utility decision  
10 maker. I could only speculate.

11 Did I read that correctly?

12 A. You did.

13 Q. You've obviously never had to sit down  
14 and determine how to operate a utility within the  
15 constraints of a budget, have you?

16 A. I have not.

17 Q. You've never had to go to the board of a  
18 utility or the executive management of a utility and  
19 request approval for projects or other investments,  
20 have you?

21 A. I have not.

22 Q. You've never had to justify whether to  
23 spend hundreds of --

24 MS. MUETH: Your Honor, I'm going to  
25 object again. This line of questioning has been asked

1 and answered. This is a continuing argumentative line  
2 of questioning.

3 MR. LOWERY: Your Honor, I think it's  
4 cross-examination.

5 JUDGE PRIDGIN: I'll overrule. I'll  
6 overrule.

7 BY MR. LOWERY:

8 Q. You've never had to justify to the  
9 utility's board whether it should spend hundreds of  
10 millions of dollars on energy efficiency versus  
11 investing in a power plant or other infrastructure,  
12 have you?

13 A. I have not.

14 Q. And if we look at the MEEIA statute --  
15 and I have a copy for you if you need it -- what the  
16 Commission is charged with doing is to align the  
17 utility's -- apostrophe "s" in the statute --  
18 incentive with helping its customers use energy more  
19 efficiently. Isn't that what the statute says?

20 A. I don't have it in front of me. I  
21 will --

22 MR. LOWERY: May I approach, Your Honor?

23 JUDGE PRIDGIN: You may.

24 BY MR. LOWERY:

25 Q. You're familiar with the statute, are you

1 not?

2 A. I have read it before.

3 Q. You're familiar with the provision that  
4 talks about aligning incentives, are you not?

5 A. I am.

6 Q. Is the answer to my question yes, that  
7 under the statute, what it says is that the Commission  
8 is charged with ensuring, quote, that utility  
9 financial incentives are aligned with helping  
10 customers use energy more efficiently? Is that  
11 correct?

12 A. Well, there's -- the sentence goes on  
13 from there, but what you read was correct.

14 Q. Okay. You agree that in some  
15 circumstances, the Non-utility Stipulation does not  
16 entirely remove the throughput disincentive; isn't  
17 that correct?

18 A. In some circumstances, the provisions  
19 within the Non-utility Stip that call for the  
20 two-thirds deemed will not provide total recovery. It  
21 is my opinion the alternative footnote approach, if we  
22 may call it that, would provide that total protection.

23 Q. Let me ask my question again. Do you  
24 agree or not agree that in some circumstances the  
25 Non-utility Stipulation's mechanism does not entirely

1 **remove the throughput disincentive?**

2 A. One alternative within the stipulation  
3 would, under some circumstances, not entirely remove  
4 the throughput disincentive.

5 **Q. Which makes the answer to my question**  
6 **yes. Correct?**

7 A. Yes, with my supplement.

8 **Q. And you agree in the circumstance where**  
9 **only two-thirds of the unrealized revenues are being**  
10 **reflected in the billings for the energy efficiency**  
11 **rider, you agree that in that circumstance,**  
12 **ACS-980-605-25 indeed applies, do you not?**

13 A. Yes. Because the remaining one-third  
14 would be potentially accounted for as a regulatory  
15 asset if the accounting provisions allow.

16 **Q. Now, in your Rebuttal to Supplemental**  
17 **Testimony that you filed on July 15th, you posit the**  
18 **opinion that 980-605-25 only applies to prevent**  
19 **revenue recognition when the throughput disincentive**  
20 **is not currently being billed and collected for.**  
21 **Right? That's your theory?**

22 A. That is my opinion, yes.

23 **Q. And so based on that claim, you argue**  
24 **that if one change is made to the Non-utility**  
25 **Stipulation's mechanism, just one, that the revenue**



1 **recognition problem that exists if only two-thirds is**  
2 **being billed is completely solved. Right?**

3 A. That is my interpretation of the relevant  
4 GAAP.

5 Q. **So that one change is -- well, it's what**  
6 **you claim to be the relevant GAAP. Right?**

7 A. It's all -- that's my opinion, my  
8 professional judgment.

9 Q. **That one change is to simply use the**  
10 **alternative in -- I think it's in footnote 5 of the**  
11 **Non-utility Stipulation, which is to estimate**  
12 **100 percent of the unrealized revenues and go ahead**  
13 **and bill the 100 percent rather than billing the**  
14 **two-thirds. Right? That's the one change?**

15 A. That's correct.

16 Q. **So essentially you're saying if Ameren**  
17 **Missouri's getting cash equating to 100 percent of the**  
18 **estimate, 980-605-25 doesn't apply, Ameren doesn't**  
19 **have a revenue recognition problem. But if Ameren**  
20 **Missouri is only getting two-thirds of the cash, it**  
21 **does have a rev-- revenue recognition problem. That's**  
22 **your opinion. Right?**

23 A. Yes.

24 Q. **Now, Ameren Missouri reports its**  
25 **financial results on an accrual basis. Right?**

1 A. That is correct.

2 Q. Its books and records are kept on an  
3 accrual basis, not a cash basis; isn't that right?

4 A. I believe so.

5 Q. It doesn't follow cash accounting, does  
6 it?

7 A. It does not.

8 Q. Now, obviously the only accountants to  
9 testify in this case who have actually made decisions  
10 about when a utility can or cannot recognize in--  
11 revenues on the income statement, Mr. [sic] Barnes and  
12 Mr. Hoffman, they both directly disagree with you, do  
13 they not?

14 A. Apparently so.

15 Q. And Ms. Barnes testified in her July 15th  
16 testimony in Rebuttal to the Non-utility Stipulation,  
17 that Ameren Missouri's independent auditor,  
18 PricewaterhouseCoopers, will not allow the Company to  
19 recognize the revenue associated with the one-third  
20 portion of the mechanism in the Non-utility Stip even  
21 if the utility is getting the cash, did she not?

22 A. She testified to that. However, that is  
23 directly contradictory with other evidence from  
24 PricewaterhouseCooper regarding appropriate accounting  
25 for alternative revenue programs.

1           **Q.     The answer to my question was yes, that**  
2 **was her testimony, was it not?**

3           A.     That was her testimony.

4           **Q.     So Ms. Barnes disagrees with you and**  
5 **Mr. Hoffman disagrees with you unless they're both**  
6 **lying or don't know what they're talking about; isn't**  
7 **that right?**

8           MS. MUETH:  Objection, your Honor, this  
9 is argumentative.

10          JUDGE PRIDGIN:  I'll overrule and let him  
11 answer if he knows the answer.

12          THE WITNESS:  My assumption is we have a  
13 difference of opinion as to how to interpret the  
14 relevant GAAP.

15 BY MR. LOWERY:

16          **Q.     Now, you concede that whether the Company**  
17 **can recognize the revenue associated with the**  
18 **one-third as and when the unrealized revenues are**  
19 **occurring is ultimately going to depend upon whether**  
20 **the Company's independent auditor is going to sign off**  
21 **on those financial statements and allow that revenue**  
22 **recognition, do you not?  You agree with that, don't**  
23 **the you?**

24          A.     Your ability to publish your financial  
25 statements ultimately requires the approval of your

1 external auditor.

2 **Q. Now, PWC's role under the applicable SEC**  
3 **requirements is to act as an independent auditor, is**  
4 **it not?**

5 A. As I understand their role, yes.

6 **Q. If it fails to act independently -- and**  
7 **by that I mean if it fails to use its own professional**  
8 **judgment -- then the P-- then -- then PWC could be**  
9 **subject to adverse action by the SEC, could it not?**

10 A. I believe so.

11 **Q. And you don't have any reason to believe**  
12 **that PWC doesn't act independently when it audits**  
13 **Ameren Missouri's financial statements, do you?**

14 A. I have no reason to believe that, no.

15 **Q. You recognize that Ameren Missouri must**  
16 **follow GAAP -- and by GAAP I mean Generally Accepted**  
17 **Accounting Principles -- do you not?**

18 A. In its published financial statements,  
19 yes.

20 **Q. Well, it has to publish financial**  
21 **statements, does it not?**

22 A. It does.

23 **Q. Now, in addition to PWC's application of**  
24 **GAAP, you're aware that Ms. Barnes herself is actually**  
25 **involved in having to apply GAAP in SEC requirements**

1 relating to the recognition of revenue on the  
2 Company's financial statements, do you not?

3 A. I would expect she would.

4 Q. You would also expect Mr. Hoffman has --  
5 was similarly engaged as an audit partner for Deloitte  
6 for 38 years in the auditing of public utilities,  
7 would you not?

8 A. I would expect he would have general  
9 knowledge of financial reporting in GAAP.

10 Q. For public utilities. Correct? You  
11 saw -- you did see his resume, did you not? Or his  
12 credentials?

13 A. He cited to experience with public  
14 utilities, yes.

15 Q. And Ms. Barnes and other Ameren Missouri  
16 executives have -- actually have to certify compliance  
17 with GAAP when those statements are published, do they  
18 not?

19 A. I believe so.

20 Q. But since you've never been employed for  
21 a utility, or any business for that matter that must  
22 publish GAAP compliant financial statements, you've  
23 never had to do those things, have you?

24 A. It's never been part of my job  
25 description.

1           **Q.     It's fair to say, is it not, that you**  
2 **have zero experience in making decisions regarding the**  
3 **preparation of a utility's financial statements, isn't**  
4 **it?**

5           A.     That's fair to say.

6           **Q.     You're not questioning Ms. Barnes or**  
7 **Mr. Hoffman's credentials or experience to make the**  
8 **judgments that they've made about the applicability of**  
9 **905-605-- 980-605-25, are you?**

10          A.     I don't think their credentials or  
11 experience is the problem.

12          **Q.     You even agree that they're qualified to**  
13 **make the judgments they've made, do you not?**

14          A.     They certainly are.

15          **Q.     I don't suppose you have the exhibit from**  
16 **your deposition, do you?**

17          A.     Depends which exhibit you're talking  
18 about.

19          **Q.     Well, I'm talking in this particular**  
20 **instance I believe about Exhibit Number 3 from your**  
21 **deposition.**

22          A.     And that would be?

23          **Q.     Topic 105, Generally Accepted Accounting**  
24 **Principles.**

25          A.     I do not.

1 MR. LOWERY: May I approach, Your Honor?

2 JUDGE PRIDGIN: Yes, you may.

3 And, Mr. Lowery, before you proceed,  
4 could I ask if you have an idea about roughly how many  
5 more minutes you have for this witness? Just looking  
6 for a good time to take a break. I don't really care  
7 to interrupt, but depends on how much longer.

8 MR. LOWERY: Probably a few -- we  
9 probably are due for a break. I have enough that we  
10 probably should go ahead and break.

11 JUDGE PRIDGIN: All right. In this case,  
12 it's right at three o'clock. Let's take a break. We  
13 will resume at 3:15. Thank you. We're off the  
14 record.

15 (A recess was taken.)

16 JUDGE PRIDGIN: Good afternoon. We're  
17 back on the record. I believe when we broke, that  
18 Mr. Lowery was still cross-examining  
19 Mr. Oligschlaeger. Anything further before  
20 cross-examination re-- resumes, excuse me?

21 All right. Mr. Oligschlaeger, you're  
22 still under oath.

23 Mr. Lowery, when you're ready.

24 MR. LOWERY: Thank you, Your Honor.

25 BY MR. LOWERY:

1           **Q.     Mr. Oligschlaeger, before the break, I**  
2 **handed you what was Deposition Exhibit 3 from your**  
3 **deposition. And you recognize this to be a FASB**  
4 **statement, Statement Number 168, do you not?**

5           **A.     I do.**

6           **Q.     And FASB stands for the Financial**  
7 **Accounting Standards Board. Correct?**

8           **A.     It does.**

9           **Q.     And FASB is the entity that has issued**  
10 **what's called the Accounting Standard Codification,**  
11 **which is one of the sources of authoritative GAAP; is**  
12 **that right?**

13          **A.     That is correct.**

14          **Q.     And this particular FASB document**  
15 **effectively created the Accounting Standard**  
16 **Codification that provides the authoritative GAAP that**  
17 **must be applied to publish financial statements, does**  
18 **it not?**

19          **A.     It does.**

20          **Q.     Could you turn to page 7. And I think**  
21 **some of the first pages are not numbered, but there**  
22 **are some numbers once you get a few pages back.**

23          **A.     I believe I'm there.**

24          **Q.     I want to ask you if I'm reading -- I'm**  
25 **looking at paragraph -- numbered paragraph 9 on**



1 **page 7. Do you see that?**

2 A. I am -- I see it.

3 Q. **Statement Number 168 says as follows,**  
4 **quote: If the guidance for a transaction or event is**  
5 **not specified within a source of authoritative GAAP**  
6 **for that entity, and entity shall first consider**  
7 **accounting principles for similar transactions or**  
8 **events within a source of authoritative GAAP, and then**  
9 **it continues on.**

10 **Did I read that correctly?**

11 A. You did.

12 Q. **Which means that if the guidance for a**  
13 **transaction or event is specified within a source of**  
14 **authoritative GAAP, then that's the GAAP that has to**  
15 **be followed, is it not?**

16 A. That's how I would interpret it.

17 Q. **Now, we've been debating whether the**  
18 **mechanism in the Non-utility Stipulation under certain**  
19 **circumstances is or is not within ASC 980-605-025, but**  
20 **there's no question but that 980-605-25 is**  
21 **authoritative guidance on revenue recognition, is**  
22 **there?**

23 A. Among other authoritative guidances  
24 within GAAP for revenue recognition, yes.

25 Q. **Okay. The only authoritative GAAP of**

1 **which you are aware that actually mentions demand-side**  
2 **management programs or initiatives is 980-605-25;**  
3 **isn't that right?**

4 A. It's possible there are others. That is  
5 the only one I am aware of that concerns demand-side  
6 initiatives.

7 Q. **I think that was a yes to my question,**  
8 **was it not?**

9 A. I think it was.

10 Q. **And this issue about the application of**  
11 **ASC 980-605-25 has been going on here in Missouri and**  
12 **with your involvement for at least three years, has it**  
13 **not?**

14 A. Yes.

15 Q. **And you have certainly looked at**  
16 **authoritative GAAP -- probably looked high and low to**  
17 **find out if there are any other standards that**  
18 **actually mention demand-side management, have you not?**

19 A. I can't say I've done some kind of word  
20 search through GAAP looking for the words "demand-side  
21 management," no.

22 Q. **You would agree, would you not, that in**  
23 **general terms, the SEC -- let me stop. When I say**  
24 **SEC, I'm referring to the Securities and Exchange**  
25 **Commission -- the US Securities and Exchange**

1 **Commission. You understand that, do you not?**

2 A. I do.

3 Q. You agree, do you not, that in general  
4 terms the SEC in a FASB have in recent years imposed  
5 tougher criteria on revenue recognition than existed  
6 before the adoption of the Sarbanes-Oxley Act, before  
7 the Enron situation occurred. Would you agree with  
8 that?

9 A. That's my understanding.

10 Q. And you are confident that the rationale  
11 for those changes, those tougher criteria that have  
12 been imposed on revenue recognition, is so that  
13 financial statements that are published reflect a fair  
14 characterization of revenues. You agree?

15 A. I'm sure that's the ultimate purpose.

16 Q. I mean, Mr. Oligschlaeger, it strikes me  
17 that the irony of the position that you're taking in  
18 this case is that you're telling the Company that GAAP  
19 is more liberal, more permissive in allowing revenue  
20 recognition than the Company thinks it is. Isn't that  
21 what you're telling it?

22 A. I don't know whether that's ironic. I  
23 think that's accurate.

24 Q. That is what you're telling the Company  
25 though. Right? You're telling the Company that you

1 **think it's more difficult to recognize revenue**  
2 **recognition than I think it is. Right?**

3 A. You would impose additional tests on  
4 recognition of certain revenues that I do not believe  
5 are appropriate under GAAP, yes.

6 Q. **There -- it's easier -- there are**  
7 **circumstances that you are positing that revenues can**  
8 **be recognized and the Company says, under applicable**  
9 **GAAP, they cannot be recognized; isn't that right?**

10 A. That's -- appears to be the dispute, yes.

11 Q. **Because you're telling the Company if you**  
12 **simply bill 100 -- cash for 100 percent, then you can**  
13 **recognize the revenues just because you can bill for**  
14 **the cash. Isn't that your position?**

15 A. That's the standard accounting for  
16 revenues in general, yes.

17 Q. **And isn't -- doesn't that more liberal,**  
18 **more permissive attitude toward revenue recognition**  
19 **fly in the face of the tougher, stricter approach to**  
20 **revenue recognition that's been taken by FASB and the**  
21 **SEC in the last ten years or so?**

22 A. Not in my opinion.

23 Q. **Not in your opinion. Let's talk a bit**  
24 **now about some of your criticisms of the modified**  
25 **TDNSB mechanism that's in the June 30th stipulation.**

1 You would agree that the MEEIA statute is a unique  
2 animal among the statutes that govern Missouri public  
3 utilities, would you not?

4 A. Certain aspects of it are very unique,  
5 yes.

6 Q. There's no statute that is similar in  
7 many respects, including in its requirement that the  
8 Commission align the utility's incentives with helping  
9 its customers use energy more efficiently. Right?

10 A. I'm not aware of any other statute that  
11 contains those provisions.

12 Q. Now, you draw a comparison -- and I think  
13 it was in the second piece of pre-filed testimony that  
14 you filed. You draw a comparison to your contention  
15 that there must be an after-the-fact true-up of I  
16 guess at least part of the -- of the throughput  
17 disincentive, the unrealized revenue. You draw a  
18 comparison to PGA clauses in Missouri, do you not?

19 A. In the respect of use of forecast values,  
20 yes.

21 Q. What you say is, well, we forecast gas  
22 costs within the purchased gas adjustment clause and  
23 then we later true it up. Right?

24 A. Yes.

25 Q. And so the -- and the point of your

1 comparison is, well, that's an instance where we have  
2 a forecast and we true-up there, so really that's a  
3 good analogy for why we should be trueing up here.

4 **Right? That's your point?**

5 A. My point is, in general, use of forecast  
6 values -- there should be at least serious  
7 consideration of true-up procedures to protect the  
8 interest of customers and in some cases the utility.

9 **Q. But to your knowledge, there's no statute**  
10 **governing purchased gas adjustments in Missouri, is**  
11 **there?**

12 A. I'm not aware of that statute.

13 **Q. But there obviously is a very specific**  
14 **statute involving energy efficiency programs here in**  
15 **Missouri, is there not?**

16 A. There is.

17 **Q. Now, Staff suggests that there has to be**  
18 **some sharing of risk, I think the phrase "balancing of**  
19 **interest" is used. And on that basis tries to also**  
20 **justify the use of an after-the-fact true-up using**  
21 **EM&V. Right?**

22 A. Well, I don't think we say that there has  
23 to be a sharing of risk. I believe under one of our  
24 proposals for throughput disincentive under the  
25 Non-utility Stipulation, my contention is there is no

1 such sharing of risk because the Company is eff-- will  
2 effectively suffer no detriment under its terms --  
3 financial detriment.

4 **Q. I'll amend my question. You argue that**  
5 **there should be a sharing of risk. Right?**

6 A. If there is risk, then normally there  
7 should be a fair sharing of risk between customers and  
8 the Company.

9 **Q. But you can't point to any statutory**  
10 **language in the MEEIA statute that says anything about**  
11 **sharing of risk or balancing risk, does it? Those**  
12 **words don't appear in the statute, do they?**

13 A. They do not. I believe those are  
14 somewhat inherent in the function the Commission  
15 serves in setting rates.

16 **Q. You claim that using a TDNSB approach**  
17 **that would deem savings in net-to-gross creates a**  
18 **perverse incentive, don't you?**

19 A. I do.

20 **Q. And your argument is that it incents**  
21 **Ameren Missouri to push, to market, to try to install**  
22 **more measures that the TRM may say have a high energy**  
23 **savings value, but which, when evaluated, will be**  
24 **shown to have lower savings. Right? That's the point**  
25 **you're making?**

1 A. That's one of the points.

2 Q. First of all, you can't point the  
3 Commission to any evidence that Ameren Missouri has  
4 ever acted on this so-called perverse incentive that  
5 you claim exists, can you?

6 A. I cannot.

7 Q. And if that perverse incentive exists --  
8 and I'm not conceding that it does by my questions,  
9 but if it did, it exists in the MEEIA 1 programs too  
10 because there's no difference on this point, is there?

11 A. I believe the structure of the MEEIA 1  
12 throughput disincentive mechanism is very similar to  
13 what the Company's proposing, so I would agree.

14 Q. In -- in fact, the structure is such that  
15 there's deemed energy savings, there's deemed  
16 net-to-gross and there is no tier one or tier two  
17 approach like we have in the non-- in the Utility  
18 Stipulation as we have here, is there?

19 A. I'd agree.

20 Q. And you aren't claiming that Ameren  
21 Missouri has acted on this so-called perverse  
22 incentive, are you?

23 A. I am not.

24 Q. And this so-called flaw or this perverse  
25 incentive that you -- that Staff has chosen to point



1 out here late in the case, it existed -- if it exists  
2 at all, it existed in the initial MEEIA filing that  
3 was made back in December of this year, did it not?

4 A. Within the Company's proposal?

5 Q. Yes.

6 A. I would agree.

7 Q. And the Staff filed Rebuttal Testimony in  
8 April of this year and made no mention of it, did it?

9 A. I don't believe that's true.

10 Q. Did you make mention of it?

11 A. I didn't, no. There were other Staff  
12 witnesses that filed Rebuttal.

13 Q. In addition, it's true, is it not, that  
14 if Ameren Missouri were to intentionally push measures  
15 with high deemed energy savings but that, as it turned  
16 out, had low actual savings, doing so would uncut --  
17 undercut, pardon me, the performance incentive that  
18 Ameren Missouri is asking for approval of because the  
19 performance incentive is subject to after-the-fact  
20 EM&V and it depends on high actual energy savings to  
21 maximize it, does it not?

22 A. Under MEEIA 1?

23 Q. I'm talking about under MEEIA 2.

24 A. Okay. I'm not sure about MEEIA 2, but --

25 Q. Do you have a copy of the June 30

1 **stipulation?**

2 A. I do.

3 **Q. Could you turn to page 13 of it, please.**

4 A. I'm sorry. It's taking me a while.

5 **Q. That's okay. Let's see if I have an**  
6 **extra copy and we'll see who gets there first.**

7 MR. OPITZ: I think I've got one. Are  
8 you talking about June 30th one?

9 MR. LOWERY: I actually have one too, Tim  
10 so --

11 THE WITNESS: I have since found it.  
12 Sorry.

13 BY MR. LOWERY:

14 **Q. All right. I knew it would take me too**  
15 **long.**

16 A. Yeah. Page 13, did you say?

17 **Q. Page 13. Do you see the heading that**  
18 **says Performance Incentive?**

19 A. I do.

20 **Q. And it reads, paragraph 19, After the**  
21 **conclusion of the three-year plan period, using final**  
22 **EM&V results with EM&V to be performed after each of**  
23 **program years one, two and three, Ameren Missouri will**  
24 **be allowed to recover the performance incentive. Then**  
25 **it continues, does it not?**

1 A. It does.

2 Q. Does that refresh your recollection that,  
3 in fact, the performance incentive that is being  
4 proposed by the Company is indeed subject to  
5 after-the-fact EM&V?

6 A. It appears to be.

7 Q. And you do understand, do you not, the  
8 performance incentive being proposed by the Company is  
9 earned on the basis of more energy savings, more  
10 performance incentive, do you not?

11 A. That's my general understanding of how  
12 the Company's stipulation works. I'm not necessarily  
13 thoroughly versed in the performance incentive  
14 details.

15 Q. Okay. And if that's true, then acting on  
16 this so-called perverse incentive that you claim  
17 exists to go out and push or market measures that have  
18 low actual savings actually undercuts the Company's  
19 ability to receive a greater performance incentive,  
20 does it not?

21 A. Yes. It might serve to partially offset  
22 the disincentive impact of the TDISM structure.

23 Q. Well, in fact, you don't have any idea  
24 whether it would partially or fully offset the  
25 perverse incentive that you're claiming exists, do

1 **you?**

2 A. I don't know to what extent one would  
3 offset the other, no.

4 **Q. And, in fact, when you provided your**  
5 **pre-filed testimony and you claimed that if -- that**  
6 **this perverse incentive existed, you did it even**  
7 **taking into consideration the fact that it would**  
8 **undercut the performance incentive to push those lower**  
9 **actual savings measures when you came to that**  
10 **conclusion, didn't you?**

11 A. That is correct. The performance  
12 incentive was the responsibility of other Staff  
13 witnesses. My perspective was that in and of itself,  
14 it is not good public policy to set up a structure  
15 like the throughput disincentive mechanism in a way  
16 that provides incentives for less than efficient  
17 behavior.

18 **Q. Would you tell me how exactly Ameren**  
19 **Missouri is supposed to even know which of the dozens**  
20 **or hundreds of measures in the TRM in actuality will**  
21 **turn out to have overstated energy savings values once**  
22 **EM&V is done?**

23 A. I don't think I can answer that question.

24 **Q. Isn't it true that there's no testimony**  
25 **from anyone in this case that criticizes the energy**

1 **savings values that are reflected in the TRM that was**  
2 **filed?**

3 A. I don't know that.

4 **Q. Isn't it true that since the MEEIA 1**  
5 **program started, that Ameren Missouri has recommended**  
6 **that the home energy performance program be ended**  
7 **because the measured savings per EM&V were coming in**  
8 **lower than what the TRM expected they would?**

9 A. I don't know that.

10 MR. LOWERY: Your Honor, I need to mark  
11 an exhibit, please.

12 JUDGE PRIDGIN: I believe this will be  
13 119.

14 MR. LOWERY: 119, Your Honor?

15 JUDGE PRIDGIN: Yes, sir.

16 (Ameren Exhibit 119 was marked for  
17 identification.)

18 MR. LOWERY: Your Honor, are you ready  
19 for me to proceed?

20 JUDGE PRIDGIN: When you're ready,  
21 Mr. Lowery.

22 MR. LOWERY: Thank you.

23 BY MR. LOWERY:

24 **Q. Mr. Oligschlaeger, I'm handing you what's**  
25 **been marked for identification as Exhibit 119. Have**

1 **you ever seen that document before?**

2 A. It's possible. I have no direct  
3 recollection of it.

4 **Q. Would you turn to Staff's memorandum that**  
5 **was submitted by Mr. Rogers and Ms. Hernandez -- well,**  
6 **and Mr. Koeing (phonetic). And I hopefully I'm not**  
7 **mispronouncing his name.**

8 A. I'm there.

9 MS. MUETH: Your Honor, I'm going to  
10 object. We have not established Mr. Oligschlaeger's  
11 competency to identify this document.

12 JUDGE PRIDGIN: I'll overrule. I'll let  
13 Mr. Lowery see if he can lay a foundation for this.

14 BY MR. LOWERY:

15 **Q. Mr. Oligschlaeger, you do recognize that**  
16 **this document consists of a filing by the Company in**  
17 **the MEEIA 1 docket? That would be the first three --**  
18 **four pages, I guess, counting the certificate of**  
19 **service.**

20 A. I do.

21 **Q. And then you recognize that the next few**  
22 **pages represent the pleading that is a Staff**  
23 **recommendation in that same docket?**

24 A. It appears to be.

25 **Q. And then you recognize that the --**

1 **there's a memorandum attached to that Staff pleading**  
2 **dealing with the new homes program?**

3 A. It appears to be.

4 Q. **And then you see that the last two pages**  
5 **of Exhibit 119 is a Commission order approving the**  
6 **requested relief by the Company?**

7 A. Again, it appears to be.

8 Q. **You don't have any reason to doubt that**  
9 **that's what it is, do you?**

10 A. No.

11 Q. **And the Commission's record will reflect**  
12 **whether it is or it isn't, will it not?**

13 A. I assume it would.

14 Q. **So let's go back to Mr. Koeing's and**  
15 **Mr. Rogers and Ms. Hernandez's recommendation. First**  
16 **full paragraph, you see the second sentence that says,**  
17 **With this tariff sheet?**

18 A. Well, I think that's the third sentence,  
19 but yes.

20 Q. **I stand corrected. It is the third**  
21 **sentence. And what it says, it says, With this tariff**  
22 **sheet, Ameren Missouri proposes to modify its Energy**  
23 **Star New Homes program to limit its availability to**  
24 **builders of single-family homes that reserved a rebate**  
25 **prior to the effective date of the proposed tariff**

1 sheet, June 21, 2014.

2 Did I read that correctly?

3 A. You did.

4 Q. You recall, do you not, that the MEEIA 1  
5 program started at the beginning of 2013 and they are  
6 to run through the end of 2015. Correct?

7 A. That's correct.

8 Q. So we're -- we're almost -- we're about  
9 halfway through the programs when this change is going  
10 to take place; is that fair?

11 A. That's fair.

12 Q. If you go to the first sentence of the  
13 next full paragraph. Staff's recommendation says, The  
14 Energy Star New Homes program was designed to  
15 encourage home builders to build energy efficiency  
16 homes, typically Energy Star certified homes.  
17 However, based on the EM&V report results for program  
18 year 2013, the savings associated with this program  
19 were considerably lower than those expected.

20 Did I read that correctly?

21 A. You did.

22 Q. So what happened in this particular  
23 instance is the TRM predicted that the home -- New  
24 Homes program was going to save more energy than EM&V  
25 indicated that it actually saved, and the Company came



1 in and said we should stop allowing people to  
2 participate in this program because we're not really  
3 getting all that much in energy savings, didn't it?

4 MS. MUETH: Objection, speculation.

5 JUDGE PRIDGIN: I'll overrule. I'm let  
6 him answer if he knows. If he doesn't, he can say he  
7 doesn't know.

8 THE WITNESS: I know that was a fairly  
9 lengthy question, but can you repeat it?

10 BY MR. LOWERY:

11 Q. Isn't what happened with these filings in  
12 the Commission order is that EM&V showed that the  
13 home -- New Homes program was saving less energy than  
14 the TRM predicted, and the Company took the step to  
15 stop the program prospectively? Isn't that what  
16 happened?

17 A. Based only on my review of this document,  
18 which is my only knowledge of the matter, that appears  
19 to be a reasonable characterization.

20 Q. And if, in fact, that is what happened,  
21 then instead of the Company acting on a so-called  
22 perverse incentive to go out and push measures that  
23 have high deemed savings in the TRM when -- when, in  
24 fact, low actual savings may occur, when the Company  
25 saw that situation arise, the Company stopped the

1 **program, didn't it?**

2 MS. MUETH: Your Honor, I believe the  
3 witness has already testified that this is the first  
4 time he's seen this document, he's unfamiliar with  
5 these particular circumstances. There's been no  
6 foundation laid for this document in particular. So  
7 these questions are calling for speculation of the  
8 witness.

9 JUDGE PRIDGIN: I'll overrule. He can  
10 answer if he knows. And if he doesn't know, he can  
11 say so.

12 THE WITNESS: Okay. With no knowledge of  
13 the background or the back story of any behind this, I  
14 really can't characterize the motives of the various  
15 parties. It does appear that Ameren Missouri took  
16 some steps to end this program.

17 BY MR. LOWERY:

18 **Q. And if the perverse incentive existed**  
19 **that you claim exists, then what the Company would**  
20 **have done if the Company was going to act on it, the**  
21 **Company would have just continued to operate this**  
22 **program --**

23 MS. MUETH: Objection, your Honor. This  
24 calls for speculation about what the Company would or  
25 would not have done.

1 JUDGE PRIDGIN: Sustained.

2 BY MR. LOWERY:

3 Q. We won't talk about what the Company did  
4 or didn't do. We'll talk about a hypothetical. You  
5 are here to testify as an expert witness, are you not?

6 A. I understand so.

7 Q. Let's imagine you have an energy  
8 efficiency program and it has a TDNSB mechanism that's  
9 just like the one the Company's proposing. Okay?

10 A. Okay.

11 Q. So we have deemed energy savings. And in  
12 that circumstance let's assume that there's some kind  
13 of incentive created to pursue measures that will  
14 turn out to have low actual energy savings, but which  
15 the TRM in that instance indicated had higher energy  
16 savings. Are you with me?

17 A. Can you repeat that?

18 Q. Let's imagine that we have the same TDNSB  
19 mechanism that's proposed here. Follow me?

20 A. Yes.

21 Q. Let's imagine we are using a TRM in this  
22 situation. The TRM has deemed energy savings in it  
23 that are going to be used in that TDNSB mechanism.  
24 You follow me still?

25 A. I do.

1 Q. And let's imagine that there's contention  
2 in that case that there is a perverse incentive  
3 created because, because of the use of those deemed  
4 savings, the utility could push measures that have  
5 high deemed savings but low actual savings and the  
6 effect of that would be to cause too much throughput  
7 disincentive recovery. Are you with me?

8 A. I am.

9 Q. And let's further imagine that the  
10 utility in that case saw that the deemed energy  
11 savings in the TRM were not being realized by that  
12 particular energy efficiency program. Are you with me  
13 still?

14 A. I think so.

15 Q. And let's imagine the utility came to the  
16 Commission and said, you know, we should stop that  
17 program because the deemed saving -- the predicted  
18 expected deemed savings are not being realized. Are  
19 you with me?

20 A. Yes.

21 Q. That would indicate the utility was --  
22 not only wasn't exacting on that perverse incentive,  
23 but was acting opposite to what that perverse  
24 incentive might suggest it should have done, wouldn't  
25 it?

1           A.     I believe that's the logic that chain of  
2 events you laid out would indicate. Any time I bring  
3 up the concept of perverse incentives -- and it goes  
4 certainly beyond this case in terms of how rate  
5 structures are set up. The concerns about incentives  
6 are not necessarily that utilities will necessarily or  
7 are guaranteed to act upon them. It is the fact that  
8 the -- having the incentives out there are not a good  
9 idea, whether or not the utility acts upon them.

10           **Q.     You're not assuming the utility is going**  
11 **to act on them, are they -- are you? I sorr-- I'm**  
12 **sorry.**

13           A.     Well, the pro-- with -- with perverse  
14 incentives, it's more likely they will act upon them  
15 than if the incentives were not there.

16           **Q.     Despite you have no evidence that that's**  
17 **happened in this case, and we now have evidence that,**  
18 **in fact, the opposite happened for Ameren Missouri ,**  
19 **don't we?**

20           A.     I -- it --

21                   MS. MUETH:  Objection, that's not in  
22 evidence.

23                   JUDGE PRIDGIN:  I'll overrule.

24                   THE WITNESS:  It was not the purpose of  
25 my testimony to allege that Ameren has acted

1 imprudently in this manner.

2 MR. LOWERY: Your Honor, I'm going to  
3 move for the admission of Exhibit 119 at this time.

4 JUDGE PRIDGIN: 119 has been offered.  
5 Any objection?

6 MS. MUETH: Yes, your Honor. Staff  
7 objects to this piece of evidence. It has not -- a  
8 proper foundation has not been laid for this. Also,  
9 it's unclear as to whether this document is complete.  
10 The end of the memorandum sheet that we've been  
11 referring to does not have punctuation, which would  
12 imply that there's another page that would follow, yet  
13 there's no page after that.

14 MR. LOWERY: Your Honor, I'd be happy, if  
15 Staff wants to for -- under the rule of completeness,  
16 provide any missing pages to the recommendation, I'd  
17 be happy to consent to that.

18 MS. MUETH: This isn't Staff's offered  
19 piece of evidence.

20 JUDGE PRIDGIN: I'm going to overrule.  
21 Exhibit 119 is admitted.

22 (Ameren Exhibit 119 was received into  
23 evidence.)

24 BY MR. LOWERY:

25 Q. Mr. Oligschlaeger, are you aware that the

1 **Company -- that one prudence review has been completed**  
2 **by the Staff in the Company's MEEIA 1's programs?**

3 A. I believe so.

4 **Q. Isn't it true that the Staff made no**  
5 **allegations of imprudence whatsoever in that prudence**  
6 **review?**

7 A. I don't know. I'm not aware of any such  
8 allegation.

9 MR. LOWERY: Your Honor, give me just one  
10 minute, please.

11 JUDGE PRIDGIN: Certainly.

12 MR. LOWERY: That's all I have, your  
13 Honor. Thank you.

14 JUDGE PRIDGIN: All right. Thank you.  
15 Do we have any Bench questions?  
16 Commissioner Stoll?

17 COMMISSIONER STOLL: No questions. Thank  
18 you.

19 JUDGE PRIDGIN: Thank you.

20 Any redirect?

21 MS. MUETH: Yes, your Honor.

22 JUDGE PRIDGIN: When you're ready.

23 REDIRECT EXAMINATION BY MS. MUETH:

24 **Q. Okay. Mr. Oligschlaeger, I'm going to**  
25 **actually start from where we just left off. Do you**

1 know what the program costs were for the Energy Star  
2 New Homes program?

3 A. I do not.

4 Q. Do you know whether the Company may have  
5 pulled the program to manipulate its net shared  
6 benefits?

7 A. I don't know.

8 MR. LOWERY: Calls for speculation.

9 JUDGE PRIDGIN: Overruled. He can answer  
10 if he knows.

11 THE WITNESS: I don't know why the  
12 Company chose to pull the program.

13 BY MS. MUETH:

14 Q. Does the exhibit that was just offered  
15 into evidence, Exhibit 119, describe the utility's  
16 intent?

17 A. Just looking at the portion of the  
18 pleading -- or not the pleading, but the exhibit  
19 entitled Notification, which is a Union Electric  
20 Company document, I don't see that it addresses  
21 specifically its intent.

22 Q. Okay. Now, Mr. Oligschlaeger, you had a  
23 line of questioning from Mr. Lowery about making  
24 decisions from the standpoint of an executive at a  
25 utility. Do you recall that?



1 A. I do.

2 Q. Did you write your testimony from the  
3 standpoint of an executive at a utility?

4 A. No, I wrote it as -- from the standpoint  
5 as a representative of the Commission Staff.

6 Q. So is it not realistic for you to make  
7 decisions or write testimony from the standpoint of an  
8 executive at a utility?

9 A. I think that would defeat the purpose of  
10 my testimony. The utility has representatives that  
11 are more than capable of representing their position  
12 and arguing for it.

13 Q. So what is your experience as an auditor  
14 in relation to these -- these types of matters?

15 A. Well, for over 30 years I have given  
16 opinions primarily on utility requests to change  
17 rates, other requests such as Accounting Authority  
18 Orders, Certificates of Convenience and so on, in  
19 which I express an opinion to the Commission as to  
20 whether the request is reasonable and to what degree  
21 it should be granted.

22 Q. Okay. You were asked about the sharing  
23 of risk between the utility and -- the utility  
24 shareholders and its customers. Do you recall that --

25 A. I do.

1           **Q.     -- those questions?**  
2                   **Is there any risk of under-recovery**  
3 **placed upon the shareholders under the alternative 2**  
4 **of the Non-utility Stipulation?**

5           A.     You mean the footnote alternative?

6           **Q.     Yes.**

7           A.     Okay. In my opinion, there is not. The  
8 Company's earnings should be protected against the  
9 detrimental impact of throughput disincentive under  
10 that proposal in entirety.

11           **Q.     And you were asked about the performance**  
12 **incentive off-setting the throughput disincentive net**  
13 **shared benefits perverse incentive. Do you recall**  
14 **those questions?**

15           A.     I do.

16           **Q.     By share of net benefits, is the**  
17 **performance incentive or the throughput disincentive**  
18 **net shared benefit larger under the Utility's**  
19 **Stipulation?**

20           A.     Can you repeat that?

21           **Q.     Sure. Under the Utility Stipulation, by**  
22 **share of net benefits which is larger, the performance**  
23 **incentive or the net shared benefits throughput**  
24 **disincentive mechanism, if you know?**

25           A.     I don't know.

1           **Q.     Okay.  Now, do you recall Mr. Lowery**  
2 **asking you about Missouri Revised Statute 393.1075 in**  
3 **which he quoted a portion of Section 3(2)?**

4           A.     Are you referring to the -- what's called  
5 the MEEIA statute?

6           **Q.     Yes.**

7           A.     Yes, I am.

8           **Q.     Now, he read the first portion and you**  
9 **indicated that it went on from there.  Do you recall**  
10 **that?**

11          A.     I did.

12          **Q.     Do you want to go ahead and finish the**  
13 **reading of that section?**

14          A.     Okay.

15          **Q.     And if you need a copy, I can give it to**  
16 **you.**

17          A.     I have a copy.  And just for continuity,  
18 I'll read the whole thing.

19                    Ensure that utility and financial  
20 incentives are aligned with helping customers use  
21 energy more efficiently and in the manner that  
22 sustains or enhances utility customers' incentives to  
23 use energy more efficiently.

24          **Q.     Okay.  Now, you were asked about**  
25 **circumstances where the throughput disincentive isn't**

1 entirely removed under the Non-utility Stipulation.

2 Do you recall that?

3 A. That is correct.

4 Q. If a measure is less than 66 percent  
5 effective, does the utility over-recover the  
6 throughput disincentive?

7 A. Under the assumption that the  
8 effectiveness of a particular program or programs is  
9 less than 66.7 percent, the Company, under our  
10 proposal, would still recover the full amount of  
11 deemed throughput disincentive.

12 Q. If it's over that 66 percent under the  
13 Non-utility Stipulation, would it recover the rest --  
14 the overage amount in another period?

15 A. Within the next period, yes.

16 Q. Okay. Does Staff believe it is necessary  
17 to absolve Ameren Missouri of all financial risk  
18 associated with its MEEIA programs in order to align  
19 the Company's risks with offering energy efficiency  
20 incentives -- initiatives, sorry?

21 A. Okay. And in answering that I'm not  
22 going to obviously speak from a legal perspective.  
23 Our reading of the requirements is that the intent is  
24 to make the Company essentially indifferent between  
25 use of supply-side and demand-side resources. And

1    whichever one they would choose would be under an  
2    indifference perspective, would be the one that is  
3    most economical at a particular point in time and for  
4    a particular purpose.

5           It is certainly a fact, and Ameren has  
6    testified eloquently to it in a number of past  
7    proceedings, that Ameren is subject to financial risk  
8    of some degree on the demand side. And for that  
9    reason, the equivalence or indifference does not  
10   suggest that somehow the intent is to make Ameren  
11   totally protected against any financial risk  
12   associated with its supply -- or demand-side ventures.

13           **Q.    So the first time you said demand --**

14           A.    I'm sorry. Let me restate that. Ameren  
15   is certainly exposed to risk on the de-- on the supply  
16   side. Equivalence or indifference between the two  
17   options does not suggest that it should be absolved  
18   from all risk on the supply side.

19           **Q.    Okay. Thank you. Wait.**

20           A.    Did I --

21           **Q.    Was that -- I'm sorry. Is it supposed to**  
22   **be supply side in one and demand side on the**  
23   **other or -- I may have -- I may have confused myself**  
24   **here.**

25           A.    Okay. Ameren is subject to a certain

1 amount of risk on its -- concerning its supply-side  
2 initiatives. There is no requirement, in my belief,  
3 that it should be absolved of all financial risk  
4 associated with demand-side initiatives.

5 **Q. Okay. Thank you. Can you explain why**  
6 **the Non-utility Stipulation throughput disincentive**  
7 **recovery mechanism provides better incentives for the**  
8 **utility to maximize kilowatt hour savings than the**  
9 **Ameren Missouri recovery mechanism?**

10 A. Well, certainly. Because of the deeming  
11 approach used in the Ameren throughput disincentive  
12 mechanism, it is guaranteed a certain level of  
13 recovery, regardless of the actual results of certain  
14 aspects of its demand-side programs.

15 Under the Staff approach, to the extent a  
16 Company, or Ameren, is able to achieve more than  
17 100 percent of the estimated savings values that are  
18 deemed, it would receive additional recovery in rates  
19 for those amounts and that recovery would not be  
20 received under its own proposal where it would be  
21 limited strictly to the deemed value.

22 **Q. Now, you were asked about the guidance,**  
23 **ASC 980-605-25. Do you recall those questions?**

24 A. I do.

25 **Q. What was the original source of the**

1 **accounting guidelines contained within ASC 980-605-25?**

2 A. The original source of those guidelines  
3 were in a pronouncement called The Emerging Issues  
4 Task Force, Issuance Number 92-7. At a later point in  
5 time, part of the codification program that I  
6 discussed with Mr. Lowery, it was retitled.

7 **Q. Okay. And is there additional**  
8 **explanatory information contained within that document**  
9 **that was not included in the ASC copy attached to**  
10 **Ms. Barnes' Surrebuttal?**

11 A. There is.

12 **Q. And is any part of that additional**  
13 **explanatory text contained within EITF 92-7 relevant**  
14 **to determining the intent behind issuance of these**  
15 **accounting guidelines?**

16 A. I believe it is.

17 **Q. Okay. And can you explain that?**

18 A. Certainly.

19 MR. LOWERY: Your Honor, I'm going to  
20 interpose an objection. I've -- I deposed  
21 Mr. Oligschlaeger on this very point, asked him the  
22 very question and he indicated -- and I can find the  
23 reference -- that EITF 92-7 did not in any way  
24 eliminate the intent of ASC 980-605-25.

25 If his opinion has changed about that, we

1 were entitled to be given notification of that. He  
2 can't show up and give a different opinion here today  
3 than he gave us in deposition. And if that's going to  
4 be the case, then I think I ought to be able to  
5 cross-examine him about it.

6 JUDGE PRIDGIN: I'll overrule. I'm not  
7 going to allow any more recross. If you want to point  
8 out, you know, in argument or brief that -- the  
9 inconsistency to go to his credibility, you're  
10 certainly welcome to do that.

11 THE WITNESS: The text of EITF 92-7, part  
12 of the explanatory text, which leads up to the actual  
13 three criteria that form the -- the meat of that  
14 particular accounting guideline specifically states  
15 that, It is not the intent of this pronouncement to  
16 govern situations where an alternative revenue program  
17 will lead to a refund to customers of amounts  
18 previously received in rates by the affected utility.

19 And that suggests, again, that the  
20 concern at the time of the EITF in issuing that  
21 pronouncement was to govern the ability of companies  
22 to book additional revenues currently that had not yet  
23 been received from customers, but was not to govern  
24 the situation where utilities, through the use of  
25 alternative revenue programs, may have to provide



1 money back to customers.

2 BY MS. MUETH:

3 Q. Now, Mr. Oligschlaeger, I don't recall  
4 the specific question that Mr. Lowery asked you, but  
5 in response you indicated that there was additional  
6 evidence from PWC that contradicts Ms. Barnes'  
7 testimony. Do you recall that?

8 A. I do.

9 Q. And what evidence is that? Is that --  
10 would it be fair to say that Exhibit 716, which is  
11 Staff -- the Response to Staff Data Request Number 8  
12 includes that -- that piece of information?

13 A. That is the information I am referring  
14 to. That document, which was discussed with  
15 Ms. Barnes I believe on the stand yesterday, concerns  
16 general accounting guidance from PWC in terms of how  
17 the ASC 980-605-25 is to be interpreted and  
18 implemented.

19 And that guidance specifically and solely  
20 comes from the perspective of a utility's ability to  
21 book regulatory assets related to demand-side  
22 programs. It specifically -- PWC expresses the  
23 opinion within that document -- it summarizes the  
24 intent of all three provisions within the ASC, that it  
25 makes booking of a -- revenues by a utility related to

1 demand-side programs very difficult prior to billing  
2 and collection of the amounts. That is directly  
3 supportive of my interpretation that I've expressed in  
4 testimony of how the ASC works.

5 Further, there is nothing within that  
6 guidance that even addresses in any way the Company's  
7 interpretation that somehow it should be interpreted  
8 as forbidding a utility to book revenues even when  
9 they have received those revenues in cash from  
10 customers.

11 That would be such an unusual accounting  
12 finding, that to the extent it was applicable, I would  
13 find PWC's omission of even mentioning it within its  
14 guidance to be truly remarkable.

15 **Q. Thank you.**

16 MS. MUETH: I have nothing further.

17 JUDGE PRIDGIN: Thank you.

18 Mr. Oligschlaeger, thank you very much.

19 You may step down, sir.

20 I believe Mr. Murray is our next and  
21 final witness.

22 (Staff Exhibits 704-HC and 704-NP were  
23 marked for identification.)

24 (Witness sworn.)

25 JUDGE PRIDGIN: Thank you very much, sir.

1 You may have a seat.

2 And Ms. Mueth or Ms. Payne, when you're  
3 ready.

4 MS. MUETH: Sorry.

5 JUDGE PRIDGIN: No problem.

6 DAVID MURRAY testified as follows:

7 DIRECT EXAMINATION BY MS. PAYNE:

8 **Q. Mr. Murray, could you please state your**  
9 **name for the court reporter.**

10 A. David Murray. Last name is spelled  
11 M-u-r-r-a-y.

12 **Q. And are you the same Mr. Murray who**  
13 **caused to be prepared portions -- a piece of testimony**  
14 **in this proceeding -- wrong page -- Rebuttal Testimony**  
15 **offered as Exhibit 704 in this proceeding?**

16 A. Yes.

17 **Q. And is the information contained in there**  
18 **correct, to the best of your knowledge?**

19 A. Yes.

20 **Q. And do you have any changes to make to**  
21 **that testimony at this time?**

22 A. I do not.

23 **Q. And if I asked you those same questions**  
24 **contained there today, would your answers be the same?**

25 A. Yes.

1 MS. PAYNE: Your Honor, at this time I  
2 would like to offer Exhibit 704 into evidence.

3 JUDGE PRIDGIN: Exhibit Number 704 has  
4 been offered. Any objections?

5 Hearing none, Exhibit 704 is admitted  
6 (Staff Exhibit 704 was received into  
7 evidence.)

8 MS. PAYNE: And I tender this witness for  
9 cross.

10 JUDGE PRIDGIN: Thank you.

11 Cross-examination, Renew Missouri, Tower  
12 Grove, National Housing Trust? Sierra Club?

13 MS. TAUBER: No requests, Judge.

14 JUDGE PRIDGIN: Brightergy? MIEC?

15 MR. DOWNEY: No questions.

16 JUDGE PRIDGIN: MIEG? Public Counsel?

17 MR. OPITZ: No questions, Judge.

18 JUDGE PRIDGIN: United for Missouri?  
19 Division of Energy?

20 MR. ANTAL: No questions.

21 JUDGE PRIDGIN: NRDC?

22 MR. ROBERTSON: No questions.

23 JUDGE PRIDGIN: Ameren Missouri?

24 MR. TOMC: No questions.

25 JUDGE PRIDGIN: Any Bench questions?

1 COMMISSIONER KENNEY: No questions.

2 JUDGE PRIDGIN: Mr. Murray, thank you  
3 very much.

4 THE WITNESS: Thank you.

5 JUDGE PRIDGIN: You may step down.

6 All right. I don't see any other  
7 witnesses on the list. Have I overlooked anything? I  
8 assume that the evidence is now closed.

9 MR. TOMC: Your Honor, I would -- before  
10 we do that, I would like make the motion to take  
11 administrative notice of certain Commission documents  
12 and I'll list and describe those. They all relate to  
13 the prior Ameren Missouri MEEIA Cycle 1 docket. I  
14 believe there's been a lot of discussion about the  
15 issues and how they compare to the issues in this  
16 case.

17 So I think it would be helpful to the  
18 Commission for counsel for the respective parties to  
19 be able to brief based upon those documents and I'll  
20 go ahead and list them at this time. I would start  
21 with the Order Approving the Unanimous Stipulation  
22 dated August 1st, 2012. I would also include with  
23 that the Unanimous Stipulation and Agreement dated  
24 July 15th, 2012. And when I say "dated," I mean the  
25 date they appear on the EIFS system.

1 Order Approving Second Stipulation dated  
2 February 25th, 2015. And the Second Non-unanimous  
3 Stipulation that was filed preceding that order dated  
4 February 11th, 2015.

5 JUDGE PRIDGIN: Okay. Any objections?  
6 Hearing none, the Commission will take  
7 notice.

8 All right. The only other thing I can  
9 think of will be briefing. And we can discuss more  
10 particulars either on or off the record, as counsel  
11 wishes. My plan was to wait to make sure the  
12 transcript got in before I set a briefing schedule so  
13 that I try to give you as much time as I could.

14 I'm up against, you know, a September  
15 30th deadline, as are you. And so, you know, I want  
16 to give you as much time as I can and give myself time  
17 to write an order and so I'm a little hesitant to  
18 give -- you know, to issue an order on briefing  
19 schedule until the transcript's in. I think it will  
20 be in fairly quickly. And I think briefs will be due,  
21 you know, pretty quickly in August.

22 But at least wanted to give you a head's  
23 up and see if there's anything counsel, you know,  
24 wanted to say, any disagreement or anything. I'm not  
25 seeing any other way around it, but I could be wrong.

1 MS. TATRO: If I may, your Honor,  
2 Staff -- I've had a conversation with Bob Berlin and  
3 we had a discussion with the court reporter about --  
4 at least I did earlier -- about she thought she'd be  
5 turning them in -- like Monday she'd have back on  
6 Monday. I think that is accurate.

7 So Bob and I had come together with a  
8 recommendation. And if the transcripts end up showing  
9 up later, then they can be adjusted, but our thought  
10 was initial briefs August 10th. We thought we could  
11 turn them in that quickly. And reply briefs August  
12 21st. We have socialized that with some of the other  
13 parties, but not everyone.

14 JUDGE PRIDGIN: I would -- you know,  
15 certainly assuming that the transcript's get in when  
16 they should, and I'm sure that they will, I think  
17 that's a very reasonable briefing schedule and I would  
18 likely issue an order that's going to comport with  
19 that recommendation.

20 MS. TATRO: Thank you.

21 JUDGE PRIDGIN: Anything further from  
22 counsel?

23 All right. Hearing nothing, that  
24 concludes this hearing. Thank you very much. We are  
25 off the record.

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(National Housing Trust Exhibi ts 1300 and  
1301 and Tower Grove Exhi bi t 1400 were marked for  
i denti fi cati on.)

(Whereupon, the hearing was adj ourned.)



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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

*Tracy T. Taylor*

Tracy Thorpe Taylor, CCR



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